

QS and IFQ Issuance and Revocation Review

IFQ PROGRAM QUOTA SHARES (QS) AND INDIVIDUAL FISHING QUOTA (IFQ) ISSUANCE AND REVOCATION

Under the IFQ Program, new Quota Share (QS) may be created and QS may be revoked. Outside of initial issuance (1994-5), the largest cause of issuance of additional QS (initial or otherwise) and revocations is appeal adjudications. In several cases QS was revoked to correct erroneous issuance (if still held by the original recipient) or for failure to pay fishery fines resulting from violations. A reserve account was used for initial issuance in two-party eligibility disputes related to vessel use (most typically these were disputes about whether or not a vessel was leased). RAM set aside amounts of QS in a reserve account that would be issuable to the party that, if they prevailed, would be issued the larger amount of QS. The actual QS amount were different for each party because each person's QS issuance was based on their best 5 years of the set of base years for a species. Once the two-party appeal adjudication was completed, the QS in reserve for that case were issued and any unneeded QS for that case were extinguished. The reserve account was closed when all QS was disbursed/extinguished and no longer needed for this purpose.

In 2006, the NPFMC recommended that the Secretary revoke QS that were initially issued to persons (individuals and non-individual entities) who had not participated in the Fixed Gear Individual Fishing Quota Program (IFQ Program) since issuance, by either fishing their IFQ or engaging in transfers. This action was intended to place QS in the hands of active participants and to foster the use of the full commercial allocations of fish to the IFQ Program.

In preparation for implementation, RAM issued two "head's up" letters to the fleet to effect that, pending approval of such regulations, such QS was subject to revocation, and also posted lists of holders of inactive QS with QS holdings. These actions spurred significant transfer activity that reduced the number of Inactive QS holders by hundreds of persons, and QS by the equivalent of thousands of equivalent pounds of IFQ.

Under a final rule effective June 18, 2012, (77 FR 29556, May 18, 2012), RAM sent notices of "Inactive QS" status to 199 persons. The Notice explained the QS status and new regulations, provided 60 days in which the QS holder must respond in writing to RAM (or fish or transfer QS), and for convenience, included a form that could be signed and sent to RAM. The notification period ended at close of business, August 17. After waiting for timely postmarked responses, on August 27, 2012, RAM prepared a final list of Inactive QS and holders, and revoked the relevant QS and annual IFQ. As of that date, two persons who responded late were sent Initial Administrative Determinations (IADs) that their response was untimely; as of October 12, 2012, one has filed an appeal with the National Appeals Office. QS held by persons who have appealed or have opportunity to appeal will not be revoked unless and until resolution of their case requires revocation. Depending on constituent filings, disposition of each denied person's QS will occur when AKR reaches Final Agency Action, either when the appeal window closes without filing of an appeal, or on NMFS reaching Final Agency Action on an appeal. Persons whose QS and IFQ are revoked under this rule will retain their status as initial QS recipients.

Most of the revoked QS were halibut QS in category D, the smallest vessel use size category.

Statistics, as of 10/12/12:

- Number of Inactive QS Holders noticed: 199
- Number that Fished: 0
- Number that Engaged in Transfers: 3
- Number that Responded timely: 108
- Number that Responded late: 2 (both were sent IADs, 1 has appealed)
- Number that did not respond: 86

Persons, QS, and 2012 equivalent pounds of IFQ affected by Revocation as of 10/12/12:

Area	Number of Persons	QS	IFQ Pounds
Halibut Area 2C:	36	15,446	681
Halibut Area 3A:	48	17,111	1,103
Halibut Area 3B:	10	1,861	174
Halibut Area 4A:	12	1,088	117
Halibut Area 4E:	7	407	0 (no catch limit allocation for area)
Sablefish Area CG:	1	10	0 (QS:IFQ ratio is more than 10:1)

Data are subject to change due to appeal adjudications, or late-received but timely responses from affected QS Holders. Data changes could result in additional QS/IFQ revocation, or, although highly unlikely, in QS/IFQ reinstatement.