


MEMORANDUM

TO: Council, SSC, and AP Members

FROM: Clarence G. Pautzke
Executive Director 

DATE: November 27, 1990

SUBJECT: Sablefish Management

ACTION REQUIRED

Consider further action on sablefish fixed gear management using individual fishing quotas.

BACKGROUND

During its June/August meeting the Council spent a great deal of time modifying a motion to accept Individual Fishing Quotas (IFQs) as the preferred alternative for fixed gear sablefish management. The motion was tabled during the latter part of the meeting. In September the motion was taken from the table and then immediately tabled again without amendment.

If the motion is not taken from the table at this meeting it will expire. If taken from the table, the Council could amend the main motion as desired and take final action, time permitting. If there is a shortage of time, further consideration could be postponed until the January meeting or beyond. The tabled motion is provided as item C-6(a). The sections marked "previous" are from the alternative as developed during the January and April, 1990 meetings. The sections marked current are the amendments passed by the Council at the June/August meeting. The earliest a sablefish IFQ system could be implemented would be for the 1993 fishery.

Elements of a Sablefish Fixed Gear IFQ Management System

This outline presents the proposed individual fishing quota system (IFQ) for sablefish hook-and-line and pot fishing. When present, the left column presents the outline as stated coming into the June meeting; the right column lists changes proposed at both the June and August portions of the meeting. Areas which are ~~grayed and struckout~~ represent deletions. An overarching, main motion to accept the IFQ system is tabled.

I. SCOPE OF PROGRAM

- A. **Sablefish**
- B. **Longline and pot vessels**

II. THE WHO, WHAT, WHEN, WHERE, AND HOW OF IFQS

- A. **What** - Each IFQ would be a set poundage of sablefish for a particular year. They would be based on the number of quota shares for each management area. The **amount of weight assigned to each unit would vary yearly** as the total allowable catch (TAC) varied from year to year. **Quota shares (QS)** would be issued during the initial allocation process and would be based upon historical, qualifying landings.
- B. **Where** - **All six management areas in the Gulf of Alaska, Bering Sea, and Aleutian Islands:** Southeast Outside/East Yakutat, West Yakutat, Central Gulf, Western Gulf, Bering Sea, Aleutian Islands.
- C. **When** - IFQs would be issued **yearly to those who owned quota shares. Initial allocations would be made for the 1992 fishing year.**
- D. **Who** - The person who owned or, ~~possibly,~~ was a lease holder of a vessel that made sablefish longline or pot landings.
 - 1. **"Person"** - As defined by the Magnuson Act with the exclusion of non U.S. citizens. Any individual who is a U.S. citizen, any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State but being owned and controlled by a majority of U.S. citizens), and any Federal, State, or local government or any entity of any such government.

(PREVIOUS)

- 2. **Initial allocations could go to one of three groups. The terms "bareboat contract" and "qualified lease" need to be defined.**
(Options)
 - i. **Vessel owner(s) only.**
 - ii. **Vessel owner(s) except when a qualified lease exists.**
 - a. **The person leasing a vessel (bareboat contract). The lease holder would receive full credit for trips with a qualified lease.**
 - b. **The owner and lease holder would split credit for trips with a qualified lease. The split is not yet specified.**

(TABLED)

- 2. **Initial allocations would go to vessel owner(s) except when a qualified lease exists. In case of a lease, it would be termed as a bareboat charter. The lease holder would receive full credit for trips made under a qualified lease.**

II. E. How initial allocations will be made, ~~the years and weighting factors (if any).~~

1. An owner or lease holder must have made longline or pot landings of sablefish in at least one of the years 1987, 1988, or 1989 ~~1984 through 1989.~~

(PREVIOUS)

2. Initial allocations, quota shares, would be based on the recorded landings (fish tickets) of all vessels each person owned. The total of each person's six year landings, by area, would be added together.
3. More recent participation will be given greater credit using a weighting factor of 3%. Landings will be adjusted upward incrementally by 3% from 1984 to 1989. (Though the 3% increment is the preferred option, 1% and 10% adjustments are being analyzed.) The adjustments at 3% are:
 - i. 1984 landings * 100%.
 - ii. 1985 landings * 103%.
 - iii. 1986 landings * 106%.
 - iv. 1987 landings * 109%.
 - v. 1988 landings * 112%.
 - vi. 1989 landings * 115%.

(TABLED)

2. Initial allocations, quota shares, would be based on the recorded landings (fish tickets) during 1984 through 1989, of all vessels each person owned or held by lease. The total of each person's six year landings, by area, would be added together.

- II. E. 3 ~~4~~ IFQs and Qs denoted by vessel category. Each person would receive allocations for the vessel category of their most recent sablefish landings. If, in their last year in the fishery, they owned or leased two or more vessels that landed sablefish then the allocations would be for the larger vessel category.

(PREVIOUS)

- i. If size categories are used, they would be:
 - a. Less than 50' length over all.
 - b. 50' to 100' length over all.
 - c. Over 100' length over all.
- ii. There would not be vessel size categories.

(TABLED)

- Vessel categories are:
- i. Less than 50' length over all.
 - ii. 50' to 75' length over all.
 - iii. Over 75' length over all.
 - iv. All freezer/longliners regardless of size.

- II. F. Hook-and-line or pot caught sablefish could not be landed without IFQs. There would be no open access portion to the sablefish fixed gear fishery.

III. TRANSFERABILITY

(PREVIOUS)

A. All IFQs would be saleable and leasable, however, leasing of IFQs would not be allowed during the first 2 years of the program. Qs would be saleable during the first two years of the program along with their respective IFQs.

B. All ~~QS/IFQ~~ transfers would have to be approved by NMFS based on findings of eligibility criteria prior to fishing.

C. Persons must control IFQs for amount to be caught before a trip begins.

D. Qs and IFQs are management area specific and may not be transferred between areas.

E. Qs and IFQs are vessel category specific (~~if vessel sizes are used~~) and may not be transferred between vessel categories.

(TABLED)

A. Permanent sales of Quota Shares (QS) are permitted. All sale and leasing of IFQs shall be prohibited. All leasing of QS shall be prohibited.

(PREVIOUS)

F. A limit of 3% of the combined area TACs would exist on the amount of IFQs one person could own or control.

G. Any person, as defined above, may control IFQs. Proof of citizenship or majority ownership and control may be required.

H. IFQs would not be valid for trawl caught sablefish from any area nor for pot caught sablefish from the Gulf of Alaska.

(TABLED)

F. A limit of 2% of the combined area fixed gear TACs would exist on the amount of IFQs one person could own or control. Any person receiving an initial distribution of Qs in excess of 2% of the combined area fixed-gear TAC shall not be able to own or control more QS or IFQ above the amount initially received.

G. 1. Any person may purchase Qs.

2. To use Qs or IFQs, a person must either own a vessel upon which the QS/IFQ is used, or be on board the vessel as crew or operator.

IV. DURATION OF IFQ HARVEST PRIVILEGES

- A. No specified ending date. Harvesting privileges may be subject to periodic change, including revocation, in accordance with appropriate management procedures as defined in the Magnuson Act. (The privileges are good for an indefinite period of time.)
- ~~B. The harvesting privileges may remain in effect in perpetuity.~~
- ~~C. Harvesting privileges may remain in effect for a specified period of time, for example 5 or 10 years.~~

V. COASTAL COMMUNITIES - The issue of allocations to economically disadvantaged coastal communities is being considered by the Council in concept. The concept is attached.

VI. ADMINISTRATION

- A. **NMFS Alaska regional office would administer the IFQs** ~~although the function could be contracted to the State of Alaska.~~
- B. Settlement of appeals disputes during the allocation process.
 - 1. **The basis of judgement for use in appeals will be fact.** That is, unsubstantiated testimony will not be considered. Lease holders would have to come to the Appeals Board with verifiable ~~certified~~ records and agreement of the owner of record of the vessel. If such agreement cannot be reached, judicial proceedings outside of the Appeals Board would be required. Appeals could be brought forth based on ~~two~~ **four** criteria:
 - a. **Errors in records** ~~fish ticket information.~~
 - b. **Documented lease holder** qualification.
 - ~~c. Total vessel loss due to burning, sinking, or shipwreck. Adjustments might be made to the landings for the year the occurrence happened.~~
 - ~~d. Those persons who can document that they were prepared to begin longlining for sablefish on April 1, 1989 but were unable to due to the Exxon oil spill. This does not include those who were not almost fully prepared for longlining at the time of the spill.~~
 - 2. Initial appeals would be heard by an **Appeals Board composed of government employees rather than industry members.** Subsequent appeals would go to NMFS Alaska Regional Director followed by appeals to the Secretary of Commerce and then the court system.

NOTE: The Council wishes to express its intent concerning the following two specific points.

- 1. It is the Council's intent to find a way to finance the IFQ program without redirecting costs. This might include a cost recovery program from QS and IFQ owners.
- 2. Should the program end, no compensation would be due to QS or IFQ owners or users. That is, the termination of this program would not constitute "taking".

**Assistance for Economically Disadvantaged Fishing
Communities Under the Sablefish Management Plan
(As approved in concept by the Council for further review)**

In order to ensure that longline fishing vessels associated with eligible communities ~~within the geographic jurisdiction of the Council~~, as designated, have reasonable access to and opportunity to develop substantial commercial fisheries under the authority of the Council, the Secretary may approve community development quotas in accordance with the following provisions.

1. ~~A~~ The Governor of Alaska is authorized to recommend to the Secretary that a community be designated as an eligible economically disadvantaged fishing community. To be eligible, a community must meet all of the following conditions:
 - (a) be located on the coastline west of a line immediately to the east of Port Graham and English Bay at a site accessible to commercial fishing vessels and the sablefish fishing grounds;
 - (b) be unlikely to be able to attract and develop economic activity other than commercial fishing that would provide a substantial source of employment;
 - (c) have culturally and traditionally engaged in and depended upon fishing in the waters off its coast;
 - (d) have not previously developed harvesting or processing capability sufficient to support substantial participation in the commercial groundfish fisheries because of a lack of sufficient funds for investment in harvesting or processing equipment; and
 - (e) have developed a fishery development plan approved by the Governor of Alaska ~~the requesting State~~ that includes arrangement to: (1) acquire or contract with U.S. fishing vessels and U.S. processing plants for the development of commercial sablefish fishing based primarily in the community or region; (2) provide employment of persons in the community and otherwise contribute to the economic development and improvement of the community as a whole; and (3) provide sufficient financing to implement the plan successfully.
2. ~~Each~~ The Governor of Alaska shall develop such recommendations in consultation with the North Pacific Fishery Management Council.
3. ~~Each~~ The Governor of Alaska shall forward any such recommendations to the Secretary, following consultation with the Council. Upon receipt of such recommendations, the Secretary may designate a community as an eligible economically disadvantaged fishing community if:
 - (a) the community meets the criteria set forth in (1) above; and
 - (b) the Secretary finds that the State has reasonable assurances that sufficient financing and other arrangements will be available to implement the plan successfully.
4. ~~Not more than a total of 8% of the fixed gear total allowable catch of sablefish each year, determined on a management area basis, may be utilized in aggregate by designated eligible economically disadvantaged communities.~~ No community may be designated as an eligible economically disadvantaged community for more than 10 consecutive or nonconsecutive years.

Apportionment of Area IFQ to communities would not be greater than:

Bering Sea	10 5% of Area TAC
Aleutian Islands	10 5% of Area TAC
Western Gulf	10 5% of Area TAC
Central Gulf	5% of Area TAC
W. Yakutat	1% of Area TAC
E. Yak./S.E. Outside	1% of Area TAC

A-14 □ Tuesday, November 20, 1990

Honolulu Star-Bulletin

Published by Gannett Pacific Corporation

Advisers: Cast out Hawaii's long-line fishing newcomers

□ They want ships that came
after June 21 to be sent away

By Mary Adamski
Star-Bulletin

Thirty-nine long-line fishing boats would be sent packing from Hawaii, and no new vessels would be allowed for at least three years, if federal fishery officials accept the recommendation of an industry advisory group.

Only long-line fishermen who were in operation in Hawaii waters before June 21 could continue the high-yield method of fishing during a three-year moratorium recommended by the pelagic advisory subcommittee to the Western Pacific Regional Fishery Management Council.

The advisory panel voted last night during three hours of discussion accompanied by the shouts, jeers and cheers of more than 50 local fishermen, many of whom said the action is coming too late.

The fishery council will receive the proposals at its Dec. 5 meeting at Fort DeRussy.

"The fleet has grown so large so fast, it has gotten ahead of our ability to determine what the resources are and plan their use," said Jim Witten, co-chairman of the advisory panel.

"We don't want to ruin the fishing for everyone." "You have no data on what is in this ocean; the fishery needs a management plan," said Henry Gighliotty, owner of two long-line boats from New Jersey.

But he did not agree with the solution "to arbitrarily come up with an arbitrary date, without a lot of public input."

There were 113 long-line boats here on June 21; Gighliotty's are among the 39 boats which arrived later.

“
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want to ruin
the fishing
for
everyone.
”

Jim Witten
Advisory panel
co-chairman

"I've lived here more than 12 years, and I want to do business here," Tony Pham said. He said he and his brother, Bob, have commissioned construction of a long-liner in New Orleans, but it won't arrive in Hawaii until early next year.

"You guys are kicking us out of the state. What happens to us? Do we have to sell our boat? You guys should make some recommendation for a resident of Hawaii," Pham said.

At least 50 of the long-line fishing boats are owned by Vietnamese, said Mai McDowell, an agent of a group of Vietnamese fishermen.

"It's not fair that they are not represented when you vote," she told the advisory panel. The single Vietnamese member of the panel did not attend the meeting.

"There has to be a balance. Telling someone he can't fish is like taking away a constitutional right," panelist April Romero said. The moratorium is a temporary measure, she said, "we just want to take a time out."

"We all tend to question the motivation of newcomers, seeing some gold rush mentality, but thinking that fishermen who were already here are somehow more conservation-minded," co-chairman Jim Cook said. "I suspect theirs is the same motivation as ourselves, to make a living."

Cook was one of three members who voted against the June 21 date, a cutoff deadline that arose from the last action of the fishery council which voted June 20 to initiate a permit system.

Since then, each long-liner with a permit must keep a logbook on its catch, a first step toward the goal of the moratorium, to collect data that will determine how great the fishing resources are and how big a fishing fleet Hawaii waters can sustain.

"Anyone who came after June 21 understood the risk," panelist Bill Aila said.

Aila objected to the panel's recommendation that the new vessels be given 90 days to phase out their Hawaii operations.

The panel also recommended that long-line vessels that operate outside the 200-mile Exclusive Economic Zone, which the United States claims around its territory, should not be allowed to sell their catches in Hawaii.

According to fishery council figures, the current count of 153 long-line vessels compares with 75 in 1989, 50 in 1988 and 37 in 1987.

Fishermen from the Atlantic coast and Gulf of Mexico have migrated to Hawaii, sometimes in fleets, as swordfish and tuna became depleted and the management councils in those areas considered restrictions.



**WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL**

November 26, 1990

MEMORANDUM

TO: Interested Parties

FROM: *Kitty Simonds*
Kitty Simonds
Executive Director

SUBJECT: Proposed Moratorium on New Entry in the Hawaii Longline Fishery

The Council will meet on December 5-6, 1990 to discuss recommendations from its Pelagic Plan Monitoring Team and the Advisory Panel Pelagic Subpanel that a 3 year moratorium on new entry into the Hawaii longline fishery be imposed. The Council needs your assistance in gathering information to aid their decision on this matter.

In June 1990 the Council, concerned with the rapid growth of the longline fleet instituted a June 21, 1990 control date which could be used to determine eligibility for continued participation in the fishery should the Council decide in the future to limit effort in the fishery. The purpose of the control date was to inform longliners entering the fishery after June 21, 1990 that their investment could be at risk. The fleet at the time of the June 21st control date contained approximately 113 vessels.

Since that time the fleet has continued to grow and currently stands at approximately 150 vessels. In October, the Pelagic Plan Monitoring Team met and recommended that the Council request that the Secretary of Commerce take emergency action to impose a 3 year moratorium on new entry. On November 19, 1990 the Advisory Panel's Pelagic Subpanel met to discuss the PMT recommendations and formulate their own recommendations to the Council on this issue. A copy of the AP Subpanel recommendations is enclosed.

There are a number of issues which will need to be addressed at the Council meeting on December 5. The first issue is whether or not a moratorium is warranted at this time. If it is deemed appropriate, then a number of issues need to be resolved. These include:

- (1) what date should be used to determine eligibility for continued participation,
- (2) what constitutes "substantial investment" if a vessel has not actually landed fish in the longline fishery,
- (3) whether a vessel whose owner has made substantial investment to participate should be required to have been physically located in Hawaii at the time of the investment,
- (4) how long should the moratorium be in place, and
- (5) should permits be transferable during the duration of the moratorium.



**WESTERN
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FISHERY
MANAGEMENT
COUNCIL**

**Department of Commerce
National Oceanic and Atmospheric Administration
Western Pacific Regional Fishery Management Council**

PUBLIC MEETING

AGENCY: National Marine Fisheries Service, NOAA, COMMERCE

SUMMARY: The 71st Meeting of the Western Pacific Fishery Management Council will take place on:

December 5, 1990 2:00 pm - 8:00 pm
December 6, 1990 8:00 am - 11:30 am

ADDRESS: Dole Cannery - Wahiawa Ballroom
735 Iwilei Road
Honolulu, Hawaii 96817

AGENDA: The Council will meet to discuss issues concerning the entry of new longliners to the Western Pacific pelagic fisheries. In particular, the Council will discuss:

- (1) action on a recommendation from its Pelagics Plan Monitoring Team (PMT) that a three-year moratorium on new entry into the Hawaii longline fishery be imposed;
- (2) implementation of control dates for the pelagic fisheries of American Samoa and Guam which could be used to restrict participation in the fisheries in the future should the Council develop limited effort plans for those areas; and
- (3) any other Council business.

The Council will also review a process proposed by the PMT and AP to develop management measures designed to reduce gear conflicts in the pelagic fisheries of Hawaii.

The meeting is open to the public and an opportunity for public comment will be provided.

FOR FURTHER INFORMATION CONTACT:

**Kitty Simonds, Executive Director
1164 Bishop Street, #1405
Honolulu, HI 96812
Tel: (808) 523-1368; (FTS) 541-1974
FAX: (808) 526-0824**

The control language states that the vessel whose owner had made a substantial financial investment must have been physically located in Hawaii or the EEZ surrounding Hawaii at the time of the control date. Do you agree or disagree? Why?

Transferability

During the moratorium period, should a longline vessel owner be permitted to sell his vessel and transfer the right to fish with the sale of the vessel? Why or why not?

During the moratorium period, should a vessel owner be allowed to replace his/her vessel and continue to fish in the fishery?

Other Comments?

Please return to: Western Pacific Regional Fishery Management Council
1164 Bishop Street Suite 1405
Honolulu, Hawaii 96813
Telephone: (808) 523-1368
FAX: (808) 526-0824

Issues Related to a Moratorium on New Entry in the Hawaii Longline Fishery

Should there be a moratorium at this time? Why or Why not?

IF A MORATORIUM IS RECOMMENDED:

How long should it be?

What date should be used to limit participation:

The June 21, 1990 control date?

The December 5 meeting date?

Other?

What are your reasons for your choice of date?

Criteria for Eligibility

The current language of the control date requires documentation of either landing in Hawaii of fish taken by longline gear or "substantial financial commitment or investment in gear for participation in the longline fishery by a vessel located in Hawaii or the EEZ surrounding Hawaii. What, in your opinion constitutes "substantial financial investment" and how should it be documented?

11-28-90

North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, Alaska 99510
ATTN: Don W Collinsworth, Chairman

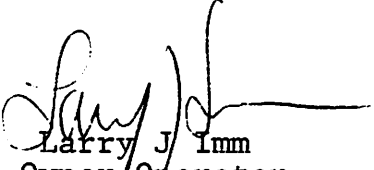
Dear Chairman Collinsworth:

Due to the fact that I will be out of town during the December council meeting I'm writing this letter to you and all other council members to register my opposition to the sablefish IFQ management plan.

As a fisherman who has a boat in the pipeline under the proposed moratorium and a concerned Alaskan I feel the IFQ plan would make instant millionaires out of a select few and punish any other fisherman that don't already own their vessels. It would be virtually impossible for a young deckhand trying to work and save for his own vessel to ever enter this fishery. As I've stated in earlier letters to the council I feel the IFQ system would end up being managed by the large corporate interest in Seattle, much as the Bristol Bay Salmon fishery currently is virtually eliminating the small Alaskan operator completely.

The council has already taken the initial steps toward putting the moratorium in effect. I feel the moratorium would achieve the same purpose as the IFQ system while still allowing the council more time to effectively study the issue and review the litigation on other IFQ systems currently being challenged.

I appreciate the consideration of all council members on this matter.


Larry J Imm
Owner/Operator
F/V Gulf Princess