

MEMORANDUM

TO: Council, SSC and AP Members  
FROM: Chris Oliver *Chris*  
Executive Director  
DATE: November 28, 2012  
SUBJECT: Halibut Issues – CQE Small Block Restriction

ESTIMATE TIME 6 HOURS (All C-3 Items)
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**ACTION REQUIRED**

(b) Discussion paper on CQE small block restrictions

**BACKGROUND**

In 2004, the halibut and sablefish IFQ program was revised to allow a distinct set of 42 remote, coastal communities with few economic alternatives to purchase and hold catcher vessel quota share (QS) in Areas 2C, 3A, and 3B, in order to help ensure access to and sustain participation in the commercial halibut and sablefish fisheries. Eligible communities can form non-profit corporations called Community Quota Entities (CQEs) to purchase catcher vessel QS, and the annual IFQ resulting from the QS can only be leased to community residents. CQE communities are subject to QS purchase and use caps.

In June 2012, the Council heard testimony that a resident of a community that had established a Community Quota Entity (CQE) to purchase and lease halibut and sablefish individual fishing quota (IFQ) to community residents had attempted to sell his halibut IFQ to the community's CQE. The CQE was unable, however, to purchase the IFQ, because it was a block of quota share, and the CQE discovered it was limited by a minimum size restriction on its ability to purchase blocks. As a result, the Council requested a discussion paper to evaluate removing restrictions on CQE communities buying small blocks of IFQ, at least and especially from CQE residents. The discussion paper is attached as Item C-3(b)(revised).

# CQE small block restriction – discussion paper (revised)

November 2012<sup>1</sup>

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In June 2012, the Council heard testimony that a resident of a community that had established a Community Quota Entity (CQE) to purchase and lease halibut and sablefish individual fishing quota (IFQ) to community residents had attempted to sell his halibut IFQ to the community's CQE. The CQE was unable, however, to purchase the IFQ, because it was a block of quota share, and the CQE discovered it was limited by a minimum size restriction on its ability to purchase blocks. As a result, the Council requested a discussion paper to evaluate removing restrictions on CQE communities buying small blocks of IFQ, at least and especially from CQE residents.

## 1 Background

### 1.1 CQE program

The Council and NMFS developed a limited access system for the fixed gear halibut and sablefish fisheries off Alaska, to resolve the conservation and management problems commonly associated with open access fisheries. Fishing under the IFQ Program began in 1995. The IFQ Program limits access to the halibut and sablefish fisheries to those persons holding quota share in specific management areas. Quota shares equate to individual harvesting privileges, given effect on an annual basis through the issuance of IFQ permits. The specific amount (in pounds) that an individual permit holder is annually authorized to harvest is determined by the number of QS units held for that species, the total number of QS units issued for that species in a specific regulatory area, and the total amount of the species allocated for IFQ fisheries in a particular year. If the abundance of halibut or sablefish decreases over time, the total allowable catch (TAC) for that species will decrease and, subsequently, the number of pounds on a person's annual IFQ permit also will decrease. By ensuring access to a certain amount of the TAC at the beginning of the season and by extending the season over a longer period, QS holders may determine where and when to fish, how much gear to deploy, and how much overall investment to make in harvesting.

Under GOA Amendment 66, effective in 2004, the Council revised the IFQ program to allow a distinct set of 42 remote, coastal communities with few economic alternatives to purchase and hold catcher vessel QS in Areas 2C, 3A, and 3B, in order to help ensure access to and sustain participation in the commercial halibut and sablefish fisheries<sup>2</sup>. Eligible communities can form non-profit corporations called CQEs to purchase catcher vessel QS, and the annual IFQ resulting from the QS can only be leased to community residents.

<sup>1</sup> Prepared by Diana Evans, Council staff.

<sup>2</sup> In 2012, the Council recommended a revision to the CQE program to allow for the creation of a community non-profit organization to represent Adak, for the purpose of purchasing Area 4B halibut catcher vessel quota share (QS), and Aleutian Islands sablefish catcher vessel QS. This proposed amendment has not yet been approved by the Secretary of Commerce.

In effect, the CQE remains the holder of the QS, creating a permanent asset for the community to use to benefit its residents. The QS can only be sold in order to improve the community's position in the program, or to meet legal requirements, thus, the QS must remain with the community entity.<sup>3</sup> The CQE Program was also intended as a way to promote ownership by individual residents, as individuals can lease annual IFQ from the CQE and gradually be in a position to purchase their own quota share. During the development of the program, it was noted that both community and individually-held quota were important in terms of fishing access and economic health.

The CQE Program includes several elements that make CQEs subject to either more, the same, or fewer constraints than individual quota share holders. In some cases, the CQE is subject to the same latitude and limitations as individual users, as if the CQE is simply another category of eligible person. For example, an individual CQE is held to the same quota share cap as an individual holder. In other cases, the CQE is subject to less restrictive measures than individual holders. For example, the vessel size categories do not apply to QS when held by CQEs. In yet other cases, the CQE is subject to more restrictive measures than individuals, in part to protect existing holders and preserve entry-level opportunities for fishermen residing in other (non-eligible) fishery-dependent communities. In addition, there are caps on the amount of QS that all CQEs combined can purchase, and that each individual CQE can purchase. CQEs also have a limit on the number of pounds of halibut and sablefish IFQ that they can lease to an individual resident, and the amount of IFQ that can be used on an individual vessel. Both limits are inclusive of any individual IFQ held.

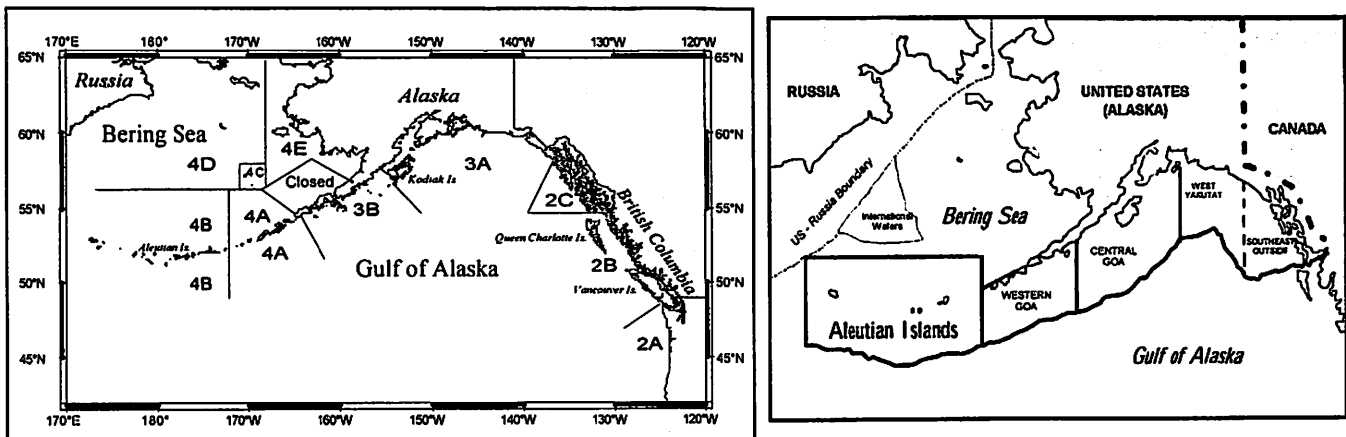
Participation in the CQE Program has been relatively limited with respect to the purpose of allowing communities to purchase halibut and sablefish quota shares in the Gulf and retaining that QS for use by resident fishermen<sup>4</sup>. Only two CQEs have purchased quota share to-date, and the program has not come close to reaching its regulatory limits on the amount of QS that may be purchased. While only two CQEs have purchased QS, 30 of the 42 eligible GOA communities have completed the process to form a CQE and have it approved by NMFS. Thus, three-quarters of the eligible communities have invested substantial time and resources in preparing to participate in the program, and several additional communities have made efforts to evaluate whether forming a CQE is of interest and benefit to the community at this time. Regardless of the interest conveyed and effort put forth to participate in the program, very little quota share has been purchased.

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<sup>3</sup> If the CQE sells its QS for any other reason, NMFS will withhold annual IFQ permits on any remaining QS held, and will disqualify the CQE from holding QS on behalf of that community for 3 years. It also requires that the CQE divest itself of any remaining QS on behalf of that community.

<sup>4</sup> Note, the CQE model has since been extended to other Council programs, as beginning in 2011, eligible GOA communities may now hold non-trawl groundfish permits endorsed for Pacific cod, and community charter halibut permits.

Action area – Regulatory areas for the commercial halibut (left) and sablefish (right) fisheries



1.2 Block restrictions under the IFQ program

As part of the IFQ program, the Council also designed a “block program,” to further guard against excessive consolidation of QS and consequent social impacts on the fishery and dependent communities. The overall intent of the block restriction was to ensure that QS would be available to a part-time fleet of smaller operators, in order to help maintain some of the diversity of the fleet that existed under open access and thereby make the IFQ program less disruptive to isolated Alaska fishing communities. The block program reduced the amount of QS consolidation that could have occurred under the IFQ program, and slowed consolidation by restricting QS transfers. The following are provisions of the block program for individual QS holders:

- All initial QS allocations for both halibut and sablefish, which would have yielded less than 20,000 lb of IFQ in 1994, were placed permanently in a QS block. Blocks are not divisible and can only be bought or transferred in their entirety. In 2004, QS blocks in Areas 3B and 4A that yielded more than 20,000 lb, based on 2004 TACs, were divided into one block of 20,000 lb and the remainder as unblocked QS.
- A sweep-up provision allows very small blocks to be combined into a fishable amount. For halibut, blocks could be combined if the sum total would not exceed an amount of QS equal to 1,000 lb of IFQ in 1994. The same provision applies to sablefish, except that the poundage cap was set at 3,000 lb. In 1996, the sweep-up consolidation levels for small QS blocks were increased to 3,000 lb for Pacific halibut, and 5,000 lb for sablefish, using the pound equivalents in QS units for 1996 TACs. In 2004, the sweep-up consolidation level for halibut was again increased in Areas 2C and 3A only, to the 5,000 lb equivalent in 1996 QS units.
- Block restrictions limit the number of blocks a QS holder may hold. Initially, a QS holder was only allowed to hold up to two blocks of QS each for halibut and sablefish per IFQ regulatory area. This limit was increased to 3 blocks for halibut in 2004. However, if a QS holder holds any amount of unblocked QS for an area, he or she may hold only one block of QS for that area.

Slightly different block program restrictions apply to CQEs, however the intent remains the same in applying a block provision to QS held by community entities. By limiting the number of blocks a CQE may hold, it would help prevent communities from consolidating the type of QS that is most attractive to and feasible for existing smaller operators to purchase. A CQE may not hold more than 10 blocks of halibut QS in any IFQ regulatory area, and not more than 5 blocks of sablefish in any IFQ regulatory area, on behalf of any eligible community. Additionally, CQEs are restricted to purchasing blocks of shares that, when issued, exceeded a minimum poundage of IFQ, based on 1996 TACs. The minimum size limit of a QS block that may be purchased or used by a CQE is listed in Table 1. Under Amendment 66, the

limits were set to the same level as applied to sweep-up consolidation levels for individuals, namely the equivalent amount of QS that resulted in 3,000 lb for halibut, and 5,000 lb for sablefish, based on 1996 TACs (except that no minimum size limit was identified for halibut in Area 3B<sup>5</sup>). Subsequently, in GOA Amendment 67, the Council increased the sweep-up consolidation level for individuals holding halibut blocks in Areas 2C and 3A, to 5,000 lb in equivalent 1996 QS units, and this increased level was also applied to CQEs by increasing the minimum size limit of a QS block of halibut that could be purchased or used by a community for those regulatory areas.

**Table 1 Minimum size limit of QS blocks that may be purchased or used by a CQE**

Species	Area	QS block minimum	IFQ equivalent in 2012 TACs	Species	Area	QS block minimum	IFQ equivalent in 2012 TACs
Halibut	2C	33,320 QS	1,470 lb	Sablefish	Southeast Outside	33,270 QS	3,520 lb
	3A	46,520 QS	3,000 lb		West Yakutat	43,390 QS	3,550 lb
	3B	No restriction			Central GOA	46,055 QS	4,190 lb
			Western GOA		48,410 QS	4,220 lb	

Effectively, this restriction prohibits communities from purchasing the smallest blocks of QS. Rationale for the Council's recommendation may be found in the Amendment 66 analysis (prepared in 2002). The analysis noted that the original intent of the block provision was to ensure that QS would be available to a part-time fleet of smaller operators, in order to mitigate some of the negative impacts to isolated fishing communities. However, the community QS program was also intended to protect these same stakeholders, as community use of QS would potentially benefit many individual residents. At the same time, the analysis noted that if no limit on the acquisition of blocked QS was applied and, as assumed, blocked QS is the most "affordable" form available, qualifying communities would logically seek to acquire as much of this form of QS as they could. With the entry of potentially as many as 45 qualifying communities into the market for QS, the price "bid" for all forms of QS would be expected to rise, with blocked QS rising relatively more than unblocked, due to this being the preferred form sought by the new market entrants. The most likely sellers of blocked QS were anticipated to be the current QS holders residing in the target communities, who, not coincidentally, hold a disproportionate amount of blocked QS relative to that held by all Gulf communities. As a result, if no limit on acquisition of the "entry level" blocked shares was applied, gains in community QS holdings may (potentially in large part) have reflected losses of QS holdings among residents of these same target communities, i.e., a transference of "private" ownership, to "public" (community) ownership. The analysis noted as well that there may also be smaller, individual operators, of the type that the block provision was originally intended to protect, who are not residents of the target communities, and who could find it more difficult to purchase blocked QS if communities were allowed to enter the program.

The specific restriction on purchasing small blocks of QS was intended to allow some community purchase of blocked QS, while preserving the smallest (and least costly) blocks for individual holders. Although the analysis noted that there was considerable uncertainty in predicting how individual communities would participate in the program in the future, the small block purchase restriction, as well as other block restrictions, was implemented to mitigate concerns about communities flooding the market, and buying up all the blocked QS available to individual operators..

<sup>5</sup> The Amendment 66 analysis noted that TAC had increased dramatically in Area 3B since initial issuance, resulting in the development of blocks of QS yielding very high pounds of IFQ. The Council subsequently addressed this issue under GOA Amendment 67, by dividing all QS blocks in Area 3B (and 4A, where there was a similar issue) into a block of 20,000 lb, based on 2004 TACs, with the remainder issued as unblocked QS.

### 1.3 Data on blocks

The information compiled in this section is specific to halibut QS, because the CQEs that have purchased QS to date only hold halibut QS. Similar information could also be compiled for sablefish QS holdings.

The majority of QS in Area 2C is blocked (Table 2). In the remaining areas relevant to the CQE program, blocked QS represents between a third and a half of total QS. As reported above, there are two CQEs that have purchased halibut QS. In both cases, the CQE holdings consist entirely of blocked QS.

**Table 2 Total halibut catcher vessel QS holdings, by area.**

Area	Total QS	Blocked QS	Unblocked QS	Total Number of Blocks
2C	58,287,044	71%	29%	1,422
3A	180,120,286	36%	64%	1,613
3B	52,608,160	46%	54%	574
4B	8,731,285	36%	64%	104

Source: NOAA Fisheries RAM, 11/5/2012.

Table 3 illustrates the quota share holdings of CQE community residents, and the proportion of their quota share that is blocked. Residence is determined by the residence or business address reported to NMFS. In most CQE communities, the majority of QS held by residents is blocked QS.

**Table 3 Halibut QS holdings of CQE community residents, by self-reported residence/business address.**

Area	Community	2C		3A		3B	
		Total QS	% blocked	Total QS	% blocked	Total QS	% blocked
2C	Angoon	197,746	70%				
	Coffman Cove			187,329	0%		
	Craig	1,654,693	83%				
	Edna Bay	230,154	100%				
	Elfin Cove	651,310	73%	253,254	72%	84,722	82%
	Gustavus	355,502	100%	154,850	100%	28,817	100%
	Hoonah	663,759	86%	313,203	83%		
	Hydaburg	46,583	100%				
	Kake	735,724	61%				
	Klawock	29,495	100%	114,830	100%		
	Metlakatla	279,731	100%				
	Pelican	637,350	27%	213,519	100%		
	Point Baker	138,669	100%				
	Port Alexander	79,525	100%	78	100%		
Tenakee Springs	463	100%	175,498	100%			
Thorne Bay	143,735	97%					
3A	Old Harbor			149,323	100%	13,255	100%
	Port Graham			88,899	100%		
	Port Lions			99,525	100%		
	Seldovia			2,501,381	22%	592,497	39%
	Yakutat	1,086	100%	1,270,945	100%		
3B	Chignik					128,220	97%
	King Cove					782,660	75%
	Sand Point			13,324	100%	2,475,816	75%

Source: NOAA Fisheries RAM, 11/5/2012.

As demonstrated in Table 4, CQEs are currently prohibited from holding approximately two-thirds of the available blocks in Areas 2C and 3A, representing approximately a third of the blocked QS in each area (i.e., any blocks that yielded less than 5,000 lb, based on 1996 TACs). At the implementation of the CQE

program, prior to the increase in the sweep-up consolidation level for individuals, implemented under GOA Amendment 67, CQEs were only prohibited from holding close to half of the available blocks, or 16% of the available QS in each area.

**Table 4 Number of halibut blocks, by size and regulatory area.**

Area	Blocks that yielded ≤ 3,000 lb (based on 1996 TACs)		Blocks that yielded 3,001 - 5,000 lb (based on 1996 TACs)		Blocks that yield > 5,001 lb (based on 1996 TACs)	
	Number of blocks	% of total blocked CV QS	Number of blocks	% of total blocked CV QS	Number of blocks	% of total blocked CV QS
<b>2C</b>	649	16%	309	20%	464	64%
<b>3A</b>	760	16%	339	20%	514	63%

Source: NOAA Fisheries RAM, 11/5/2012.

## 2 Avenues for Council action

In order to change the block restrictions that apply to CQEs, the Council would need to initiate FMP and regulatory amendments. The current CQE block restrictions are specified in Section 3.7.1.8.3 of the GOA FMP, and in 50 CFR 679.41(e)(4) and (5). If the Council chooses to move forward with an amendment analysis on this issue, the Council should articulate a statement of the problem that the amendment is seeking to address, and alternatives for analysis.

Some issues that the Council should clarify, if it intends to move this forward for analysis, include the following:

- Does the Council want to consider changing the CQE minimum block size restriction for both halibut and sablefish?
- To what should the block restriction be changed? A lower limit, for example for halibut, reverting to the original Amendment 66 limit, or a removal of the limit?
- The Council's June 2012 discussion referenced a potential option of lifting the block restriction specifically when a CQE is buying QS from a community resident. Does the Council want to limit the analysis to this interpretation, or analyze changing the block restriction as it is applicable to any purchase?

# **Individual Fishing Quota Program Proposal to Allow IFQ halibut in Area 4A to be retained in IFQ sablefish pots Discussion Paper**

**Develop a discussion paper to allow the retention of Area 4A halibut incidentally caught while targeting sablefish in the Bering Sea and Aleutian Island regulatory areas. Included in the discussion paper is the premise that sablefish pot tunnel regulations will not change in the BS/AI regulatory area and that this action has the objective of not increasing halibut bycatch levels.**

**Summary** A proposal to change fishery regulations that define legal gear for retaining commercial Individual Fishing Quota (IFQ) halibut originally was submitted to the International Pacific Halibut Commission (IPHC) for its consideration at its January 2009 Annual Meeting. While the proposed action to define legal gear for halibut is under the management authority of the IPHC, it chose to consult with the North Pacific Council before it considered the proposed action.

The Council included this proposal under its 2009 call for IFQ/CDQ proposals after the IPHC forwarded the proposal, along with its own comments, for consideration by the Council. During its September 30, 2009 meeting, the IFQ Implementation Committee reviewed and recommended that the Council consider the proposal. In February 2010 the Council recommended that staff prepare a discussion paper, but ranked it lower than several other proposals for which the Council has since taken action. Council staff prepared a briefing on the status of the remaining four IFQ proposals under consideration by the Council in October 2011. The timing in scheduling Council review of this paper has been due to higher priorities that the Council has placed on other actions to manage halibut and groundfish fisheries, including Gulf of Alaska halibut prohibited species catch (PSC) limit reductions and the Pacific Halibut Catch Sharing Plan.

At its March 26, 2012 meeting, the committee reviewed the staff briefing paper on the status of the remaining proposals and recommended that all proposals proceed for Council consideration. The Council ranked this discussion paper as its highest priority of the four remaining papers, in order to provide the requested guidance, if any, to the IPHC in time for its January 2013 Annual Meeting. At its December 2012 meeting the Council may provide guidance to the IPHC on its own consideration of this proposal. Should the IPHC choose to amend its definition of legal gear for halibut, a likely result would be the need for regulatory action initiated through the Council for amending regulations to require retention of IFQ halibut when caught in IFQ sablefish pots in a defined area that overlaps the two sets of regulatory areas (i.e., Area 4A for halibut and the Bering Sea and Aleutian Islands regulatory areas for sablefish). The Council may not intend for an expansion of the use of pot gear in the sablefish fishery to occur as a result of allowing the retention of IFQ halibut, but it could result in that unintended consequence. However, the increased use of pot gear may result in a decrease of unaccounted mortality by whale depredation on the gear<sup>1</sup>.

At its December meeting the Council will consider whether to provide comments to the IPHC on the latter's consideration of the proposed action that is under its management authority. IPHC adoption of the proposal may require additional action by the Council and rulemaking by NMFS for complementary changes to Federal regulations.

**Proposal** Mr. Jay Hebert submitted a proposal on October 22, 2008 to the IPHC (Attachment 1). The proposer requests an experimental fishery to determine the results of allowing the retention of halibut caught as bycatch in pots in the sablefish fishery by IFQ holders of both halibut and sablefish in the sablefish regulatory area(s) that overlap with IPHC Regulatory Area 4A. The proposer intended to allow similar action as had been recently allowed in Area 2B (British Columbia), which allows coincident harvest and retention of halibut and sablefish in pot gear. Three primary objectives of the proposal are:

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<sup>1</sup> Halibut discards in the sablefish pot fishery are counted as removals.



- 1) Increase the area of harvest of halibut in Area 4A. The proposer reports that there is a large portion of Area 4A that is not fished due to whale predation using longline gear. Pots can be used to more successfully harvest halibut.
- 2) Reduce halibut mortality from killer whale predation and handling by eliminating mortality due to handling released halibut.
- 3) Reduce concentrated halibut harvest in traditional “whale-free” areas as a result of increased presence (time and space) of whales. The proposed action would reduce pressure on the halibut resource and competition between vessels in the current limited area of successful halibut fishing.

### **Fishery affected**

The proposal intends that the use of pots for retaining halibut be restricted to the sablefish IFQ fishery in the sablefish regulatory areas that overlap with IPHC Regulatory Area 4A. The Council clarified its intent, should it recommend to move this proposal forward, would be to allow halibut to be retained that are caught incidentally in this fishery only, and not to expand the use of pots to retain IFQ halibut in the Pacific cod (or other) pot fisheries.

### **Potentially affected participation**

Of 208 persons holding Area 4A halibut IFQ in 2012, 80 persons also hold BS, AI, or WG sablefish IFQ. Of 176 vessels that are owned by holders of Area 4A halibut IFQ, 97 vessel owners also hold Bering Sea, Aleutian Islands, or Western Gulf of Alaska sablefish quota shares (this is the vessel ownership relationship and not what vessel fished the IFQs). There is no halibut allocation to the Community Development Quota (CDQ) Program in Area 4A, so the proposal only would apply to the IFQ fishery in that area. The RAM Report to the Fleet<sup>2</sup> provides the following information on vessel landings, TAC, harvest and percent of TAC harvested for the halibut and sablefish IFQ fisheries.

Table 2.1 2011 IFQ halibut allocations and fixed-gear IFQ landings

Species/Area	Vessel Landings <sup>a</sup>	Area IFQ TAC <sup>b</sup>	Total Harvest	Percent Harvested <sup>c,d</sup>
Halibut 2C	1,292	2,330,000	2,292,926	98
3A	1,898	14,360,000	14,265,007	99
3B	758	7,510,000	7,336,170	98
4A	296	2,410,000	2,286,068	95
4B	120	1,744,000	1,595,524	91
4C	21	845,000	104,808	12
4D	68	1,183,000	1,742,965	147
<b>Total</b>	<b>4,453</b>	<b>30,382,000</b>	<b>29,623,468</b>	<b>98</b>

<sup>a</sup> Vessel landings include the number of reported landings by participating vessels reported by IFQ regulatory area; each such landing may include harvests from multiple IFQ permit holders.

<sup>b</sup> Halibut weights are in net (headed and gutted) pounds.

<sup>c</sup> Due to over- or underharvest of TAC and rounding, percentages may not total 100 percent.

<sup>d</sup> Permit holders may fish IFQ designated for Area 4C in either Areas 4C or 4D. This resulted in an apparent, but allowable, “excessive harvest” in Area 4D.

<sup>2</sup> <http://www.fakr.noaa.gov/ram/ifq/rtf11.pdf>

Table 2.2 2011 IFQ sablefish allocations and IFQ landings

Species/Area	Vessel Landings <sup>a</sup>	Area IFQ TAC <sup>b</sup>	Total Harvest	Percent Harvested <sup>c</sup>
Sablefish AI	124	2,738,113	1,684,207	62
BS	204	2,513,244	1,055,427	42
CG	575	8,359,843	8,274,128	99
SE	540	6,481,524	6,452,159	100
WG	179	2,857,162	2,748,249	96
WY	216	3,844,822	3,827,053	100
<b>Total</b>	<b>1,838</b>	<b>26,794,708</b>	<b>24,041,223</b>	<b>90</b>

<sup>a</sup>Vessel landings include the number of reported landings by participating vessels reported by IFQ regulatory area.

Each such landing may include harvests from multiple IFQ permit holders.

<sup>b</sup>Sablefish weights are in round pounds.

<sup>c</sup>Due to over-or underharvest of TAC and rounding, percentages may not total 100 percent.

### Area affected

The area that would be affected by the proposal is limited to Area 4A; the IPHC staff recommended, and the committee concurred, that the proposed action not be expanded beyond this area. This would allow sablefish IFQ holders in either the Bering Sea area, Aleutian Islands area, or Western Gulf of Alaska area who also hold [sufficient] Area 4A halibut IFQ to retain halibut when using pot (single or longline) gear.

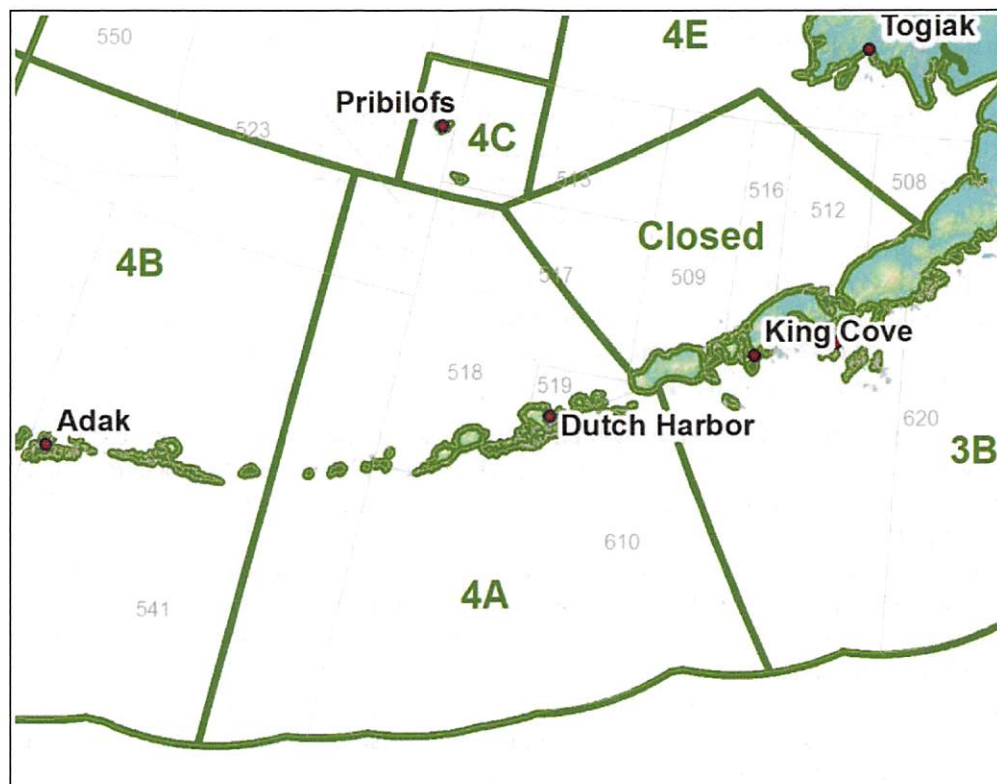


Figure 1 Overlap of IPHC halibut regulatory areas with BSAI groundfish (sablefish) regulatory areas (Source: NMFS). Area 4A overlays 630 (WG), 541 (AI) and multiple BS areas



**Spatial distribution of halibut and sablefish harvest in affected area** Figure 2 (percent) and Figure 3 (number) (in Attachment 2) show the distribution of IFQ sablefish pot landings (blocks) with halibut bycatch (vertical bars). The highest amounts in percent and numbers of both sablefish and halibut catch appears closest to the port of Dutch Harbor. Additional figures under Attachment 2 show the relationship between sablefish pot landings, and halibut bycatch, by month in the IFQ season.

**IPHC staff comments** The IPHC staff provided the following comments to the Council in a letter dated September 24, 2009 (Attachment 3), which accompanied transmittal of the proposal to the Council. The potential management issues identified in the comments still apply.

The IPHC staff is not opposed to allowing pot gear in Area 4A from a biological point of view. However, if the pot catch of halibut is sufficiently large enough, we would need to determine a pot gear selectivity curve for halibut for our stock assessment in order to account for that removal. Additionally, NMFS/RAM regulations would need to require full retention of halibut if the vessel has halibut IFQ and is using pot gear, similar to the regulation for longline gear. Also, IPHC regulations define legal gear by IPHC regulatory area but IPHC regulatory areas and NMFS sablefish areas are not concurrent. NOAA Enforcement would also need to provide feedback on location restrictions and may require that the vessel be transmitting with a Vessel Monitoring System transmitter.

The IPHC staff could not agree to allow pot gear coast-wide or an expansion to this proposal, without an understanding of the magnitude and impacts of catch in the pot fishery. The issues that the Council and Commission should consider include gear conflicts, creation of a new halibut fishery, redistribution of catch by gear, fish quality, and potential for future requests for expansion to winter cod fisheries.

**Committee recommendations** The IFQ Implementation Committee determined that this issue had a higher priority than most others, during its September 2009 review of IFQ/CDQ proposals<sup>3</sup>. It identified conservation and utilization issues in placing its priority. The committee noted that whale depredation has increased in the area due to discarded halibut bycatch in IFQ sablefish pot gear and expressed its concern that the bycatch mortality rate of halibut may be increasing due to whale depredation. Recognizing the potential for this provision to be misused (i.e., an increase of incidence of halibut bycatch in IFQ sablefish pots by strategic placement of pots or use of bait), the committee recommended that the paper explore mechanisms that would ensure that the halibut effects of the proposed action, without allowing for an increase in resultant halibut mortality. From the March 2012 IFQ Committee minutes<sup>4</sup>:

“The committee discussed the area for which the proposed action should be considered. While the proposal was specific to Area 4A because that is where the halibut predation occurred then, the committee noted that the same whale depredation problem also occurs in Area 4B. Heather Gilroy noted that the IPHC supported considering the proposed action in Area 4A, but not expanding the geographic range further. IPHC would need to collect new selectivity data if the area for the action was expanded. Heather reminded the committee that the proposed action is under IPHC authority to define legal gear for the retention of Pacific halibut, but that the IPHC wished to consult with the Council, as the proposed action would affect management of the sablefish IFQ fishery. Jane DiCosimo noted that the staff analysis would not be in the form of an RIR/IRFA because no regulatory action would be needed, so that minimized the distinction between a discussion paper and an analysis. Depending on other Council tasking priorities, she could bring back an analysis for the Council to consider recommending the proposed action in either October or December, so that the IPHC could take action at its next annual meeting in January 2013.

<sup>3</sup> <http://www.alaskafisheries.noaa.gov/npfmc/PDFdocuments/halibut/Minutes30Sep09.pdf> and [http://www.alaskafisheries.noaa.gov/npfmc/PDFdocuments/halibut/Motions9\\_30\\_09.pdf](http://www.alaskafisheries.noaa.gov/npfmc/PDFdocuments/halibut/Motions9_30_09.pdf)

<sup>4</sup> [http://www.alaskafisheries.noaa.gov/npfmc/PDFdocuments/halibut/Implementation/IFQImpCmte312\\_Minutes.pdf](http://www.alaskafisheries.noaa.gov/npfmc/PDFdocuments/halibut/Implementation/IFQImpCmte312_Minutes.pdf)



The committee recommended moving forward with an analysis of the proposed action, but requested that staff identify the latitude and longitude for the geographic boundaries for which: 1) Area 4A only, and 2) Area 4A and 4B overlap the Bering Sea management area and the Aleutian Island management area for sablefish. [A committee member] noted similar concerns about pot configurations, pot storage, deadloss, etc. that are also identified under Proposal 2.”

The Advisory Panel took no action on this proposal.

### **Previous Council actions affecting the use of pots in IFQ sablefish fisheries<sup>5</sup>**

Amendment 14 to the GOA Fishery Management Plan banned the use of pots for fishing for sablefish in the GOA, effective 18 November 1985, starting in the Eastern area in 1986, in the Central area in 1987, and in the Western area in 1989. An earlier regulatory amendment was approved in 1985 for 3 months (27 March - 25 June 1985) until Amendment 14 was effective. A later regulatory amendment in 1992 prohibited longline pot gear in the BS (57 FR 37906). The prohibition on sablefish longline pot gear use was removed for the BS effective 12 September 1996, except from 1 to 30 June to prevent gear conflicts with trawlers during that month. Sablefish longline pot gear is allowed in the AI.

### **Regulatory process/timing**

The IPHC may redefine legal gear to include pot gear (single and longline since there is a single gear code for both configurations) for halibut in Area 4A at its January 2013 Annual Meeting, as part of its action to adopt annual measures for 2013. Current IPHC gear regulations are excerpted below. The language suggests that additional action by NMFS to amend Federal regulations may be necessary; staff plans to provide additional clarification on whether rulemaking would be required during consideration of this proposal. It is unlikely that the Council and NMFS could complete an analysis and rulemaking in time even for the 2014 fishing season, unless the Council explicitly made this action a higher priority than other rulemakings already in development. The Council may choose to direct staff to develop the required analyses and rulemakings independent of the Council process in order to expedite implementation (but it still would be unlikely to be implemented for 2014), if it feels it had sufficient information to recommend a preferred alternative. The Council has given this direction on other IFQ amendments.

#### *19. Fishing Gear*

*(1) No person shall fish for halibut using any gear other than hook and line gear, except that vessels licensed to catch sablefish in Area 2B using sablefish trap gear as defined in the Condition of Sablefish Licence can retain halibut caught as bycatch under regulations promulgated by the Canadian Department of Fisheries and Oceans.*

### **Current fishery information<sup>5</sup>**

#### *Bycatch and discards in all gear types*

Prohibited species catches (PSC) in the targeted sablefish fisheries are dominated by halibut (1,060 t/year) and golden king crab (134,000 individuals/year) for both the BSAI and GOA; more detailed analysis in the affected area of the proposed action follows later in the paper. Overall, halibut catches seem to be decreasing, while catches of golden king crab are highly variable from year to year, probably as a result of low sampling effort in BSAI sablefish pot fisheries (Table 3.6 in the 2012 Groundfish SAFE Reports).

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<sup>5</sup> [http://www.afsc.noaa.gov/refm/stocks/plan\\_team/BSAIsablefish.pdf](http://www.afsc.noaa.gov/refm/stocks/plan_team/BSAIsablefish.pdf); the original table numbers are retained to provide reference to the source document

Table 3.6. Prohibited Species Catch (PSC) estimates reported in tons for halibut and herring, thousands of animals for crab and salmon, by year, and fisheries management plan (BSAI or GOA) area for the sablefish fishery.

Source: NMFS AKRO Blend/Catch Accounting System PSCNQ via AKFIN, October 12, 2012.

	2008			2009			2010			2011			Average
	BSAI	GOA	Total	BSAI	GOA	Total	BSAI	GOA	Total	BSAI	GOA	Total	
<b>Hook and Line</b>													
Bairdi Crab	0.00	0.01	0.01	0.03	0.24	0.28	0.00	0.07	0.07	0.00	0.00	0.00	0.09
Golden K. Crab	0.17	0.08	0.25	0.32	0.03	0.35	0.97	0.00	0.97	0.50	0.13	0.63	0.55
<b>Halibut</b>	<b>151</b>	<b>953</b>	<b>1,104</b>	<b>186</b>	<b>1,023</b>	<b>1,209</b>	<b>220</b>	<b>760</b>	<b>980</b>	<b>135</b>	<b>813</b>	<b>948</b>	<b>1,060</b>
Other Salmon	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Opilio Crab	0.01	0.23	0.24	0.01	0.21	0.22	0.00	0.16	0.16	0.00	0.29	0.29	0.23
Red K. Crab	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.05	0.05	0.02	0.00	0.02	0.02
<b>Other</b>													
Bairdi Crab	0.14	0.18	0.32	1.65	0.08	1.74	0.00	0.06	0.06	0.94	0.00	0.00	0.53
Golden K. Crab	182	0	182	139	0	139	26	0	26	191	0	191	134
<b>Halibut</b>	<b>28</b>	<b>7</b>	<b>35</b>	<b>17</b>	<b>3</b>	<b>20</b>	<b>39</b>	<b>4</b>	<b>43</b>	<b>17</b>	<b>6</b>	<b>23</b>	<b>30</b>
Herring	0.00	0.03	0.03	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.01
Other Salmon	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.02	0.02	0.00	0.00	0.00	0.00
Opilio Crab	0.25	0.00	0.25	0.01	0.10	0.11	2.15	0.03	2.18	0.33	0.00	0.33	0.72
Red K. Crab	0.42	0.00	0.42	0.00	0.00	0.00	0.00	0.00	0.00	0.41	0.00	0.41	0.21

The following is provided to place the halibut PSC data in context with other bycatch amounts. Table 3.4 in the 2012 Groundfish SAFE Reports shows groundfish bycatch in the sablefish target fishery. The largest bycatch is arrowtooth flounder (534 t/year, 456 t discarded). Arrowtooth is the only species that has substantial catch from non-longline gear. Shortspine thornyhead and shortraker rockfish are the 2nd and 3rd most caught species at 366 t/year and 207 t/year. The next three groups are "Other Species", GOA "Other Skate", and GOA longnose skate which total 415 t/year. Giant grenadiers, a non-target species that is not in either FMP, make up the bulk of the nontarget species bycatch, peaking at 9,315 t in 2007, but decreasing since with a 2011 catch of 6,652 t (Table 3.5 in the 2012 Groundfish SAFE Reports). Other nontarget catches that have totals over a ton per year are corals, snails, sponges, sea stars, and miscellaneous fishes and crabs.

Table 3.4. Bycatch (t) of FMP Groundfish species in the targeted sablefish fishery averaged from 2007-2011. Other = Pot and trawl combined because of confidentiality. Other Species is 2007-2010, and Sharks is only 2011. Source: NMFS AKRO Blend/Catch Accounting System via AKFIN, October 12, 2012.

Species	Hook and Line			Other Gear			All Gear		
	Discard	Retained	Total	Discard	Retained	Total	Discard	Retained	Total
Arrowtooth Flounder	320	66	385	137	12	148	456	78	534
Thornyhead rockfish	49	292	341	3	21	25	53	313	366
Shortraker Rockfish	81	93	173	7	26	34	89	119	207
Other Species	180	2	181	3	1	4	183	3	185
GOA Other Skate	135	4	139	1	0	1	137	4	141
GOA Longnose Skate	119	4	122	2	1	3	121	5	126
Other Rockfish	41	77	118	2	1	4	43	78	121
Greenland Turbot	37	54	91	16	2	18	53	56	109
Roughey Rockfish	38	57	99	16	4	20	54	60	119
Pacific Cod	25	58	83	1	7	8	26	65	91
Shark	234	0	234	1	0	1	235	0	235
GOA Deep Water Flatfish	8	0	8	15	4	19	24	4	28
Pacific ocean perch	7	0	7	2	16	18	9	16	25
BSAI Skate	18	0	18	0	-	0	18	0	18
BSAI Shortraker Rockfish	8	8	15	0	0	0	8	8	16
GOA Demersal Shelf Rockfish	0	11	11	-	-	-	0	11	11
BSAI Other Flatfish	7	2	9	1	0	1	8	2	10
Pollock	0	0	1	5	3	9	5	4	9
GOA Shallow Water Flatfish	7	1	8	1	0	1	8	1	9
GOA Rex Sole	0	0	0	5	3	8	5	3	8
<b>Total</b>	<b>1,315</b>	<b>728</b>	<b>2,046</b>	<b>220</b>	<b>102</b>	<b>322</b>	<b>1,535</b>	<b>830</b>	<b>2,369</b>

Table 3.5. Bycatch of nontarget species and HAPC biota in the targeted sablefish fishery. Source: NMFS AKRO Blend/Catch Accounting System via AKFIN, October 12, 2012. Conf. = confidential.

<u>Group Name</u>	<u>Estimated Catch (t)</u>					
	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Benthic urochordata	0.08	0.00	-	0.01	0.12	0.13
Birds	0.91	1.59	0.55	0.40	0.35	1.43
Bivalves	0	Conf.	-	0	0.00	0.06
Brittle star unidentified	0.05	0.10	0.06	0.33	0.10	0.38
Corals Bryozoans	1.57	0.16	1.56	1.62	2.45	4.90
Dark Rockfish	-	-	Conf.	0	Conf.	-
Eelpouts	1.30	2.26	9.04	1.76	1.34	0.54
Eulachon	-	0	Conf.	0	Conf.	-
Giant Grenadier	4,030	9,315	8,897	5,369	4,402	6,652
Greenlings	-	76	0.02	0.02	-	0
Grenadier	4,907	109	128	961	749	810
Hermit crab unidentified	0.05	0.05	0.07	0.09	0.19	0.21
Invertebrate unidentified	0.07	0.02	0.01	0.42	0.76	1.88
Misc crabs	0.47	1.12	0.94	3.20	1.90	1.16
Misc crustaceans	-	-	-	2	0.00	0.00
Misc deep fish	0	0.00	-	0	-	0
Misc fish	18.34	17.10	21.19	4.72	4.01	7.96
Misc inverts (worms etc)	0	Conf.	0	0.01	0.00	0.00
Other osmerids	-	-	Conf.	-	-	-
Pandalid shrimp	0	0.00	0.00	0.01	0.00	0.00
Polychaete unidentified	-	-	0	0.00	0.00	0.00
Scypho jellies	0.10	0.00	Conf.	0	0	1
Sea anemone unidentified	0.29	3.34	0.69	1.99	1.32	3.06
Sea pens whips	0.19	0.08	0.32	0.49	0.03	1.52
Sea star	5.23	35.29	1.56	2.45	2.53	3.24
Snails	9.41	8.09	6.43	11.22	11.56	19.70
Sponge unidentified	0.71	0.16	14.65	1.92	0.76	1.99
Urchins, dollars, cucumbers	0.15	0.14	0.48	1.03	0.55	0.24

*Discard mortality rates* A discard mortality rate (DMR) for the CDQ sablefish pot fishery has been specified, but not for the open access fishery (Table 8). The lack of a DMR suggests a lack of data. An examination of all 2011 observed pot hauls (n=768) were coded with a Pacific cod target. There were only 8 hauls made over 200 f in depth, and none had sablefish reported in them.

**Table 8. Recommended Pacific halibut discard mortality rates (DMRs) for 2013-2015 CDQ and non-CDQ groundfish fisheries off Alaska.**

**I. Non-CDQ**

<b>Bering Sea/Aleutians</b>			<b>Gulf of Alaska</b>		
<b>Gear/Target</b>	<b>Used in 2010-2012</b>	<b>2013-2015 Recommendation</b>	<b>Gear/Target</b>	<b>Used in 2010-2012</b>	<b>2013-2015 Recommendation</b>
<i><b>Trawl</b></i>			<i><b>Trawl</b></i>		
Atka mack	76	77	Bottom poll	59	60
Bottom poll	73	77	Pacific cod	62	62
Pacific cod	71	71	Dpwtr flats	48	43
Other Flats	72	71	Shallwtr flats	71	67
Rockfish	81	79	Rockfish	67	66
Flathead sole	74	73	Flathead sole	65	65
Midwtr poll	89	88	Midwtr poll	76	71
Rock sole	82	85	Sablefish	65	71
Sablefish	75	75	Arr. fldr	72	73
Turbot	67	64	Rex sole	64	69
Arr. fldr	76	76			
YF sole	81	83			
<i><b>Pot</b></i>			<i><b>Pot</b></i>		
Pacific cod	8	8	Pacific cod	17	17
<i><b>Longline</b></i>			<i><b>Longline</b></i>		
Pacific cod	10	9	Pacific cod	12	11
Rockfish	9	4	Rockfish	9	9
Turbot	11	13			

**II. Bering Sea/Aleutians CDQ**

<b>Gear/Target</b>	<b>Used in 2010-2012</b>	<b>2013-2015 Recommendation</b>
<i><b>Trawl</b></i>		
Atka mackerel	85	86
Bottom pollock	85	83
Pacific cod	90	90
Rockfish	84	80
Flathead sole	84	79
Midwtr pollock	90	90
Rock sole	87	88
Turbot	88	89
Yellowfin sole	85	86
<i><b>Pot</b></i>		
Sablefish	32	34
<i><b>Longline</b></i>		
Pacific cod	10	10
Turbot	4	4



*Whale depredation on sablefish* Killer whale depredation of the NMFS longline survey's sablefish catches has been a problem in the BS since the beginning of the survey. Killer whale depredation primarily occurs in the eastern BS, AI, and Western GOA and to a lesser extent in recent years in the Central GOA. Depredation is easily identified by reduced sablefish catch and the presence of lips or jaws and bent, straightened, or broken hooks. Since 1990, portions of the gear at stations affected by killer whale depredation during the domestic longline survey have been excluded from the analysis of catch rates, RPNs, and RPWs. Killer whale depredation has been fairly consistent since 1996, which corresponds to when the AI and the BS were added to the survey (Table 3.11 in the 2012 Groundfish SAFE Reports). A high of ten BS stations were depredated in 2009, which significantly impacted catch and biased the abundance index leading to using the 2007 BS RPN estimate to interpolate the 2009 and 2010 BS RPNs (Hanselman et al. 2009). In 2011, depredation levels in the BS were similar to previous years with catches at 7 of 16 stations affected. There was higher depredation in the AI in 2012 than most years (5 of 14 stations).

Table 3.11. Count of stations where sperm (S) or killer whale (K) depredation occurred in the six sablefish management areas. The number of stations sampled that are used for RPN calculations are in parentheses. Areas not surveyed in a given year are left blank. If there were no whale depredation data taken, it is denoted with an "n/a". Killer whale depredation did not always occur on all skates of gear, and only those skates with depredation were cut from calculations of RPNs and RPWs.

Year	BS (16)		AI (14)		WG (10)		CG (16)		WY (8)		EY/SE (17)	
	S	K	S	K	S	K	S	K	S	K	S	K
1996			n/a	1	n/a	0	n/a	0	n/a	0	n/a	0
1997	n/a	2			n/a	0	n/a	0	n/a	0	n/a	0
1998			0	1	0	0	0	0	4	0		0
1999	0	7			0	0	3	0	6	0	4	0
2000			0	1	0	1	0	0	4	0	2	0
2001	0	5			0	0	3	0	2	0	2	0
2002			0	1	0	4	3	0	4	0	2	0
2003	0	7			0	3	2	0	1	0	2	0
2004			0	0	0	4	3	0	4	0	6	0
2005	0	2			0	4	0	0	2	0	8	0
2006			0	1	0	3	2	1	4	0	2	0
2007	0	7			0	5	1	1	5	0	6	0
2008			0	3	0	2	2	0	8	0	9	0
2009	0	10			0	2	5	1	3	0	2	0
2010			0	3	0	1	2	1	2	0	6	0
2011	0	7			0	5	1	1	4	0	9	0
2012			1	5	1	5	2	0	4	0	3	0

Sperm whale depredation affects longline catches in the GOA, but evidence of depredation is not accompanied by obvious decreases in sablefish catch or common occurrence of lips and jaws or bent and broken hooks. Data on sperm whale depredation have been collected since the 1998 longline survey (Table 3.11). Sperm whales are often observed from the survey vessel during haulback but do not appear to be depredating on the catch. Sperm whale depredation during the longline survey is recorded at the station level and is defined as sperm whales being present during haulback with the occurrence of damaged sablefish in the catch. Sperm whales are most commonly observed in the Central and Eastern GOA, with the majority of depredation occurring in the West Yakutat and East Yakutat/Southeast areas. Depredation has been variable since 1998.

Multiple studies have attempted to quantify sperm whale depredation rates. An early study using data collected by fisheries observers in Alaskan waters found no significant effect on the commercial fishery catch. Another study using data collected from commercial vessels in southeast Alaska, found a small, significant effect comparing longline fishery catches between sets with sperm whales present and sets with sperm whales absent.

**Previous investigations on the use of pots in the sablefish IFQ fishery** In December 2005, the Council requested that the AFSC Auke Bay Laboratory scientists investigate a number of issues related to management of the sablefish pot fishery in the Bering Sea and Aleutian Islands that had been raised as part of a previous call for IFQ/CDQ proposals. These findings were first reported in the 2008 sablefish stock assessment<sup>6</sup> and are incorporated into this paper as additional background information regarding the use of sablefish pot gear and its deployment.

*Description of the sablefish IFQ pot fishery*

Pot fishing in the IFQ fishery is not allowed in the GOA but is legal in the BSAI regions. In 2000, the pot fishery accounted for less than ten percent of the fixed gear sablefish catch in these areas but effort has increased substantially since, in response to killer whale depredation. Since 2004, pot gear has accounted for over 50% of the BS fixed gear IFQ catch and up to 34% of the catch in the AI. Pot fishing for sablefish has increased in the BS and AI as a response to depredation of longline catches by killer whales (Table 3.2). Pots are longlined with approximately 40-135 pots per set.

Table 3.2. Catch (t) in the Aleutian Islands and the Bering Sea by gear type. Both CDQ and non-CDQ catches are included. Catches in 1991-1999 are averages. 2012 catch as of September 29, 2012 ([www.akfin.org](http://www.akfin.org)).

Aleutian Islands				
Year	Pot	Trawl	Longline	Total
1991-1999	6	73	1,210	1,289
2000	103	33	913	1,049
2001	111	39	925	1,074
2002	105	39	975	1,119
2003	316	42	761	1,120
2004	384	32	539	955
2005	688	115	679	1,481
2006	458	60	614	1,132
2007	632	40	476	1,149
2008	177	76	647	900
2009	78	75	943	1,096
2010	59	74	943	1,076
2011	141	47	831	1019
2012	36	140	708	884
Bering Sea				
1991-1999	5	189	539	733
2000	40	284	418	742
2001	106	353	405	864
2002	382	295	467	1,144
2003	355	231	413	999
2004	432	293	312	1,038
2005	590	273	202	1,064
2006	584	84	368	1,037
2007	878	92	203	1,173
2008	754	183	199	1,135
2009	557	93	240	891
2010	452	30	272	754
2011	405	44	246	695
2012	295	87	177	559

<sup>6</sup> <http://www.afsc.noaa.gov/refm/docs/2008/BSAISablefish.pdf>

*Pot catch rates:* There is more uncertainty in catch rates from 1999-2004 because there were few observed vessels during this period. From 2005-2007 the average catch rate was 23.8 lbs/pot in the Aleutian Islands and the Bering Sea. However, because there were still relatively few vessels observed in 2005-2007 there was high variability in the average catch rates. Because of the high variability, catch rates within areas were not significantly different between any years in both the observer and logbook data. For both the Bering Sea and Aleutian Islands, no trend in catch rates is discernible. The composition of species caught in pots in the Bering Sea and the Aleutian Islands was similar in 2005. Sablefish comprised most of the catch by weight (Bering Sea = 60%, Aleutian Islands = 69%) and the next most abundant fish by weight was arrowtooth flounder (Bering Sea = 13%, Aleutian Islands = 10%). Other species of fish and invertebrates contributed no more than 6% each to the total catch weight.

*Pot spatial and temporal patterns:* Seasonal changes in effort were examined in the 2007 SAFE Report, but no distinct trends were found.

*Pot length frequencies:* The authors compared the length frequencies recorded by observers from the 2006-2008 longline and pot fisheries. The average length of sablefish in the Aleutian Islands and in the Bering Sea was smaller for sablefish caught by pot gear (63.8 cm) than longline gear (66.0 cm), but the distributions indicate that both fisheries focus primarily on adults. Pot and longline gear is set at similar depths in the Aleutians and Bering Sea and sex ratio of the catch is 1:1 in both gears. The authors do not believe that the difference in lengths is significant enough to affect population recruitment and did not see any indication that undersized fish were being selected by pots.

*Sablefish diets in pots:* One concern was the possibility of cannibalism by larger sablefish while in pots. Because few small sablefish are found in pots, there was concern that small sablefish were entering the pots and being cannibalized by larger sablefish.

A total of 257 sablefish stomachs were examined during 2006 and 2007 at sea and in plants in Dutch Harbor, AK. Of these sablefish, 80% were females (attributed to selecting fish greater than 65 cm). A total of 72% of the stomachs sampled were empty. The prey item that occurred most commonly was squid (13%), followed by miscellaneous small prey <15 cm (10%), vertebrae and unidentified digested fish (3%), forage fish (2%), and crab (1%). Some of the squid in the stomachs were noted to be bait from the pots. Miscellaneous small prey included brittle stars and unidentified small prey. The frequency of prey occurrence (out of 257 stomachs) is detailed in the figure below.

No sablefish were found in the stomachs of large pot-caught sablefish. Several caveats exist to these results. The authors were not provided with the soak time of these pots, so it is possible some of the vertebrae were from digested sablefish. However, sablefish in a benthic environment would likely be at least 35 cm (age 2+) and would take some time to digest to the point of becoming unidentifiable vertebrae. In addition, some stomach contents may have been regurgitated when the pots were retrieved. However, because no sablefish were present in the stomach samples, cannibalism in pots either does not occur or is a rare event.

*Pot soak times:* In 2006, some questions were raised about storing pots at sea, escape rings and biodegradable panels. While the authors have not analyzed the consequences of these potential regulatory issues, in 2006 the authors examined the soak times of the observed pot sets. These plots are shown in the SAFE Report.

In an experiment examining escape mechanisms for Canadian sablefish, control traps had only 5% mortality up to 10 days; in the current fishing environment, 90% of the pot sets were soaked for 7 days or fewer.

*Pot sample sizes:* Sablefish pot fishing has increased dramatically in the Aleutian Islands and the Bering Sea since 1999. In 2007, pot gear accounted for 81% of the Bering Sea fixed gear IFQ catch and 56% of the catch in the Aleutians. Fishery catch and effort data for pot gear are available from observer data since 1999; however, due to confidentiality agreements, the authors cannot present these data due to low

sample sizes. Pot fishery data are also available from logbooks since 2004; however, these data are also sparse. The number of observed sets and the number of pots fished increased dramatically in 2005 and remained high through 2007. The number of logbook pot sets has continued to increase in the Bering Sea and has stayed consistent in the Aleutian Islands. Over all years, the average number of pots used per set was 78.

**Contributors**

Jane DiCosimo	NPFMC
Steve Lewis	NMFS AKRO
Jessie Gharrett	NMFS RAM
Tamara Bledsoe	NMFS RAM
Chris Lunsford	NMFS AFSC
Cara Rodgveller	NMFS AFSC
Dana Hanselman	NMFS AFSC
Michael Fey	AKFIN
Gregg Williams	IPHC
Heather Gilroy	IPHC

**Attachment 1 Proposal**

OCT 22 2008

**Proposal: Allowing the retention of coincidentally harvested Halibut during the Bering Sea Sablefish Pot Fishery**

**Year(s): Effective spring 2009, for a three year trial/evaluation period**

**Definition and Objective:**

This proposal is to allow the retention of incidental by catch Halibut, specifically caught in the Bering Sea Sablefish fishery, by pot, by qualified harvesters that have 4A Halibut quota. This proposal is very much the same as the recently passed regulatory change in area 2B. There are 3 primary objectives to this proposal. 1) Increase the area of harvest in 4A, 2) reduce mortality from Killer whale predation and handling, and 3) Reduce concentrated harvest in traditional "whale-free" areas.

1) Currently there is a very large portion of 4A that is not reasonable to attempt harvesting Halibut from because of Killer whale predation. Pots have been successful in safely capturing these fish, with no mortality from predation.

2) Under the current regulations, all Halibut caught by Sablefish pots must be discarded. Because of where the majority of the Bering Sea Sablefish Pot fishery is conducted, there is a constant presence of Killer whales near harvesting vessels. There is no mechanism by which halibut can be safely returned, without extremely high mortality. Mortality from handling would be completely eliminated.

3) Because of the increased presence of Killer whales in 4A, harvesters have been forced into ever increasingly small areas of harvest, with limited windows of opportunity to harvest. Allowing these specified pot vessels to retain their by-catch reduces both pressure on the resource and direct competition between vessels, lessening focused impact on the resource, and significantly increasing the area of harvest.

**Impacts:**

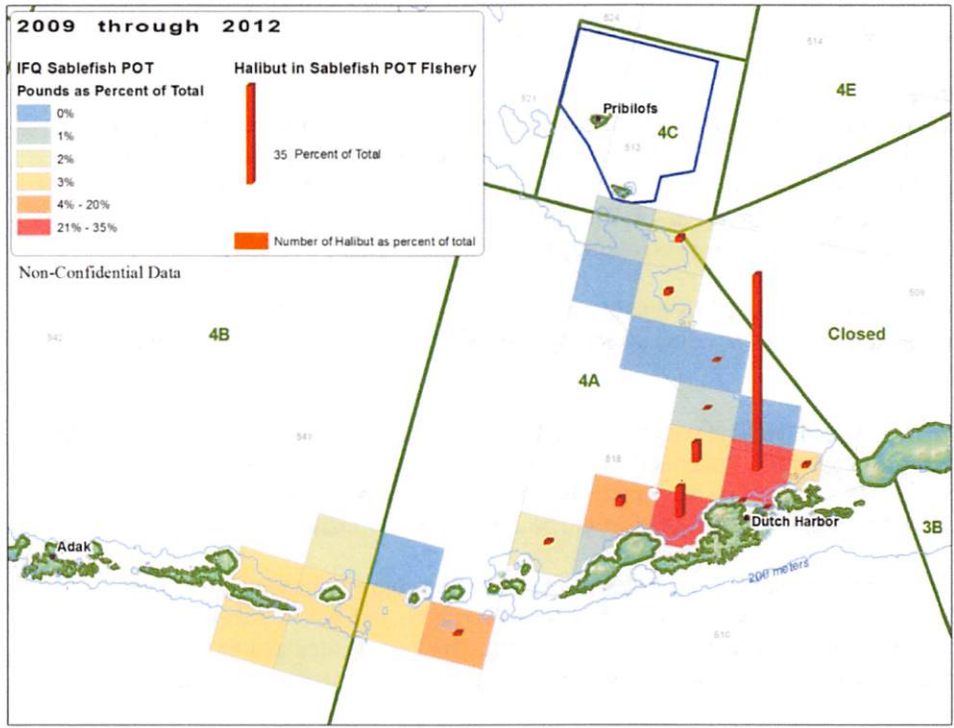
All vessels fishing with hooks will see some small measure of relief from this proposal, simply because: a) some of the fish would, with this proposal, be harvested from regions that are not being currently exploited, b) Halibut caught by pot, landed and recorded, would directly increase the availability, by reducing competitive pressure, and direct and indirect mortality issues

**Opinion:**

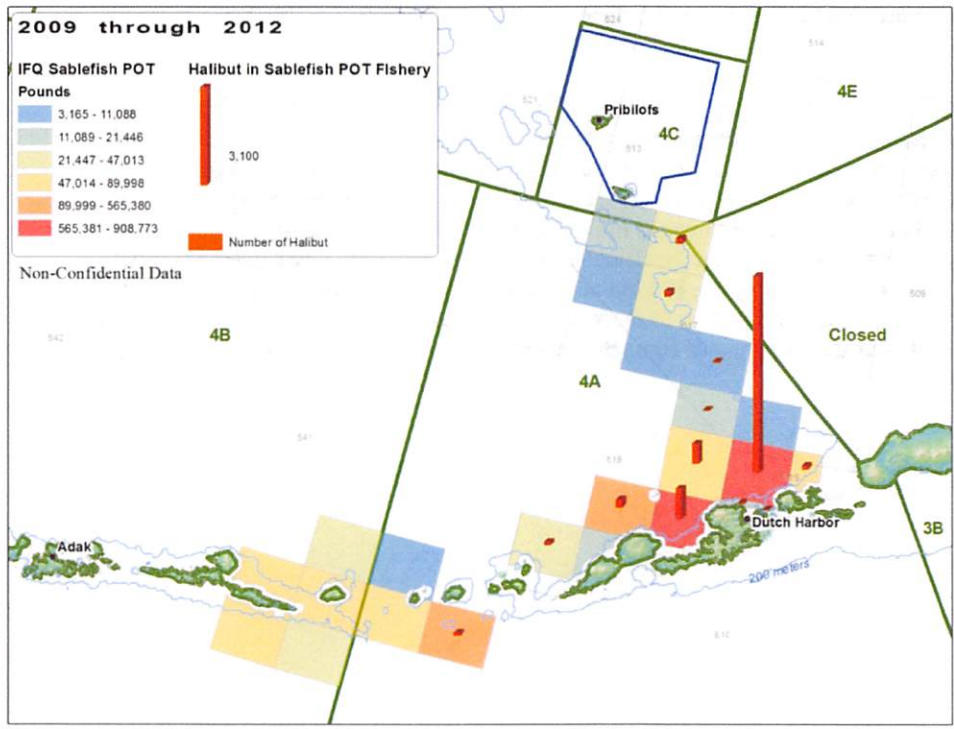
We have had 7 years of Sablefish fishing, by pot, in the Bering Sea to witness changing events. The Killer whale predation problem is increasing. Cows are teaching their calves the "technique" of stripping fish and following in to snatch by catch as quickly as it is discarded. When we discard Halibut, we are destroying the fish. We can't change the whales feeding habits, but we can change their access to Halibut in particular. I believe all vessels engaged in Sablefish fishing in the Bering Sea should be required to have some Halibut quota for 4A, specifically to cover the inevitable by catch of Halibut.

For a significant portion of the year, Halibut and Sablefish share intermingled climes on the ocean bottom. Traditional halibut surveys do not get to these regions. To pursue Sablefish will forever take us through regions of Halibut as the two species compete for food. Recognizing this interrelationship, I am proposing that we retain both.

**Attachment 2. Plots of halibut in sablefish pots,**



**Figure 2** Number of halibut as a percent of total (summed over 2009-2012) halibut caught incidentally in IFQ sablefish fishery in pot gear.



**Figure 3** Number of total halibut (summed over 2009-2012) caught incidentally in IFQ sablefish fishery in pot gear.



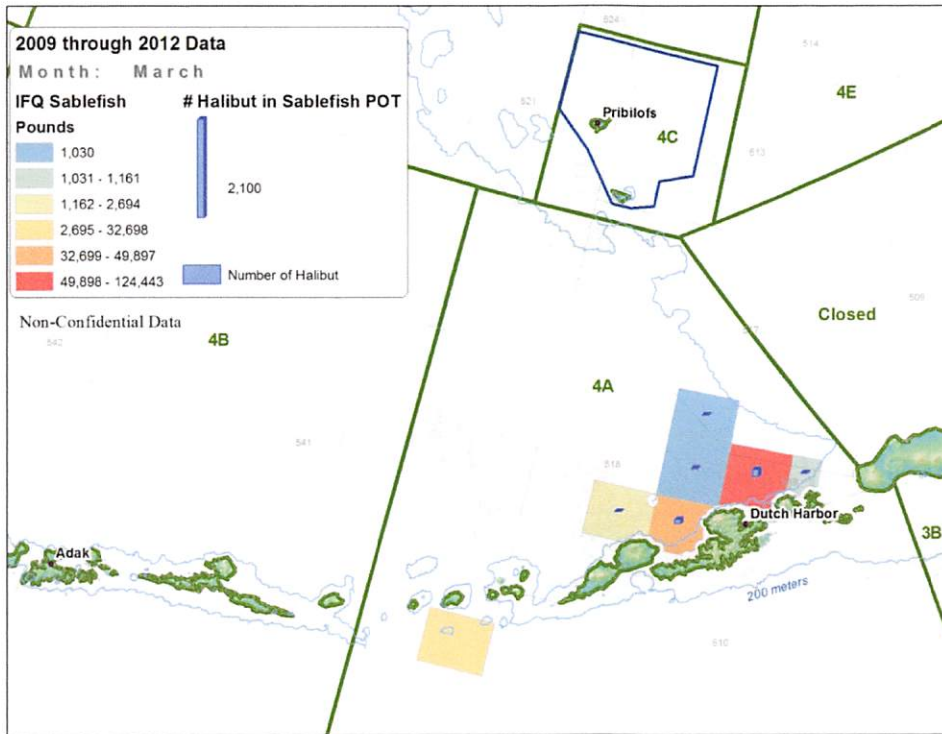


Figure 4 Number of total halibut (summed over 2009-2012) caught incidentally in IFQ sablefish fishery in pot gear by month.

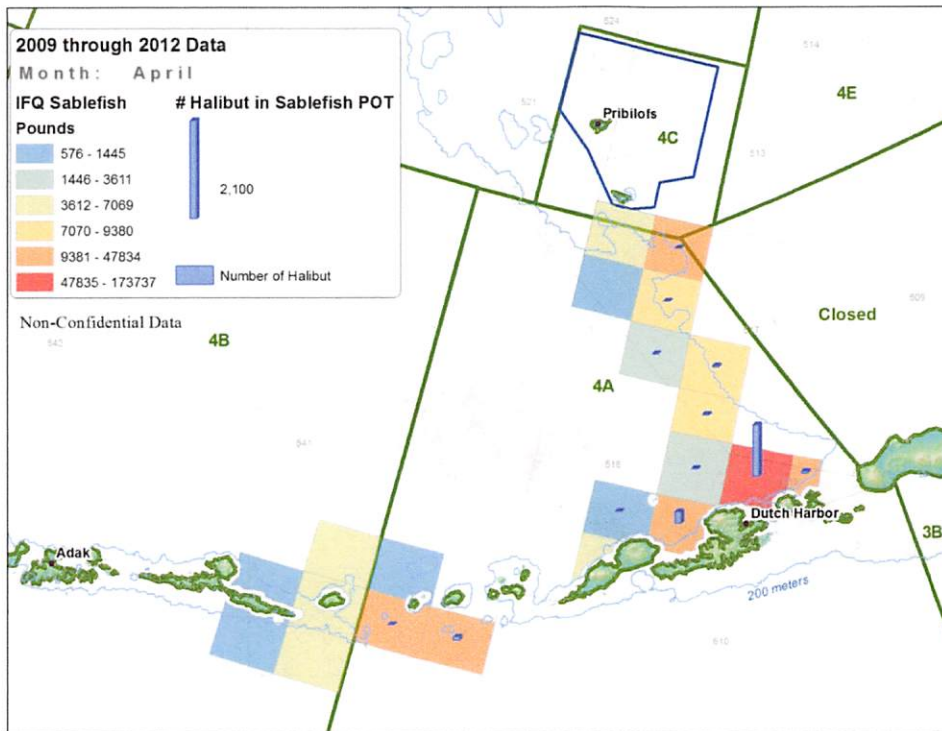


Figure 5 Number of total halibut (summed over 2009-2012) caught incidentally in IFQ sablefish fishery in pot gear by month.



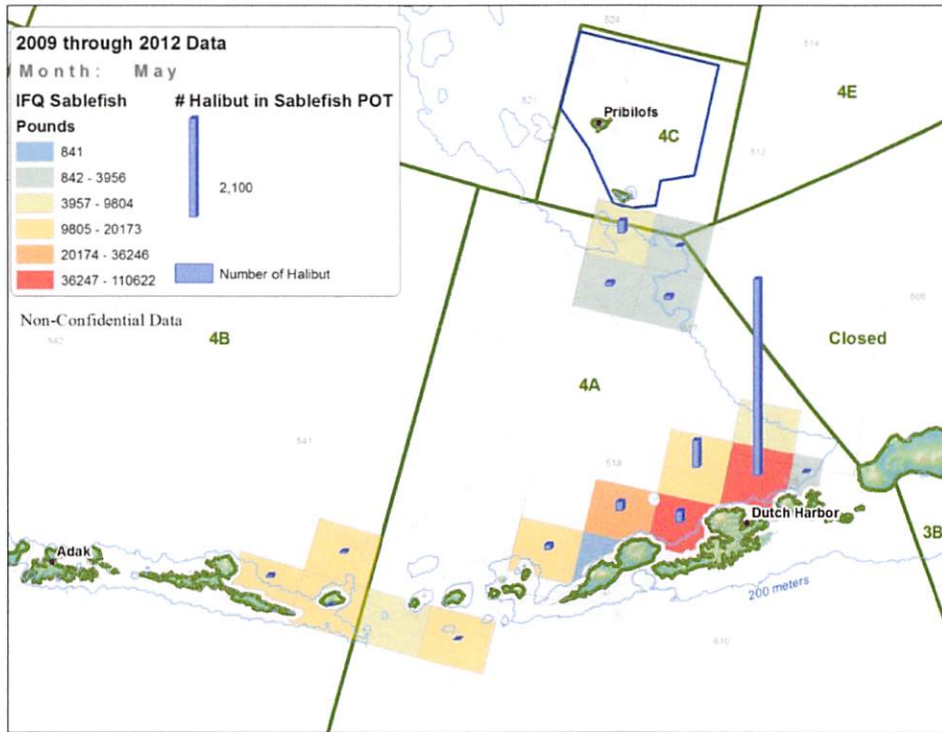


Figure 6 Number of total halibut (summed over 2009-2012) caught incidentally in IFQ sablefish fishery in pot gear by month.

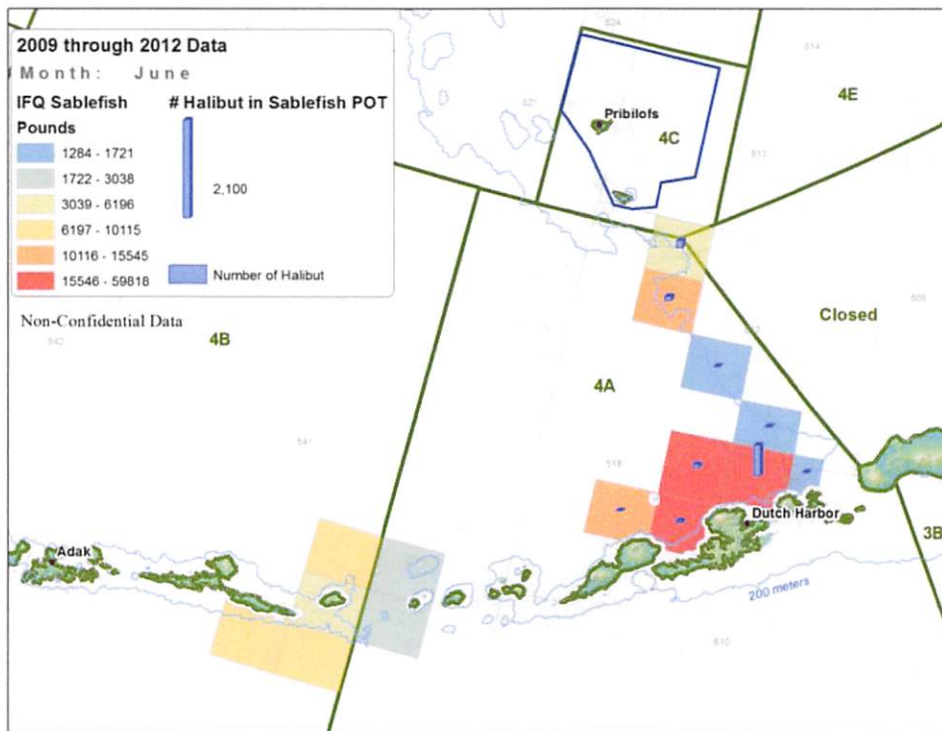


Figure 7 Number of total halibut (summed over 2009-2012) caught incidentally in IFQ sablefish fishery in pot gear by month.



Figure 8 Number of total halibut (summed over 2009-2012) caught incidentally in IFQ sablefish fishery in pot gear by month.

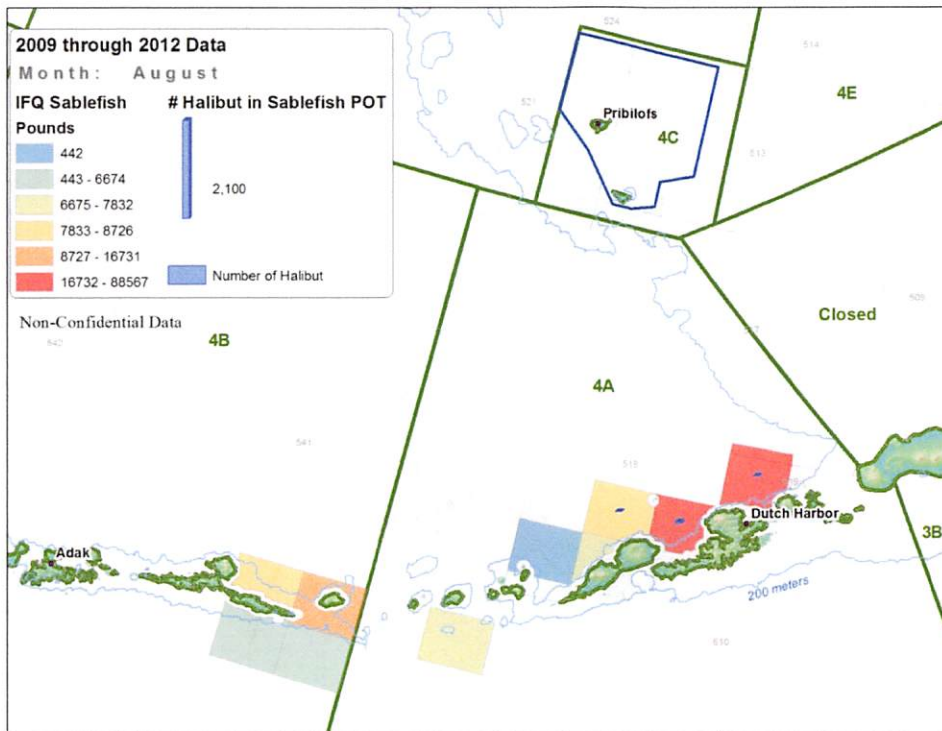


Figure 9 Number of total halibut (summed over 2009-2012) caught incidentally in IFQ sablefish fishery in pot gear by month.

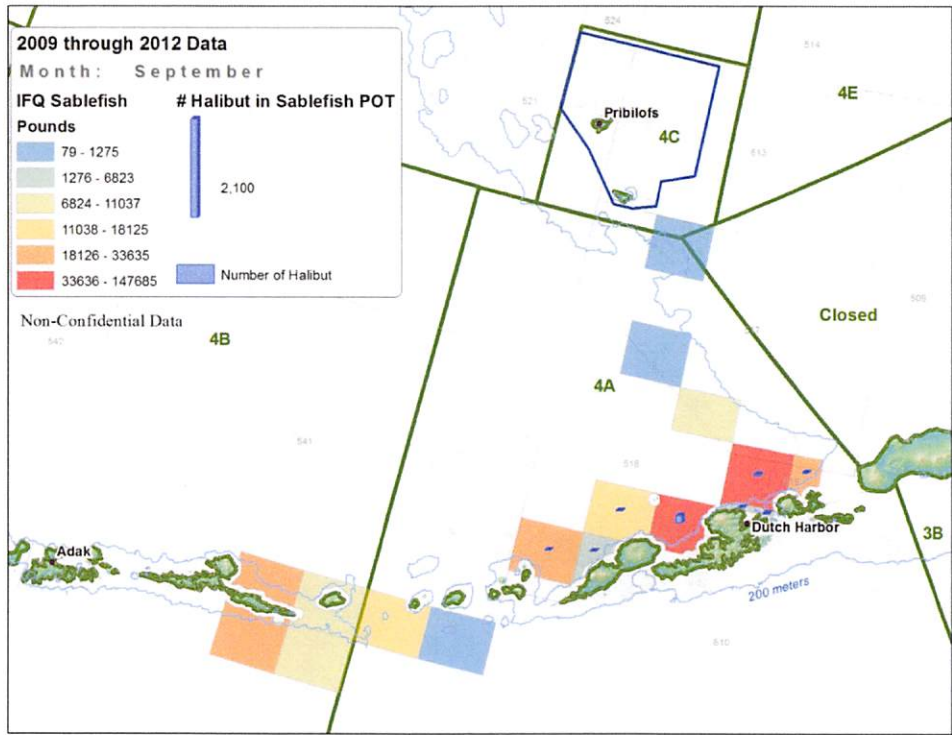


Figure 10 Number of total halibut (summed over 2009-2012) caught incidentally in IFQ sablefish fishery in pot gear by month.

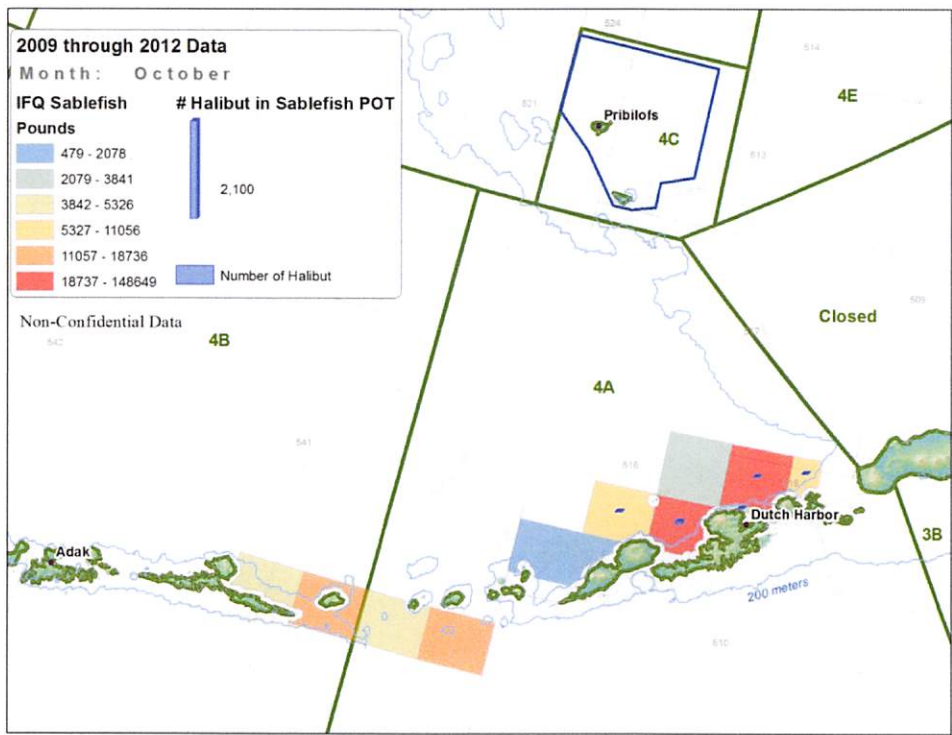


Figure 11 Number of total halibut (summed over 2009-2012) caught incidentally in IFQ sablefish fishery in pot gear by month.

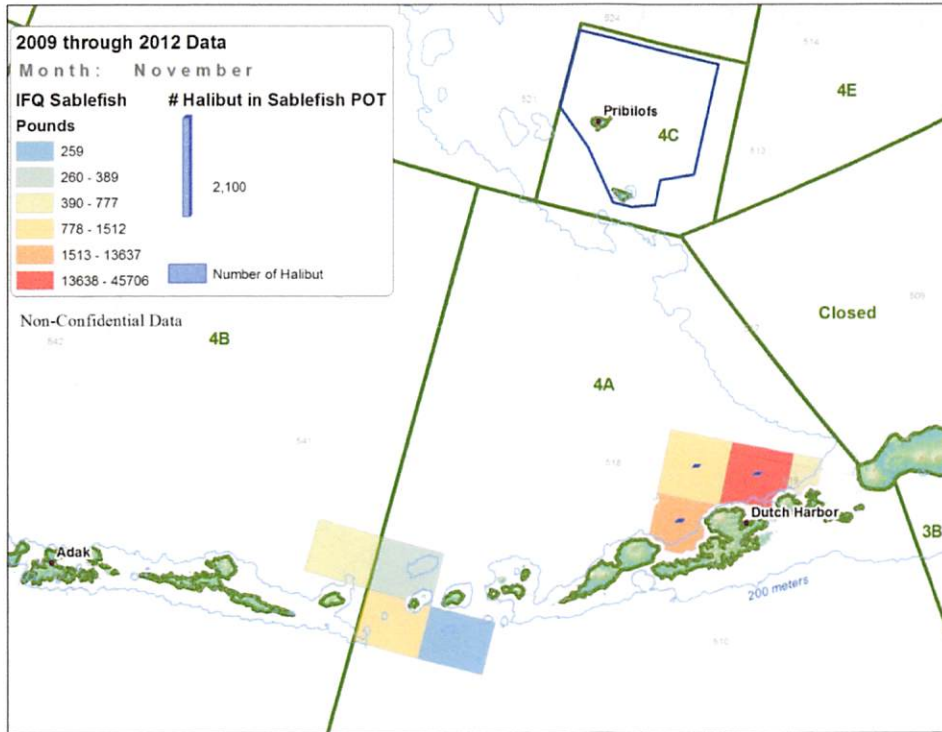


Figure 12 Number of total halibut (summed over 2009-2012) caught incidentally in IFQ sablefish fishery in pot gear by month.

**Attachment 3 2009 IPHC letter to the Council**

COMMISSIONERS:

JAMES BALSIGER  
JUNEAU, AK  
RALPH G. HOARD  
SEATTLE, WA  
LARRY JOHNSON  
PARKSVILLE, B.C.  
PHILLIP LESTENKOF  
ST. PAUL, AK  
LAURA RICHARDS  
NANAIMO, B.C.  
GARY ROBINSON  
VANCOUVER, B.C.

INTERNATIONAL PACIFIC HALIBUT COMMISSION

ESTABLISHED BY A CONVENTION BETWEEN CANADA

AND THE UNITED STATES OF AMERICA

DIRECTOR  
BRUCE M. LEAMAN

P.O. BOX 95009  
SEATTLE, WA 98145-2009

TELEPHONE  
(206) 634-1838

FAX:  
(206) 632-2983

September 24, 2009

COPY

Mr. Eric Olsen, Executive Director  
North Pacific Fishery Management Council  
605 W 4th Avenue, Suite 306  
Anchorage, AK 99501-2252

Dear Mr. Olsen, *Eric*

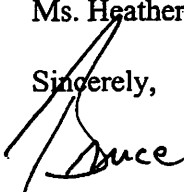
The North Pacific Fishery Management Council's IFQ Implementation Team is reviewing IFQ proposals at the October Council meeting. The Council has been asked by the IPHC to comment on the proposal to allow retention of IFQ halibut in pot gear during the Bering Sea sablefish fishery. Authority for definition of legal gear for the halibut fishery rests with the Commission; however, the Council's input for the next IPHC Annual Meeting in January 2010 would be beneficial.

The IPHC staff is not opposed to allowing pot gear in Area 4A from a biological point of view. However, if the pot catch of halibut is sufficiently large enough, we would need to determine a pot gear selectivity curve for halibut for our stock assessment in order to account for that removal. Additionally, NMFS/RAM regulations would need to require full retention of halibut if the vessel has halibut IFQ and is using pot gear, similar to the regulation for longline gear. Also, IPHC regulations define legal gear by IPHC regulatory area but IPHC regulatory areas and NMFS sablefish areas are not concurrent. NOAA Enforcement would also need to provide feedback on location restrictions and may require that the vessel be transmitting with a Vessel Monitoring System transmitter.

The IPHC staff could not agree to allow pot gear coast-wide or an expansion to this proposal, without an understanding of the magnitude and impacts of catch in the pot fishery. The issues that the Council and Commission should consider include gear conflicts, creation of a new halibut fishery, redistribution of catch by gear, fish quality, and potential for future requests for expansion to winter cod fisheries.

Ms. Heather Gilroy of our staff will be attending the IFQ Implementation Team meeting by teleconference.

Sincerely,



Bruce M. Leaman  
Executive Director

cc: Commissioners  
Jeff Stephan, Chair, IFQ Implementation Team  
Ron Antaya, NMFS





## ***Gulf of Alaska Coastal Communities Coalition***

PO Box 201236, Anchorage Alaska 99520

Phone: (907) 561-7633 Email: goaccc@alaska.net

November 27, 2012

Mr. Eric Olsen, Chairman  
North Pacific Fishery Management Council  
605 West 4th Avenue, Suite 306  
Anchorage, Alaska 99501

Subject: Agenda Item C-3 (b) Discussion paper on CQE small block restrictions

Dear Mr. Olsen

The Gulf of Alaska Coastal Communities Coalition requests that the Council move agenda item C-3(b) forward as an amendment package for regulatory change.

Currently, Community Quota Entities (CQEs) are restricted from purchasing small "blocks" of IFQs. In 3A this includes blocks under about 3,000# and in area 3B blocks under about 4,000#. A resident of the community of Ouzinkie has been barred from selling his quota to Ouzinkie's CQE because of this restriction. From this incident we have come to realize that this restriction eliminates any CQE purchase of small blocks of shares held by residents of the community associated with any CQE. Since the CQE program was designed to help communities retain halibut quota in the community for use by active fishermen in the CQE communities, this unintended consequence of the regulation appears sharply inconsistent with fundamental elements of the purpose of the CQE program.

---

We appreciate the Council's attention to this matter shown by the generation of the discussion paper and we request that the CQE small block issue be forwarded as an amendment package for regulatory change.

Most Sincerely,

Chuck McCallum, Executive Director  
Gulf of Alaska Coastal Communities Coalition (GOACC3)

### **C-3(b) Removing the CQE Small Block Restriction**

**December 9, 2012**

#### **Problem Statement:**

**Responsive to National Standard 8, the North Pacific Fishery Management Council established the Community Quota Entity (CQE) program to encourage sustained participation in the Halibut and Sablefish Quota Share Program by residents of smaller Gulf of Alaska fishery dependent communities. CQEs were prohibited from purchasing smaller "sweep up" blocks of quota shares because of concerns that CQE quota purchases could negatively impact quota share price and availability. Concerns about CQE purchase and market impacts on price and availability have not been realized. Moreover, purchase prohibitions on small "sweep up" blocks prevent CQEs from buying much of the quota available in CQE communities, and thereby thwart the goals of sustained participation by CQE community residents in the Halibut and Sablefish Quota Share Program.**

**This amendment will further the sustained participation goals of the CQE program by allowing CQE communities to purchase small "sweep up" blocks of quota shares.**



# PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: C-3 (b) CRE small block

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	HERMAN SQUARTSOFF	OUZINKIE COMMUNITY HOLDING COMPANY (CRE)
2	James Skonberg	Ouzinkie CRE
3	Helen Anderson	Ouzinkie COF
4	David Fruser	DCDC
5	Clema T. Hillon	AFC
6	Linda Behnken	ALFA
7		
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.