


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director 

DATE: December 2, 1994

SUBJECT: Sablefish and Halibut IFQs

ESTIMATED TIME 2 HOURS

ACTION REQUIRED

- (a) Receive status report on program implementation and pending amendments and regulatory changes.
- (b) Review regulatory changes needed to conform IPHC and groundfish regulations.
- (c) Comment on Proposed Rule removing sablefish IFQ fisheries from halibut PSC caps.

BACKGROUND

- (a) Program implementation and regulatory changes

NMFS RAM Division staff will be available to update the Council on program implementation. A suite of regulatory actions from the past year are being processed by NMFS in the form of an omnibus regulatory amendment, which is pending publication as a Proposed Rule, and should be in place for the 1995 IFQ fisheries. Two additional amendments approved by the Council are still in preparation by Council staff and should be in place for the 1995 fisheries as well, though perhaps not by the time of the March 1 opening. The first of these is the plan amendment proposed which would evaluate exempting the CDQ compensation 'pieces' from the provisions of the Block Amendment, and would further allow a one-time trade of these pieces, exempt from both the Block provisions and the vessel categories. These were discussed in September by the Council and will come back for a final decision in January.

The other item is a plan amendment to allow freezing of non-IFQ species on vessels using catcher vessel IFQ (for sablefish), coupled with a regulatory amendment which would prohibit the use of halibut catcher vessel IFQ on freezer vessels. This issue has been discussed by the Council at length in previous meetings and does not have to come back for additional action; however, supporting documentation and analysis still need to be prepared for Secretarial review and public comment during that review. This item is on our priority list for completion.

- (b) Conformity of IPHC regulations and groundfish regulations

On November 4 staff of the IPHC, NMFS, and NOAA GC met to coordinate regulatory changes necessary to fully implement the IFQ program scheduled to begin in March 1995. Several issues were identified, some of which require Council action or input for changes to the halibut 301 regulations. These issues are detailed in the attached discussion paper from Jay Ginter, Item C-3(b)(1) in your notebook. Staff will summarize these issues for the Council and identify those which require attention at this meeting.

Some of the issues raised in this discussion paper were addressed by the Council's IFQ Industry Implementation Team which met by teleconference on December 1. Their report is included here as Item C-3(b)(2). Kris Norosz, Chair of the Team, is on hand along with Council staff to answer any questions regarding the Team's recommendations on these issues.

(c) Proposed rule removing sablefish IFQ fisheries from the halibut PSC caps

In September the Council took action approving a regulatory amendment which would remove the sablefish fisheries from the halibut PSC caps in the BSAI and the GOA, while still maintaining a reduced cap for other longline fisheries such as Pacific cod. This regulatory change is now pending publication as a proposed rule and should be in place for the start of the fisheries in 1995. The comment period on the proposed rule should overlap with the Council's January meeting, so we may want to schedule Council review and comment for that time.

As a follow up on another issue, we have included under Item C-3(c)(1) a letter to Mr. Lauber from the NMFS Regional Director regarding the establishment of a central lien registry. Essentially, NMFS does not currently have the legal authority or the personnel necessary to establish a lien recording system at this time. A letter notifying the Council of approval of the CDQ apportionments for sablefish and halibut, with the attendant percentages as approved by the Council in September, is also attached for your information.

DISCUSSION PAPER

**POTENTIAL CHANGES TO THE
PACIFIC HALIBUT FISHERY REGULATIONS (PART 301)
WITH IMPLEMENTATION OF THE HALIBUT-SABLEFISH IFQ PROGRAM**

November 18, 1994

Jay J. C. Ginter, NMFS, Alaska Region

This paper is intended to serve as a basis for discussions of potential changes to the Pacific halibut fishery regulations at 50 CFR 301 to improve coordination of management between the halibut and sablefish fisheries under the individual fishing quota (IFQ) program. This discussion is scheduled for the interim meeting of the International Pacific Halibut Commission (IPHC), on November 22, 1994, in Seattle WA.

The regulatory changes discussed below do not reflect the position of the National Marine Fisheries Service (NMFS), the IPHC, or the National Oceanic and Atmospheric Administration (NOAA). These regulatory changes, however, were considered by staff representatives from IPHC, NMFS, and NOAA General Counsel in a meeting at the IPHC executive offices on November 4, 1994. The staff's recommendation is provided as a discussion starting point for each regulatory change.

Background

On October 6, 1994, NMFS, Alaska Region Director, Steven Pennoyer, requested Donald McCaughran, Director, IPHC, to assign IPHC staff to work with NMFS staff in reviewing the 50 CFR 301 regulations with a view toward changes that would accommodate the halibut-sablefish IFQ program in and off Alaska. Some changes to the 301 regulations may require action by the North Pacific Fishery Management Council (Council) and the Secretary of Commerce (Secretary). The Council may take such action at its next meeting in December 1994.

Fishing under the IFQ program is planned to begin in the spring of 1995. Circumstances outside of NMFS' control, however, may obviate beginning an IFQ fishery for halibut next spring. Defeat in the IFQ lawsuit, for example, could require us to continue the open access "derby-style" fishery for another year. Hence, consideration should be given to a mechanism for reversing any changes to the 301 regulations that may be made in anticipation of an IFQ fishery.

Staff personnel from the IPHC (Stephen Hoag, Heather Gilroy, and Gordon Peltonen), NMFS (Stephen Meyer, Jay Ginter, and John Lepore), and NOAA General Counsel (Jon Pollard and Eileen Cooney) met at the IPHC offices on November 4, 1994 to discuss potential 301 regulation changes. This paper serves in part as a report of

that meeting (referred to below as the staff meeting). Staff recommendations represent a consensus view of those present, unless otherwise noted.

Analysis of Part 301

§ 301.2, IPHC § 2. Interpretation.

Two definitions in this section are not consistent with similar terms in the U.S. Federal fishery regulations at 50 CFR 620 (general provisions) or 50 CFR Part 676 (IFQ regulations).

First, "fishery officer" (IPHC §2(1)(f)) is similar to the term "authorized officer" which is defined at § 620.2 and cross referenced in the IFQ regulations at § 676.11. Discussion at the staff meeting focused on the need or utility of using the same terms in the 301 and 620/676 regulations for enforcement personnel.

Staff recommendation:

Staff agreed that "authorized officer" would be preferred to avoid confusion, and recommends changing the 301 regulations accordingly.

Second, the term "land" (IPHC § 2(i)) in the 301 regulations means bringing halibut to shore and to "offload" it from a vessel. Under the 676 regulations, an "IFQ landing" means unloading or transferring any IFQ halibut, IFQ sablefish, or products thereof from the vessel that harvested such fish. A fishing vessel that harvested halibut and then transferred it to a tender would have committed an "IFQ landing" under 676 but the halibut would not have been "landed" under 301 until the tender offloaded the fish at shore. Agency staff at the staff meeting agreed that this could cause a problem for enforcement of IFQ reporting requirements which specify reporting within six hours of landing.

Staff recommendation:

Staff recommends changing the definition of "land" at § 301.2 to mean the unloading or transferring of any halibut or products thereof from the vessel that harvested such fish.

§ 301.3, IPHC § 3. Licensing vessels.

This section requires a license of vessels that participate in commercial or charter fishing for halibut. Halibut licenses are issued by the IPHC. Under § 676.13(a), a vessel that harvests IFQ halibut must have a copy of an IFQ permit on board that is specific to the area and vessel category in which the vessel is harvesting halibut. These IFQ halibut permits are issued by the

Alaska Region, NMFS. The IPHC halibut license is to a vessel while the IFQ permit is to a person. Currently, these regulations require a halibut fisherman to have two licenses: an IPHC license for his vessel from the IPHC, and an IFQ permit for himself (or other fishermen on board) from the NMFS.

Although these two requirements are not in conflict, they may be redundant unless they serve different purposes. One purpose of the IFQ permit is that it authorizes a person to harvest a specified amount of halibut in a specified area and vessel category. In addition, it serves an enforcement purpose in that it may be sanctioned as a penalty. Harvesting effort is not directly controlled by the IFQ permit but it is assumed that a fisherman will not invest in more fishing capacity than he needs to take the amount of halibut specified on his permit. Hence, harvesting effort is indirectly controlled by the fisherman's economic incentive to minimize costs. The IPHC vessel license also does not control fishing effort either directly (e.g. license limitation programs) or indirectly (e.g. IFQ-type programs). However, the IPHC license may be important for monitoring the number of vessels authorized to catch halibut and collecting effort data important to managing the halibut resource. Some of these data could be collected through the IFQ program, however. If the IPHC license were deemed unnecessary for managing the commercial fishery operating under the IFQ program, licensing nevertheless would continue for the halibut charter vessels.

Staff recommendation:

Staff recommends no change to the IPHC licensing requirement at this time. The need for a continuous time series of data on vessel participation in the halibut fishery is important to the management of the halibut resource. Further, relying on the IFQ permit would not completely relieve the IPHC from having to issue IPHC vessel licenses for fishing in Area 2A, potentially in Area 2B, and in all areas to halibut charter vessels.

§ 301.4, IPHC § 4. Inseason actions.

This section authorizes the IPHC to issue inseason orders that would establish or modify closed areas, fishing periods, fishing period limits, gear restrictions, recreational bag limits, size limits, vessel clearances, and other non-specified actions. Under the IFQ program, any inseason change that would prevent a fisherman from harvesting his allocated IFQ would undermine public confidence in the program and stimulate a "race for fish" which is, in part, the root problem that the IFQ program is attempting to resolve. Although the IPHC must retain emergency authority to prevent severe biological damage to the halibut resource, substantial changes in catch limits, closed areas, and fishing periods would be best made between seasons. In this

event, it may not be necessary to continue inseason actions that could literally prevent the harvest of an IFQ. Specific attention is drawn to potential inseason changes to closed areas, fishing periods, fishing period limits, and vessel clearances (discussed further under § 301.14(b), IPHC § 4(2)).

Staff recommendation:

Staff recommends no change in the "inseason actions" regulations. The authority provided by this section is critical to protecting the halibut resource from localized depletion in the event of an IFQ system failure. Further, staff noted that the British Columbia individual vessel quota (IVQ) program for halibut did not appear to be negatively affected by potential use of inseason actions by the IPHC.

§ 301.6, IPHC § 6. Regulatory areas.

Paragraph (j) of § 301.6 (IPHC § 6(10)) establishes Subarea 4D-N. This area in the extreme north of the Bering Sea was established to foster exploratory fishing around St. Lawrence Island to determine whether a locally-based fishery is feasible in this area. With the time element substantially increased under the IFQ program, this subarea may no longer be necessary. If so, then § 301.10(h) (IPHC § 10(7)) also could be deleted.

The potential for localized depletion, however, could remain under the IFQ program as fishermen are likely to harvest the most easily accessible concentrations of halibut before going to more distant grounds. The northern subarea may help to some extent in controlling local depletion. Finally, allocations of IFQ and CDQ are made for Area 4D without a separate allocation for the subarea. The CDQ reserve for Area 4D is 30 percent of the halibut catch limit for that area. This reserve is made available to eligible communities in Areas 4D and 4E.

Staff recommendation:

None. Staff discussion focused on whether deleting Subarea 4D-N would cause a conservation problem with the halibut population in localized sections of Area 4D-N due to potential increases in harvest by local fleets that have received substantial Area 4D CDQ allocations. Staff decided that this is an issue to be resolved by the Commission

Metlakatla

A different but related area issue exists involving the area around Annette Island where the Metlakatla Indian Community may wish to continue its open access harvest of halibut from tribal waters around Annette Island. Defining a new Subarea 2C-A is not possible since this would result in the IPHC establishing a quota

for Metlakatla Indian fishermen. This fishery currently is governed by regulations promulgated by the US Department of the Interior (Interior) pursuant to a treaty. Under these regulations, Metlakatla halibut fishermen have access to all of the Area 2C catch limit if they could harvest it within their exclusive area surrounding the island.

One possible solution may be to assume (e.g. based on the previous year's harvest) a certain Metlakatla halibut harvest and deduct this amount, in the same manner as bycatch and recreational harvests are accounted for, from the Area 2C catch limit before calculation of Area 2C IFQs. Another alternative is to convince Interior to prescribe a catch limit for the Metlakatla reserve. Such a Metlakatla quota could then be deducted from the Area 2C catch limit before calculation of Area 2C IFQs.

Staff recommendation: None

§ 301.7, IPHC § 7. Fishing periods.

The short one- or two-day fishing periods established by this section is the most obvious area of change suggested by the IFQ program. Without the "race for fish" that is characteristic of an open access management system, there appears to be no need for a multiplicity of short seasons. This policy is demonstrated in Area 2B which has been changed in recent years to a single fishing period of about nine months because of the Canadian Individual Vessel Quota program.

If the IPHC follows this policy also in Areas 2C through 4E, then the question becomes how best to coordinate the halibut season in these areas with that in Area 2B, and with the US sablefish fishery off Alaska. The Alaska Region currently is drafting a regulatory amendment to the 676 regulations that would "framework" the fixed gear sablefish season so that it could coincide with the halibut season in Areas 2C through 4E established by the IPHC. Note, § 301.7(f) (IPHC § 7(6)) was added by the Secretary in 1994 at the request of the Council and may require Council and Secretarial action to change.

Staff recommendation:

Delete the fishing period table and establish one fishing period for Areas 2B through 4E. Commission staff indicated that, for biological reasons, April 1 to October 31 would be its preferred fishing period. Enforcement staff of NMFS indicated that it would be ready to enforce IFQ regulations by March 1 if this were the date chosen by the IPHC.

§ 301.8, IPHC § 8. Closed periods.

Paragraphs (e) through (h) of this section (IPHC § 8(5)-(8)) prevent the retrieval of halibut fishing gear during a closed period if a vessel has halibut on board. If no halibut are on board, these regulations control the retrieval of gear and prevent the retention of any halibut. These regulations appear to provide for fairness in starting and stopping fishing periods under the open access system. They may not be necessary under the IFQ program if legal-sized halibut retained on board after the end of a fishing season are properly counted against an IFQ.

Staff recommendation:

Staff recommends no change to the closed period regulations. Enforcement staff claimed that compliance with the closed periods would be enhanced if there were a clear prohibition against retaining halibut caught at any time after the end of a fishing period. Retrieval of fishing gear during a closed period should continue to be cleared through an authorized officer or IPHC representative.

§ 301.10, IPHC § 10. Catch limits.

Paragraphs (d) through (f) and (h) of this section (IPHC § 10(4)-(7)) appear to help the IPHC manage small amounts of a catch limit left unharvested at the end of a fishing period in certain areas. This regulatory provision may not be necessary under the IFQ program, however.

Paragraph (g) of this section does not appear in the IPHC regulations. This paragraph was imposed by the Secretary of Commerce at the request of the Council and may be changed or deleted only by the Secretary in consultation with the Council.

Staff recommendation:

Paragraphs (d) through (h) of this section (IPHC § 10(4)-(7)) should be removed by the appropriate authority or revised as necessary to make them apply only to Area 2A. A new paragraph should be added similar to paragraph (c) (IPHC § 10(3)) which would close one of the Areas 2C through 4E only when all IFQs in that area are harvested or the fishing period ending date, whichever ever comes first.

§ 301.11, IPHC § 11. Fishing period limits.

This section provides the IPHC with better control to manage halibut harvests when catch limits are being approached in an open access fishery because it slows harvest rates. Under the IFQ program this provision may no longer be necessary as harvest rates will be set by market conditions instead of open fishing

periods. Paragraphs (g) and (h) of this section (IPHC § 11(7) and (8)) were established by the Secretary in 1994 and 1990, respectively, at the request of the Council and may require Council and Secretary action to change.

Staff recommendation:

Fishing period limits in areas adjacent to Alaska are not necessary under the IFQ program, but some of the text in this section should be adapted to provide for fishing period limits in Area 2A. Paragraphs (g) and (h) should be removed by action of the Council and the Secretary

§ 301.13, IPHC § 13. Careful release.

This section requires careful release of halibut in excess of a fishing period limit when such limits are in effect or of halibut that are below the minimum size limit. If the fishing period limits are deleted as suggested above, then this section probably should be changed to require careful release at all times when halibut are caught below minimum size limits, out of season, or without halibut IFQ.

Staff recommendation:

The careful release requirement should be applied to any halibut that are not retained.

§ 301.14, IPHC § 14. Vessel clearance in Area 4.

Much of this section was designed to give small vessels an advantage in harvesting halibut in an open access fishery with larger more competitive vessels. With the IFQ and Community Development Quota programs for halibut in this area, continuation of the vessel clearance requirements appears unnecessary. Much of this section, however, was implemented by the Secretary in 1988 at the request of the Council. Joint Council/Secretary and IPHC action may be necessary to change this section.

Staff discussion focused on using vessel clearance requirements in Area 4 as a means of assuring that IFQ fishing for halibut was harvested in the area for which an IFQ permit is issued, i.e. it would enhance compliance with reporting requirements. To this end, IPHC staff suggested expanding vessel clearance provisions to require clearing in Dutch Harbor or Akutan for fishing in Area 4A, clearing in Atka for fishing in Area 4B, and clearing in St. Paul or St. George for fishing in either Areas 4C or 4D. This change could negatively impact vessels, however, that must retain halibut if they have unused halibut IFQ on board but are targeting sablefish. The sablefish and halibut management areas

do not match well and may require a vessel to clear in two different ports for purposes of retaining halibut as it operates within a single sablefish area.

Staff recommendation:

Revise this section to expand vessel clearing requirements as suggested by IPHC staff. This may have to be done in consultation with the Council with respect to those paragraphs that exist because of action by the Secretary.

§ 301.16, IPHC § 16. Receipt and possession of halibut.

Several issues appear as minor variations between the reporting requirements of this section and the IFQ recordkeeping and reporting at § 676.14.

First, any change in halibut vessel licensing due to potential redundancy with the IFQ permit would affect paragraph (a) of this section (IPHC § 16(1)). Further, a parallel prohibition against landing IFQ halibut without an IFQ permit in the name of the person making the landing or to a registered buyer is contained in the general prohibitions at § 676.16.

Second, Federal catch reports required in paragraph (b) of this section (IPHC § 16(2)) in the U.S. would be the IFQ landing report required at § 676.14(b). This IFQ regulation requires the same data required by paragraph (b) (IPHC § 16(2)) except the name of the vessel making the landing and the Commission license number. Although the name of the vessel may be retrieved from State fish ticket data, there is not now a place on the IFQ landing report to record the IPHC license number. Either the IFQ landing report should be changed to provide for recording IPHC license numbers or this requirement should be deleted.

Third, the 676 regulations currently are being amended to require the unloading and reporting of all IFQ species at the first landing of any species. Section 301.16(c) (IPHC § 16(3)) requires this to occur only when fishing period limits are in effect. If fishing period limits are deemed unnecessary for the IFQ halibut fishery as recommended, then this paragraph should be changed.

Finally, paragraph (e)(1) of this section (IPHC § 16(5)) requires retention of copies of each halibut fish ticket or catch report for a period of two years. Copies of IFQ landing reports and receipts are required by § 676.14(f) to be retained for a period of three years.

Staff recommendation:

Staff discussion focused on whether the name of the vessel making an IFQ landing of halibut would be recorded. This information is important to IPHC staff because it indicates fishing effort and the relative activity of vessels participating in the fishery. Also, IPHC staff use this information together with license number data recorded on fish tickets to edit the fish tickets. Landing information by vessel also is important for IFQ monitoring and compliance purposes. The IFQ regulations at § 676.22(h) stipulate that no vessel may be used to harvest more than one-half percent of the combined halibut catch limits for Areas 2C through 4E or more than one percent of the catch limit for Area 2C in any one fishing year. Hence, landings data by vessel (name and license number) should be required. Staff concluded that both reports may not be necessary. Therefore, the fish ticket procedure and IFQ landing report should be reviewed after the IFQ program has been successfully in place for a period of time.

§ 301.17, IPHC § 17. Fishing gear.

Two issues relevant to IFQ implementation appear in this section. First, without the open access "race of fish," the requirement to have fishing gear out of the water for 72 hours before an open fishing period may not be necessary. This provision originally was intended to provide a fair start for everyone participating in the derby-style opening of a fishing period. The expectation that there will not be a race-for-fish at the beginning of the IFQ fishing season may not be true, however, since the market price for fresh halibut is likely to be high after a three or four month closed period when no halibut are delivered. Paragraphs (g) through (i) (IPHC § 17(7)-(9)) could be relaxed in all areas in which there are individual quota systems, i.e. Areas 2B through 4E, if a race for fish at the beginning of the season consistently does not occur.

Second, paragraphs (j) and (k) (IPHC § 17(10) and (11)) prohibit fishing for halibut or possessing halibut on a vessel equipped with automated hook strippers or "crucifiers." Again, the expected slower pace of the IFQ fishery suggests that this gear will not be necessary as time will be less of a factor in harvesting halibut. Hence, these regulations may not be needed because the natural incentive to use crucifiers will be removed. Under the IFQ program, however, halibut and sablefish and other groundfish species may be harvested concurrently. The current groundfish regulations do not prohibit crucifiers. Further, as this gear allows a speedier retrieval of fishing gear, it would allow vessels to return to port and market their catch faster which provides an economic efficiency reason for fishermen to use crucifiers. For ease of enforcement, the groundfish and halibut regulations should be consistent on this issue; either this gear should be prohibited on groundfish longliners or paragraphs (j) and (k) (IPHC § 17(10) and (11)) should be removed.

Staff recommendation:

With regard to the first issue, staff discussion concluded that the 72-hour requirement should be retained to prevent grounds preemption. These regulations should be changed slightly, however, to relax the requirement that vessels deploying fishing gear within 72 hours before a fishing period must not catch or possess halibut during the fishing period. This penalty would be too severe under the IFQ program in which the fishing period would be eight or nine months long.

With regard to the crucifier issue, the staff indicated a preference to change the groundfish regulations to prohibit crucifiers on all longline fishing vessels, but that allowing them on vessels that catch or retain halibut would be a reasonable alternative to achieve consistency. If the prohibition on crucifiers is retained, however, consideration may be given to allowing the use of bait strippers that are mounted outboard of the vessel's rail.

MINUTES

IFQ INDUSTRY IMPLEMENTATION TEAM

December 1, 1994

The Council appointed IFQ Industry Implementation Team (Team) met by teleconference on Thursday morning, December 1, to discuss issues relative to the sablefish and halibut IFQ program. Some issues have arisen through efforts by NMFS and the IPHC to coordinate groundfish and halibut regs for the 1995 fisheries and beyond. Other issues are described below as well. Present for this discussion were Team members Kris Norosz (Chair), Jack Knudsen, Linda Kozak, Jake Phillips, Drew Scalzi, Jeff Stephan, and John Woodruff. Also present were Chris Oliver and Jane DiCosimo (Council staff), Jay Ginter and John Lepore (NMFS Management), Jesse Gharrett (NMFS RAM), Steve Hoag and Gordon Peltonen (IPHC), Jon Pollard (NOAA GC), and representatives from NMFS Enforcement Division.

Hook Strippers

Current IPHC regs prohibit the use of hook strippers, while groundfish regs allow them, creating an inconsistency for fishing under the IFQ program. Because of the pace of fishing expected under the IFQ program, coupled with the nature of halibut handling relative to sablefish, it is not expected that hook strippers will be a negative factor with halibut fishing under the IFQ program. Therefore, the Team unanimously recommends that the IPHC remove their prohibition on hook strippers for 1995 and beyond. Additionally, the Team notes the significant safety factor associated with use of hook strippers in sablefish fisheries, and does not want to see this eliminated. The Team also notes that careful release regs will remain in place for both fisheries. The Team requests the Council to recommend to the IPHC that they remove their hook stripper prohibitions for Areas 2C through 4E.

Check-in/check-out for Area 4

IPHC staff plans to recommend to the IPHC next January that check-in/check-out requirements be added to 301 halibut regs for BSAI Areas (4A-4E). The purpose is to insure proper catch accounting by Area. Past experience of IPHC staff indicates that such requirement is not necessary for the GOA at this time. The Team notes that such requirement could be unnecessarily burdensome to fishermen, particularly those who may be targeting sablefish or P. cod (where the regulatory areas do not match up) and may only be taking small amounts of halibut. It was also pointed out that some ports are very difficult to access at certain times of the year.

One potential solution would be to make the requirement only for fishermen taking specified, minimum amounts of halibut (1,000 or 5,000 lbs. for example). Because of the potential burden on fishermen, and because such action has the potential to directly affect Council managed fisheries other than halibut, the IPHC staff expressed willingness to further investigate the issue for a solution agreeable to all parties. The Team recommends that the issue be referred to the Council for discussion, with a possible recommendation to the IPHC.

Trip Limits

The Team unanimously recommends deletion of Council established trip limits in Areas 4B, 4C, and 4E as they will no longer be necessary under the IFQ program.

72 hour gear prohibition

The Team discussed the need for the continuation of the 72 hour prohibitions on setting gear for vessels intending to participate in halibut or sablefish fisheries. Because grounds preemption remains a concern at the start of the season, the Team unanimously recommends continuation of this prohibition, and making it apply to all longline vessels, regardless of whether they hold IFQs.

Potential for closure of IFQ fisheries due to other fishery bycatch

Thornyhead rockfish were specifically discussed relevant to this issue, but other species such as DSR could also be a factor. If catch of thornyhead in a given year reaches the overfishing (OF) level, regardless of how it is taken, it could result in closure of any fisheries which might continue to take it, such as sablefish, halibut, and other rockfish. The Team has no specific recommendation at this time, but has requested staff to gather information regarding directed fishing standards and natural bycatch rates in other fisheries to ascertain the extent of the potential problem. The Team wished to bring the issue to the immediate attention of the Council for discussion at this meeting.

Other issues identified for next Team meeting

The Team agrees that another meeting may be warranted, likely in conjunction with the Council's January meeting in Anchorage, to follow up on aforementioned issues and to discuss the following additional issues identified:

Retention of P. cod or rockfish in IFQ fisheries: The Team expressed concern over the potential for unlimited retention of cod and rockfish by persons holding even small amounts of IFQs for halibut, because of the potential for this allowance to be abused. It is the understanding of the Team that the provision for mandatory retention of these species applies only up until the point that the TACs are reached, or that the species otherwise goes to PSC status.

PSC closures for Pacific cod: Related to the issue above is the status of halibut IFQ holders when fishing for P. cod is closed due to attainment of the fixed gear halibut PSC cap. The cap is being relaxed for sablefish fisheries under regulatory amendment, but caps will still apply to cod fisheries. At the time of our meeting, the Team was unsure as to whether fishing would be allowed under a halibut PSC closure for halibut IFQ holders. If so, the potential for abuses would be similar to those described above, where persons could either retain or purchase small amounts of halibut IFQ to continue cod fishing. We now understand that this will not be allowed, and P. cod fishing would remain closed to all upon attainment of the PSC cap.

Potential for unharvested blocks of IFQ: One Team member expressed concern that the small blocks of IFQ created by the block amendment would result in unharvested amounts of IFQ. The Team

agreed to add this issue for discussion at the next meeting.

Opening Dates: The Team was concerned over the possibility of the IPHC setting an April 1, as opposed to March 1, opening date for the halibut fisheries. Such action would effectively set the opening for sablefish as well. One result of this scenario would be a competitive advantage for Canadian fishermen who begin in March.

The Team may meet again in January depending on results of this meeting and depending on identification of other issues.



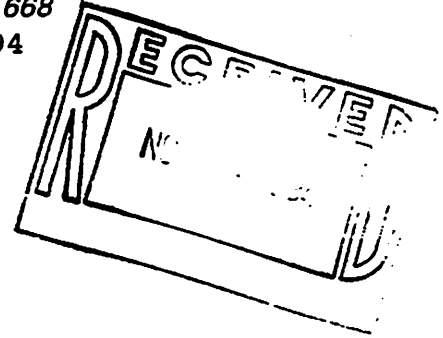
UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service
P.O. Box 21668

AGENDA C-3(c)(1)
DECEMBER 1994

Juneau, Alaska 99802-1668

November 1, 1994



Richard B. Lauber, Chairman
North Pacific Fishery
Management Council
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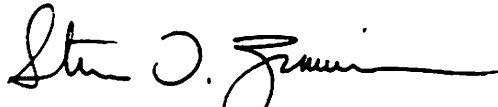
Dear Mr. Lauber:

On October 20, 1994, I discussed with NMFS Central Office the issue of establishing a central lien registry system for QS as requested by the North Pacific Fishery Management Council. We determined that NMFS is unable to establish, at this time, a central lien registry because the agency lacks specific statutory authority to implement a program of this nature.

I understand that current Magnuson Act reauthorization legislation includes a provision pertaining to a central lien registry. When that provision becomes law, and a sufficient number of full-time employees is provided, NMFS will begin developing a lien registry system that is consistent with that statutory requirement.

As much as I would like to accommodate the suggested needs of the industry to better utilize our Nation's fisheries resource I cannot exceed the agency's statutory authority with these accommodations. Also, I am unable to hire new employees for a voluntary recording program while NMFS is undergoing restructuring in compliance with the Administration's directives. Unless one of these circumstances changes, I cannot establish a lien recording system of any kind.

Sincerely,


for: Steven Pennoyer
Director, Alaska Region

cc: Trefon Anguson
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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

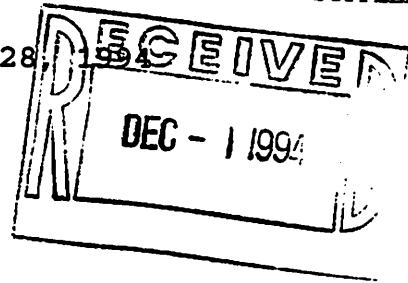
National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

AGENDA C-3
DECEMBER 1994
SUPPLEMENTAL

November 28, 1994



Clarence Pautzke, Executive Director
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, Alaska 99510

Dear Clarence,

As you are no doubt aware, the Restricted Access Management (RAM) Division of the National Marine Fisheries Service (NMFS), Alaska Region, recently commenced issuance of Quota Share (QS) Certificates to those applicants who have demonstrated their eligibility under the terms of the Pacific halibut and sablefish Individual Fishing Quota (IFQ) program. The purpose of this letter is to formally express my appreciation for the exemplary assistance and cooperation of the staff of the North Pacific Fishery Management Council in this rather formidable effort.

In particular, I would formally recognize the contributions of Chris Oliver, Marcus Hartley, and Gail Bendixen. Quite simply, we could not have done it without their help.

We fully intend to complete implementation of the application and initial issuance phase of the program by the end of January (1995), and to issue IFQ Permits and cards to successful applicants during February. When IFQ fishermen leave the docks on March 1 in search of halibut and sablefish, we hope that you and your staff join with us in sharing some sense of accomplishment.

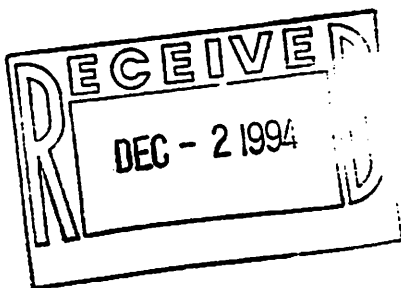
Thanks again -- if our Division can provide information or assistance to the Council, please let me know.

Sincerely,

Philip J. Smith
Chief, RAM Division

cc: Steven Pennoyer
Director, Alaska Region





UNITED STATES DEPARTMENT OF COMMERCE
 National Oceanic and Atmospheric Administration
 NATIONAL MARINE FISHERIES SERVICE
 1335 East-West Highway
 Silver Spring, MD 20910
 THE DIRECTOR

NOV 25 1994

Richard B. Lauber, Chairman
 North Pacific Fishery
 Management Council
 P.O. Box 103136
 Anchorage, Alaska 99510

Dear Mr. Lauber:

On October 7, 1994, the Secretary of Commerce (Secretary) received from the Governor of the State of Alaska (Governor) the recommendations for approval of the eight Community Development Plans (CDPs) submitted by seven community development quota (CDQ) groups for the 1995-1997 halibut and sablefish CDQ program in the Bering Sea and Aleutian Islands management areas. The Secretary has reviewed the record and determined that the recommendations are consistent with the community eligibility criteria and the evaluation criteria set forth in 50 CFR 676.24.

I am pleased to announce, therefore, that the Governor's recommendations are approved. The following are the percentages of halibut and sablefish for each CDQ group:

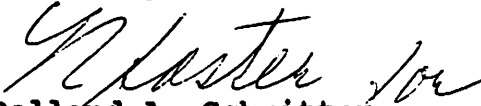
CDQ Group	Halibut IPHC Area				Sablefish	
	4B	4C	4D	4E	BS	AI
Atka Fishermen's Association	100	0	0	0	0	0
Bristol Bay Economic Development Corp.	0	0	23	30	0	25
Coastal Villages Fishing Cooperative	0	0	24	70	0	25
Norton Sound Economic Development Corporation	0	0	20	0	25	30
Pribilof Island Fishermen	0	100	0	0	0	0
Yukon Delta Fisheries Development Association	0	0	33	0	75	10
Aleutian Pribilof Islands Community Development Association	0	0	0	0	0	10
Total	100	100	100	100	100	100

THE ASSISTANT ADMINISTRATOR
 FOR FISHERIES



A Notice of this decision will be published in the Federal Register.

Sincerely,


Rolland A. Schmitten
Assistant Administrator
for Fisheries

cc: Edgar Blatchford
Carl Rosier



UNITED STATES DEPARTMENT OF COMMERCE
 National Oceanic and Atmospheric Administration
 National Marine Fisheries Service
 P.O. Box 21668
 Juneau, Alaska 99802-1668

December 6, 1994

AGENDA C-3
 DECEMBER 1994

Mr. Richard B. Lauber, Chairman
 North Pacific Fishery Management Council
 P.O. Box 10316
 Anchorage, Alaska 99510

Subject: IFQ Implementation Report

Dear Mr. Lauber:

This will bring you up-to-date on the status of implementation of the halibut/sablefish IFQ program. As you know, this is a complicated program that contains many elements; so, if I've failed to adequately address any concerns that you may have, please let me know.

APPLICATIONS/APPLICATION PROCESSING

A couple of weeks ago, the NMFS Regional Director handed Quota Share Certificates (permits) to a Juneau fisherman. That important step was followed by the subsequent issuance of approximately 3,400 additional permits before the Thanksgiving holiday.

The following tables display, by total number, the status of the QS issuance and applications process as of December 2, 1994 (end of last week). As in prior reports, all numbers are rounded.

Status of Initial Applications

All persons applying for QS were required to complete and to submit a Request for Application by July 15, 1994. The following table displays the status of that activity (these same numbers were reported to the Council at the September meeting):

	Halibut	Sablefish	Total
RFAs made available:	7590	1950	7600
RFAs undeliverable:	410	70	490
RFAs duplicated:	160	50	210
RFAs not returned:	<u>1020</u>	<u>230</u>	<u>1250</u>
Total RFAs returned to NMFS:	5900	1700	7600



Of those 7,600 applications, processing is moving forward rapidly. The following table(s) display the status of processing; however, we would point out that these numbers are changing on a daily basis.

Status of Application Processing

	<u>Halibut</u>	<u>Sablefish</u>	<u>Total</u>
Applications (RFAs) Submitted:	5900	1700	7600
Processing Complete - QS Issued:	2900	500	3400

Additional Information Requested from Applicants

Awaiting More Evidence (response to "90-day" letters):	620	110	730
Awaiting Applicant Challenge (response to Data Summaries):	<u>2530</u>	<u>840</u>	<u>3370</u>
Totals of Information Requested:	3150	950	4100

Applications in Conflict

(most involve both species):	<u>67</u>	<u>38</u>	
Total Pending Final Processing:	3217	988	4100

Denials and Appeals

Untimely Applications Denied:	42	14	56
"Conflict" Applications Denied:	2		
Appeals Filed:	8	2	10
Appeals Denied:	1		
Further Appeal (to RD)	1		

NEAR-TERM PROCESSING COMPLETIONS

Within the next two weeks (just in time for Christmas!), we expect to mail an additional 2,600 QS Certificates (permits) to over 1,100 eligible applicants. Further, on December 12, the 90-day evidentiary "window" closes on some 400 other applications; at that time, we expect that a large number of those applications will be denied as ineligible.

CONFIDENTIALITY ISSUES

An issue that many anticipated would cause great problems with the application process was the necessity to honor state and federal confidentiality rules. Although it remains an issue for some, most applicants have succeeded in solving the problem by signing the Request for Application and by obtaining waivers from hired skippers and others who landed product aboard their vessels during the qualifying years. At this point, data must be held confidential on applications for only 128 QS permits (area/species/vessel category combinations), including 117 halibut and 11 sablefish. We continue to seek ways in which QS may be issued to those applicants, even if we may not reveal the total qualifying pounds on a year-by-year basis.

CDQ COMPENSATION SCHEDULE

Calculation of CDQ compensation will be accomplished following the Council meeting (and will rely, to some extent, on Council action). We expect to have CDQ compensation QS issued shortly after January 1.

IFQ CREW MEMBER TRANSFER ELIGIBILITY CERTIFICATES

At the September Council meeting, we distributed a draft "IFQ Crew Member Transfer Eligibility Certificate" application for individuals who, while not receiving QS by initial issuance, nevertheless wish to gain eligibility to receive QS and/or IFQ by transfer. Following the meeting, the forms were finalized and have been given wide distribution.

To date, approximately 30 of those applications have been completed and returned. We expect to finish processing them and to issue (or, in some cases, deny) the Transfer Eligibility Certificates within the next week or so. In the future, we expect to be able to process those applications as they arrive.

QS/IFQ TRANSFER APPLICATIONS

Included with the Quota Share Certificates already mailed (and to be included with future mailings) were applications for the transfer (sale, gift, or lease) or QS and/or IFQ, together with guidelines governing transfers and instructions for completing the applications. In addition to the individual mailings, we have broadly disseminated the forms to fishing associations, brokers, and others.

As of today, we have not received any formal requests for transfer of Quota Share; however, we expect a number of transfer applications in the very near future. Because we have organized the system to accommodate in-season transfers of QS and IFQ, and transfers may occur at any time, our earlier expectation that there would be a flood of transfer requests to process immediately following QS issuance may have been misplaced. It appears that a lot of folks may be waiting until after January 31 (when the IFQ calculation is completed and IFQ cards are issued).

REGISTERED BUYER PERMITS/TRANSACTION TERMINALS

We are finalizing the forms for persons desiring to become "Registered Buyers" under the IFQ Program, and will soon give those wide dissemination.

Also, final programming for the Transaction Terminals to be used for making landings of IFQ products is nearing completion. During late January and early February, we will be distributing those machines to eligible buyers and to public locations (such as harbormaster offices) to insure that they are readily available to the fishermen when IFQ landings are being made.

PUBLIC INFORMATION EFFORTS

Central to the success of the program is the effort made to maintain good communications with the public, and to efficiently respond to public concerns.

To that end, we have maintained our toll-free telephone number (800-304-4846), which is being heavily used [during October alone, we received over 2,400 calls on the line, accounting for some 14,000 minutes (or, 233 hours and 29 8-hour staff days) of toll charges].

Additionally, we staffed a booth at Fish Expo in Seattle last week, and worked with many fishermen who had questions on the program and/or specific inquiries regarding their applications. Also at Expo, I served on a panel with Bruce Turris (Canadian IVQ Program Manager) and Larry Cotter (Access Unlimited), and discussed the many complex components of the program with over 200 audience members.

Prior to the next Council meeting, we intend to have a new publication available. This will be similar in design to the earlier publication (**The IFQ Program: Insights and Updates**) published last February, but will focus more precisely on the regulations governing transfer of QS/IFQ, fishing under the IFQ

program, and landing IFQ species. It will explain the Transaction Terminal system in detail.

Also during the next Council meeting (and at the IPHC meeting in late January, 1995), we intend to explain the IFQ landing system with a "hands-on" demonstration of the transaction terminal.

In cooperation with the NMFS Enforcement Division, additional workshops are being planned (as is attendance at the Kodiak Fish Expo next March) to insure that buyers and fishermen are well apprised of the mechanics of the new system that governs fishing under IFQs and landing IFQ halibut and sablefish.

NMFS COMPUTER BULLETIN BOARD

As part of our effort to insure that the public can access the necessary information to work with the program, we have placed the name and business address of all persons that submitted Requests for Application on the NMFS Computer Bulletin Board. Beginning next week, we will also include the names and addresses of all who have received Quota Share and (when approved) all approved IFQ Crew Members (and others) who have demonstrated their eligibility to receive QS by transfer.

As time goes on, we will periodically update information on the Bulletin Board -- it would be helpful for us to hear from the affected public so that we can insure that the information we are providing is both timely and of some value to users.

SCHEDULES AND TIME FRAMES

We continue to believe that the program implementation is substantially "on track" and do not foresee any major impediments to full implementation next spring.

The time-table provided to the Council in September remains valid, with the full expectation that QS will be issued to all eligible applicants by the end of January, and the transfer, appeals, and other elements of the program proceeding as scheduled.

CONCLUSION

Thank you for your continued interest in, and support for, the IFQ implementation effort. Please feel free to let us know if you have any questions or comments.

Sincerely,



Philip J. Smith
Chief, Restricted Access
Management Division

cc: Steven Pennoyer
Director, Alaska Region

Halibut 301 and IFQ 676 Regulations Coordination Summary

The regulations governing the Pacific halibut fishery are codified at 50 CFR Part 301. Those governing the IFQ fishery for halibut and sablefish are codified at 50 CFR Part 676. The following discusses sections of Part 301 (301 regs) that may be desirable to change to improve coordination with the IFQ program.

The 301 regs primarily implement the policies of the International Pacific Halibut Commission (IPHC) as they apply to US fishermen. The 301 regs also implement allocation policies of the Council or the Secretary of Commerce. Basically there are two different types of measures in the 301 regs: (1) those that have primarily an allocation purpose that are there by Council and Secretarial action, and (2) those that have primarily a conservation purpose that are there because of IPHC action. If there are changes to "Council regs" that are necessary to improve the operation of the IFQ program, then the Council should recommend such changes to the Secretary. If there are changes to "IPHC regs" that are necessary for the same reason, then the Council should recommend changes to the IPHC.

A. "Council regs." These are 301 regs that primarily have an allocation purpose and may be changed by action of the Council and the Secretary to improve operation of the IFQ program.

1. Fishing Periods Sec. 301.7(f) or IPHC Sec. 7(6)

Area 4B will be closed when 315,000 pounds of the catch limit has been taken and will reopen on August 15 for the remaining catch limit.

2. Catch Limits Sec. 301.10(g) [Not in IPHC reg. book]

The portion of Area 4E that is south and east of a line (at Cape Newenham) shall be closed to fishing when the IPHC determines that 30 % of the 4E catch limit has been taken, except....

3. Fishing Period Limits Sec. 301.11(g) or IPHC Sec. 11(7)

All vessels fishing in Area 4B shall be limited to a maximum catch of 10,000 pounds per fishing period June 6 - August 14.

Sec. 301.11(h) or IPHC Sec. 11(8)

All fishing vessels in Area 4C shall be limited to a maximum catch of 10,000 pounds per fishing period.

Sec. 301.11(j) or IPHC Sec. 11(10)

All fishing in Area 4E shall be limited to a maximum catch of 6,000 pounds per fishing period.

One app deletion contingent on IFQ app.

B. "Council regs" and "IPHC regs." Section 301.14 requires a vessel clearance of vessels that are used to harvest halibut in Area 4. Some of these clearance requirements have an allocation purpose and a biological conservation purpose. The advent of the IFQ and CDQ programs in this IPHC management area may render the allocation purpose unnecessary. In this event, the Council may indicate that it no longer sees a need for vessel clearance in Area 4 for allocation purposes. The IPHC staff, however, have indicated a need to continue and expand the Area 4 clearance requirements for conservation purposes. In this event, the 301 regs may be changed through action by the IPHC.

C. "IPHC regs." These are 301 regs that have primarily a biological conservation purpose and may be changed by action of the IPHC to improve coordination with the IFQ program. Council recommendations on these regulations should be made to the IPHC. Refer to the discussion paper prepared for this agenda item for a more complete description of the issues.

1. Interpretation Sec. 301.2 or IPHC Sec. 2

Staff recommendation:

- (a) "Fishery officer." Change to "authorized officer."
- (b) "Land." Change to mean the unloading or transfer of halibut or products thereof from the vessel that harvested such fish.

2. Licensing vessels Sec. 301.3 or IPHC Sec. 3

Staff recommendation: No change.

3. Inseason actions Sec. 301.4 or IPHC Sec. 4

Staff recommendation: No change.

4. Regulatory areas Sec. 301.6 or IPHC Sec 6

Staff recommendation regarding Area 4D-N: None

Staff recommendation pertaining to Metlakatla Indian Community: Assume a Metlakatla halibut harvest based on previous years for purposes of making a deduction from the Area 2C catch limit or TAC.

5. Fishing periods Sec. 301.7 or IPHC Sec. 7

Staff recommendation: Delete fishing period table and establish one fishing period for Areas 2B through 4E. [Note: item 1 above under "Council regs."]

*All include
Area 2A*

6. Closed periods Sec. 301.8 or IPHC Sec. 8

Staff recommendation: No change

7. Catch limits Sec. 301.10 or IPHC Sec. 10

Staff recommendation: Delete paragraphs (d), (e), (f), and (h) or IPHC sec. 10(4) - (7). [Note: item 2 above under "Council regs," paragraph (g) also should be deleted]

8. Fishing period limits Sec. 301.11 or IPHC Sec. 11

Staff recommendation:-Fishing period limits in areas adjacent to Alaska are no necessary under the IFQ program, but text in this section could be revised for Area 2A. [Note: item 3 above under "Council regs," paragraphs (g), (h) and (j) should be removed by Council action.]

9. Careful release Sec. 301.13 or IPHC Sec. 13

Staff recommendation: The careful release requirement should be applied to any halibut that are not retained.

10. Vessel clearance in Area 4 Sec. 301.14 or IPHC Sec 14

Staff recommendation: Revise and expand clearing requirements as suggested by IPHC staff.

11. Receipt and possession of halibut Sec. 301.16 or IPHC Sec. 16

Staff recommendation:

- (a) Review fish ticket and IFQ landing report system after a period of IFQ program operation.
- (b) Revise text to require unloading and reporting of all halibut as proposed for IFQ regs.
- (c) Require retention of copies of fish tickets or catch reports for 3 years instead of 2.

12. Fishing gear Sec. 301.17 or IPHC Sec. 17

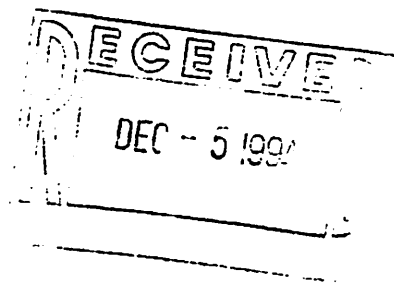
Staff recommendation:

- (a) Retain requirement to remove fishing gear 72 hours before a fishing period.
- (b) Consistency: Revise either the 301 regs to relax the prohibition on hook strippers or revise the groundfish regs to prohibit hook strippers on groundfish longliners with IFQ sablefish onboard.

Robert E. Pries
13805 209th Ave. N.E.
Woodinville, Wa. 98072

28 November, 1994

North Pacific Fisheries Management Council
Post Office Box 103136
Anchorage, Ak, 99510



Mr. Clarence Pautzke,

Thanks for all of the good work on the IFQ program. This should have been done long ago and I probably would not get any argument from many, if any of the Council on that score. I would however, like to register my dislike of the block scheme.

I have qualifying shares in 3 different areas 2 of which are Blocked. I have a near limit seiner which is clearly out of the question to practically use for the 2 small blocks. I would like to sell these two small blocks and combine these 2 small quota shares in my main fishery. Do to the Block restrictions these small quotas are nearly worth less. While the Block program might have answered a few problems for the 3C trollers it simply does not fit down the Peninsula where there are far fewer small boats and no trollers who would like to deliver their Halibut by catch.

Who would go out in False Pass for only #2,000? Who would want to close the door to future expansion of their business by adding #2,000 or #3,000? If later they would like to expand a little more they would have to sell one of their blocks and find another which happened to be the right size. These guys have practically no flexibility. Blocking takes away the ability of the little guys to grow their business big enough to go out for one load. The only people who might be happy about this is are the Brokers who get to churn the sales.

I predict that the guys with little Blocked quotas will get substantially less per pound than the guys who have un-blocked quotas. If none of this makes any sense to you, just ask yourself why the struggling little guys should get less per pound for their quotas?

I read that there is a one time exemption from the Block restrictions for fishermen who received compensation quotas for CDQ adjustments. I think you should think about some of the other fishermen this Blocking will injure. In fact I think you should cancel the entire Blocking scheme at least for the western areas where there is really not a market for it nor a need for it.

This may have been a well intended scheme but it really hurts a lot more than it helps. It is really ironic that while you have seen to it that the big operators have quotas worth millions you would deny the little guys the same market advantage.

The last election, according to the pundits, said that the Country wants less government. This seems to be another case of government making decisions for us. None of us can foresee all of the possible consequences of these special restrictions. It is bad enough to have to suffer from ones own mistakes without having to suffer from others mistakes too. You have established private ownership and I think that is the American way. Now it is time to stand aside and let the free market do it's magic.

Sincerely,


Robert E. Pries

**FISHING VESSEL OWNERS' ASSOCIATION
INCORPORATED**

ROOM 232, WEST WALL BUILDING • 4005 20TH AVE. W.
SEATTLE, WASHINGTON 98199-1290

SINCE 1914

December 2, 1994

Chairman Rick Lauber
North Pacific Fishery Management Council
P. O. Box 103136
Anchorage, AK 99510

Dear Chairman Lauber:


This letter, from the members of the Fishing Vessel Owners Association, supports the request for a regulatory or plan amendment change that would allow those sablefish IFQ holders in the Bering Sea and Aleutians, to begin fishing on January 1, 1996.

Currently, the season would open on March 1st annually. The original rationale for this was to minimize the harvest of halibut during spawning as well as to allow the fish to add weight after spawning. This is a reasonable argument for the Gulf of Alaska where spawning and bycatch of halibut in the sablefish fishery are well documented.

The bycatch of halibut in the Aleutian and Bering Sea districts, in the directed sablefish fishery, has not demonstrated a problem based on observer reports. Historically, the sablefish fishery has begun in this area on January 1st and the market for sablefish has been good during this time.

We request that the Council begin the regulatory process to provide for a January 1st opening in the Bering Sea and Aleutians so that IFQ holders of sablefish can begin fishing January 1, 1996, as they have historically done.

Sincerely,


Robert D. Alverson
Manager

RDA:cb

FAX
(206) 283-3341

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(206) 283-7735

LONGITUDE: 120° 22' 58" WEST