

Supplemental Sablefish Materials

- Item A: An outline of the IFQ system designed in the main motion that is still on the floor.
- Item B: Comparison of 1989 catches and IFQ ownership, based on the four vessel categories, for owners who participated in 1987, 1988, or 1989. It is based on the system as now configured in the main motion on the floor.
- Item C: These vessel size distributions are based on two different data sets (participation in 1984-89 or 1987-89) so it is important to pay particular attention to which figure is referenced. All data are based on the most recent, largest vessel owned by a person which landed sablefish.

Fig. 1 - All owners who participated between 1984-89 in 1' increments. This is the largest data set of the bunch.

Fig. 2 - A repeat of (1), only participation must have been in 1987-1989.

Fig. 3 - A repeat of (2) examining only catcher vessels.

Fig. 4 - A repeat of (2) examining only processing vessels as listed in NMFS files.

Fig. 5 - A repeat of (1), participation between 1984-89, in 5' increments.

Fig. 6 - A repeat of (2) in 5' increments.

Fig. 7 - A repeat of (3) in 5' increments.

Fig. 8 - A repeat of (4) in 5' increments.

Table 9 - The number of vessels by length. These are the data used to make the previous 8 figures.

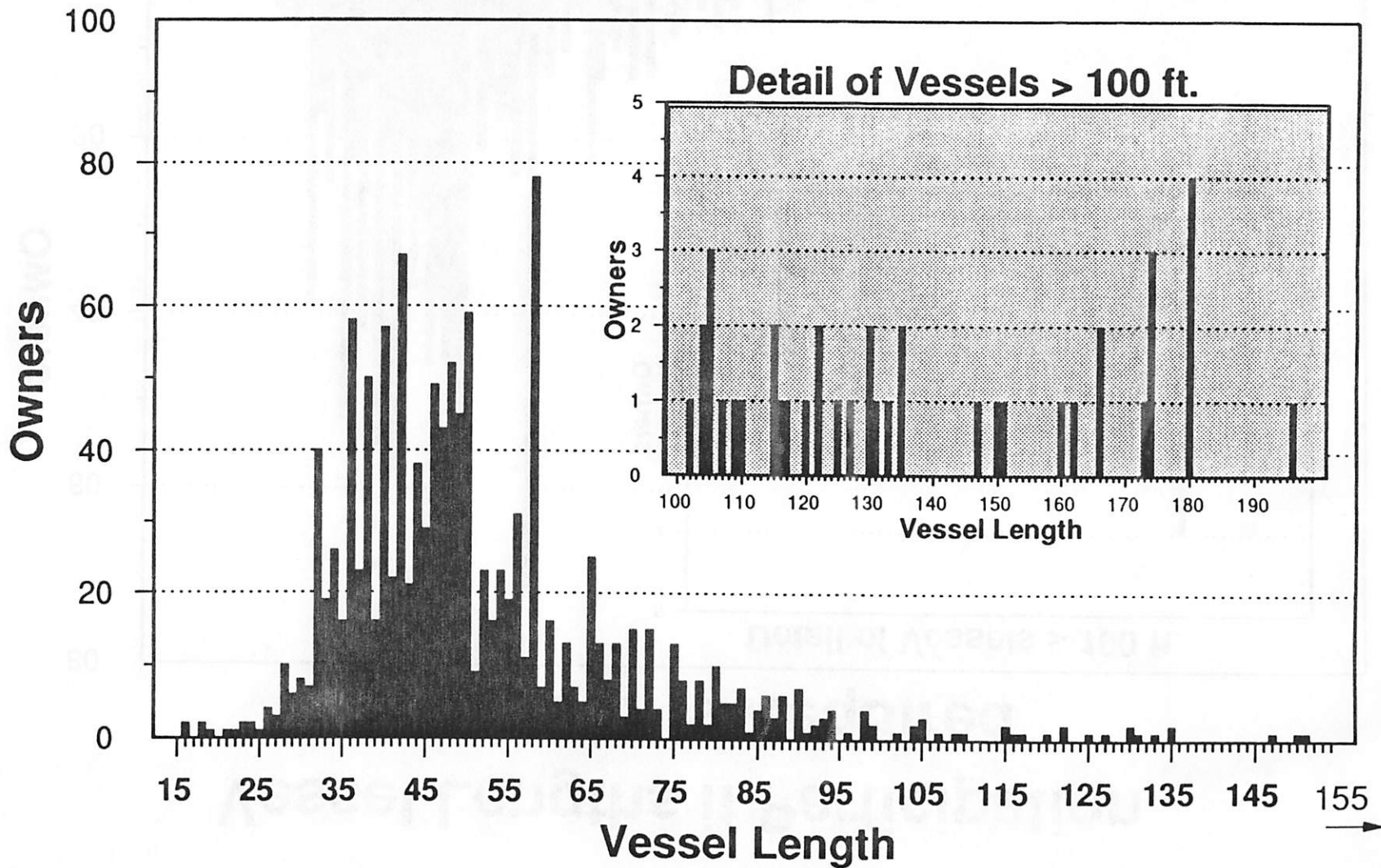
- Item D: An explanation of the ratio of IFQs and individuals to average landings. This was used to create the "six peaks" Figures 2.5 (p. 49) and 2.7 (p. 66) in the draft RIR.

Distribution of Owners, Qualifying Tons, Landings, and 1990 IFQS by Vessel Class

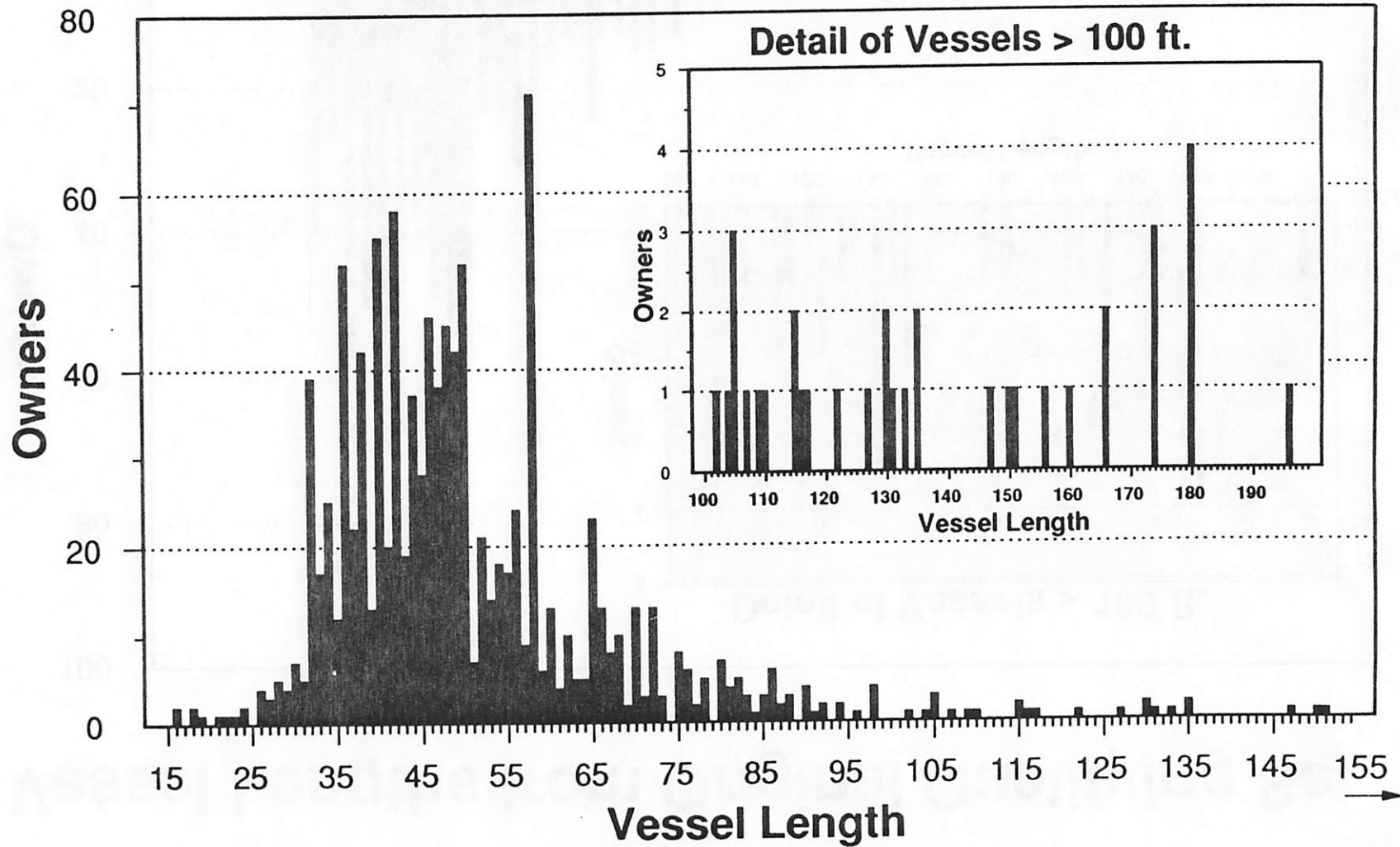
	ALEUTIAN ISL.	BERING SEA	CENTRAL GULF	EAST YAKUTAT	WESTERN GULF	WEST YAKUTAT	ALL FMP AREAS
SMALL	1989 OWNERS: 2	3	83	264	11	53	
	IFQ OWNERS 10	27	230	412	40	163	
QUALIFYING TONS	403.1	609.5	4517.2	10953.0	1136.8	2550.1	20207.0
% OF QUAL. TONS	3.3%	8.6%	11.0%	43.9%	7.9%	12.8%	16.9%
1989 CATCH	*	*	839.5	2570.9	139.0	369.3	<u>3918.7</u>
% OF '89 CATCH	*	*	8.5%	47.1%	3.8%	7.2%	<u>14.5%</u>
IFQS W/1990 TAC	111.4	115.7	1033.3	2495.2	238.9	551.7	4546.2
% OF 1990 TAC	3.3%	8.6%	11.0%	43.9%	7.9%	12.8%	16.8%
MEDIUM	1989 OWNERS 35	8	175	120	62	109	
	IFQ OWNERS 75	69	271	213	113	209	
QUALIFYING TONS	4794.0	3064.1	26558.3	12722.4	7411.3	15015.7	69789.3
% OF QUAL. TONS	39.2%	43.1%	64.9%	51.0%	51.6%	75.2%	58.2%
1989 CATCH	<u>751.0</u>	<u>86.7</u>	6845.4	<u>2883.2</u>	2397.4	3908.6	16680.1
% OF '89 CATCH	<u>32.2%</u>	<u>16.2%</u>	69.4%	<u>52.9%</u>	66.2%	76.2%	61.9%
IFQS W/1990 TAC	1323.0	581.7	6074.6	2898.5	1557.7	3247.3	15682.8
% OF 1990 TAC	39.2%	43.1%	64.9%	51.0%	51.6%	75.2%	57.9%
LARGE	1989 OWNERS 4	1	35	2	6	16	
	IFQ OWNERS 20	22	63	14	17	34	
QUALIFYING TONS	440.3	426.5	5569.9	863.2	561.1	1804.6	9682.9
% OF QUAL. TONS	3.6%	6.0%	13.6%	3.5%	3.9%	9.0%	8.1%
1989 CATCH	53.2	*	1183.3	*	106.0	599.6	<u>1942.1</u>
% OF '89 CATCH	2.3%	*	12.0%	*	2.9%	11.7%	<u>7.2%</u>
IFQS W/1990 TAC	121.5	81.0	1273.9	196.5	117.8	390.1	2180.8
% OF 1990 TAC	3.6%	6.0%	13.6%	3.5%	3.9%	9.0%	8.0%
FREEZERS	1989 OWNERS 16	17	12	1	15	7	
	IFQ OWNERS 23	29	20	6	23	8	
QUALIFYING TONS	6584.5	3009.7	4275.1	394.4	5261.5	606.6	20154.8
% OF QUAL. TONS	53.9%	42.3%	10.5%	1.6%	36.6%	3.0%	16.8%
1989 CATCH	1526.1	449.3	999.9	*	981.6	251.9	<u>4208.9</u>
% OF '89 CATCH	65.5%	83.8%	10.1%	*	27.1%	4.9%	<u>15.6%</u>
IFQS W/1990 TAC	1819.2	571.5	978.1	89.7	1105.6	130.9	4694.0
% OF 1990 TAC	53.9%	42.3%	10.5%	1.6%	36.6%	3.0%	17.3%
TOTALS							
QUALIFYING TONS	12221.9	7109.8	40920.5	24933.0	14370.7	19977.0	119834.0
1989 CATCH	2330.3	535.9	9868.2	5454.1	3624.0	5129.5	26942.0
IFQS W/1990 TAC	3375.5	1350.0	9360.0	5680.0	3020.0	4320.0	27105.5

\* Asterisks indicate confidential numbers. Deleted landings have been added to the medium size class in that area. Bold-faced/underlined numbers are indicators that figures have been adjusted to protect confidentiality.

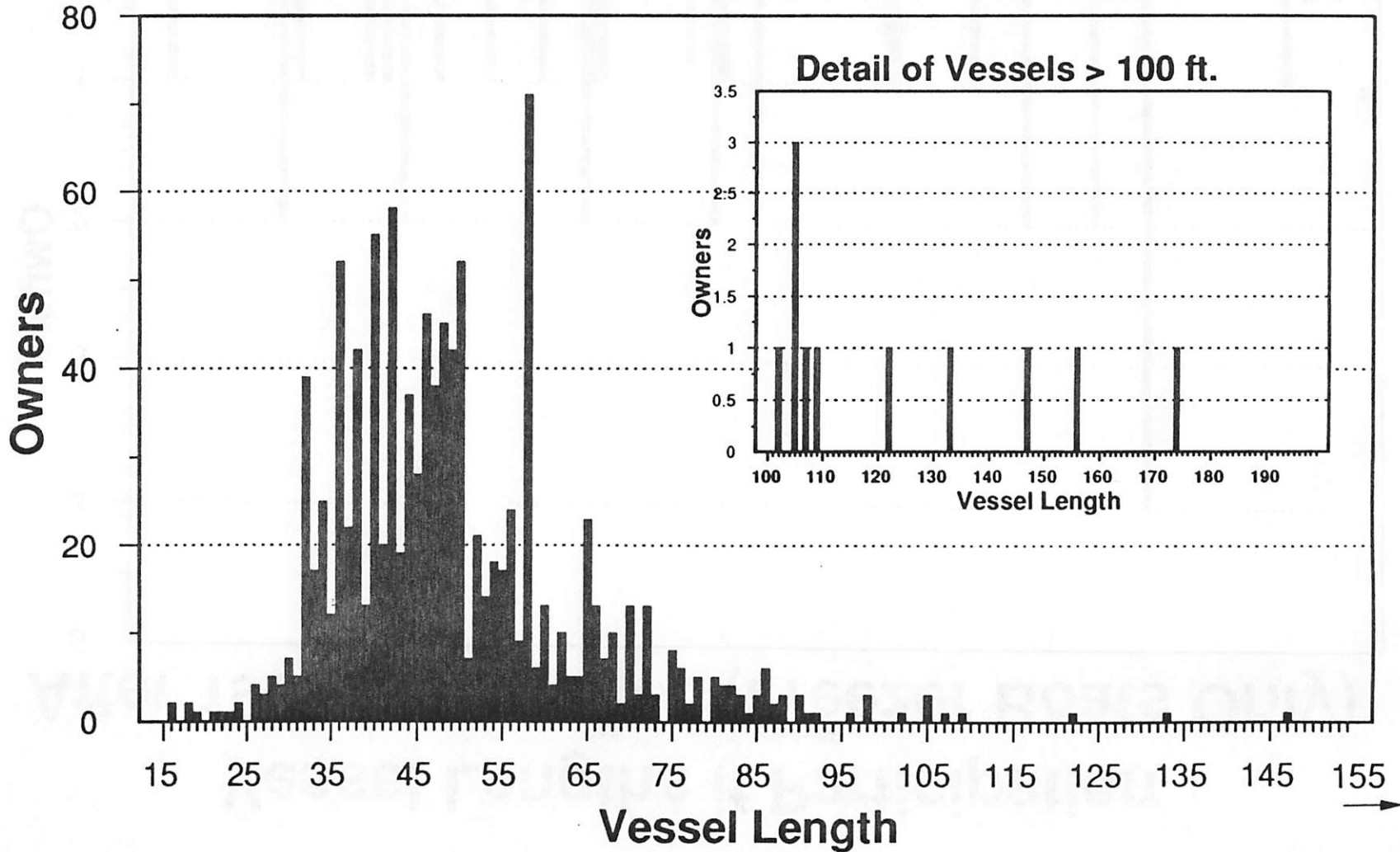
# Vessel Lengths from Original Qualifying Set



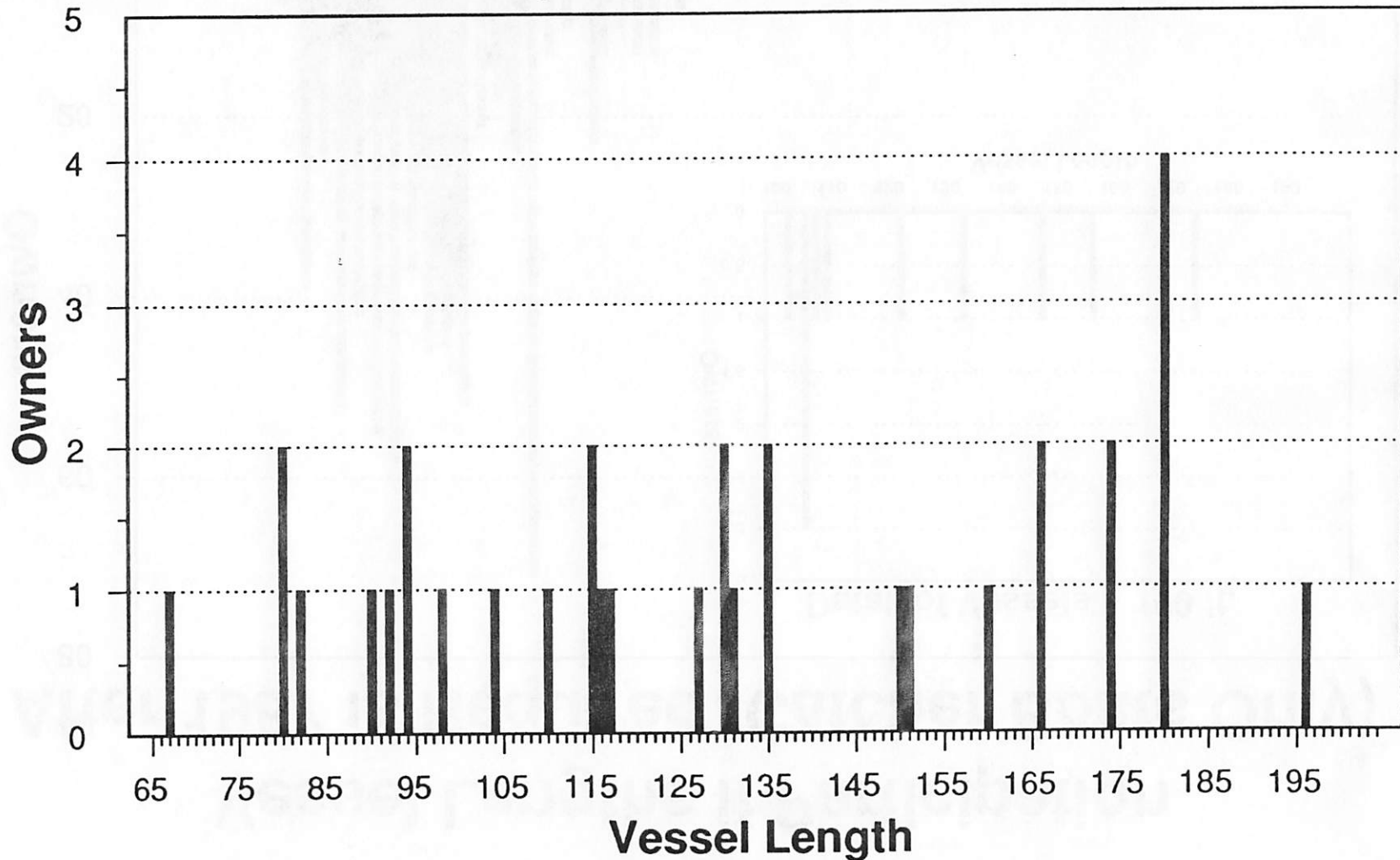
# Vessel Lengths if Participation After 1987 is Required



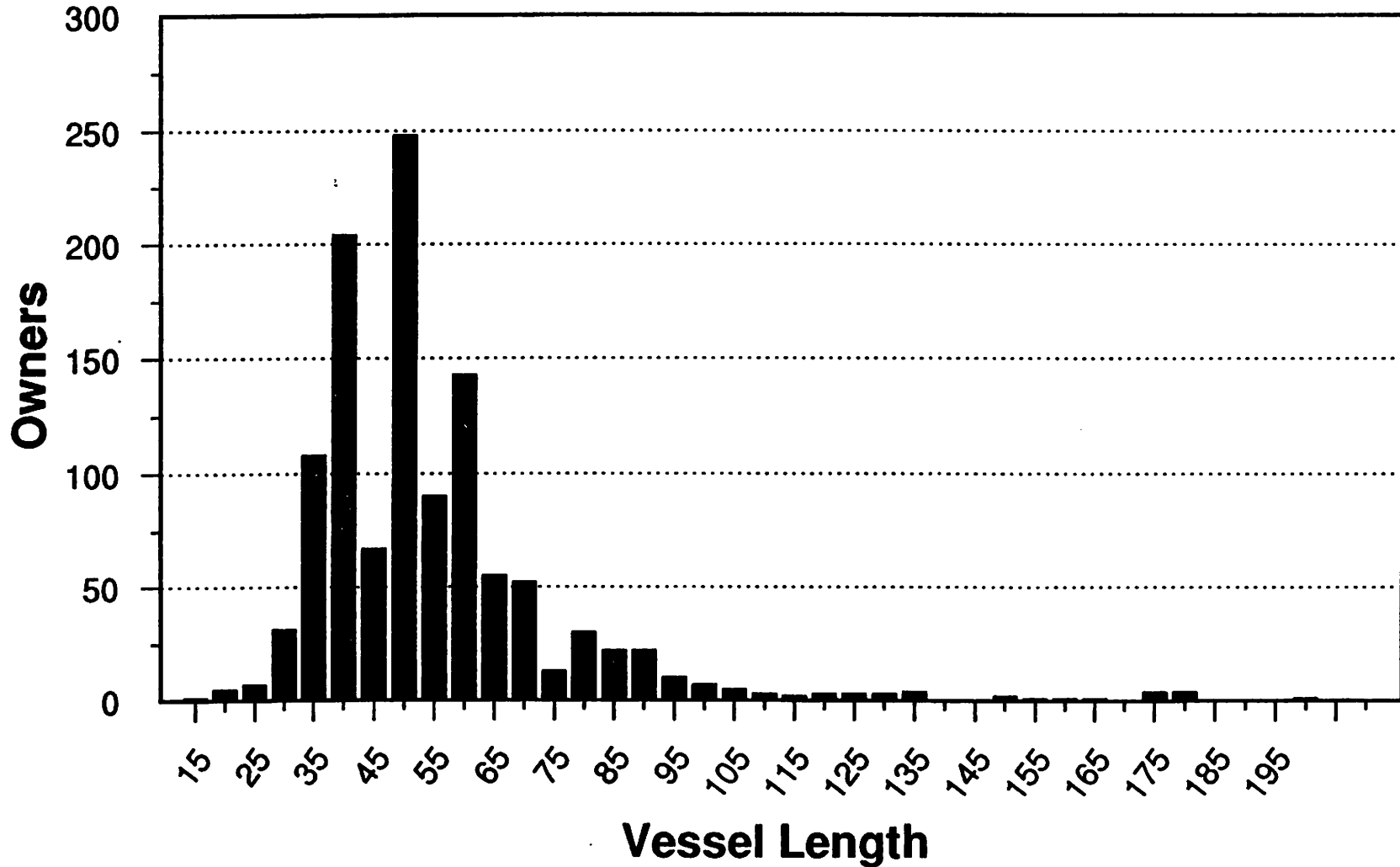
# Vessel Lengths if Participation After 1987 is Required (Catcher Boats Only)



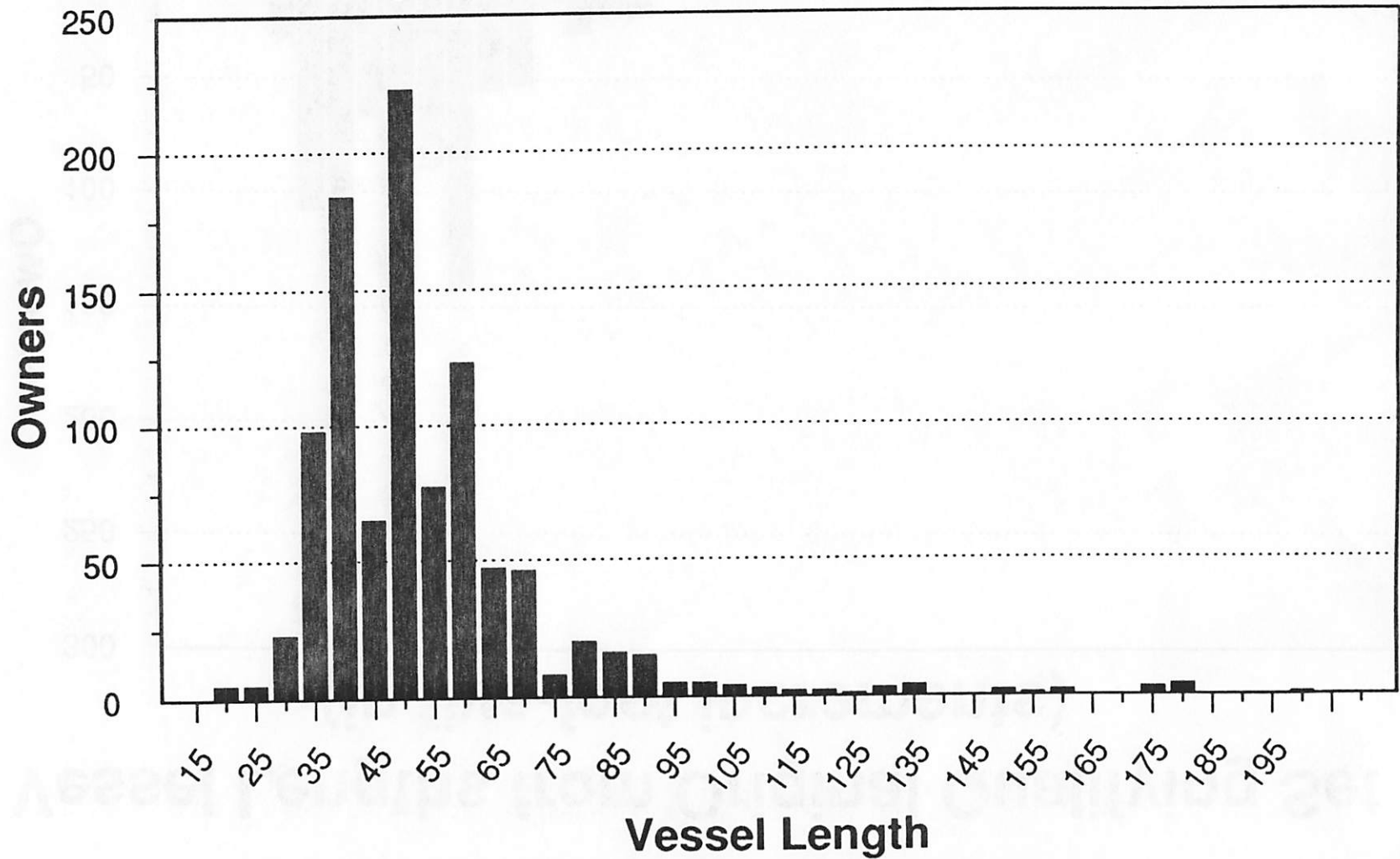
# Vessel Lengths if Participation After 1987 is Required (Freezer Boats Only)



# Vessel Lengths from Original Qualifying Set (in five-foot increments)



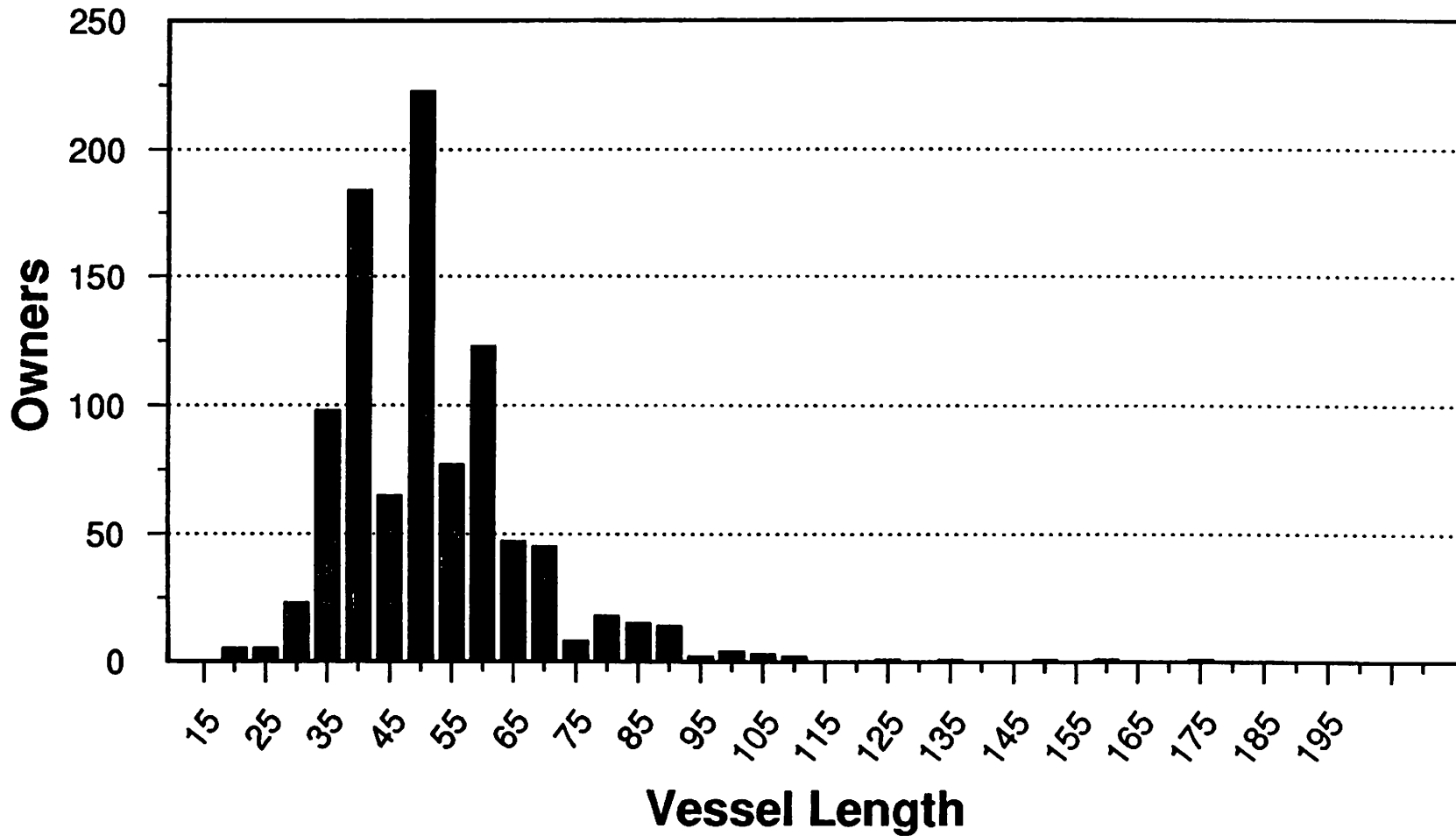
# Vessel Lengths if Participation After 1987 is Required (in five-foot increments)





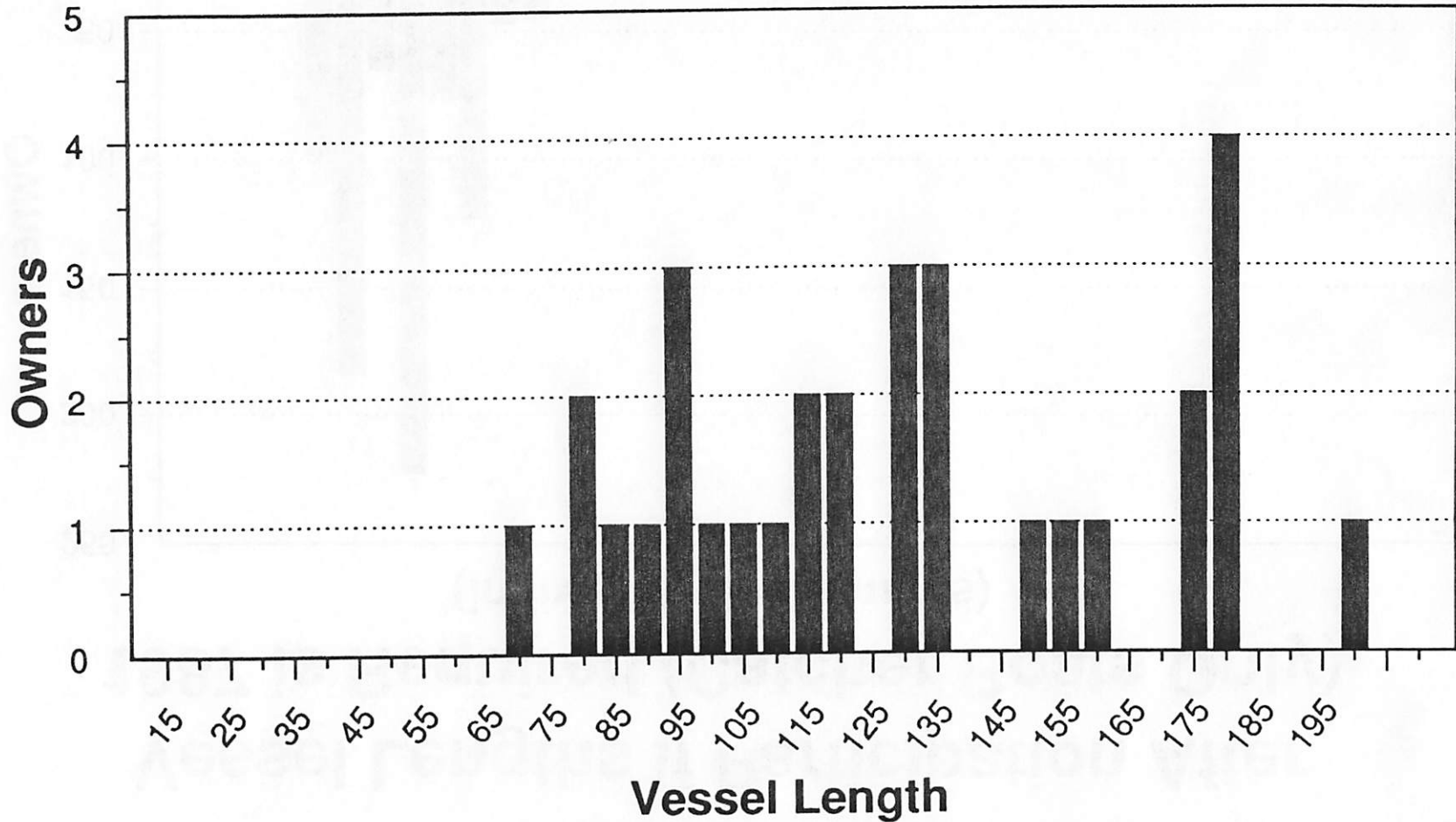
# Vessel Lengths if Participation After 1987 is Required (Catcher Boats Only)

(in five-foot increments)



# Vessel Lengths if Participation After 1987 is Required (Freezer Boats Only)

(in five-foot increments)



AGENDA C-4(c)(9)  
 SUPPLEMENTAL  
 AUGUST 1990

Length	Original	87 & Up	Catcher	Freezer
14	1			
15				
16	2	2	2	
17				
18	2	2	2	
19	1	1	1	
20				
21	1	1	1	
22	1	1	1	
23	2	1	1	
24	2	2	2	
25	1			
26	4	4	4	
27	3	3	3	
28	10	5	5	
29	6	4	4	
30	8	7	7	
31	7	5	5	
32	40	39	39	
33	19	17	17	
34	26	25	25	
35	16	12	12	
36	58	52	52	
37	23	22	22	
38	50	42	42	
39	16	13	13	
40	57	55	55	
41	22	20	20	
42	67	58	58	
43	21	19	19	
44	38	37	37	
45	29	28	28	
46	49	46	46	
47	43	38	38	
48	52	45	45	
49	45	42	42	
50	59	52	52	
51	9	7	7	
52	23	21	21	
53	16	14	14	
54	23	18	18	
55	19	17	17	
56	31	24	24	
57	11	9	9	
58	78	71	71	
59	7	6	6	
60	16	13	13	
61	5	4	4	
62	13	10	10	

Length	Original	87 & Up	Catcher	Freezer
63	7	5	5	
64	5	5	5	
65	25	23	23	
66	13	13	13	
67	8	8	7	1
68	13	10	10	
69	3	2	2	
70	15	13	13	
71	4	3	3	
72	15	13	13	
73	4	3	3	
74				
75	13	8	8	
76	8	6	6	
77	2	2	2	
78	8	5	5	
79	2			
80	10	7	5	2
81	5	4	4	
82	5	5	4	1
83	7	3	3	
84	1	1	1	
85	4	3	3	
86	6	6	6	
87	3	2	2	
88	6	3	3	
89				
90	7	4	3	1
91	1	1	1	
92	2	2	1	1
93	3			
94	4	2		2
95				
96	1	1	1	
97				
98	4	4	3	1
99	2			
100				
101				
102	1	1	1	
103				
104	2	1		1
105	3	3	3	
106				
107	1	1	1	
108				
109	1	1	1	
110	1	1		1
111				

Length	Original	87 & Up	Catcher	Freezer
112				
113				
114				
115	2	2		2
116	1	1		1
117	1	1		1
118				
119				
120	1			
121				
122	2	1	1	
123				
124				
125	1			
126				
127	1	1		1
128				
129				
130	2	2		2
131	1	1		1
132				
133	1	1	1	
134				
135	2	2		2
136				
137				
138				
139				
140				
141				
142				
143				
144				
145				
146				
147	1	1	1	
148				
149				
150	1	1		1
151	1	1		1
152				
153				
154				
155				
156		1	1	
157				
158				
159				
160	1	1		1

Length	Original	87 & Up	Catcher	Freezer
161				
162	1			
163				
164				
165				
166	2	2		2
167				
168				
169				
170				
171				
172				
173	1			
174	3	3		2
175			1	
176				
177				
178				
179				
180	4	4		4
181				
182				
183				
184				
185				
186				
187		1		1
188				
189				
190				
191				
192				
193				
194				
195				
196	1	1		1

Vessel lengths in 5 ft Increments

Length	Original	87 & Up	Catcher	Freezer
15	1	0	0	0
20	5	5	5	0
25	7	5	5	0
30	31	23	23	0
35	108	98	98	0
40	204	184	184	0
45	177	162	162	0
50	248	223	223	0
55	90	77	77	0
60	143	123	123	0
65	55	47	47	0
70	52	46	45	1
75	36	27	27	0
80	30	20	18	2
85	22	16	15	1
90	22	15	14	1
95	10	5	2	3
100	7	5	4	1
105	6	5	4	1
110	3	3	2	1
115	2	2	0	2
120	3	2	0	2
125	3	1	1	0
130	3	3	0	3
135	4	4	1	3
140	0	0	0	0
145	0	0	0	0
150	2	2	1	1
155	1	1	0	1
160	1	2	1	1
165	1	0	0	0
170	2	2	0	2
175	4	3	1	2
180	4	4	0	4
185	0	0	0	0
190	0	0	0	0
195	0	0	0	0
200	1	1	0	1





Let's explore this in terms we can all understand. The ratio of IFQs to average catch can be expressed as;

$$(1) \quad \text{IFQs} + \text{Average catch},$$

but remember that;

$$(1.1) \quad \text{IFQs} = \text{individuals total qualifying lbs} + \frac{\text{the total of everybody's qualifying lbs} \times \text{TAC}}{\text{the number of years fished}},$$

$$(1.2) \quad \text{Average catch} = \frac{\text{individuals total qualifying lbs}}{\text{the number of years fished}}.$$

Notice that the individual's total qualifying lbs is found in both the divisor and the dividend and therefore they cancel out resulting in;

$$(2) \quad \text{IFQ} + \text{average catch} = \frac{(\text{1} + \frac{\text{the total of everybody's qualifying lbs} \times \text{TAC}}{\text{the number of years fished}})}{\text{the number of years fished}} \times \text{individuals total qualifying lbs}.$$

If we simplify this it results in the following relationship;

$$(3) \quad \text{IFQs} + \text{average catch} = \frac{\text{the number of years fished} \times \text{TAC} + \text{the total of everybody's qualifying lbs}}{\text{the number of years fished}}.$$

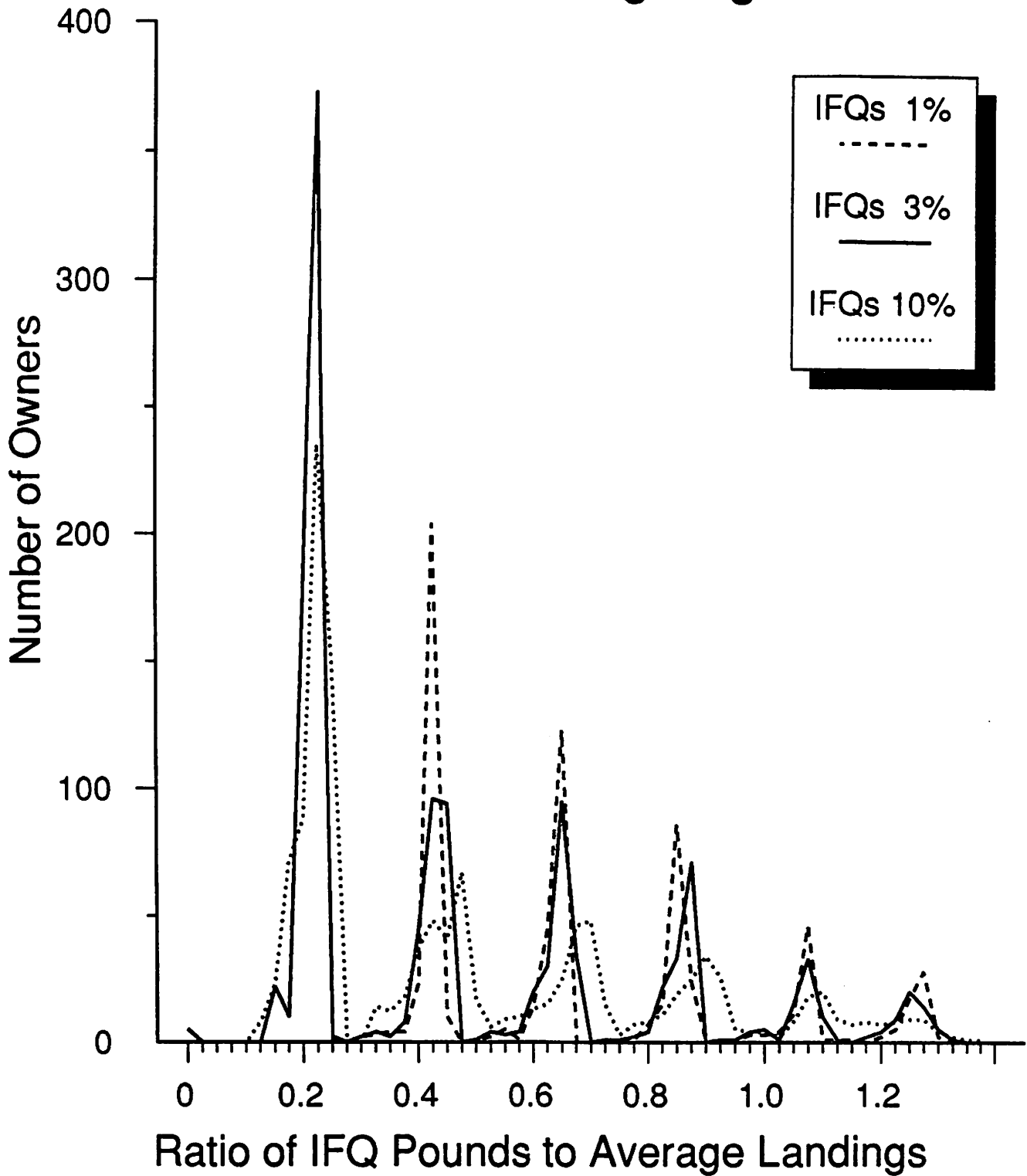
Using this equation, and knowing the total of everybody's qualifying lbs and the TAC, we can calculate exactly the ratio of an individual's IFQ to his average catch. For example, take an individual who fished 4 years in the Central Gulf, and on average landed 50 tons during that time. The 1990 TAC for the Central Gulf is 9,360 mt. The total of everybody's qualifying tons is 40,920 mt.  $9,360 + 40,920 \times 4 = 0.91$  which equals the ratio of IFQ lbs to average landings for four year fishing in the Central Gulf. If we multiply this ratio by the fisherman's average catch of 50 tons we get his IFQ tons. In this case, the fisherman will receive,  $50 \times 0.91$  or 45 tons. Note that if he had fished for all six years his ratio would be 1.37, giving him IFQs of 68.5 tons. His IFQ is not the simple average (50 tons) because the 1990 TAC is greater than the average of the total landings in the Central Gulf over the qualifying period. If the TAC had been less than the average of the total qualifying landings, even the fisherman with 6 years of participation would receive less IFQs than his average.

The ratio of IFQs to average landings for a given number of years participation with a given TAC will be constant in each FMP area. The table below shows those ratios using the 1990 TACs.

	1990 TAC	Qualifying Tons	Ratio of IFQs to Average by Years of Participation					
			1	2	3	4	5	6
Aleutian Islands	3,375.5	12,221.9	0.28	0.55	0.83	1.10	1.38	1.66
Bering Sea	1,350.0	7,109.8	0.19	0.38	0.57	0.76	0.95	1.14
Central Gulf	9,360.0	40,920.5	0.23	0.46	0.69	0.91	1.14	1.37
East Yakutat	5,680.0	24,933.0	0.23	0.46	0.68	0.91	1.14	1.37
Western Gulf	3,020.0	14,370.7	0.21	0.42	0.63	0.84	1.05	1.26
West Yakutat	4,320.0	19,977.0	0.22	0.43	0.65	0.86	1.08	1.30
All FMP Areas	26,557.5	119,834.0	0.22	0.44	0.66	0.89	1.11	1.33

Figure 2.5

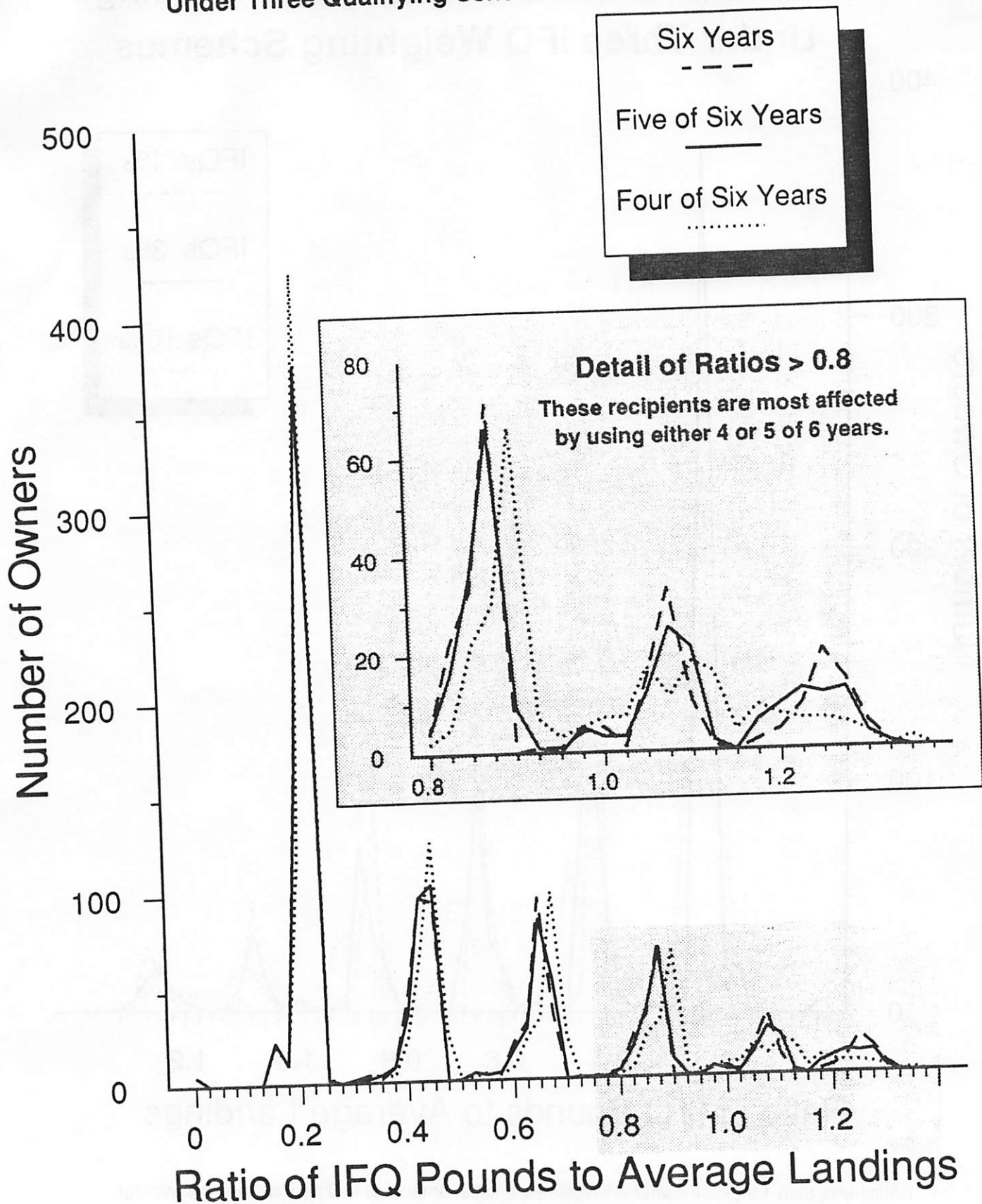
## Ratio of IFQ Pounds to Average Landings Under Three IFQ Weighting Schemes



Notes:

1. Ratios less than 1 indicate owner will receive a smaller amount of IFQ pounds than his average landings over the years in which he participated.
2. With few exceptions, the individuals that fished only one year are included in the first cluster. Those who fished two years are in the second cluster, etc.


Figure 2.7 **Ratio of IFQ Pounds to Average Landings**  
 Under Three Qualifying Schemes With 3% Weighting



Note: Clusters of participants correspond to years in fishery. (1-6 years left to right)

MEMORANDUM

TO: Council, AP and SSC Members

FROM: Clarence G. Pautzke   
Executive Director

DATE: June 19, 1990

SUBJECT: Sablefish Fixed Gear Management

**ACTION REQUIRED**

Final Council consideration and decision on limited access for the sablefish fixed gear fishery.

**BACKGROUND**

The Council has before it the final decision on whether to limit access to the sablefish fixed gear fishery. The decision culminates over two years of intensive refinement of alternative systems and their analysis. The subject of sablefish limited access has been discussed for over eight years, ever since it was first raised for the Gulf of Alaska in 1982-83 during the days of the halibut moratorium.

An outline of the IFQ alternative is presented as item C-4(a). There are several options which you still need to choose between and they are marked in grey. An additional list of questions and decisions, first presented at the April meeting, has been refined and is presented as item C-4(b). A program to provide assistance to economically disadvantaged communities is included in concept as a part of the sablefish package. A summary of the program is presented in item C-4(c).

The IFQ preferred alternative which you chose at the January meeting, along with the list of questions and decision points from the April meeting, were sent out for public review on May 23. The comment period closed on June 24. Many of the comments have been mailed to you and comments received during the latter part of the period are included in your supplemental folder. One letter concerning the definition of a bareboat charter is included as item C-4(d).

If an IFQ system is chosen for sablefish management, it is necessary to review the time frame required to implement it. A tentative time schedule beginning with a decision at this meeting and implementation of the program in early 1992 is presented in item C-4(e). Note that the appeals period is fairly short. If subjective appeals are allowed the appeals period could last months longer. If such appeals are allowed, the Council should address the specifics of what will be allowed for appeals and whether or not the system will be implemented before all appeals are settled.

Extra copies are available of the analysis sent out for public review in May.

## Elements of a Sablefish Fixed Gear IFQ Management System

This outline presents the proposed individual fishing quota system (IFQ) for sablefish hook-and-line and pot fishing. The ~~grayed~~ areas represent options under consideration. This is the preferred alternative to the status quo as decided by the Council at its January and April 1990 meetings. A final decision on the alternative to be chosen, including the status quo, is scheduled for the Council meeting the week of June 25, 1990 in Anchorage.

### I. SCOPE OF PROGRAM

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

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

- A. **What** - Each IFQ would be a set poundage of sablefish for a particular year. They would be based on the number of quota shares for each management area. The amount of weight assigned to each unit would vary yearly as the total allowable catch (TAC) varied from year to year. Quota shares (QS) would be issued during the initial allocation process and would be based upon historical, qualifying landings.
- B. **Where** - All six management areas in the Gulf of Alaska, Bering Sea, and Aleutian Islands: Southeast Outside/East Yakutat, West Yakutat, Central Gulf, Western Gulf, Bering Sea, Aleutian Islands.
- C. **When** - IFQs would be issued yearly to those who owned quota shares. Initial allocations would be made for the 1992 fishing year.
- D. **Who** - The person who owned or, possibly, was a lease holder of a vessel that made sablefish longline or pot landings.
  - 1. **"Person"** - As defined by the Magnuson Act with the exclusion of non U.S. citizens. Any individual who is a U.S. citizen, any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State but being owned and controlled by a majority of U.S. citizens), and any Federal, State, or local government or any entity of any such government.
  - 2. **Initial allocations** could go to one of three groups. The terms "bareboat contract" and "qualified lease" need to be defined.
    - i. ~~Vessel owner(s) only~~
    - ii. ~~Vessel owner(s) except when a qualified lease exists~~
      - a. ~~The person leasing a vessel (bareboat contract). The lease holder would receive full credit for trips with a qualified lease.~~
      - b. ~~The owner and lease holder would split credit for trips with a qualified lease. The split is not yet specified.~~
- E. **How initial allocations will be made**
  - 1. An owner or lease holder must have made longline or pot landings of sablefish in at least one of the years 1984 through 1989.
  - 2. Initial allocations, quota shares, would be based on the recorded landings (fish tickets) of all vessels each person owned. The total of each person's six year landings, by area, would be added together.
  - 3. More recent participation will be given greater credit using a weighting factor of 3%. Landings will be adjusted upward incrementally by 3% from 1984 to

1989. (Though the 3% increment is the preferred option, 1% and 10% adjustments are being analyzed.) The adjustments at 3% are:

- i. 1984 landings \* 100%.
- ii. 1985 landings \* 103%.
- iii. 1986 landings \* 106%.
- iv. 1987 landings \* 109%.
- v. 1988 landings \* 112%.
- vi. 1989 landings \* 115%.

4. IFQs might be denoted by vessel size class.

i. Each person would receive IFQs for the size class of their most recent sablefish landings. The size classes are:

- a. Less than 50' length over all.
- b. 50' to 100' length over all.
- c. Over 100' length over all.

ii. There would not be vessel size classes.

- F. Hook-and-line or pot caught sablefish could not be landed without IFQs. There would be **no open access portion** to the sablefish fixed gear fishery.
- G. IFQs would **not be valid for trawl caught sablefish** from any area nor for pot caught sablefish from the Gulf of Alaska.

### III. TRANSFERABILITY

- A. All IFQs would be **saleable** and **leasable**, however, leasing of IFQs would not be allowed during the first 2 years of the program. Qs would be saleable during the first two years of the program along with their respective IFQs.
- B. All **IFQ transfers** would have to be **approved by NMFS** based on findings of eligibility criteria prior to fishing.
- C. Persons must **control IFQs** for amount to be caught **before a trip begins**.
- D. IFQs are **management area specific** and may not be transferred between areas.
- E. IFQs are **vessel size specific** (if vessel sizes are used) and may not be transferred between vessel size categories.
- F. A **limit of 3% of the combined area TACs** would exist on the amount of IFQs one person could **own or control**.
- G. **Any person**, as defined above, may control IFQs. Proof of citizenship or majority ownership and control may be required.

### IV. DURATION OF IFQ HARVEST PRIVILEGES

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

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

- A. Communities must be on the coastline, unlikely to be able to attract other economic activity, and not previously have developed sufficient harvesting or processing capacity due to a lack of sufficient funds.
- B. A fishery development plan for each community must be developed including arrangements to: use U.S. harvesters and processors, provide local employment, contribute to local economic fishery development, and provide sufficient funding.

- C. A Governor, in consultation with the Council, would develop recommendations to the Secretary of Commerce.
- D. The Secretary may approve the recommendations provided the community meets the criteria and the State assures sufficient funding is available.
- E. No community may be designated for more than 10 years.
- F. No more than 8% of the combined area fixed gear TACs could be used for this purpose. The maximum percentages would vary by area: Aleutian Islands, Bering Sea, and Western Gulf of Alaska - 10%; Central Gulf - 5%; Eastern Gulf - 1%.
- G. The set aside for community development would be subtracted from the sablefish fixed gear TAC before calculation of IFQ poundages.

VI. ADMINISTRATION

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

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

I. SCOPE OF PROGRAM

- A. Sablefish
- B. Longline and pot vessels

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

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

(PREVIOUS)

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

(CURRENT)

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



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

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

(PREVIOUS)

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

(CURRENT)

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

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

(PREVIOUS)

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

(CURRENT)

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

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

### III. TRANSFERABILITY

#### (PREVIOUS)

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

- B. All ~~QS/IFQ~~ transfers would have to be approved by NMFS based on findings of eligibility criteria prior to fishing.
- C. Persons must control IFQs for amount to be caught before a trip begins.
- D. Qs and IFQs are management area specific and may not be transferred between areas.
- E. Qs and IFQs are vessel category specific ~~(if vessel sizes are used)~~ and may not be transferred between vessel categories.

#### (PREVIOUS)

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

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

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

#### (CURRENT)

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

#### (CURRENT)

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

- G. 1. Any person may purchase Qs.
2. To use Qs or IFQs, a person must either own a vessel upon which the QS/IFQ is used, or be on board the vessel as crew or operator.

#### IV. DURATION OF IFQ HARVEST PRIVILEGES

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

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

#### ~~VII~~ ADMINISTRATION

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

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

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

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

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

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

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

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

*Supplemental - - -*

**Assistance for Economically Disadvantaged Fishing  
Communities Under the Sablefish Management Plan**

**(As approved in concept by the Council for further review)**

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  - (e) have developed a fishery development plan approved by the Governor of the requesting State that includes arrangement to: (1) acquire or contract with U.S. fishing vessels and U.S. processing plants for the development of commercial sablefish fishing based primarily in the community or region; (2) provide employment of persons in the community and otherwise contribute to the economic development and improvement of the community as a whole; and (3) provide sufficient financing to implement the plan successfully.
  
2. Each Governor shall develop such recommendations in consultation with the North Pacific Fishery Management Council.
  
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  - (b) the Secretary finds that the State has reasonable assurances that sufficient financing and other arrangements will be available to implement the plan successfully.
  
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W. Yakutat	1% of Area TAC
E. Yak./S.E. Outside	1% of Area TAC

Issues and Options Which the Council Must Decide  
if the IFQ Alternative is Chosen

If the IFQ alternative is chosen, the Council will have to decide on several options before final approval. Listed below are several of the major options with references to their location in the RIR. Other options not listed here include weighting of landings (Section 2.2.3.3), duration of the IFQ program (Section 2.2.3.7), and community allocations (Section 2.2.3.8). The Council would like to focus attention on all of these items to assist with the final decision.

1. **Initial Allocation.** State of Alaska and NMFS confidentiality restrictions allow disclosure of landings information to permit holders only. Alaska fish tickets are recorded and held under the permit number of the person landing the fish. Often this person is not the vessel owner. Landings made by permit holders other than the vessel owner may not be disclosed to anyone, including the vessel owner, without the permit holder's permission. Data analysis indicates that 75% of owners of vessels were the only permit holder to have made landings on their vessel. An estimated 12% of the owners landed sablefish some of the time under their permits with other landings on their vessel recorded under other fishermen's permits. The remaining 13% of the vessel owners never landed sablefish on their own vessel. The options are discussed in Section 3.1.1 of the RIR.

Two approaches could be used to determine qualifying poundage: (A) the owner could be informed by NMFS of the landings on file under his permit number or (B) the owner could submit his landing total to for NMFS verification. The difference in the two approaches relates to the flow of paperwork, that is, whether the applicant must submit records to NMFS or check the authenticity of NMFS records. The procedure would be more complicated for those 25% who had a permit holder other than themselves make landings on their vessel. In either case these owners would be eligible to receive landings credit for other permit holders on their vessel provided they provided the landings information or a signed waiver of confidentiality.

NMFS has suggested an alternative method of allocating quota shares, whereby all vessel owners submit their landings history. Allocations will be based only on these submitted landings records regardless of additional information contained in NMFS files unless the submitted request exceeded those recorded by NMFS. Some acceptable range of difference might be allowed between the request made by vessel owners and the records available to NMFS.

2. **Citizenship of initial applicants.** There may have been legal landings during the qualifying period made by persons or corporations which are no longer U.S. citizens, due, for example, to changes in definitions of "persons" in the Anti-Reflagging Act of 1987. The definition of "person" used in this amendment includes a majority of ownership and control by U.S. citizens. The Council's current IFQ alternative will grant initial allocations of quota share to these persons or corporations, but will not allow them to purchase additional quota shares. Another option would be make no initial allocations to persons or corporations which are not now U.S. citizens. This is discussed in Sections 2.2.3.5.1 and 3.1.2 of the RIR.
3. **Eligibility for initial allocation.** One option considered for eligibility would be to require that persons have a "nexus" or current association to the fishery. All those persons without such an association would not be eligible to receive initial allocations. During discussions in

January the Council discussed various limited access systems and the implications of how many people would receive harvest privileges. Allocations to all vessel owners within a six year period would result in entitlements to at least 1,281 persons. If current association was required that number would be less by some amount dependant on the association required. The Council has not defined what the required association would be. If a nexus were required, the appeals process would be drawn out and require much more effort and time. This issue is discussed in Section 2.2.3.3 of the RIR. Several options include:

- A. Participation in the sablefish longline fishery could be necessary as an owner (or permit holder or crewman) in one of the most recent years. These years could, perhaps, encompass 1988 through 1990.
  - B. Current ownership of a vessel operating in any fishery could be required.
  - C. Current participation of any sort in any fishery could be required.
  - D. Only living persons would be considered as eligible. That is initial allocations would not go to estates of deceased individuals.
4. **Vessel size classes.** The options of vessel size classes or no vessel size classes exist. If size classes are chosen, three vessel classes are defined within which quota shares may be transferred. These classes are: 1) small, vessels < 50 feet length overall, 2) medium, vessels  $\geq 50$  ft. and  $\leq 100$  feet length overall, and 3), large, vessels > 100 feet length overall. There has been some concern that these vessel classes may not explicitly address the Council's desire to maintain the configuration of the fishery. Secondly, the largest class in the current alternative would receive so few quota shares, that a directed fishery could not likely be supported in most areas. This is further discussed in section 2.2.3.4 of the RIR.
- A. If the Council wishes to have a separate vessel class for processors, then the current alternative may not be a sufficient constraint, as there are several processors less than 100 feet in length overall. Similarly, there are several catcher boats in the large vessel class. It may be more appropriate to define classes based on vessel type, i.e, catcher boats vs freezer longliners, or a combination, such as small catcher boats, large catcher boats, and freezer longliners.
  - B. Another alternative would be to drop the largest class altogether. This would result in two classes: 1) small, < 50 feet (or some other breakoff), and 2) large,  $\geq 50$  feet. Two classes would not guarantee shoreside deliveries from the middle sized vessels. However, it would allow all vessels a chance for a directed fishery in each area.
  - C. If size classes are chosen, it will be necessary to decide how to allocate IFQs to those who owned active vessels in more than one size class. a total of 119 owners (9% of the total) owned more than one active sablefish longline vessel during the six qualifying years. Of these, only 56 had vessels of different size classes (based on the three classes in the current alternative). Forty-six of these had different sized vessels during different years and ten had different sized vessels during their last year of participation. Several possible methods exist on how to deal with vessel size allocations to these individuals:
    - i. Allocate all quota shares based on the largest, most recent vessel active in the fishery. This is the allocation method currently specified in the alternative.

- ii. Allocate quota shares based on the size of the vessel used to land the sablefish.
  - iii. Allow these 56 owners (or all owners) to choose which vessel size class their quota shares would be.
- 5. **Appeals.** In order to avoid a lengthy and difficult appeals process, the Council and NMFS staff suggest very specific language for appeals criteria. A lengthy appeals process will raise costs and could postpone implementation of the new management system. This is discussed on in Section 3.1.6 of the RIR.
  - A. It is the opinion of the combined staffs, that there is no concise way to define losses due to the Exxon Valdez oil spill nor for losses due to total destruction of the vessel. If compensation were given for either of these situations it would involve subjective judgement on the part of the appeals board and could lead to further legal complications. It is therefore recommended that the Council consider changing the IFQ qualifying period to read "any five of the six years from 1984-89", as an alternative. It might be desirable to change this to the best four of six years to further reduce appeals. This alteration would allow those affected fishermen to choose their best five years for the purposes of computing quota shares and thus eliminating all "hardship" appeals. Another approach would be to base initial allocations on the amount claimed by applicants, provided it was relatively close to the amount shown on NMFS records.
  - B. It is recommended that the Council adopt language defining bareboat charters. A definition is needed to help determine if formal charter agreements between both parties are required as proof of contract. Possibly, all vessel owners might be required to disclose, under penalty of revocation of harvest privileges, any bareboat charter made while they owned the vessel.
  - C. If those qualifying to receive initial allocations are required to have a "nexus" to or still be associated with the fishery the Council must strictly define what this nexus is to be. Unless nexus is defined in terms of matters of record (vessel owner and/or permit holder) the appeals process will probably lengthen considerably.
- 6. **Two year prohibition on leasing.** Prohibiting the leasing of quota shares in the first two years may not allow the entire TAC to be taken. Many fishermen will reach a point at the end of the year where their remaining IFQs, though perhaps not substantial, would be insufficient for the fisherman to profit from an additional trip. Additionally, many inactive recipients of quota shares may not have sold their allocations. Further, the prohibition on leasing may not be enforceable. For example, selling quota shares with a buy back option after one year would be against the intent of the regulations but legal. This issue is discussed in Section 2.2.3.6 of the RIR.
  - A. One alternative approach addresses the "year ending" problem, by allowing active fishermen to lease their remaining shares once they have used some percentage, say 80%, of their quota.
  - B. The prohibition on leasing may in fact be a strong incentive for inactive fishermen to sell their initial allocation of quota shares. Further incentives to sell inactive quota



quickly may be desirable. These might include a "use it or lose it" provision for owners who did not participate at all in the first two years, or an annual reduction in quota shares of, say 10%, if the owner did not participate in a given year.

7. **Three percent (3%) ownership cap.** The combined staffs of NMFS and the Council believe the intent behind a 3% ownership cap would be very difficult to enforce. This is because ownership does not necessarily translate to control. For example, each member of a family of four could own up to 3% but the family operating as a single unit would control 12% of the TAC. Other similar approaches could easily evade the ownership cap. Further, there may be some questions as to the legality of an ownership cap. Another more enforceable approach would be to limit the IFQs used by a single boat, as was the approach used in economic profit model in Appendix I. This issue is discussed in Section 2.2.3.5.2 of the RIR.
  
8. **IFQs may not be issued until TACs have been published.** Currently, final TACs are recommended at the December meeting and published in the Federal Register in January or February. It is expected that NMFS cannot issue IFQs for a given year until the TACs are published in the Federal Register. This means that actual allocations of sablefish to fishermen may not occur until February or March. If sufficient IFQs are required before a trip can be started, then longline caught sablefish will effectively be a PSC until IFQs are issued. This is discussed in Section 3.2.1 of the RIR. The Council may wish to address this problem by:
  - A. Formalizing PSC status for sablefish until IFQs are issued following publication of TACs.
  - B. Allowing fishermen to land sablefish before publication of the TACs and not enforce the IFQ possession requirement until March 1, at which time all previous landings would also be covered by IFQs.
  - C. Change the fishing year for sablefish to March 1. This change would require additional provision to deal with the initial year by setting a TAC for 14 months or by closing the sablefish fishery for the first two months of the implementation year.
  - D. Set pre-TACs in the previous year after publication of the preliminary TACs. Some percent of the TAC could be released to IFQ holders, augmenting the IFQ holding once the final TACs are published. This alternative would be consistent with a groundfish amendment currently under consideration by the Council.
  
9. **Sufficient IFQs for all fish landed on a trip must be available prior to the start of that trip.** This requirement is designed to prevent speculative fishing. Given, however, the uncertainties in longline fishing, fishermen are never certain how much fish will be taken in a set. Requiring sufficient IFQs to cover all landings prior to the start of the trip will encourage discard and highgrading. Adding to this problem is the prohibition on leasing which will prevent fishermen from acquiring small amounts of IFQs to make an additional trip profitable. Allowing overages of, for example, 1% of landings on a given trip would help to eliminate this problem, while still discouraging speculative fishing. Requiring overages to be reconciled within a given time period, perhaps under penalty of revocation, would make this alternative more palatable. This issue is discussed in Section 2.2.3.6.3 of the RIR.

10. **Council guidance concerning halibut bycatch and monitoring.** NMFS will develop and implement necessary monitoring and enforcement systems if an IFQ system is approved. Different systems are possible and each could have different effects on the fishery and fishermen's flexibility. The Council may wish to comment on the trend they wish NMFS to follow when designing these systems.
- A. **Possibility of a race for halibut PSC.** The implementation of an IFQ system will allow fishermen to land sablefish throughout the year. However, if halibut bycatch is perceived as a limiting factor to the longline fishery a race for fish might still persist. There are several methods the Council might wish to deal with this potential race:
- i. The implementation of an IFQ system for halibut at the same time as one for sablefish would remove the imposition of a halibut PSC cap for hook-and-line gear. The current Council schedule allows for this if final Council action on halibut is not postponed past January and both systems become effective March 1, 1992.
  - ii. The halibut PSC cap could be increased by reducing the halibut available for the directed fishery. This could be done for one year if a halibut IFQ system was in the development stage or permanently if such a system was not contemplated.
  - iii. Not change the present system. This would not necessarily lead to a race for halibut PSC. However, if it did then such a race would either be tolerated or dealt with in subsequent years.
- B. **Timeliness of landings reporting.** The current fish ticket system provides data to NMFS within several weeks. Efforts are currently underway to improve reporting speed. Without knowing how many unused IFQs an individual controls at any one time, NMFS enforcement would only be able to document the quantity of fish on a vessel or at a dock and do all other enforcement work after the fact. Illegal landings would be determined weeks or months later. The only method to obtain real time landings and IFQ data is through an electronic reporting system. Several electronic systems have been explored and it appears that they offer real advantages at relatively low cost. Enforcement may also wish to require processors to purchase only legally landed fish (covered by IFQs) and therefore processors would demand the real time tracking possible with electronic systems. This is discussed in Section 3.3 of the RIR.

**SABLEFISH COMMENTS RECEIVED SINCE JUNE 13, 1990 MAILING**

JUN 06 '90 15:33 DHS&T 206 623-8717

AGENDA C-4(d)  
JUNE 1990

LAW OFFICES  
**DANIELSON HARRIGAN & TOLLEFSON**  
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
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June 6, 1990

VIA FAX - 283-3341

Mr. Robert Alverson  
Fishing Vessel Owners' Association  
Room 232, C-3 Building  
Fishermen's Terminal  
Seattle, WA 98199

Re: Definition of "Bareboat Charter"

Dear Bob:

As you know, a charter is a lease of a vessel. A bareboat charter, also known as a demise charter, is similar to renting a car from Hertz. The following references from two separate sources set out the salient features:

Of these three varieties [of vessel charters] the demise [bareboat] charter has unique characteristics. A demise is the transfer of full possession and control of the vessel for the period covered by the contract. The legal test of a demise is whether the owner of the vessel "completely and exclusively relinquished possession, command and navigation to the demisee. [Citing Guzman v. Pichirilo, 369 U.S. 698 (1962).]

Schoenbaum, Admiralty and Maritime Law 382 (1987).

In Marr Enterprises, Inc. v. Lewis Refrigeration Co., 556 F.2d 951, 1977 A.M.C. 2060, 2065 (9th Cir. 1977), the court had to determine whether the "lease" into which a fishing captain and the vessel owner entered was a bareboat charter. The court stated that "[t]he essential feature of the demise charter is that it places the possession, control and management of the vessel in the lessee. No formal language is necessary. [Citing U.S. v. Shea, 152 U.S. 178, 189 (1894).]

JUN 06 '90 15:34 DHS&T 206 623-8717

P. 3/3

Mr. Robert Alverson  
June 6, 1990  
Page 2

Bob, I hope that these references are what you needed.  
Please give us a call if there are any other questions.

Very truly yours,

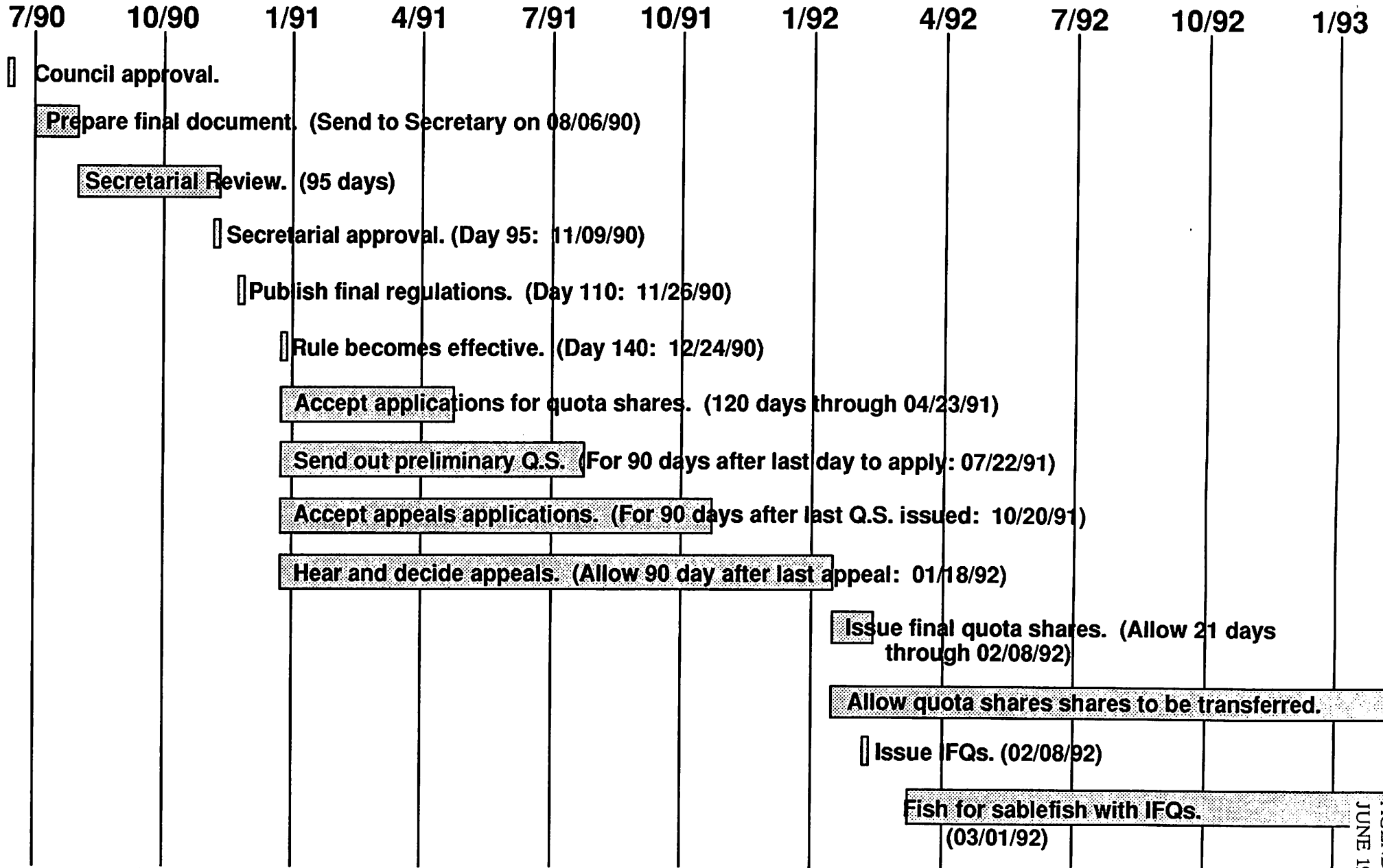
DANIELSON HARRIGAN & TOLLEFSON

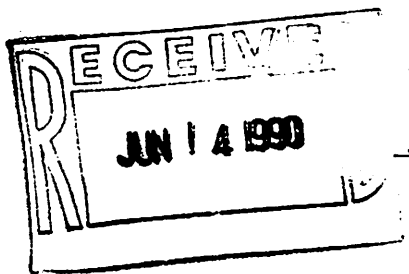
*G. Val Tollefson*  
G. Val Tollefson

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## Sablefish IFQ Implementation Schedule





**UNIVERSITY OF ALASKA FAIRBANKS**

**School of Management**  
Fairbanks, Alaska 99775-1070

**MEMORANDUM**

**DATE:** June 14, 1990

**TO:** Marcus Hartley  
Dick Tremaine  
North Pacific Fisheries Management Council  
P.O. Box 103136  
Anchorage, AK 99510  
Fax: (907) 271-2817

**FROM:** Keith R. Criddle  
Department of Economics  
University of Alaska  
Fairbanks, AK 99775  
(907) 474-6519

**SUBJECT:** SEIS/RIR/IRFA for Amendment 20/15

I am really pleased with the quality the draft SEIS for Amendment 20/15. However, I would like to bring a few issues to your attention.

Even if all fisheries were administered under IFQ regimes, the "bycatch problem" would not be entirely eliminated. Bycatch is a problem because the selectivity of fishing gear is not perfect and species differ in biological productivity. Even with IFQs, fishermen will find it necessary to discard those species for which they have exhausted their IFQs and cannot acquire additional IFQs. It may continue to be necessary to close the sablefish fishery when the halibut TAC is attained, even if halibut are managed under IFQs.

In section 2.2.1.7 (page 34), you discuss changes in profit. It ought to be noted that profits will increase even if demand is held constant and the full TAC is harvested, as a result of eliminating the race for fish.

I object to your suggestion (paragraph 3) that harvesting costs would decrease under open access as a result of technological advances. Under open access, marginal cost are driven upwards by the adoption of technologies which place a premium on catch per unit time. Under IFQs, marginal costs decline as technologies are adopted which place a premium on cost per unit product.

Whether the final price is greater or less than the transition price depends on the slope of the demand curves and on the magnitude of any shifts in the demand curve.

(Page 40) Although there will be uncertainty in the market for permits, as there is in any market, all original recipients of the initial allocation of permits will gain on sale. The permits were awarded for free and will sell for some positive price.

The slope of the new supply curve will be less than or equal to the slope of the original supply curve, but will in no case be steeper. Even if there is no change in participants, the supply curve will shift down to reflect reduced fixed costs, and will flatten out as a result of reduced variable costs. Sales of permits will be to those operators who are more efficient, where efficiency means more fish per dollar, not more fish per hour. This will also tend to force the supply curve to flatten out and to shift downwards.

Figure 2.5, note 2. incomplete sentence

Section 2.2.3.4. You cannot assume that bigger is better. On the basis of Table 2.4, it is apparent that the structure of the fleet has not changed appreciably since 1986. Even if large vessels are most efficient when a premium is placed on catch per unit time, there is no assurance that they will be the most efficient when efficiency is in terms of minimizing the cost of landing a fixed quantity of fish.

It ought to be emphasized that under the proposed distribution of IFQs, every advantage is given to those people with a history of participation in the fishery. The future distribution of permits is entirely dependent on the free choices of those individuals who receive initial allocations. The difference is that operating costs will decline for all participants because the race for sablefish will be over (unless the fishery is limited by a halibut PSC cap).

I am somewhat concerned about the proposed 3% ownership cap. In the first place, I don't think that it is in the best interest of the fishery. In the second place, it is easily circumvented. I have enclosed an article on the "Mississippi Christmas tree", a strategy for circumventing limits on federal crop subsidies. Applying a similar strategy, a family of four could easily hold the rights to 30% of the QSs. Each of the four is entitled to acquire 3% for a total of 12%. The four family members could form six corporations each composed of two family members (AB, AC, AD, BC, BD, CD). Each corporation could control 3% for a total of 18%. I suspect that a lawyer could devise a way to create an even larger number of "persons" so that it could be possible for one family to control 100% without any "person" exceeding the 3% cap. Leave concerns about market concentration to the Securities and Exchanges Commission.



# DISEQUILIBRIA

## THE MISSISSIPPI CHRISTMAS TREE

by Winston I. Smart

For the uninitiated, the Mississippi Christmas Tree (MCT) is an elaborate and carefully designed business structure which is used to clothe a farming operation that seeks to maximize its receipts from certain commodity programs. Federal law limits payments to participants in certain farm programs to \$50,000. However, with some corporate and financial planning, it is possible to avoid this limitation.

On the advice of any attorney familiar with the MCT and with the help of an accountant to balance the figures accordingly, a farmer may obtain as much as \$300,000 or six times the legal limit on his program payments. This brief article shows how it can be done, discusses the fate of previous MCT arrangements under the recent (1988) payment limitation rules, and suggests ways to limit opportunities for MCT arrangements in the future.

### Important Concepts

Any discussion of the MCT must begin with a brief survey of the most relevant payment limitation rules, concepts and definitions. The most important is the 'person' which includes an individual and a corporation, but not a general partnership. To be eligible to receive payments with respect to a particular farming operation, a person must be "actively engaged in farming" with respect to that operation.

"Actively engaged in farming" is specifically defined for individuals and corporations. To qualify, an individual must make a specifically defined "significant contribution" of capital, equipment and/or land, as well as a "significant contribution" of active personal labor and/or active personal management. Adult family members, however, need provide only a "significant contribution" of active personal labor and/or active personal management. They need not contribute land, capital or equipment to qualify as eligible persons.

Family members include any individual to whom another member in the farming operations is related as lineal ancestor, lineal descendant or sibling, as well as spouses of those family members who do not make a "significant contribution" to the farming operation. Much to the chagrin of farm spouses who hunger for the fruits of the Christmas Tree, husband and wife are considered one person unless they maintain separate and distinct farming operations before and after marriage. This particular rule has withstood a constitutional challenge in federal court from a

group named WIFE (Women Involved in Farm Economics) and Congress has chosen to let it stand.

A corporation is deemed to be "actively engaged in farming," with respect to a farming operation, if it makes a "significant contribution" of capital, equipment and/or land, and its shareholders make a "significant contribution" of active personal labor and/or active personal management.

An individual may receive program payments from a farming operation conducted by himself and not more than two "permitted entities" (such as corporations) in which he owns a substantial beneficial interest. As an alternative, an individual may receive program payments from no more than three "permitted entities." If the same two or more individuals own more than 50 percent of the interest in two or more corporations, then such corporations are deemed to be one "person."

### A Possible MCT

Let us now consider one possible Christmas Tree arrangement. Let us take the simple case of a farmer, F, who has a son, S, and a daughter, D. F. owns the farm and is limited to a payment of \$50,000 if he runs the farming operation as a sole proprietorship. The objective is to create a structure for the farming operation that will increase the number of eligible persons. Here is where the attorney and the accountant are called in.

The first step is to have F, S and D form three corporations. FS, Inc. has two equal shareholders, F and S. Similarly, FD, Inc. has two equal shareholders, F and D, and SD, Inc. has two equal shareholders, S and D. The second step is to form a general partnership, FSD Partners, which has six general partners, namely F, S, D, and the three corporations. The partnership itself cannot qualify for a payment, but each of its six partners can. The third step is to observe the corporate formalities and to do so in a manner consistent with the payment limitation rules.

Let us consider the eligibility of each of the six partners. F should qualify easily. If he owns or leases some or all of the land or the equipment and provides some of the capital and contributes labor and management, as most farmers do, he will qualify. S and D, as family members, need only provide active personal labor and/or active personal management to qualify. This can easily be arranged. Three down, three to go.

Since the shareholders are already contributing active personal labor and/or active personal management to the farming operation, each corporation merely has to make a "significant contribution" of land, capital and/or equipment. It may lease land from the farmer himself or from another person and contribute it to the partnership. Each shareholder may borrow money and contribute it to the corporation or the corporation may borrow money in its own name. Such funds are then contributed to the partnership. Or, each corporation may buy equipment on a security agreement with a small downpayment and contribute that equipment to the partnership.

Each shareholder has to participate in the business affairs of the corporations so as to create an impression that he or she is a genuine shareholder. Hence, they must negotiate agreements together, sign documents together and make all decisions for the corporation jointly. The precise amount of the contribution of

within the parameters or specifics of the rules. But it should not be too difficult to qualify all three corporations.

The farming operation will now be eligible to receive six payments instead of one, \$300,000 instead of \$50,000. If the farmer has more family members who are willing to join the operation, then the total payment might be greater.

The Mississippi Christmas Tree lives on in spite of new rules adopted in 1988 to curb it. One questions whether the MCT lives on because of rules adopted to curb it. There are those who claim that the USDA condones the MCT because most farm operations would fail without its protective cover. There appears to be some support for this view considering the fate of the MCT arrangements under the pre-1988 rules and upon examination of certain rules themselves.

**Pre-1989 MCT Arrangements**

Under the current rules, the pre-1989 MCT arrangements are void unless they conform to the 1988 rules. Since the whole purpose of an MCT is to attract a certain quantum of federal dollars and not simply to create an elaborate business structure, farmers whose MCT's were voided by the rule changes were expected to restructure their operations to make them conform to the new rules. Only by so doing would they collect the same amount of federal dollars.

The "new" regulations did not prevent such restructuring. It prohibited a restructuring only if it increased the number of eligible persons and it was not "bona fide and substantive." Further, in cases where the application of the new rules would have led to reduced payments, the ASCS gave itself discretionary power to waive the requirement that changes in farming operations, which increased the number of eligible persons, be bona fide and substantive. Believe it or not, the stated purpose of this self-grant of discretion was to facilitate "equitable reorganizations that do not result in an increase in payments." Hence, program participants, who had violated the spirit of the program by creating elaborate and phony structures in order to increase their total payments, actually received protection from the implementation of the new rules. Such protection is found in the new rules themselves which were designed to correct abuses of previous payment limitation rules. If you are beginning to feel dizzy, you are not alone.

**Some Recommendations**

Given the fact that the rules themselves entrench and protect violations of the spirit of commodity programs, it seems futile to propose changes in the rules that would eliminate any opportunities for MCT arrangements. Yet there may be reason not to despair. The denial of separate person status to farm spouses may be evidence that the USDA is not completely impervious to public opinion.

A couple of recommendations are in order. What if the rules were to limit the ultimate amount received by each individual to a fixed sum, regardless of the elaborateness of the structure of the farming operation? This sum might be termed the "effective dollar limit" as opposed to the maximum payment per eligible 'person.' Hence, an individual who is actively engaged in farming would receive the "effective dollar limit" of \$50,000, or whatever sum Congress selects, regardless of whether he is a shareholder in zero or ten corporations. To limit an individual to one payment plus half shares in the payments to two corporations is simply a disingenuous way of doubling the congressionally mandated payment limit. It does not take a mathematician to figure out that one whole plus two halves equals two. If an "effective dollar limit" is imposed on each individual, then the incentive to create elabo-

rate and phony structures will immediately disappear.

Finally, one cannot ignore that the rules clearly anticipate and sanction double counting of contributions by family members who are shareholders. Under the rules, family members do have to make a "significant contribution" of land, capital and/or equipment to qualify as eligible persons. The contribution by the primary individual, F, suffices. In the example above, the effect of this rule is to add two eligible persons.

Likewise, corporations do not have to make a separate "significant contribution" of active personal labor and/or active personal management if their shareholders do. In the example, the effect of this rule is to add three more eligible persons. The total effect of allowing double counting is the addition of five eligible persons. And this is precisely the purpose of setting up the Mississippi Christmas Tree. The elimination of the privilege of double counting of contributions would go a long way towards the prevention of MCT abuses.

For the record, the USDA might complain about the difficulty of policing program abuses or point to the need to put resources into food stamp abuse prevention. Such a response might be answered by one question. How would the USDA respond if food stamp recipients were routinely using a known scheme to obtain as much as six times their entitlement?

**The Center for International Food and Agricultural Policy  
University of Minnesota  
Policy Article Prize**

The Center is pleased to announce that its policy article prize competition is being conducted again in 1990. Once again, a \$2000.00 prize will be awarded to the authors of a published article in an academic, professional, or popular publication which, in the opinion of the Center's program leaders, best advances understanding of an international food, agricultural or environmental policy issue.

Interested persons should submit any article published during calendar year 1989. The submission deadline has been extended until August 1 and the winner will be announced on September 1, 1990. The winner will be expected to make a seminar presentation at the University of Minnesota, with all travel and lodging expenses paid. Submit entries to: *Dr. C. Ford Runge, Director, Center for International Food and Agricultural Policy, 332 C.O.B., 1994 Buford Avenue, St. Paul MN, 55108.*

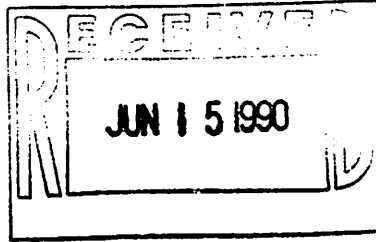
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# Midwater Trawlers Cooperative

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Telefax: (206)283-8263



## MEMBER VESSELS

AJ  
ANNIHILATOR  
BAY ISLANDER  
CAPE KWANDA  
CARAVELLE  
COHO  
ENDURANCE  
EXCALIBUR  
EXCALIBUR II  
GOLDEN PISCES  
HAZEL LORRAINE  
IRENE'S WAY  
JEANETTE MARRIE  
LESLIE LEE  
LISA MELINDA  
MARATHON  
MISS LEONA  
MUIR MILACH  
NEW JANET ANN  
NEW LIFE  
PACIFIC CHALLENGER  
PATIENCE  
PEGASUS  
PIONEER  
QUEEN VICTORIA  
RAVEN  
ROSELLA  
SEEKER  
SLEEP ROBBER  
SONNY BOY  
VEGA  
WESTERN DAWN

June 15, 1990

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

Dear Clarence:

RE: Sablefish Fixed Gear Management

The NPFMC is to be applauded for making some positive steps toward implementing a moratorium, even though it's a little later than preferred.

A key concept to the moratorium is its application to all council-managed fisheries except troll salmon, and providing qualifying fishermen the flexibility to move between fisheries in response to changes in resource abundance and market prices.

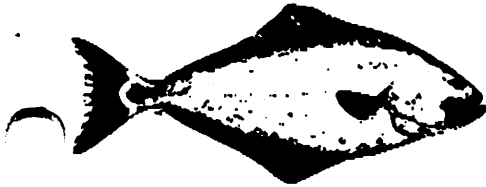
MTC believes the sablefish fishery should be included in the moratorium and that final decisions on a sablefish limited access alternatives should not be made until after the council's envisioned moratorium is implemented.

Thanks for the opportunity to provide these comments.

Sincerely,

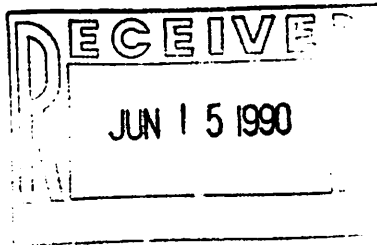
MIDWATER TRAWLERS COOPERATIVE

Steven E. Hughes  
Technical Advisor



# FIND INTELLIGENT SOLUTIONS FOR HALIBUT

DEDICATED TO RESPONSIBLE RESOURCE MANAGEMENT



June 15, 1990

**Executive Committee**

- Jim Aitken,
- Consolidated Restaurants, Inc.
- Nelson Christensen,
- Attorney
- Bob English,
- Larry's Markets
- Jim Holquist,
- Alaska Airlines
- Tom Hoffman
- Dave Johnson,
- Restaurants Unlimited
- Jerry Johnson,
- Alaska Airlines
- Rick Milton,
- Food Services of America
- John Prater,
- Pacific Fish/Booth Fisheries
- Dick Rhoads,
- Queen Anne Thriftway
- Jon Rowley,
- Fish Works!
- Bob Whitehall,
- Northwest Culinary Alliance

Mr. Don Collinsworth, Chairman  
 North Pacific Fishery Management Council  
 P.O. Box 103136  
 Anchorage, AK 99510

Dear Mr. Chairman:

We understand the Council's decision on sablefish will influence a future decision on the halibut fishery. F.I.S.H. urges the Council to manage halibut and sablefish jointly. Single species management creates unacceptable by-catch and other correlative problems.

As an organization representing primarily end-users F.I.S.H. respectfully requests the Council to adopt a management system that will accomplish:

1. conservation of the source,
2. consistent quality to consumers,
3. twelve month season, and
4. opportunity for continuous flow of fresh halibut and sablefish to the market.

F.I.S.H. would also like to clear up any misunderstanding regarding prior H.A.N.A. correspondence misinterpreting F.I.S.H.'s position on frozen halibut.

Many of our members have a preference for fresh halibut so we would like to see a pipeline providing fresh halibut (and sablefish) all of, or most of, the year, but by no means is F.I.S.H. advocating a strictly fresh market. Most of our members sell frozen halibut as well. Some restaurant and retail uses require frozen halibut. We would like to see a fishery that is conducive to orderly processing and freezing so that the frozen product at the end of the line is uniformly top quality. There is a significant amount of sub-

- Founding Members**
- Alaska Airlines,
  - Seattle, WA
  - Anthony's Restaurants,
  - Seattle, WA
  - Associated Grocers
  - Seattle, WA
  - Nelson Christensen, Attorney
  - Seattle, WA
  - Consolidated Restaurants, Inc.
  - Seattle, WA
  - D & W Food Centers,
  - Grand Rapids, MI
  - FAVCO
  - Anchorage, AK
  - Fish Works!
  - Seattle, WA
  - Food Services of America,
  - Seattle, WA
  - Ian Dore,
  - Huntington, NY
  - Larry's Markets,
  - Seattle, WA
  - Lunds,
  - Minneapolis, MN
  - McKnight & Company,
  - Seattle, WA
  - Movers, Inc.
  - Anchorage, AK
  - Northwest Culinary Alliance,
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  - Olson's Foods Inc.
  - Lynnwood, WA
  - Pacific Fish/Booth Fisheries,
  - Seattle, WA
  - Payless Supermarkets,
  - Anderson, IN
  - Queen Anne Thriftway,
  - Seattle, WA
  - Ray's Bosthouse,
  - Seattle, WA
  - Restaurant Association of the
  - State of Washington, Inc.,
  - Seattle, WA
  - Restaurants Unlimited, Inc.
  - Seattle, WA
  - Seafood Leader,
  - Seattle, WA
  - Shaw's Crab House/
  - Lettuce Entertain You
  - Enterprises Inc.
  - Chicago, IL
  - University Restaurant Group,
  - Long Beach, CA
  - Washington State Chefs Association,
  - Seattle, WA

**F.I.S.H.**

Fisherman's Terminal / C-10 Building • Seattle, WA 98119 • (206) 285-7572

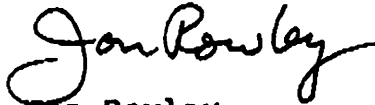
Mr. Don Collinsworth, Chairman

Page 2

standard frozen halibut resulting from status quo management. In short, F.I.S.H. advocates optimum yield from the fishery, a requirement of the F.C.M.A..

We look forward to a favorable Council decision during the June meeting.

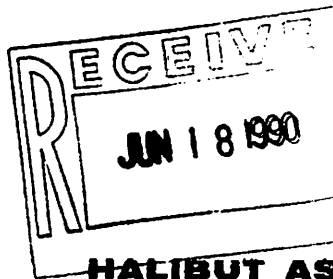
Sincerely,



Jon Rowley

Executive Committee

JR/ki



## OF NORTH AMERICA

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 Seafood Producers Cooperative  
 Trident Seafoods Corporation  
 Windjammer Seafoods, Inc.

June 18, 1990

VIA FAX: 907-271-2817

Mr. Clarence G. Pautzke  
 Executive Director  
 NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
 P.O. Box 103136  
 Anchorage, Alaska 99510

Dear Mr. Pautzke:

It is with reluctance that the Halibut Association of North America (HANA) recommends that members of the North Pacific Fishery Management Council vote against the proposal before them to establish an individual fishing quota for black cod. Even though many of our members are not active in this fishery, (we estimate that HANA members purchase a higher percentage of the black cod TAC landed on shore than they do halibut), we believe that its close ties to the halibut fishery (same gear, fishing grounds, vessels, processors, etc.), warrants concern that the solution the Council chooses for black cod will establish a precedent and spill over to halibut. Our Association absolutely opposes IFQs for halibut. Although we have restrained from involvement in this issue, we must now take a stand and oppose any IFQs for longline fisheries.

HANA recognizes that over capitalization in all fisheries is a serious problem and supports the Council's determination to take immediate steps to resolve it. We believe, however, that a quota system will place at risk the capital investment producers made to handle longline caught fish. IFQs will make obsolete the plant capacities and transportation systems that were developed to meet increased volumes. First in the halibut fishery and then later for black cod when the Council eliminated the Japanese directed fishing in 1984 and looked to the U.S. industry to fill the void.

Mr. Clarence G. Pautzke  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
18-Jun-90  
Page 2

HANA feels that there are a number of specific problems with IFQ systems for black cod and halibut. A few are:

1. Workers will lose hours and the state of Alaska will lose employment base which trickles down to local communities (black cod and halibut landings in the Gulf alone total over 100,000,000 lbs.).
2. On a year round basis, it only takes a few vessels to catch both halibut and black cod TACs (22 Japanese longliners used to harvest most of the black cod and a lot of Pacific cod prior to FCMA). This situation leads to the fishery falling into the hands of a few and creating a monopoly.
3. It will force fishermen to maximize the profit on their quota. Thus, only fish with the highest economic value will be kept and the rest discarded (i.e., throw out the small, scarred, jelly belly, etc.).
4. As the IFQs get consolidated through whatever means (and they will), the major Japanese black cod buyers will eventually control the market. (It is estimated that they now purchase over 95% of the TAC.)
5. A new set of rules will involve lots of "beating the system" before the loopholes can get plugged (i.e., trading or transferring IFQs, over-limit trips, split delivery trips to more than one processor and many other situations not yet envisioned). Fishermen who are forced to "beat the system" because others are, will not deliver to major buyers like HANA members since big companies will not take risks in this regard.

A similar system adopted in British Columbia resulted in consolidation of the harvesting sector quotas into a few catcher-vessel companies. Existing plants and equipment that were established based on an earlier and different regulatory regime were by-passed as product was caught, dressed on board, custom frozen at public cold storages and delivered directly to Japanese buyers. While the missing black cod volume alone isn't going to bankrupt B.C. processors, the expected addition of halibut and other species to the IFQ list will certainly make them feel the pinch when fixed plant costs remain the same and volume decreases.

Mr. Clarence G. Pautzke  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
18-Jun-90  
Page 3

Rather than a quota system that will weaken the processing sector, HANA urges the Council to address the over capitalization problem differently by:

1. Issuing a strong statement against any form of IFQ so that speculative entries that are based solely on obtaining a quota will cease.
2. Moving forward with the proposed moratorium on all fisheries in the North Pacific.
3. Applying the cutoff date (1985) already on record for black cod and using it in conjunction with a license limitation or similar system if the above two points don't solve the problem.

HANA urges the Council to look for solutions that will strengthen all sectors of a fishery rather than those that may create and strengthen one at the expense of another. IFQs unfortunately will do the latter.

Thank you for considering this letter.

Sincerely,

HALIBUT ASSOCIATION OF NORTH AMERICA

*Shari Gross*

Shari Gross  
Consultant to HANA

SG:RGH:pbl



RECEIVED  
JUN 19 1990

Gregory Bean  
Owner Operator Long Liner  
F/V Hayley Christine  
Sitka Alaska  
P/O box 1991 Sitka

N.P.F.M.C.  
Don W. Collinsworth  
605 west 14th Avenue  
Anchorage Alaska 99501

Dear council members;

The following are the condensed views of myself and my crew on the urgent need for sound Sablefish management.

We feel the Council must take firm and immediate steps to limit access to Sablefish fixed gear fishery.

Choosing I.F.Q.'s for this fishery immediately, at the June meetings is the most effective and the most important decision the Council can make. We support I.F.Q.'s because of the diversity of problems they solve, especially much of the bycatch problems may be greatly reduced as the effected fisheries also become managed by I.F.Q.'s. The benefits to our bycatch problems increase geometrically with every fish that is retained on a fishermans quota and with every species added to I.F.Q. management. The benefits are so obvious and widespread I can only imagine some powerful greed is behind its major opposition.

In Sitka, the Longliners seek I.F.Q.'s hopeful and confident that we can work Sablefish, and Halibut into well managed fisheries.

We would oppose a moratorium if it slows or blocks or is put into place instead of I.F.Q.'s for Sablefish

We feel the Moratorium to be a good idea but we worry that it is a distraction and a delay, a smokescreen to carry public support away from a decision on I.F.Q.'s. Much of the support may come from powerful lobbying by wealthy interest groups who are more driven by the greed of the status quo and are opponents of a sound limited access program. Political figures would be likely to embrace this approach because they can still ride the fence while putting another star on thier campaign flyers.

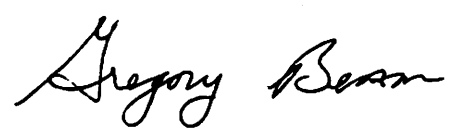
We in the Eastern Gulf of Alaska feel our area is unique enough to be under separate management. We have few trawlers and lots of Sea Lions we are more managable but we need more protection. Many of the problems in the western gulf effect our management but are not existant in the Eastern Gulf.

We would like the Eastern Gulf to be a Trawl-Free zone.

Please consider these comments when making your decisions at the June meeting.

Thank You

Gregory Bean and crew



COMMISSIONERS:

LINDA ALEXANDER  
PARKSVILLE, B.C.  
DENNIS N. BROCK  
OTTAWA, ONT.

HARD ELIASON  
SITKA, AK  
EVEN PENNOYER  
JUNEAU, AK

GEORGE A. WADE  
SEATTLE, WA

GARY T. WILLIAMSON  
SURREY, B.C.

# INTERNATIONAL PACIFIC HALIBUT COMMISSION

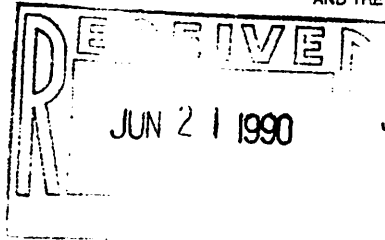
ESTABLISHED BY A CONVENTION BETWEEN CANADA  
AND THE UNITED STATES OF AMERICA

DIRECTOR  
DONALD A. MC CAUGHAN

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

TELEPHONE  
(206) 634-1838

FAX:  
(206) 632-2983



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

RE: SEIS/RIR/IRFA for the Fixed-Gear Sablefish Fishery

Dear Clarence:

The Staff of the International Pacific Halibut Commission has reviewed the Supplement to the SEIS/RIR/IRFA for the sablefish fishery and has the following comments supporting the individual fishing quota (IFQ) alternative and addressing the implications with respect to halibut bycatch.

The IPHC Staff has expressed to the Council the desirability for a single, multi-species longline fishery which retains all species to minimize unnecessary discards. An IFQ management program for sablefish and halibut would be a move in that direction. The Council's decision on sablefish at the June meeting will likely influence the action taken regarding limited access in the halibut fishery, so we recommend the Council adopt the IFQ alternative for the sablefish fishery as a means of improving the conservation of halibut, sablefish, and other longline-caught species.

The sablefish IFQ alternative has two specific benefits relating to halibut bycatch which make the alternative preferable to status quo:

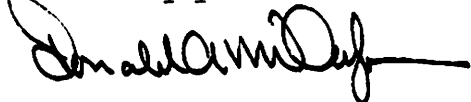
(1) An IFQ sablefish fishery may have lower halibut bycatch rates. The Supplemental SEIS points out that each fisherman will conduct IFQ fishing in a manner which maximizes individual benefits. This may include shifting fishing effort from the early spring months to periods of better weather, such as those in the summer months. Halibut and sablefish are at their greatest spatial separation during the summer and bycatch rates have been noted to be lower in the summer than at other times of the year. Consequently, an IFQ sablefish fishery should experience a lower overall halibut bycatch rate. The result is an increase in the amount of groundfish harvested within a given halibut PSC mortality limit.

(2) An IFQ sablefish fishery may have reduced halibut bycatch discard mortality rates. As currently managed, the sablefish fishery places a premium on the daily harvest rate, resulting in a fast-paced fishery. This type of fishery decreases the time available to release halibut with minimal injury, resulting in discard mortality rates which are higher than necessary. The Supplemental SEIS indicates that with IFQs, an individual sablefish fisherman could conduct his fishing at a slower pace. The increased time available for each fisherman would provide greater opportunity to safely release halibut caught

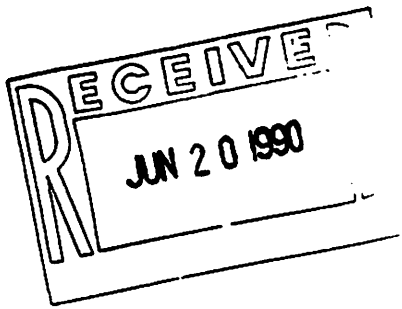
as bycatch, thereby reducing the discard mortality rate. As with our first point, this would allow for a greater amount of groundfish to be taken within a given halibut PSC mortality limit.

We believe the IFQ alternative is preferable to the current management program for the sablefish fishery and encourage Council adoption. From a broader perspective, an IFQ sablefish fishery provides a lead-in to discussing limited access and improving management of the halibut fishery off Alaska. A member of the IPHC staff will attend the June meeting and will be able to comment more fully on these points if needed.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Donald A. McCaughran", with a long horizontal flourish extending to the right.

Donald A. McCaughran  
Director



Martin G Beam  
765 F Chapman Rd.  
Camano Island wa.  
98292

North Pacific Fisheries Management Council  
605 West 4th Avenue  
Anchorage Alaska 99501

Dear Council Members;

Having sons and other relatives in the Sablefish and Halibut Fisheries I felt informed enough and interested enough to comment on thier future management.

I would like to urge council memeoers to adopt a limited access management scheme for Sablefish and Halibut, not just a moratorium on new boats into those fisheries. I favor an I.F.Q. system as this seems to be a more finite decision on sound future management. Studies indicate such a system answers more problems than any other direction might yeild and the costs are small while the benefits are great. .

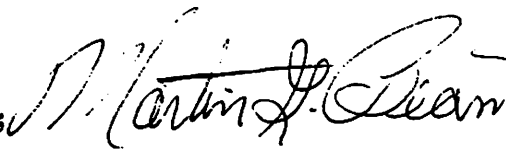
Some of us understand that even the ocean has its limits and realize we cannot maintain a frontier mentality toward its resources. We will have some regrets but we will accept that our fisheries cannot be the wasteful free-for-all they once were.

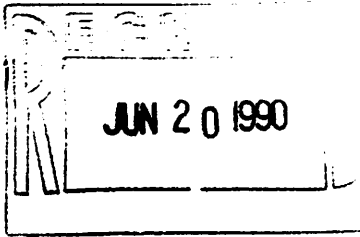
I urge the council to take the best step and not be too detered by those who feel they are losing a freedom rather than saving a resource and benefiting a world of consumers.

I also support a moratorium for all groundfish provided it does not hamper the move to an I.F.Q. system for sablefish, the moratorium should not be opted to delay a decision by the council.

I feel also that Trawling on or near the bottom is extremely destructive and publicly distasteful. This wasteful practice should not be allowed to continue, already serious consequences are being felt in the Gulf of Alaska which are repetitions of disasters ocean-wide. I hope the council will view this as resource mismanagement and take steps to correct a serious problem.

Please vote for safety and sanity within our groundfish management, vote for I.F.Q.'s.

Sincerely;   
Martin G. Beam.



Jon Sme  
2746 Rezanof Drive  
Kodiak, Alaska 99615  
(907) 486-6107

June 20, 1990

Mr. Don Collinsworth, Chairman  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
P. O. Box 103136  
Anchorage, Alaska 99510

Dear Chairman Collinsworth:

I would like to go on record as being opposed to IFQs for sablefish or any other fishery. I support open access for these fisheries.

We are already governed by quotas for the amount of fish we can catch. Leave free enterprise and competition alone.

I believe that we should move on to more important things and manage our fisheries within the open access mode.

Sincerely,

Jon Sme  
F/V ECHO BELL  
F/V CONTENDER  
F/V TENACIOUS

Jun.20.90 14:54 P.03

JUN 20 1990

**KODIAK LONGLINE  
VESSEL OWNERS ASSOCIATION****P.O. BOX 135 • 326 CENTER AVENUE  
KODIAK, ALASKA 99615  
(907) 486-3781****HALIBUT, SABLEFISH AND PACIFIC COD**

June 20, 1990

Mr. Don Collinsworth, Chairman  
North Pacific Fishery Management Council  
P. O. Box 103136  
Anchorage, AK 99510

SENT BY FAX

Dear Chairman Collinsworth:

The KLVOA would like to briefly address the proposed sablefish IFQ management plan under consideration by the Council. We are concerned that if IFQs are approved, the fishery will change in a very radical manner and there will be losses to current participants, processing interests and coastal communities.

The analysis states that the "optimal" fleet may consist of less than 300 participants (down from 2,925 of 1989). What, we ask you, are the 2,600 fishermen who are out of work supposed to do? The analysis says that they can get other jobs with lower pay and less personal enjoyment. While the staff may suggest that this is best for the nation, we strongly disagree. Those 2,600 people who would be displaced won't be very happy with lower paying jobs.

The analysis makes it clear that open access will increase pressure on the Council, while IFQs would reduce the amount of time that the Council has to spend resolving allocation and quota concerns. We believe that the very opposite is true. The longline industry has not requested higher quotas and future time that the Council spends with sablefish will most likely be positive steps to reduce bycatch and other conservation measures. If IFQs are implemented, we believe that the requests before the Council would be many and that there would be a lot of pressure to raise quotas. The SSC at the April meeting raised this concern as well.

While the Council might initially approve some plan which severely restricts the ownership and/or limits the vessel size, we believe that future proposals would attempt to reduce or eliminate those controls or "brakes". The "optimal" fleet as shown in the analysis which consists of less than 300 participants would want to do away with restrictions which are inflexible. We feel that the Council would see proposals in the first year of this program to reduce or eliminate the size classes for vessels and/or the ownership caps.

NPFMC  
June 20, 1990

The pressure would be tremendous by individuals in each of the vessel classes to eliminate them. If people are limited to selling or buying IFQs within a certain size class, then the values would be worth more or less depending on what size class you are in. We feel that those people in the under 50' class who wish to sell wouldn't be very happy if the price for IFQs in the over 100' class is selling for five times more than their own.

The concerns of discards, highgrading and underreporting were addressed in the analysis. The issue of highgrading and underreporting has been understated and we believe that these would be the rule rather than the exception. Discards would also be tremendous for those who don't choose to buy IFQs and still participate in a fishery with sablefish bycatch. These issues are not considered to be significant by staff, but we feel they are very important. National Standard 1 states that management measures shall prevent overfishing. We believe that IFQs would encourage overfishing.

The fishery would be changed in that those individuals who have quota shares will attempt to maximize their investment by processing onboard (off-shore) and marketing their product themselves. If IFQs are implemented for sablefish, it is only a matter of time that they are put in place for halibut and other groundfish as well. Is it possible that the on-shore processing plants which now receive a substantial amount of the sablefish and halibut will have to depend entirely on salmon and herring? What would happen to those processing workers who are out of work along with the 2,600 fishing participants who wouldn't have a job? While our local McDonald's is always hiring, I don't think they have enough jobs for those many people.

The analysis states that the gains in economic profits should be compared to losses which would occur. Many of these losses are social in nature and involve changes in employment or lifestyle. We believe that the losses far outweigh any perceived advantages to the IFQ program.

It is our belief that the open access system provides the best opportunity for industry to utilize the fishery and management to manage the resource, while allowing fishermen to be fishermen. Some changes may have to be made in the open access fishery, such as gear restrictions, depth restrictions, and time and area closures. Industry is ready to address these needs. We request that the Council spend their valuable time managing the fishery, not the fishermen.

Sincerely,



Linda Kozak  
Executive Director

ROBERT WURM  
P. O. BOX 3652  
KODIAK, ALASKA 99615  
(907) 486-5440

June 20, 1990

JUN 20 1990  
[Stamp]

Mr. Don Collinsworth, Chairman  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
P. O. Box 103136  
Anchorage, Alaska 99510

Dear Chairman Collinsworth:

As a member of the Advisory Panel to the Council I have studied the sablefish IFQ proposal for some time. I have tried very hard to remain objective and look at the issue from every perspective.

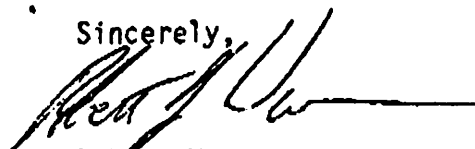
I feel that the information has been misconstrued by staff, by promoting the IFQ plan. The negative aspects of open access are emphasized, while the negative aspects of the IFQs are glossed over and given little attention. The economic analysis stresses the advantages of the "optimal fleet". However, they don't tell us what the disadvantages are to the crew members, skippers, processors, and local communities.

The staff states that a redistribution of benefits will occur. The bottom line is that IFQs are going to result in foreign ownership and control of the resource, processing off-shore, and possible collapse of the shore based communities. The domino effect of IFQs being implemented in halibut and other groundfish will only cause greater stress on the participants and communities.

I want every Alaskan member of the Council who signs off on this proposed IFQ plan to know that future generations of Alaskans will know who sold out their opportunities.

I urge all Council members to vote the IFQ plan down and to get on with the more important aspects of managing our fisheries under the open access system.

Sincerely,



Robert Wurm



NEGATIVE  
JUN 21 1990

KEVIN O'LEARY  
1217 Larch Street  
Kodiak, AK 99615  
(907) 486-5488

June 19, 1990

Mr. Don Collinsworth, Chairman  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
P. O. Box 103136  
Anchorage, Alaska 99510

Dear Don:

I am writing to express my adamant opposition to the implementation of an IFQ management system for sablefish in Alaska.

I own two commercial fishing boats, the F/V SUNRUNNER and the F/V AMERICAN WAY and am a 15 year resident of the State of Alaska.

I believe that the IFQ system will create a situation where the majority of fishing shares will eventually be owned by large, outside interests and will prove to be devastating to the economies of coastal Alaskan towns.

In conclusion, the management problems the Council faces do not need to be addressed in such a draconian manner, completely changing the way commercial fishermen historically have done business.

I would like to go on record as being actively opposed to the implementation of an individual fishing quota system for sablefish in Alaska.

Sincerely,

*Kevin O'Leary*  
Kevin O'Leary

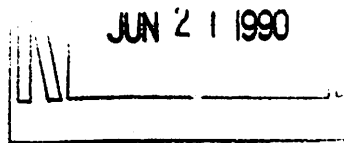
☎ 2067835811

DEEP\_SEA

06/21/90 16:44

P02

## Deep Sea Fishermen's Union of the Pacific



5215 Ballard Avenue N.W.  
Seattle, Washington, 98107  
Phone: (206) 783-2922  
Fax: 783-5811



Established 1912

June 21, 1990

Don W. Collingworth, Chairman  
North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, AK 99510

Dear Chairman Collingworth:

The choices faced by the Council for limited access in the blackcod fishery are very sobering. The issue has been under discussion for a long time, and all that can be said about limited entry has probably been expressed. The Deep Sea Fishermen's Union would like to be on record in opposition to the Individual Fishing Quotas ("IFQ") system under consideration at this Council session.

Many factors enter into our decision to oppose IFQ's. Please consider some of our members' concerns when making the choice between open access and IFQ's.

Inequitable Distribution of IFQ's. Under the present proposal, fishermen with a long historical record of involvement in harvesting blackcod are going to be eliminated. The prerequisite of vessel ownership in certain qualifying years would effectively eliminate the ownership privilege for many long time professional deck hands. This IFQ system neither compensates historical participants nor even allows for a point of entry equal to what is being offered in this proposal.

Displacement of Fisherman. Staff analysis suggests the "optimal" fleet size would allow for about 300 fishermen. In 1989, according to staff, almost 3,000 fishermen were harvesting blackcod. What are 2,700 fishermen going to do for employment? Our union represents only 300 professional longline blackcod fishermen. The majority of these members are not educated or proficient in other occupations. This IFQ proposal would foster the attitude of not needing knowledgeable, skilled fishermen on deck. The element of timely harvest will be done away with, and a less qualified and less skilled work force could be used. The social and

## Deep Sea Fishermen's Union of the Pacific

5215 Ballard Avenue N.W.  
Seattle, Washington, 98107  
Phone: (206) 783-2922  
Fax: 783-5811



Established 1912

Don W. Collingworth  
June 21, 1990  
Page 2

economic impacts to coastal communities with employment losses need careful inspection. Many vessels capable of freezing and adding value onboard are going to bypass the shoreside processor and sell direct, creating even more problems. Processing shoreside will decrease, eliminating jobs. High grading by fishermen will increase unobserved mortality. What about sea trumper transfers? It seems as if we have had this problem of unaccounted for product in foreign markets already. We do not need a system that would nurture such a scheme.

Creating a Monopoly? If each IFQ recipient were to receive a three percent share by area, 33 boats could monopolize the entire quota for any given area. This is unlikely, but possible. Do you want that? Our blackcod markets are so limited in user or consumer nations that the nation which buys ninety percent of this resource could corner the market and effectively drive prices anywhere they choose. We do not want that! Do you?

National Standard #1. We believe the biggest hurdle for IFQ's is the judicial challenge that is going to be raised under the National Standard Section 1851 of the Magnuson Act. There appears to be a huge discrepancy in understanding how IFQ's could be instigated when part of the regulation states, "All allocation shall be fair and equitable to all fishermen." This tells me that when a deliberate distribution of opportunity to fish in or participate in a fishery is given by government, crewmen and owners should be treated equally. We have asked our legal counsel for an opinion on this issue. It is their opinion that IFQ's violate this standard.

☎ 2067835811

DEEP\_SEA

06/21/90 16:45

P04

# Deep Sea Fishermen's Union of the Pacific

5215 Ballard Avenue N.W.  
Seattle, Washington, 98107  
Phone: (206) 783-2922  
☎ Fax: 783-5811



Established 1912

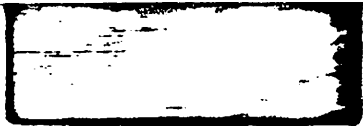
Don W. Collingworth  
June 21, 1990  
Page 3

We are opposed to the proposed IFQ system of limited access. Please consider our concerns when making your decision. If you have any questions, please call me at (206) 783-2922.

Respectfully,

A handwritten signature in black ink, appearing to read 'John Bruce'.

John Bruce  
Executive Director



RECEIVED  
JUN 22 1990

June 19, 1990

Mr. Don Collinsworth, Chairman  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
P. O. Box 103136  
Anchorage, Alaska 99510

Dear Chairman Collinsworth:

I would like to go on record as being actively opposed to the implementation of an individual fishing quota system for sablefish in Alaska.

The system as proposed would be detrimental to the coastal communities and to the fishing industry. I believe that if the IFQ plan were to be approved by the Council, that the entire nature of the fishery would change and the losers would be Alaskans.

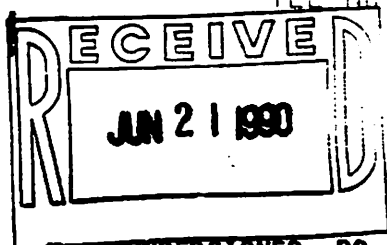
I urge you not to approve the proposed IFQ method for management of our sablefish fishery.

Sincerely,

*Eric Hansen*

FISHERMAN & LONGSHOREMAN

Box 1482  
KODIAK, AK 99501  
99615



NOTE: RECEIVED PETITIONS WITH A TOTAL OF 231 SIGNATURES. ENTIRE PACKET ON FILE AT COUNCIL OFFICE.

PETITION



WE, THE UNDERSIGNED DO NOT SUPPORT THE IFQ LIMITED ACCESS SYSTEM FOR MANAGEMENT OF THE BLACKCOD AND HALIBUT FISHERIES IN ALASKA. WE WOULD PREFER THE STATUS QUO (OPEN ACCESS) TO THE PROPOSED IFQ SYSTEM.

Name Richard Powell  
Address Box 2074  
KODIAK AK 99615

Telephone No. 486-4250  
Occupation FISHERMAN  
If Fisherman, state fisheries CRAB

Name C. L. LOWENBERG  
Address Box 767  
KODIAK AK 99615

Telephone No. 486-4452  
Occupation FISHERMAN  
If Fisherman, state fisheries CRAB HALIBUT COD

Name W. Alwert  
Address Box 1711  
KODIAK AK 99615

Telephone No. 907-486-5511  
Occupation FISHERMAN  
If Fisherman, state fisheries CRAB  
Black, Halibut, octopus, shrimp & Cod.

Name Randall G. Sholl  
Address Box 681  
Kodiak, AK. 99615

Telephone No. 907-486-3692  
Occupation Fisherman  
If Fisherman, state fisheries Crab  
Salmon, & Halibut

Name Alan Alwert  
Address Box 174  
Kodiak, AK. 99615

Telephone No. 486-5511  
Occupation Boat-Boatowner  
If Fisherman, state fisheries Crab  
Halibut, Cod

Name W. Mc Barksfjels  
Address Box 37  
Ouzinkie AK. 99644  
Boat owner Cod + Halibut

Telephone No. \_\_\_\_\_  
Occupation \_\_\_\_\_  
If Fisherman, state fisheries \_\_\_\_\_

Name Charles P Peterson  
Address Box 387  
Kodiak AK 99615

Telephone No. 486-2991  
Occupation Fisherman  
If Fisherman, state fisheries LONG LINE  
Blackcod Halibut M.C. FIN FISH

JUN 22 '90 11:42 TOWN OF PELICAN

P. 3 3

**DECEIVE**  
**JUN 22 1990**

North Pacific Fisheries Management Council  
 P.O. Box 103136  
 Anchorage, Alaska 99510

June 22, 1990

Dear North Pacific Fisheries Management Council Member:

When did Alaska lose its sovereignty of Gulf of Alaska waters? The Feds grabbed a hold and big money takes control. The trawlers are siezing ahold of fisheries and bycatch. Look at Western Alaska native subsistence herring fishers - those fishers are locals crying out - where is fish? The trawlers take anything their nets will swallow up without regard as to other participants in all levels of fisheries. Bycatch has evolved into a critical issue. Alaska has been screaming out for a local preference for employment - with fisheries being a major job field.

These coastal waters are more Alaska than anything. And Alaska is made up of individuals not corporate beings. Individuals who own boats on their own or as partners. Families helping out one another, trying hard to make it work. The halibut fisheries now has 7000 permits because of speculation of limited entry. A way of life is on the borderline of genocide. Share quota deserves a chance with coastal community quotas available.

Washington has an already expanded fleet subsidized by private and governmental loan institutions. The Feds cannot getaway with supporting only Washington and Japanese interests in expansion. Alaska should not be locked into specific vessel size. The small boat fleet is a way of life in Alaska but it should not hold back the development of a fisher who wishes to buy a boat more suited to current needs. Because of fisheries management the need to diversify is inevitable. Alaska has alot of sole vessel owner/skippers who bust muscle to make ends meet in hopes of long term goals for a boat suitable for diversification.

Allocation of IFQ's should be based on actual share of fish caught. The traditional longline fisherman should be rewarded for their enduring effort. For instance our vessel should be entitled for its past poundage instead of being locked into specific length only get x poundage. Why give only some permit holders a chance to more poundage just because they have a bigger vessel. Ron Hegge will get a bigger share because a corporation financed his bigger vessels but in actuality he did not outfish my husband in past participation. As an advisory panel member and now NPFMCouncil member, he had insider information to gain substantial profit because he saw it coming. I will agree it was a business decision but at an unfair advantage to the fisherman who only wanted to make a living by being out on the grounds fulltime.

The small boat fleet of Alaska should have the first opportunity of being able to bid on IFQ's and then Alaskan residents should have the next opportunity to bid on IFQ's.

JUN 22 '90 11:42 TOWN OF PELICAN

P. 3/3

On the matter of lost gear in open access, many entrants are losing gear (some of it brand new). Some skippers each lost over 50 skates in the 1990 sablefish season. Some of these vessels had originally 300 skates of gear baited up before the season started. They think they can go out and dump it in and just pull it up. The traditional longliner knows and cares about sablefish quality and how much and when to work gear.

The permit holder fishing deserves the IFQ, it is he who is putting energy into earning a living for the crew, himself and the boat share. With IFQ's however all participants are at a certain yield and anymore of a share would have to be purchased before fishing could be continued. A yearly sablefish fishery used to be in place from March to October and that right is severely diminished by new entrants. A touchy subject but is badly needed to be discussed.

1984 was 6 years ago and already too many compromises have been made. The fleet deserves to know a way of life will not be diminished by big money corporations taking away the right to fish by the individual commercial fisherman.

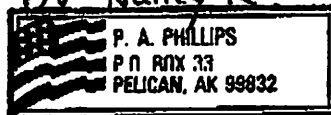
We employ an average of 10 crew members and majority is Native Alaskan residents. Many of the vessels fishing out of Pelican hire local Southeast Alaska residents. And these same vessels support the local community businesses. This contributes to the economic health of Alaska as a whole. It is after all off Alaska that the fish are caught.

Thank you for the opportunity to comment on an issue which will greatly effect the future of our family and I only wish I could bring my three sons to your meeting and say their life is in your hands. They come from generations of fishers on all sides of the family tree. Their ages are 4, 6, and 8 and already they know what rough water is all about. Much thought and consideration has and will be put into your decision and I pray for a longline fishery to survive.

*Sincerely,*

*Patricia Phillips*

*F/v Nancy K.*





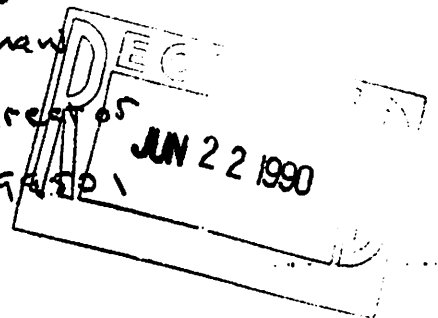
To: NORTH Pacific FISHERIES Management Council

To: Don W. Collingsworth, Chairman

& Clarence G. Pautzke, Executive Director

605 West 4th Avenue, Anch., Ak. 99501

FAX (907) 271-2817



My name is Terry Clawed, have been fishing in the longline fishery for halibut & blackcod since 1971, and a Deep Sea Fishermen's Union member. In the position as a non-owner deckhand for 19 years and as non-owner skipper for half of the 1985 season my view of the IQF limited Entry Scheme is that it is Economic Abortion. Think of me, if you will, as an <sup>embryo</sup> in the womb of economic possibilities. I don't really care to consider that <sup>it is</sup> there is perceived by some that there is a population problem ~~for~~ that if born that I cannot be properly cared for. For my part I just want to live. As an ~~an~~ "embryo", abortion is inconceivable.

In my view, Economic Abortion roughly parallels abortion in the moral sense - the concept defies an easy answer (rationalization). For my part, with years of saving, hoping, and planning to ~~at~~ disappoint I would like to inject these three words into your conscience: "Let Me Live!"

Another point I would like to make in regards to any limited Entry Scheme that does not integrate the crew members' interests with those of the vessel owners is its inherent unfairness in terms of who pays for it. The people who will wind up paying for these new and valued transferable permits will be the luckless and disenfranchised fellows who should happen to work in concert with those lucky and enfranchised vessel owners.

For instance, should a vessel owner who previously had been satisfied by a 30/70 percent split as it is now be content with the same if he had to purchase / mortgage additional IFQs? Experience has it that any additional expense that encumbers the owner is forthwith passed on to the worker. There simply is no where else to squeeze. The owner will not have to scrape up a dime. The crew members and their families will pay; the vessel owners and their families will profit.

Another threat that hangs over the crewmembers  
in an owner to owner transferable permit system  
is that the Owner will have the option of selling  
the crewmembers' job to the "highest" bidder. The owner  
will have the right to sell "that" which the  
crewmembers' labor had made possible. Under the  
IFA system it is even possible that a vessel owner  
could sell his/her IFA and still expect the crew-  
members to fish in yet another fishery with <sup>the same</sup> him/her.  
I would prefer to call this Systemized Section  
but I really think of it as Systemized Dajedon.  
Please don't victimize me! I am not deceived.

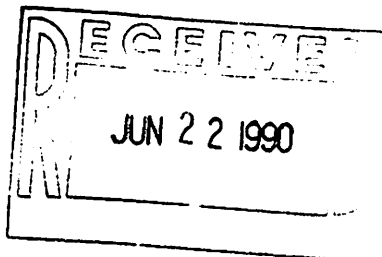
Sincerely:

Larry L. Clauson

6205 - 36<sup>th</sup> Ave NE

SEATTLE, WA 98115

June 21, 1990



North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, Alaska 99515  
Fax #271-2817

Subject: Comments regarding the IFQ Management Alternative

Dear Sirs:

In reviewing the IFQ proposal and the issues/options that must be decided before it can be implemented my wife and I came across some points that we feel are important to our fishing operation in the Sablefish industry.

The most pressing issue that affects our operation is the proposed vessel size restrictions. We feel that by setting size restrictions the council discriminates against small businessmen or women from continuing to participate in the sablefish industry. By reviewing the diagrams the council presents (page 5 "Elements of a Sablefish Fixed Gear IFQ Management System") the number of people receiving IFQs and that of the distribution of the IFQs. It becomes apparent that many small alaskan fishing operations are involved verses larger operations from Washington state. This becomes more obvious with the distribution of the IFQs where more than half of the IFQs are going out of state. If restrictions are to be used they should be focused on large vessels of 90 feet and up. A sole proprietor maybe able to justify upgrading to a new vessel and should be able to transfer his/her IFQs.

Restrictions should, however, be introduced on the ownership of IFQs by cold storages and/or floating processors. Basically by not allowing them to control, buy, or lease IFQs would decrease the opportunity of a monopoly forming in any one area along the coast of Alaska. This may not seem an important issue to large vessels but to smaller vessels who are more restricted in marketing options it is very important to have a local demand for their product and to have the availability/freedom to deliver it. Placing a three percent limit per vessel would not detour any one company of the opportunity to acquire a large portion of the resource since some partnerships and corporations already own more than two vessels. However, by preventing ownership of IFQs by those controlling many of the markets, the council would prevent this from happening and thus prevent the extinction of the small fisherman.

We do favor using a six year average but would like to go on record pointing out that the council issued a moratorium on new participants entering the sablefish industry in 1985 and

that we find it ironic that you reward the most recent landings with higher weight adjustments. Perhaps those landings starting in 1984 should receive higher weight adjustments with the lower weight adjustments going to the most recent landings? Thus rewarding those participants that have invested more time and consistent effort in this fishery than those that were merely speculating after the council announced it's intention in 1985 to limit participation in this fishery.

We appreciate the council's patience and hope you will consider our comments seriously as we are deeply concerned about a management system that may, if not fairly established, push us out of an industry so important to both of us.

I am a third generation Alaskan resident and followed both my father and uncle into the fishing business during my high school years (over twenty years ago).

My wife Linnea, while not a born Alaskan has spent many years in Alaska and has previously been involved in the fishing industry though primarily working for local cold storages.

Please feel free to contact us if you have any questions regarding our comments, thank you.

Sincerely,

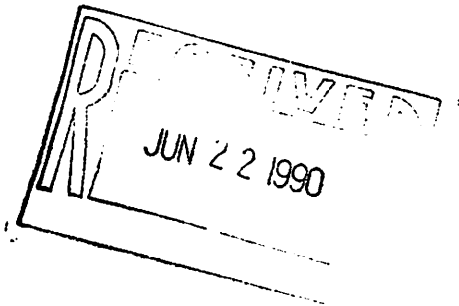
*Bernie Osborne*

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Bernie Osborne, F/V Lady Jo

*Linnea Osborne*

-----  
Linnea Osborne, F/V Lady Jo

Mailing Address: F/V Lady Jo  
Mr & Mrs. Arthur B. Osborne  
P.O. Box 925  
Douglas, Alaska 99824  
Telephone # (H) 586-6152 or 586-3474



June 20, 1990

Thomas C. Gamman  
F/V Heather Kay  
9344 Center Court  
Juneau, AK. 99801

NPFM Council  
605 W. 4th Avenue  
Anchorage, AK. 99501

Dear Chairman Collinsworth and Council Members;

This letter is to direct your attention to some areas of my concern regarding the revision of the sablefish management in the Gulf of Alaska. The following questions are addressed in this letter;

- 1.) What is the best alternative for fixed gear fisheries off Alaska?
- 2.) How can the bycatch and discard mortality problems be resolved?
- 3.) Should a vessel moratorium be imposed on the longline and trawl fisheries in Alaska?

I have been involved in commercial fishing in Alaska as a profession since 1973 and as a vessel owner since 1975. I was first involved in the halibut fishery in 1976 and first involved in the sablefish fishery in 1985 as a deckhand, a vessel operator in 1986 as a hired captain, and a vessel owner/operator in 1987, 1988, 1989 and 1990. I am completely dependent on sablefish and halibut in the Gulf of Alaska for my income and am concerned about your upcoming decisions on sablefish management for obvious reasons. Please consider the following comments carefully as I believe they are valid and impact my business, and many like mine substantially.

Of the four alternatives being considered by the council, the best for all concerned is Alternative #3, Individual Fishing Quotas, providing care is taken that the IFQ's are placed fairly in the correct hands. Alternative #1, Open Access, is unacceptable since it does not address the problems we face and creates an overwhelming amount of management functions. Alternative #2, Annual Fishing Allotments, is infinitely confusing and also causes a great deal of management functions. Alternative #4, License Limitation, as proposed, seems to favor the large vessels capable of high production and problems associated with derby style fishing remain.

Personally, as proposed, Alternative #3 will reduce my average production because of my lack of qualifying years and fluctuating production in different areas. However, I am willing to make the sacrifice to preserve what is left of the fisheries and resource while creating a safer working atmosphere, and more stable bottom fish environment on the pacific rim.

Has any consideration been given to awarding the IFQ's to permit holders rather than vessel owners? People unrelated to the fishery that own a vessel, under the proposed guidelines, will receive the IFQ's for that vessel and deny some individuals who caught the fish, and count on longlining as their occupation, the right to continue to catch them. Vessel owners who are investors would gladly make another good long term investment in the form of IFQ's.

In preliminary qualifying with the data provided by NMFS, my catch is reduced by 50% if I'm not mistaken. Who gets the other half of my average production of years 1987 - 1989?

It is understandable why processors, who stand to lose some business from people who have time under Alternative #3, to sell their product to someone else would oppose it. They may also lose some business from vessels that choose to process at sea given the more time under Alternative #3. The processors staggering profit margins may be reduced because of expanded choices, fisherman gain, under Alternative #3. It seems to me the choice is, slow them down a little now, or shut them down completely, soon.

With Alternative #3 in effect, the simple solution to the bycatch and discard mortality problems, is to follow with a similar program for the halibut fishery, allowing halibut to be taken at the same time as sablefish. There will also be time to care for all other species of ground fish and present them to the market in quality condition alleviating the discard problem.

I believe a vessel moratorium is badly needed for a period of time at least. If not, new, bigger, more efficient vessels will undoubtedly enter the fishery and alter the present harvesting statistics. Let's hold the fleet at its present size and efficiency, that we are capable of overharvesting with now.

The trawl fleet takes a big part of the black cod quota each year as "incidental catch". It is my belief and observation that sablefish taken by trawlers is the result of a directed effort.

Isn't it true that halibut stocks are impacted far and away the most by trawlers? I propose 100% observers and detailed information submitted on areas and depths fished by vessels over 60 feet long. With this information, bycatch IFQ's could be determined, punishing the worst offenders and rewarding the least. It is definitely possible for individual vessels to adjust their bycatch by adjusting areas and depths.




Factory trawlers and the new high tech " super longliners" are definitely the most devastating entity to sea life in the Gulf of Alaska and must not be allowed to evolve further.

In closing I would like to reiterate my feeling that Alternative #3 could be the best thing for all concerned, providing the IFQ's end up in the hands of the fishermen who depend on them for survival. Please act on some form of IFQ program without delay.

Thank you for your consideration in this matter.

Sincerely,



Thomas C. Gamman

Council Discussion of motion on CDQs at August 7-9, 1990 Council Meeting

Larry Cotter moved to reconsider the previous action on CDQs (June 1990); motion to reconsider passed.

Larry Cotter moved to strike all preceding amendments (on the CDQ section) and to replace with the following amendment to the Economically Disadvantaged Fishing Communities Program that was previously outlined:

- In the first paragraph, delete the phrase, 'within the jurisdiction of the Council,'
- Under item 1, to replace 'a Governor is authorized,' with "the Governor of Alaska is authorized. . ."
- In item 1(a), to insert after the word 'coastline,' "west of the line immediately to the east of Port Graham and English Bay."
- In paragraph 1(e), to replace the phrase, 'by the Governor of the requesting state,' with "by the Governor of Alaska."
- In paragraph 2, to replace 'each Governor' with "the Governor of Alaska."
- In paragraph 3, to replace 'each Governor' with "the Governor of Alaska."

Motion seconded by Henry Mitchell.

Mr. Cotter's supporting statements:

One of the problems that we had, at least that I had, with the last motion was that it opened up the program to disadvantaged communities essentially wherever they may be and I found that difficult if not impossible to swallow. NOAA General Counsel advised that there were some discriminatory issues regarding limiting this program to communities in Alaska and upon reflection it seemed to me that not necessarily all areas of Alaska need to participate, or should be participating in a program along these lines. Perhaps NOAA General Counsel can give his opinion at the conclusion of my comments whether or not the fact that this program would likewise discriminate against Alaskans who don't live within the defined geographic area, as well as non-residents who happen to live outside the state, whether that brings it into conformance with National Standard 4, I think it is. Assuming for the moment that it does, and speaking to the motion itself, I view the purpose of this program to be one where we can provide legitimate communities that are legitimately suffering. . . that are economically destitute, with an opportunity to begin to develop a local economy that based upon resources that are found in waters that are essentially adjacent to those communities, at their doorsteps. We talked earlier today about the Pribilofs and the special case that applies to the Pribilofs. The same is true with several other communities around this state who happen not to suffer from depressed or distressed economies but happen to suffer from not having any economic base whatsoever and as a result they have very, very severe social problems and that imposes social and economic costs upon the state and upon the nation. In the area west of Port Graham and English Bay, and that area incidentally is somewhere in Cook Inlet, the area west of those two communities is an area where in many places there are no commercial salmon fisheries for those people to participate in; certainly around Kodiak there are, but once you get out into the Chain and get into some areas of the Bering Sea there are little if any salmon fisheries. In the Bering Sea many of the communities are faced with declining herring stocks and that carries with it reduced or non-existing herring fisheries. The cost of living in many of these communities is 42-68% higher than the cost of living in Anchorage which has one of the highest cost of livings in the country, yet they have no economic base to help them deal with the cost of importing fuel and other things along those lines. This area also has the lowest per-capita income in the State

of Alaska. There's very, very high transportation costs, there's inadequate infrastructure for community support in those areas and providing them with an opportunity to begin to develop an economy would be of great assistance to them. It would also, I think, give great assistance to the rest of the commercial fishing industry because it would begin to provide the fleets with, hopefully, with other opportunities in terms of places to visit to meet their infrastructure needs. In terms of the portion of Alaska that is east of Port Graham and English Bay, notably Prince William Sound and Southeast Alaska, these two geographic areas are quite a bit different from Western Alaska. There are commercial salmon fisheries, in fact there are sablefish fisheries. In Southeast we have the Chatham sablefish fishery. The communities in these areas have timber and mineral and other resources that they're developing and participating in; they have ongoing commercial fisheries, the transportation infrastructure is substantially different which results in a lower overall economic cost of living and it doesn't bear any resemblance to the situation in the remainder of the state. In terms of the tribes of Washington State, I think the Macahs had asked or indicated their interest in participating in this program, it's my understanding that the tribes have other options that are not available to the folks in Western Alaska, at least not to my knowledge. It's my understanding that the Pacific Council has allocated or provided the tribes with 300 metric tons or so of sablefish off the top on the West Coast, so they have product that they can participate in and they have salmon fisheries and I think that we're not talking about much resource, making much of the resource available for disadvantaged communities and because there isn't much we need to make sure that it goes as far as it possibly can to do the greatest amount of good that it possibly can within the confines of the small amount of product that is going to be available and as a result I just think that we've have got to take a hard look at those areas that we want to have benefit of a program like this and limit to those areas and not open it up to the rest of Alaska or the rest of the United States, which is not in the same position of need.

Chairman Don Collinworth: Further discussion on the motion?

Bob Mace: That's a very eloquent speech and I appreciate your concern, but I think it's a bummer. I think that this type of regulation where we start to rationalize these quotas for specific needs is a very dangerous philosophy for us to get engaged in. I don't think it's equitable for the fishermen of Alaska as well as the other fishermen from outside that utilize these resources, and I just think it's the wrong approach and I'm going to oppose it.

Joe Blum: I'd like to ask General Counsel if they have a view with respect to the Magnuson Act standards and whether or not the proposal that's on the table is in compliance with those standards.

Jon Pollard, NOAA GCAK: Briefly, this particular proposal, as I understand it, doesn't draw the line on the basis of state residents. That is, it excludes some communities within Alaska that are east of the line, like Port Graham and English Bay. I can't say that that violates National Standard 4, prohibition of discrimination on the basis of state residence, although the benefits would accrue necessarily under this program to communities within Alaska, the burdens, those people who would be excluded, would be similarly situated Alaskans and non-Alaskans alike, so I guess it's a roundabout way of saying I don't see the same National Standard 4 problems with this proposal. The approvability of this proposal would hinge on whether the line drawn is rationally supported by the record that you're developing here, that that line is an appropriate line to draw between those who ought to be included within this beneficial program and those who should be excluded.

Bob Alverson: The motion there, substitute motion, whatever it is, amendment, I interpret this basically is some Alaskans will have benefits above and beyond other Alaskans and in which no Oregon or Washington citizen will be able to participate in but will have definitely to pay in terms of lost harvesting capacity. The Makahs were mentioned but there's more than just the Makahs in the states of Washington and Oregon; there are significant amounts of youths in Alaska that would not be able to participate in this to develop their skills to be future fishermen, as well as many areas in the states of Washington and Oregon and that includes not just

the Makahs and natives, a great large oriental, black, caucasian populations, this is highly discriminatory in my opinion the way it is written, excluding the states of Oregon and Washington. I think that that is the intent, to take the states of Washington and Oregon out of it by drawing a line, obviously far enough to the west that neither state participates and I'm not going to vote for it.

Cotter: I just want to state clearly for the record that the way I view it is some Americans are going to benefit and some Americans are going to contribute. I made the motion and I want the record to clearly state and reflect that I am not attempting to discriminate here and there are times when we can throw out the cries of discrimination and that type of thing, but this is not one of those times. I happen to live in Southeast and I can tell you that there are going to be some folks in Southeast who are not going to be all that happy that Larry Cotter is standing up making sure that their communities don't get to participate in this program. And I can tell you that there are going to be folks in Prince William Sound who aren't too thrilled about it either; this is not an issue where a couple of Alaskans are trying to discriminate against fellow Americans. It is inappropriate to pretend that this is the case. We have a very, very small amount of product that is going to be available. If we stick with these percentages, 10% of the TAC in the Bering Sea, what is that - 100 tons? - 200 metric tons, maybe it's 400 metric tons. Are we going to try and spread that out among communities up and down the West Coast or even among communities throughout the state of Alaska and hope that it is going to accomplish anything at all? It's ridiculous to believe that a program could accomplish anything like that. We have got to limit realistically who this applies to.

Steve Penoyer: I have two questions, partially of clarification. The first is one of the staff. Is this a representation of the last amended motion we had? It seems to me we went through all sorts of hijynx(?) on the percentages and discussions, variations, back and forth, and is this the same thing we ended up with or is this the original way back when we started the process?

Dick Tremaine (NPFMC Staff): The attachment to the hand-out you had in early August, late July, is the Assistance for Economically Disadvantaged Fishing Communities as first presented to you in June, in other words what you finally voted on in April, not as it was amended in June because all those amendments failed with the main failure. But I can note the changes for you as passed at that meeting if you desire.

Alverson: They may have failed but they're back up on the table for reconsideration and the percentages were reduced to 5% in the Western areas.

Tremaine: Mr. Chairman, if I can, there were I believe three motions that passed before the main motion failed for communities. The first in the opening paragraph, take out "within the geographic jurisdiction of the Council." The second one was in the fourth paragraph to take the first sentence, "not more than a total of 8%" out. The third one was to change the percentages for the Bering Sea/Aleutians and Western Gulf to 5% from 10%.

Penoyer: Then, I had a second question. I think I understand at least part of what you're trying to get at here and I'm certain most of us agree that there are some communities in Western Alaskan and perhaps on the Aleutians that are probably more depressed than most of the other communities that we could discuss, but I'm not sure that we have any socioeconomic analysis of how much more depressed they are or why communities like Chenega (?), Prince William Sound or Tutitlik (?) or Angoon in Southeastern don't qualify just as well as some of those in the area that you've named and I guess I'm still concerned that the line actually does in some fashion allow the Council to achieve the objective it's trying to get at here, which is to provide opportunity for communities that depend on fishing but haven't had the opportunity to get into the fishing industry because of a lack of support, capitalization, training, whatever, and I'm still not clear. . . understand the line leaves some Alaskans disadvantaged and therefore they'd qualify under National Standard 4, but I'm not sure why the line very specifically can be said to be the logical discussion. I heard your discussion of

different transportation costs and so forth, but places like Chenega (?) and Tutitlik (?) and Angoon that have basically lost limited entry permits and don't have that viable an economy. . . I'm not sure in my own mind that I've got a socioeconomic analysis in front of me that says those aren't just as justified to have some type of economic development as a community on Kodiak or another on the Alaska Peninsula.

Cotter: It's not easy to draw a line, to decide where the line ought to be and I just frankly did the best that I could. I knew that Port Graham and English Bay are communities that are struggling to survive and west of them periodically there will be some other communities. Not all of them will qualify, of course, because the remainder of the program outlines what a community needs to do and be in order to qualify. Angoon and Southeast Alaska, they are participating in other fisheries. Yes, they've lost a lot of permits but it's my perception living in Southeast that the community of Angoon and the other communities in Southeast have economic alternatives that are substantially greater than the alternatives that are available to the communities west of that line. I did have a little heartburn with Prince William Sound with a couple of those communities but there are sablefish fisheries, I think, in those areas, and they do have some substantial salmon fisheries and I just felt that they had greater economic alternatives again than what are available to the communities west of the proposed line.

Blum: I hate to admit this but I'm not sure I know what "west of English Bay and Port Graham" is; I don't have a map in my mind that pinpoints those exact locations. I understand in talking to some people who are residents of Kodiak that a line west of that point would split Kodiak in half; if that's factual it causes me a problem, if it's not factual it shows that even people who are involved in this particular discussion, that residents of Alaska don't know what it is we are talking about in this particular motion. I would ask that before we take a vote on it we be provided with a map that would show what it is we are talking about. Secondly, I think, Larry, as well intentioned as you would like us to believe you are, the fact that the motion failed that was a broader motion failed at the last meeting because you and others felt it was too inclusive indicates that you wish to be quite exclusive with this and it seems very strange that your exclusiveness is to the State of Alaska. There are other parties on this Council that are voting members that represent states that have equal problems and I find that it is discriminatory; I obviously will oppose it, and I think the Secretary if faced with this issue will also find that a very arbitrary line was drawn to meet a particular need at the great expense of those outside that line. In addition, it seems to me that what you want to accomplish is perfectly accomplishable by the Governor of the State of Alaska determining that within the State of Alaska only those people west of that line would be eligible, whereas the Governor of Washington and the Governor of Oregon could make determinations that are unique to their set of circumstances and the Secretary would not be faced with this issue because the governors would have dealt with it. If we put the Secretary in the position of having to decide whether or not this is discriminatory I think your action is going to fail. If what you want to do for certain communities within Alaska is draw this line, I think that should be an Alaskan criteria; we should be able to have criterion that are peculiar to the state of Washington or Oregon that accomplish our social objectives. I'm going to oppose this. I would like, before we take a final vote on this, to see a map that clearly depicts what's in and what's out so the audience, even though we're not asking for public comment, has a sense of what's going on and all members of the Council know what it is we are talking about with respect to communities that they have an interest in.

Lauber: Could someone explain to me, the supplemental hand-out with the Assistance for Economically Disadvantaged Communities has some percentages down here; are those correct as to what the final status of what failed was?

Clarence Pautzke: These are what you came into the June meeting with. Then on this other document you have the motions that decreased those percentages. Larry's motion essentially negates all those amendments that were made at the June meeting and brings this back forward with the 10%, 10% etc., plus his changes that he has on this written document; that's what I understand is the motion.

Cotter: When I negated the earlier motions that started this, I was trying to get moving here and obviously this motion can be amended to reincorporate those that passed. I have no objection to that; I wasn't even aware of what had passed as I was moving this forward. And, Mr. Blum, I appreciate your comments, I guess. Yes, I am seeking some exclusivity; I think that that is absolutely necessary in order to make a program work that has such a paltry amount of resource available and you can say it's massive discrimination or whatever you want, and had a lot of fun with those comments. It's not true and it's not discriminatory. Yes, it is an effort to be exclusive to communities in an area that need help and a lot of communities off Washington are being assisted, they have sablefish quotas that are given to them, so. . .

Peterson: Eight percent of the 1989 ex-vessel value is 3.5 to 4 million dollars. I think the ex-vessel value of all blackcod landed was approximately \$45 million, so it's really not a paltry amount, 8% is a substantial amount of money represented. But, I have some concerns with this "eligible economically disadvantaged fishing community." I suppose a fishing community with a failure of a salmon run could become disadvantaged economically so that we're not talking about a constant, we're talking about a number of communities that may be disadvantaged now; others that may become disadvantaged because of the failure of existing fisheries. Another part of it that bothers me a great deal is how do you go about allocating these amounts among a number of communities that are identified under this plan? Is it a first-come, first-served basis? Is it an allocation based on population? How are these amounts going to be allocated in a fair and equitable way among these communities, and then also, the question that always comes to mind is that in the native community which organization prevails - is it the municipal government of that community, is it the elders, is it the village corporation, which entity do you really deal with in making these allocations? These are part of the vagueness I find with this plan that give me some considerable heartburn.

Alverson: I'm back to clarification of where we're at. In regards to the percentages, as I understood it, Larry, you made a motion to reconsider the motion that failed. That motion had the numbers of 5% in it and what he has on the table now is an amendment or something to that effect and the number 4 says no change, so I assume that what we voted on at the June meeting still stands in terms of the reduced percentages from 10%. Is that accurate or not accurate?

Collinsworth: Well, Mr. Cotter made some comments and I don't know if he understood the full ramifications as he started out his motion that says replace all previous amendments. We did have a motion that was amended before us at the time that we voted and it failed and it seems to be that when we bring that motion back before us for reconsideration that it would be motion that had failed with the amendments as it was as we voted on it and if that's the case, then Mr. Cotter's motion would be amending the main motion which had been amended.

Lauber: But would this affect the Southeast percentages, the 1% in Southeast and West Yakutat, that would be excluded now, or how would that work?

[several people commenting, trying to figure this out]

Collinsworth: I think the issue that is helping to confuse is that Mr. Cotter's motion says no change in #4 and if you mean by no change in 4, then you mean no change from the main motion that had been amended at the June meeting?

Cotter: I meant no change from the way the main motion had been amended at the June meeting.

Collinsworth: So, #4 would reflect the motion as amended, so that resulted in the change with regard to no more than a total of 8%, and it also resulted in the change in the percentages, is that correct?

Cotter: Yes, Mr. Chairman.

Lauber: That means then that there is no cap, the 8% is not in there because the motion to strike the first sentence of #4, i.e., no cap, carried, so there's no cap. [affirmative response from Collinsworth] [Pautzke interjected: reduced the 10% to 5%]

Pennoyer: Mr. Chairman, the aggregate caps by area amount to less than 8% total anyway.

Lauber: I'd like someone to refresh my memory of the process that we arrived at because that does not seem logical to me, that. . .it just does not seem logical to me that John Peterson would move to reduce the cap from 8 to 2% and then turn around vote in favor of taking it off. I won't mention the fact that I just made a motion to reduce it to 4% and then voted in favor of taking the cap off, but it's hard for me to believe that we actually did that.

Collinsworth: Mr. Lauber, I think the point was that the cap of 8% in the original motion and when you reduced the 10% to 5% in the Bering Sea/Aleutians and Western Gulf the percentages as they were associated with the TACs actually were less than 8%, so you didn't need to have the 8% cap because you were dealing with it by each area, so . . .

Lauber: Oh, on a management area basis, O.K., because we were voting on a management area basis that these would be below 5% so the cap was 5% in Bering Sea/Aleutians and Western Gulf.

Collinsworth: Can you point out the line, Port Graham, English Bay?

Tremaine: I believe it's this line [referring to a chart].

[miscellaneous comments]

Collinsworth: Further discussion on the motion, please.

Mitchell: Certain individuals here felt that this proposal benefits only those communities. These individuals having to try to get approved plans are going to have to jump through a lot of hoops and a lot of their developmental plans are only going to be successful with participation by people from outside the state of Alaska, long-term players in the fisheries, so the economic benefits of these programs will extend beyond these local communities. The intent of this is that local communities will get the prime benefits but everybody knows that in order for these programs to successfully work they're going to need the assistance of Seattle folk, people from Oregon, there'll be people from California, processing people, fishing vessel owners, so the nation as a whole will benefit from this type of program.

Collinsworth: Any further comments on the motion? We'll move to the vote. Roll call, please.

VOTE: <u>Yes</u>	<u>No</u>
Collinsworth	Mace
Cotter	Pennoyer
Dyson	Peterson
Hegge	Alverson
Lauber	Blum
Mitchell	

Collinsworth: The motion is passed; we now have the amended main motion before us. Any further amendments to the main motion on the . . .

[went on to motions and discussion on other parts of the IFQ plan.]