

IFQ INDUSTRY IMPLEMENTATION MEETING MINUTES APRIL 5-6, 1995

The IFQ Industry Implementation Team (Team) met April 5 - 6, 1995 to discuss the issues identified below. Present for the meeting were Kris Norosz (Chair), Don Iverson, Harold Thompson, Perfenia Pletnikoff, Jr., Linda Kozak, Drew Scalzi, John Woodruff, Jack Phillips, and John Bruce. Jack Knudsen and Jeff Stephan were absent.

Also present were Jane DiCosimo (Council staff), John Lepore, Jay Ginter, Phil Smith, Jesse Gharett, Shawn Carey, Frank Pfeiffer, Steve Meyer, Jeff Passer (all of NMFS), Heather Gilroy (IPHC), Earl Krygier and Bruce Simonson (ADF&G), Capt. Bill Anderson and Lt. Cmdr. Walt Hunnings (D17 USCG), Dick Tremaine and C.J. Zane.

- IFQ fishing in multiple areas The Team discussed enforcement and biological concerns of vessels fishing their IFQ in one area and moving to another area to fish that associated IFQ. They discussed that this problem is more prevalent in the Bering Sea, observers are not on all vessels, and vessels have incentives (e.g., time, money, fuel) to fish in one area and report the catch as coming from another; however, the disincentive was potential loss of their QS.

MOTION: Recommend to the Council a 2-year exemption from § 676.16(d) for all vessels, except for halibut in Area 4, requiring vessels to keep logbooks on a timely basis and notification of NMFS prior to a trip where multiple regulatory areas will be fished. (Passed 7:2)

MOTION: Recommend to the Council that an options paper be developed for potential IFQ changes, and to include the above recommendation as a preferred option for one of the management actions. (Passed unanimously)

- Offloading of freezer boats between areas The Team expressed concern over a requirement for freezer boats to offload when transiting between areas. Freezer vessels generally would not come ashore and offload until a full van or container was been caught. See above actions.
- Coordinate between registered buyer permit and Federal processor permit (IFQ Program and Research Plan). The Team discussed at length the required procedure for tracking IFQ product through to the final purchaser. Industry commented that the required paperwork for tracking each sale was burdensome.

MOTION: Recommend that the regulations be clarified so that the first recipient of IFQ landings be designated the registered buyer in transactions between two registered buyers. (Passed unanimously)

- QS caps The Team discussed the QS use cap, the vessel cap, and the restriction on holding more than two blocks which applies to "persons, individually and collectively." This provision's limitation on ownership, particularly when coupled with the block restriction, should be reviewed. An individual who was a member of multiple corporations and was at his/her block cap would limit all his/her corporations from increasing their QS. The Team agreed that the block cap was the most restrictive to fishermen. A change would require a regulatory amendment.

MOTION: Recommend to the Council a review of block caps, changing "individually or collectively" language to "person" as written in the FMP. (Failed 4:5)

- Vessel caps and use caps. The Team agreed that these caps may be set too low to allow efficient use of IFQ, especially for specific IFQ regulatory areas (e.g., halibut regulatory areas 4A through 4E). This situation is exacerbated further by the deduction of the CDQ allotment from the total amount, rather than the gross total, used to determine the cap. A significant economic disadvantage occurs to those at their vessel or use caps; many blocks are too small to be harvested. An interpretive rule may clarify the ambiguity regarding the CDQ deduction in calculating vessel/use caps.

- **MOTION:** Recommend to the Council including a review of ownership caps of ½, 1, and 2 percent (and their 1995 poundage equivalent) in a discussion paper, with the preference of the Team reestablishing historic catch levels as an upper limit. (Passed unanimously)

The Team also expressed concern that vessel limits are currently calculated with the CDQ allocation removed, resulting in a lower percentage to the QS holder. The Team felt that the regulation should be changed to deduct the CDQ allocation prior to calculating vessel limits.

MOTION: Recommend to the Council that § 676.22(h) be clarified so that vessel limitations be based on combined total catch limits, with CDQ apportionments removed from the calculation. (Passed unanimously)

- **Eliminate certified mail requirements.** The Team agreed with Restricted Access Management's request to eliminate the requirement that certain routine mailings (e.g., IFQ crewmember certificates, etc.) be sent certified to reduce costs.

MOTION: Recommend to the Council that certified mail requirements be eliminated. (Passed unanimously)

- **Prohibit sub-leasing of QS or IFQ.** The Team discussed the current regulations (§676.21(g)) which could be construed to allow a lessee to become a sub-lessor. The regulations could be clarified regarding the issue of leasing **QS** (as provided in the regulations) and receiving the resulting IFQ, as opposed to leasing **IFQ** (which is not provided for in the regulations).

MOTION: Recommend to the Council that: (a) only a QS holder can lease QS (i.e., no sub-leasing); and (b) clarify leasing of QS, not IFQ. (Passed unanimously)

- **Adjustment policy** The Team discussed using the "Canadian System" for overages, particularly a fixed pound exception. Changes to the regulations would allow underages of 10 % of a person's total IFQ and overages up to 10 % of a person's remaining IFQ account prior to their final landing.

Recommendation: The Team agreed with changing the overage application.

- **Fair start provision.** Capt. Anderson raised whether the fair start continues to be necessary under the IFQ program. The Team discussed the need for the 72 hour fair start provision with the extended IFQ season, but reiterated that they supported continuation of the provision since the original reasons for concern remained. They acknowledged that the penalty schedule, requiring a penalty of foregoing the remainder of the IFQ season, now ten months, needs revision.

MOTION: Recommend to the Council that the fair start provision be maintained, and direct staff to adopt language similar to IPHC language requiring offloading or hold inspection if a vessel chooses to fish in the 72 hours prior to the start of the IFQ season. (Passed unanimously)

- **Discretion to allow temporary transfers for emergency circumstances.** The Team discussed the need for temporary emergency transfers of QS due to death or serious injury to QS owner; currently there is no administrative discretion to grant a temporary transfer to alleviate an emergency circumstance. The Team expressed great concern that flagrant abuses of the CFEC system should be avoided under the IFQ program; however, they recognized that genuine emergencies do arise.

MOTION: Recommend to the Council that in concurrence with CFEC rules, a surviving spouse or immediate family member may get transfer rights of QS for up to three years with the broadest allowance (e.g., leasing, hiring skipper). (Passed unanimously)

The Team subsequently appointed a subcommittee of Drew Scalzi, Harold Thompson, and Perfenia Pletnikoff to produce a statement of intent in regards to emergency transfers.

MOTION: Recommend to the Council the following policy statement:

“If a person can demonstrate to the Regional Director that due to some unforeseen accident, injury, or illness, he has been rendered incapacitated in his ability to longline, he may be allowed a one-time medical transfer provided the RD feels there is insufficient time before the season’s closure for recovery to harvest all or part of his quota share. Consideration by the RD will take into account vessel size and fall weather limitations, accordingly.

Medical documentation shall be satisfactory to NMFS in making impairment determination. Chronic injuries such as “bad backs,” or aging ailments such as arthritic crippling, loss of vision or hearing, do not constitute grounds for medical transfer. Incarceration does not constitute grounds for medical transfer. The one-rime transfer provision may last for a period of no more than two fishing seasons. Decisions by the RD to allow transfers are final and not subject to further appeal.

Justification: The integrity of the IFQ system. If we can not produce a mechanism for medical transfer that has clear legitimacy, then the Council should consider either no transfer of QS or revisit leasing as a provision.” (Passed unanimously)

MOTION: Recommend that the emergency transfer involve IFQ and not QS. (Passed unanimously)

- Early season opening for sablefish. The Team spent considerable time discussing this item and listed a number of factors related to an early sablefish opening: extended IFQ harvesting season, hiring out to harvest additional CDQ along with their IFQ QS, general stock decline concerns, marketing advantage to first fish in, concerns of fishing in spawning stock early in the season, Council’s intent on mimicking historical fishing practices, anticipated low halibut bycatch, and interest in concurrent opening with halibut. The Team ultimately recommended no action on this item, deferring to their previous motion of not supporting this amendment. They recommended tabling this item, and reevaluating it at the end of the first season. They noted that Alternative 3 in the issues paper would allow for an extension of the fishing season so that if the Council chooses, the BSAI fleet would be allowed sufficient time to harvest their QS.

The Team expressed concern over the general decline of sablefish stocks in the Gulf of Alaska and Bering Sea/Aleutian Islands. Team members cited the current low catches in the eastern Bering Sea, which are well below historical levels of the 1960s. The low catch levels since 1977 have been attributed to low stock abundance and catch restrictions placed on foreign fishing. The Team requested that NMFS provide a briefing on the sablefish decline and potential effects of an early season opening at the next Team meeting.

- Crew members using QS on vessels The Team discussed situations where a crew member acquired QS, but was unable to use it on his regular fishing vessel because the vessel was at its cap. The Team acknowledged that he was free to use his QS on another vessel and that the system was working to prevent consolidation.

Recommendation: No change.

- Vessel ownership requirements for leasing The Team discussed the ability for an individual to take part ownership in a vessel (say, for as little as \$10) in order to hire a vessel and skipper to fish his QS. The Team discussed “controlling interest” (e.g., 51%) or other requirements to prevent “paper” ownership to circumvent Council intent. They recognized a potential problem where these transactions are currently legal, and would negatively impact numerous individuals who are currently in such arrangements.

MOTION: The Team is concerned that a loophole exists which allows leasing in perpetuity by initial recipients due to inexact language related to ownership of vessels on which QS is fished. (Passed 7:1:1)

- **Shipping reports** The Team discussed issues related to shipping reports, i.e., being legally responsible for IFQ fish that are no longer within the physical control of the initial recipient. Currently, the entity that completes and files the shipping report, i.e., the initial recipient of the IFQ product, is responsible for that IFQ product, no matter how many hands it passes through while in the State of Alaska. The Team discussed the need to monitor sales as a deterrent to cheating. They recommended that notification be given to Enforcement prior to shipping to monitor incoming and outgoing shipments; and original shipping report accompany shipments as a tie back to original shipper. The Team discussed the difficulty of these requirements on shippers who make changes to shipping manifestos due to unforeseen changes in plane or container capacities or buyer needs. The Team discussed the possibility of using a weekly summary of sales, in lieu of individual shipping reports for each sale, to notify Enforcement of IFQ shipments.

MOTION: Report to the Council that Enforcement and processors will meet to address shipping reports prior to the April Council meeting. (Passed unanimously)

- **Transshipments** The Team discussed delivery of processed product between vessels.

MOTION: Report that the Team had no changes to the 24 hour notice of transshipments to Enforcement, but recommended clarification of language and procedures (including FAX) whereby agents can notify Enforcement on behalf of the owner/operator and captain of the transshipping vessel. (Passed unanimously)

- **Sweep-up provisions** The Team discussed revising the sweep-up provisions since too many small pieces in all vessel categories have been found to be unfishable and unmarketable. Alternatives to be considered include analyzing a range of 1,000 - 10,000 lb for all categories or different levels for each category. A review of the database of unused QS at the end of the season should be undertaken to determine other appropriate levels for analysis.

MOTION: Recommend that the Council initiate a review to increase the sweep-up provision for halibut and sablefish in an options paper. (Passed unanimously)

- **Block Program** The Team discussed whether to recommend exempting Area 4 from the block provisions. A motion was made and withdrawn.

- **The Team received as information items, reports on:**

The need to clarify and distinguish between the “prelanding written clearance” and the “preclearance report” has been changed in the omnibus final rule. § 676.17(a) is expanded to 3 separate paragraphs for clearer information on meeting the requirements and the “preclearance report” is renamed the “departure report.”

An explanation has been added to the omnibus final rule (§ 676.17(a)) that clarifies that waters in or adjacent to the State of Alaska refers to the waters inside Alaska, the territorial sea of Alaska, and the EEZ that extends beyond the waters inside and the territorial sea of Alaska.

§ 676.16(o) will need to be deleted (or revised) for Amendments 33/37. This prohibition currently provides that a vessel cannot act as a catcher vessel and a freezer vessel during the same trip. Amendments 33/37 will allow limited processed product to be onboard while sablefish catcher vessel IFQ is being used.

More specificity was added to the omnibus final rule concerning transshipment reports § 676.14(e). The regulations provide that a person must receive authorization from a clearing officer for each instance of transshipment by at least 24 hours.