

MEMORANDUM

TO: Council, SSC and AP Members
FROM: Clarence G. Pautzke
Executive Director
DATE: January 5, 1994
SUBJECT: Sablefish/Halibut IFQ Program

ESTIMATED TIME

4 HOURS

ACTION REQUIRED

- (a) Review provisions of Final Rule.
- (b) Receive progress report on implementation.

BACKGROUND

(a) Final rule

In December the Council reviewed the Final Rule which was published on November 9, 1993. At that time the Council compared the provisions of the regulations to the intent of the program as passed by the Council in April of 1992. The Council made the following specific clarifications and revisions:

1. Broadened the ability of persons with non-written leases to demonstrate their qualification for initial QS allocation.
2. Reiterated their prohibition on using halibut catcher vessel QS on freezer vessels.
3. Clarified that the use of sablefish catcher vessel QS on freezer vessels is still subject to vessel size categories.
4. Changed the sablefish CDQ limit from 12% per community to 33% per applicant.
5. Based the CDQ compensation formula on the average of the 1988, 1989, and 1990 TACs, as opposed to the 1994 TAC.
6. Clarified that the use of catcher vessel QS/IFQ by solely owned corporations in Southeast Alaska (Area 2C for halibut) is subject to the same provisions as for individuals.
7. Prohibited the use of catcher vessel sablefish IFQ on any vessel with frozen or otherwise processed IFQ product on board (this allows for retention and freezing of Pacific cod and rockfish bycatch).

Related to Item 7 above, the Council requested NMFS to report in January on the changes necessary to the regulations to implement this intent, such as how a freezer vessel would be defined or how a trip would be defined.

The other major issue discussed by the Council was that of vessel clearance requirements for landings outside of Alaska. The Council tabled discussion of this issue until this meeting, with a request to NOAA GC for clarifications and possible solutions.

The Council-appointed IFQ Industry Implementation Group met on Tuesday, January 4, 1994 at NMFS headquarters in Juneau to discuss these and other issues related to the IFQ regulations. Their report to the Council is included as Item C-3(a).

(b) Implementation Progress

NMFS has initiated the application process for QS allocation by mailing out nearly 8,000 pre-application packages. The official application period will be from January 17, 1994 through July 15, 1994. Application packages are available through NMFS or at a variety of additional locations throughout Alaska and the Pacific Northwest. Item C-3(b) in your notebook is the NMFS News Release which announces this application process and provides additional details. Staff from the NMFS Restricted Access Management (RAM) division are available to provide additional information to the Council on the program's implementation.

Report to the Council
from
IFQ Industry Implementation Workgroup

January 4, 1994

The Workgroup met on December 6 prior to the December meeting in Seattle to provide the Council with an initial report on the provisions of the Final Rule for the sablefish/halibut IFQ program. The Group met once again on January 4, 1994 in Juneau to further discuss some of these same issues, and other additional issues relating to the regulations implementing the IFQ program. The following persons were in attendance:

Linda Kozak, KLVOA	Elaine Dinneford, CFEC
John Bruce, DSFU	Bill Anderson, USCG
Steve Meyer, NMFS Enforcement	John Lepore, NMFS
Jay Ginter, NMFS	Jack Phillips, ALFA
Don Iverson, Jubilee Fisheries	Chris Oliver, NPFMC
John Woodruff, Icicle Seafoods	Kris Norozs, PVOA
Jack Knudsen, FVOA	Phil Smith, NMFS - RAM Division
Shawn Carey, NMFS - Ram Division	Bob Speed, NMFS - RAM Division
Perfenia Pletnikoff, CBSFA	Mark Snigaroff, Pacific Associates

The Workgroup started the meeting by receiving a report from staff on Council actions from the December 1993 meeting. The discussions and recommendations of the Workgroup are summarized below, by major issue:

Recognition of Vessel Leases

NMFS staff explained that conclusive evidence of a lease would still be either a written contract or after the fact agreement, and that otherwise the burden of proof would be on the applicant to establish a lease. This verification may be accomplished via documentation which includes, but is not limited to license receipts, tax returns, and 1099 forms. This is summarized in Attachment 1. The group discussed the possibility that the application and appeals process will be complicated if all permit holders apply for QS even if they were not the vessel owner or a legitimate lease holder. A motion passed with no objections that the Group recommend to the Council that no further changes be made to the lease provisions, noting that the application packages, which reflect Council action from December of 1993, have already been distributed by NMFS.

Use of Halibut Catcher QS on Freezer Vessels

The Group discussed the Council's action which reaffirmed their earlier intent that halibut catcher vessel QS not be allowed to be used on freezer vessels. The Group felt that this decision, in addition to creating discards, could create considerable problems for some vessels. For example, some vessels will be allocated their QS as freezer category, because they operated as such in their most recent year of eligibility (perhaps using plate freezers for cod), but do not typically operate as such while halibut fishing. Therefore, they would be precluded from acquiring additional halibut catcher vessel QS in the future (very little halibut freezer QS will be in existence), thereby hamstringing their operations. A motion was passed with no objection that the Group recommend that the Council reconsider this issue.

Related to this is the issue of P. cod and rockfish retention and the definition of freezer vessel and fishing trip. A motion passed with no objection that the definition of fishing trip be altered to be the period of time when a vessel commences fishing until it makes an IFQ landing and, further, that the definition for freezer vessel be made consistent with the Council's intent that P. cod and rockfish must be retained and could be frozen, as long as nor IFQ product is processed (frozen) on a given trip.

CDQ Compensation

The Group heard that the Council will be using the average of the 1988, 1989, and 1990 TACs (as opposed to the 1994 TAC) for purposes of calculating the CDQ compensation. The only clarification requested by the Group is whether this is intended for the Eastern Bering Sea area only, or for the Aleutian Islands area as well. The assumption is that it would be for both.

Other CDQ Considerations

There was a discussion of the general structure and nature of the CDQ program, noting that the sablefish/halibut fisheries are very different than the pollock fisheries, though the programs are set up virtually identically. The consensus of the Group was that the CDQ program should reflect the intent of the Council that individual fishermen get directly involved as fishermen, rather than leasing their fish.

Definition of Fixed Gear

The Group heard a report from staff that the current groundfish regulations allowed for an allocation of sablefish between setline gear and trawl gear. This is somewhat inconsistent with the Council's intent that, under the IFQ program, other fixed gears could be utilized (jigging, troll gear, handline, etc.). The Group unanimously recommends that the technical amendment necessary be implemented; i.e., that the allocation be changed so that it is between fixed gear and trawl gear.

Corporation related issues

There was discussion of many facets of the use and transfer provisions as they relate to corporations. The only recommendation of the Group was that the solely owned corporation be subject to same restrictions as an individual, consistent with Council clarification in December 1993.

QS/IFQ Caps

There still appears to be confusion over the cap issue and whether persons would be issued IFQs for all of their QS holdings. The Group requests the Council to clarify whether they intended to have a cap on both the QS and the IFQ (eliminating the IFQ cap, while retaining the QS cap, seems to remedy most of the potential problem).

Vessel Clearance Issue

The Group heard from NOAA GC that no formal decision has been reached yet on the possible solutions to this issue (though it is expected that such a decision will be reached in time for this Council meeting). The Group recommends to the Council that, if NOAA GC approves, that clearance requirements be made by management area, with those areas to be determined with industry consultation. This passed 5-3. The Group did not necessarily support such requirements,

but would like the Council to consider this approach if they appear headed in that direction.

Related to this issue was a discussion of the hailing requirements, and that such requirements may carry no teeth if there are no specific requirements for the accuracy of these hail weights. The Group unanimously recommends that such a provision be included (i.e., that the landed weight be within some percentage of the hail weight) and that industry would recommend a specific percentage at a later date.

QS Qualification

The Group understands that a person qualifies for QS if they fished in any area in either 1988, 1989, or 1990, and that this would qualify them for any area in which they fished back to 1984 (1985 for sablefish). It was clarified that this is how NMFS would implement the program.

Block Plan

There was considerable discussion of the Block plan and the implications of such plan on transferability and ownership caps. For example, in Area 4A the maximum QS cap equals only 19,000 lbs. Additionally, all CDQ compensations in the GOA will be in Blocks. The Group wishes to convey concern that the Block system may be so restrictive, in certain areas, that the fishery participants will have difficulty operating under the system.

Implications of Death and Divorce

The Group discussed the implications of QS transfer in the case of death or divorce. For example, would QS from such be considered 'first' or 'second' generation, as there are restrictions placed on second generation QS? Would there be an allowance for such QS to be leased? The Group noted that many of these questions would be decided by operations of law, estate law, etc. and are beyond the authority of the Council or NMFS. No recommendation was made on this issue.

NEWS RELEASE (93-126)
Steven Pennoyer
907-586-7221

December 30, 1993
8:30 a.m.
For Immediate Release

ALASKA REGION, NATIONAL MARINE FISHERIES SERVICE
BEGINS PRE-APPLICATION PROCEDURE AND ANNOUNCES APPLICATION PERIOD
FOR FISHING QUOTAS IN THE HALIBUT AND SABLEFISH FISHERIES

The National Marine Fisheries Service announced today that the official application period for Quota Shares in the Pacific halibut and sablefish fisheries off Alaska will begin on January 17, 1994, and extend through July 15, 1994. All individuals and other persons who wish to have future Individual Fishing Quota assigned to them must apply for Quota Shares by the July 15 deadline.

To initiate the application process, NMFS has mailed pre-application materials to almost 8,000 persons who are potentially eligible to apply for Quota Shares. Other persons who wish to apply are hereby notified that they must submit to NMFS, Restricted Access Management, a Request for Application. Additional sets of materials are available throughout the State, in the offices of the Alaska Department of Fish and Game, Native Corporations, Fishing Organizations, and other locations.

Applicants for Quota Share must complete the forms provided and return them to the NMFS Restricted Access Management Division in Juneau. Upon receipt, the Division will prepare an individualized application, based upon the fisherman's pre-1991 best record in the fisheries. This application will be supplied to the applicant, who must complete it and return it to NMFS before the July 15, 1994, deadline.

All individuals or businesses on record as having legally harvested and sold halibut or sablefish have been assigned unique identification numbers which will follow each of them through the entire Quota Share application process. The request-for-application package is being sent to the address of record for each vessel owner and permit holder who sold recorded catch in the halibut and sablefish fisheries during the qualifying years.

Potential Quota Share applicants may be individuals, businesses, estates of deceased fishermen, or individuals who were investors in companies that existed during the qualifying years but which have since ceased to exist.

This press release provides notice that a regulatory change has occurred. Do not rely upon it to guide you in complying with the new regulatory change. To obtain information concerning the new regulatory requirements, consult the applicable regulation published in the Federal Register. Further assistance may be obtained by contacting the NMFS/Restricted Access Management Division at P.O. Box 21668, Juneau, Alaska, 99802; telephone (907) 463-4242 or (after February 1, 1994) 1-800-304-4846.

Following is a list of the locations where pre-application materials may be obtained.

National Marine Fisheries Service

Restricted Access Management Division, Juneau 586-7344

Fisheries Management Division

Juneau	586-7228
Kodiak	486-6919
Dutch Harbor	581-2062

Enforcement Division

Juneau	586-7225
Kodiak	486-3298
Homer	235-2337
Sitka	747-6940
Anchorage	271-5006

Alaska Department of Fish and Game	465-4100
Kodiak	486-1825
Anchorage	267-2104
Fairbanks	456-4286

Commercial Fisheries Entry Commission, Juneau	789-6160
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International Pacific Halibut Commission, Seattle	206/634-1838
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Central offices of the following Regional Native Corporations

Ahtna, Incorporated 406 West Fireweed Lane, No. 101 Anchorage, AK 99503	274-7662
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The Aleut Corporation 4000 Old Seward Hwy., Suite 300 Anchorage, AK 99503	561-4300
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Arctic Slope Regional Corporation P.O. Box 129 Barrow, Ak 99723-0129	852-8533
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Bristol Bay Native Corporation P.O. Box 100220 (800 Cordova Street) Anchorage, AK 99510	278-3602
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Calista Corporation 601 W. 5th Ave., Suite 200 Anchorage, AK 99501-2225	279-5060
Chugach Alaska Corporation 3000 A Street, Suite 400 Anchorage, AK 99503	563-8866
Cook Inlet Region, Incorporated P.O. Box 93330 Anchorage, AK 99509	274-8638
Doyon, Limited 201 First Ave. Fairbanks, AK 99701	452-4755
Koniag, Incorporated 4300 B Street, Suite 407 Anchorage, AK 99503	561-2668
Metlakatla Indian Community P.O. Box 8 (8th & Milton) Metlakatla, AK 99926	886-4441
NANA Regional Corporation, Inc. P.O. Box 49 Kotzebue, AK 99752	442-3301
Sealaska Corporation The Sealaska Plaza Juneau, AK 99801-1276	586-1512
Central offices of the following Native Non-Profit Associations	
Alaska Federation of Natives 1577 C Street, Suite 100 Anchorage, AK 99501	274-3611
Aleutian/Pribilof Islands Association, Inc. 401 E. Fireweed Lane, Suite 201 Anchorage, AK 99503-2111	276-2700
Association of Village Council Presidents Pouch 29 Bethel, AK 99559	543-3521
Bristol Bay Native Association P.O. Box 310 Dillingham, AK 99576	842-5257

Copper River Native Association Drawer H Copper Center, AK 99573	822-5241
Cook Inlet Tribal Council, Inc. 670 West Fireweed Lane, Suite 200 Anchorage, AK 99503	272-7529
Inupiat Community of the Arctic Slope P.O. Box 934 Barrow, AK 99723	852-4411
Kawerak, Incorporated P.O. Box 948 Nome, AK 99762	443-5231
Kodiak Area Native Association 402 Center Avenue Kodiak, AK 99615	486-5725
Maniilaq Association P.O. Box 256 Kotzebue, AK 99752	442-3311
The North Pacific Rim 3300 C Street Anchorage, AK 99503	562-4155
Tanana Chiefs Conference, Inc. 122 First Avenue Fairbanks, AK 99701	452-8251
Tlingit and Haida Central Council 320 West Willoughby, Suite 300 Juneau, AK 99801	586-1432
Offices of the following commercial fishing organizations	
Alaska Draggers Association Box 991 Kodiak, AK 99615	486-3910
Alaska Independent Fishermen's Marketing Association 700 14th Street Bellingham, WA 98225	206-734-1876
Alaska Longline Fishermen's Association P.O. Box 1229 Sitka, AK 99835	747-3400
American High Seas Fisheries Association 3040 W. Commodore Way Seattle, WA 98199	206-282-2731
Bering Sea Fishermen's Association 725 Christensen Drive Anchorage, AK 99501	279-6519
Cordova Aquatic Market Association P.O. Box 359 Cordova, AK 99574	424-3447
Cordova District Fisheries United P.O. Box 939	

Cordova, AK 99574	424-3682
Deep Sea Fishermen's Union - Pacific 5215 Ballard Avenue, N.W. Seattle, WA 98107	206-783-2922
Fishing Vessel Owner's Association Bldg. C-3, R232 Fishermen's Terminal Seattle, WA 98119	206-284-4720
Halibut Association of N. America 2319 N. 45th Street, Suite 187 Seattle, WA 98103	206-784-8317
Kodiak Longliners Association P.O. Box 135 Kodiak, AK 99615-1366	486-3781
North Pacific Fisheries Association P.O. Box 796 Homer, AK 99603	235-6557
North Pacific Longliners Association 4209 21st Ave., W., Suite 300 Seattle, WA 98199	206-282-4639
NSRAA 1308 Sawmill Creek Road Sitka, AK 99835	747-6850
Pacific Seafood Processors Association 422 22nd Ave., West Seattle, WA 98199	206-281-1667
Peninsula Marketing Association P.O. Box 248 Sand Point, AK 99661	383-3600
Petersburg Vessel Owners Association P.O. Box 232 Petersburg, AK 99833	772-9323
United Fishermen of Alaska 211 4th Street, Suite 112 Juneau, AK 99801	586-2820
United Fishermen's Marketing Association Box 2917 Kodiak, AK 99615	486-3453

AGENDA C-3
 JANUARY 1994
 Supplemental

To members of N.P.F.M.C.,

9 January, 1994

Rick Lauber Chairman

JAN 10 1994

Dear Sirs,

I am writing to you to share my opinion concerning an oversight with the I.F.Q. process.

I have been an active participant in the halibut fisheries since the late 1970's and blackcod since 1985 so I'm sure I'll be allotted shares in both fisheries. My problem is that in 1992 my wife and I upgraded our boat and jumped vessel class size groups, from a 34 to 44 ft. boat from an under 35 ft to a 35-60 ft. class. Now as it is written, we will have to sell our under 35' shares and buy 35'-60' shares to fish our boat. I'm familiar with the reasoning behind this - as to keep the fleet in it's respective size classes, but it is the Individual Fisherman's Quota and it shouldn't matter what size boat he or she uses to take thier quota. However, if someone wants to acquire more shares, they should be required to have only shares within the vessel class in which they are enrolled. I feel that I should be allowed to catch the quota I am allotted and that if I want more shares then I should have to transfer all of them to a specific vessel size group.

I do hope this oversight can be amended. The way things now stand will place a great hardship on myself and others in the same situation. We should not be penalized for working hard enough to upgrade our boat. As it stands, we will be allotted shares that we can't fish. We either have to sell them (if and when we can) and then try to find some in our vessel size that are for sale or we are forced to purchase another boat. HELP! Thank You.

Sincerely,



Tom Traibush

9/JAN/94

Box 88
 GUSTAVUS AK.
 99826