

# North Pacific Fishery Management Council

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December 17, 1982

## DRAFT AGENDA

### 52nd Plenary Session NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

January 3-7, 1983  
Juneau, Alaska

The North Pacific Council will meet with the Alaska Board of Fisheries beginning at 9 a.m. on Tuesday, January 4, 1983, in the Gold Room of the Baranof Hotel in Juneau, Alaska to hear technical reports on the status of the salmon resource. On Wednesday and Thursday, January 5 and 6, the Council and Board will reconvene to hear public testimony on proposed 1983 amendments to the Troll Salmon Fishery Management Plan, discuss regulations for 1983, and select preferred options for public review. The joint session is expected to adjourn about 5 p.m. on January 6. The Council will meet alone from 9 a.m. until 12 o'clock noon on Friday, January 7, in the Gastineau Room of the Baranof Hotel to review and possibly approve for Secretarial review Amendment #9 to the Tanner Crab FMP and conclude other Council business.

The Scientific and Statistical Committee will convene on Monday, January 3, 1983, at 1:30 p.m. in the Capitol Room of the Baranof Hotel and continue on Tuesday, January 4.

The Advisory Panel meeting will convene at 1 p.m. on Monday, January 3, in the Gastineau Room of the Baranof Hotel and continue on Tuesday, January 4.

Public Hearings Scheduled Following January Meeting. Pending Federal Register publication of the Notice of Proposed Rulemaking for a moratorium on participation in the Alaska halibut fishery, the North Pacific Council and NMFS will hold public hearings on the Proposed Rule in conjunction with the January Council meeting in an effort to minimize travel expense. The first will be in Juneau on Friday, January 7, 1983, from 1 p.m. to 7 p.m. in the Gastineau Room of the Baranof Hotel. The second hearing is scheduled for Petersburg, Alaska on Saturday, January 8, 1983, from 1 p.m. to 7 p.m. in the City Council Chambers, Municipal Building and the third in Ketchikan on Sunday, January 9, from 3:30 p.m. to 7 p.m. in Conference Room 207 of the State Office Building, 415 Main Street, Ketchikan.

All meetings and hearings are open to the public.

A G E N D A

A. CALL TO ORDER AND APPROVAL OF AGENDA AND MINUTES OF PREVIOUS MEETING

B. SPECIAL REPORTS

B-1 Executive Director's Report

B-2 AP and SSC Reports on Non-Agenda Items

C. NEW OR CONTINUING BUSINESS

C-1 Confirmation of SSC and AP Officers

C-2 Update on Moratorium and Public Hearings Schedule

C-3 Other Business

D. FISHERY MANAGEMENT PLANS

D-1 Salmon FMP

*U.S. Canada in line*  
Council and Board discussion of regulations for 1983. Staff reports on escapements, 1982 fisheries, status of FMP, and proposals for 1983. Selection of preferred options to go to public review. Reports on U.S.-Canada negotiations and Columbia River enforcement. Public testimony.

D-2 Tanner Crab FMP

Final Council approval of Amendment 9 to increase the Regional Director's flexibility in setting seasons. Council direction on frameworking the FMP. Public testimony.

E. CONTRACTS, PROPOSALS, AND FINANCIAL REPORTS *none ~> De.*

F. PUBLIC COMMENTS

G. CHAIRMAN'S CLOSING COMMENTS AND ADJOURNMENT

EXECUTIVE DIRECTOR'S REPORT

There have been only 14 working days since the last Council meeting ended -- but between the "lame duck" session of Congress, the organization of a new state administration and normal progress there have been several things of note occur that affect the Council.

Peggy McCalment has accepted the position of Executive Secretary for Governor Sheffield, effective January 30. While a great loss to me it is a solid tribute to her ability and professionalism. We'll miss Peggy's unfailing cheerfulness and efficiency, but I expect we can still see something of her.

The amendment to the MFCMA passed Congress the week before Christmas. I haven't received the language that was finally passed but understand it follows the original bill fairly closely, including definite time limits on review and implementation of FMPs and amendments and a 50% hold back on initial foreign allocations.

We have set public hearings for the halibut moratorium, starting here in Juneau this Friday, January 7. Full schedules and background material are under this tab. I would like to have some indication at this meeting which hearings Council members can attend.

Rollie Schmitten has accepted the job of Deputy Chief of Staff for Governor Spellman -- Bill Wilkerson as Acting Director of the Department of Fisheries will be the Council member from Washington. Gene DiDonato will continue as the designated alternate for the Director.

I think we may need an additional meeting this spring, perhaps in late February, to determine the Council position on a moratorium, and perhaps to make the initial review of the Contractor's limited entry report. Timing will depend on the official review period for the proposed rulemaking as well as the delivery date of Stokes' final report on the limited entry contract.

Both public hearings and Council meetings will be impossible without assurance of additional funding. I have talked to Gordon about that and it appears we can expect enough to expand our schedule, though possibly at the expense of some programmatic funding.

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December 28, 1982

## PUBLIC HEARINGS ON A MORATORIUM ON NEW ENTRIES INTO THE ALASKA HALIBUT FISHERY FOR 1983

The North Pacific Fishery Management Council announces a schedule for public hearings on a moratorium on new entries into the halibut fishery off Alaska for 1983. They will be holding hearings in cooperation with the U.S. Secretary of Commerce in Alaska and Seattle in January. Comments are requested only on the moratorium. Limited entry in the halibut fishery and the possible methods by which limited entry might be accomplished will be the subject of extensive Council hearings and discussion beginning in March 1983. The schedule of hearings on the moratorium is as follows:

### On-site Public Hearings

Times published for on-site hearings are Pacific Standard Time. These times may be extended if necessary.

January 7, 1983	Baranof Hotel Juneau, Alaska	1 - 5 p.m.
January 8, 1983	City Council Chambers Petersburg, Alaska	1 - 5 p.m.
January 9, 1983	State Office Building Conference Room 207 Ketchikan, Alaska	3:30 - 7 p.m.
January 17, 1983	Homer, Alaska	<i>1pm eels?</i> (Times and locations to be announced)
January 18, 1983	Kodiak, Alaska	
January 20, 1983	Seattle, Washington	

### Teleconference Hearings

Times published for teleconference hearings are Alaska Standard Time. Times may be extended if necessary. See Attachment 4 for further information.

January 24, 1983	Connecting Seward, Cordova Valdez, Soldotna, Yakutat, and Seattle (Anchorage, moderator only)	8 - 10 a.m.
January 26, 1983	Connecting Sand Point Unalaska, St. Paul, and Seattle (Anchorage, moderator only)	8 - 10 a.m.

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Teleconference Hearings, continued

January 28, 1983

Connecting Sitka, Hoonah,  
and Haines (Anchorage,  
moderator only)

8:30 - 10:30 a.m.

The moratorium, expected to be published in the Federal Register as a Notice of Proposed Rulemaking by the U.S. Department of Commerce on approximately January 20, would restrict participation in the halibut fishery off Alaska from May 1, 1983 through December 31, 1985. Only those persons who lawfully harvested and sold halibut from those waters between January 1, 1978 and December 31, 1982 would be allowed to fish during 1983, 1984, and 1985. It would apply to the waters off Alaska in International Pacific Halibut Commission management areas 2C and 3 and south of 56°N latitude in IPHC management area 4. The Northern Pacific Halibut Act of 1982 (Act) requires the Council to provide an opportunity for the coastal villages north of 56°N to develop a halibut fishery over the next three years. Fishermen in that area would not be included in a moratorium.

The Halibut Fishery

Pacific halibut have been managed as an international resource by Canada and the United States through the International Pacific Halibut Commission (IPHC) since 1923. The Commission, with three U.S. and three Canadian members, has a permanent staff of U.S. and Canadian scientists headquartered in Seattle. The Commission conducts research and sets seasons, quotas, fishing methods, and fishing areas, but has no authority to decide who may participate in the fishery; that is left to the member countries. The Northern Pacific Halibut Act of 1982 authorized the North Pacific Fishery Management Council to develop regulations limiting participation in the fishery. Any regulations developed must be approved by the Secretary before they can be implemented.

When the Magnuson Fishery Conservation and Management Act (MFCMA) was passed in 1976, both Canadian and U.S. fishermen fished off Alaska, with Canadian fishermen taking over half the catch. Their fishery off Alaska was phased out, ending in 1980, and they may now fish only off Canada. Canadians may still land their catches in American ports.

The American catch off Alaska has increased from 13 million pounds in 1978 to 22 million pounds in 1982 through the elimination of the Canadians and an increase in the quota set by IPHC. The number of participants during that same period has increased from 2,100 to over 2,800. But while the catch has increased, the seasons have sharply decreased. It took 73 days in 1977 to catch 3.4 million pounds in Southeast Alaska, but only 5-1/2 days to catch the same amount in 1982. In Area 3, the Gulf of Alaska west of Cape Spencer and including the grounds around Kodiak and Cook Inlet, 12.3 million pounds were taken in 47 days in 1977 while 17.6 million pounds were taken in 11-1/2 days in 1982.

The IPHC is concerned with the ever decreasing seasons because it is very difficult to keep catches within quotas with such a rapid increase in fishing effort. They believe that it is poor biological management to take the entire catch from the particular stock component that might be available during a very short season. They would prefer longer seasons which allow the quota to be taken from as many stock components as possible.

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Another problem with short seasons is that since the catch arrives at the processor during a very short period of time, most of it is frozen and stored for later distribution. Fresh halibut are available to the consumer for only a short time during the year. The long storage times plus high interest rates increase the processors' costs and prices to the consumer and lower prices to the fishermen.

Short seasons are also dangerous. Fishermen must work "around the clock" in order to catch enough fish to make a living. This can result in more injuries and boat losses as fishermen become physically exhausted. Many will continue to work in weather conditions they wouldn't normally fish.

### The Moratorium

Recognizing that the rapidly expanding fleet would soon create drastic problems in harvest management and the availability of fresh halibut during the year, the North Pacific Council began studying the problems in the halibut fishery in 1978. In November 1978 they set December 31, 1978 as a cut-off date for eligibility in the eventuality that some form of limited entry was developed in the next two or three years. That date did not hold up for legal reasons, but the Council has since stated on several occasions their intent to establish a cut-off date for accruing rights under any future limited entry system.

In early 1979 the Council appointed a Limited Entry Workgroup composed of halibut fishermen, industry representatives, and agency staff to assess methods of limiting the offshore salmon troll fishery in Southeastern Alaska and to develop possible approaches to limiting effort in the halibut fishery. By June of 1979 some segments of the halibut fleet were urging the Council to develop a limited entry system, and later that year the Council advertised for proposals to study limited entry in the halibut fishery. They also asked that the enabling legislation for the newly renegotiated Pacific Halibut Convention contain authorization for a limited entry system for the halibut fishery. In 1980 the Limited Entry Workgroup again recommended a moratorium on entry into the fishery, but the Council was unable to act until the aforementioned enabling legislation became law, which did not occur until the Northern Pacific Halibut Act was signed by the President on May 17, 1982.

At the IPHC meeting in February 1982 many members of the Fishermen's Conference Board, a group of halibut fishermen from the U.S. and Canada, asked the Council to develop a limited entry system based on the "fishermen's share" system and urged a halt to further entry into the fishery. The Council asked the Department of Commerce to implement a moratorium as quickly as possible, recognizing that it would probably not be possible for the 1982 season, but urging action well in advance of the 1983 fishing season. They believed it would deter people from entering the fishery in hopes of obtaining rights under any limited entry system that might develop and would tend to stabilize effort at the current level. A moratorium will give fishermen, the Council, and the public time to consider management alternatives to stabilize the fishery so participants can expect reasonable returns on their investment and efforts and consumers can buy fresh halibut for more than a few days a year.

Regulations to implement a moratorium were developed by the Council and the National Marine Fisheries Service to be published as a Notice of Proposed Rulemaking in the Federal Register. Those regulations are included in this

package as Attachment 1. There will be a 45-day comment period after they are published. They can then be rewritten and published as a Notice of Final Rulemaking, becoming effective 30 days after that publication. The proposed regulations would permit anyone who has participated in the halibut fishery between January 1, 1978 and December 31, 1982 to continue participating in the fishery in the same manner from May 1, 1983 through 1985. The moratorium would end on December 31, 1985. It could end earlier if supplanted by limited entry.

Theoretically, using the base period 1978 - 1982, a maximum of 6,481 individuals would be qualified to participate in the fishery in 1983. Without a moratorium, of course, there would be no limit to the number of people who could fish in 1983. As currently written the moratorium will not necessarily reduce effort, although it should limit the increase below what it would be if the fishery were to remain open to everyone. One of the chief values of a moratorium, in any case, is to establish a cut-off date beyond which participants cannot accrue credit toward participation in a limited entry system.

Some who support the moratorium would like to see a further restriction on effort beyond limiting the number of people, and have proposed restricting the size of boat that could be used in 1983-85 to the same size used in the 1978-82 period. (See Attachment 2, Comments Requested on the Moratorium, Proposal B.) Others are willing to consider other methods that would limit the increase of effort.

The proposed rulemaking can be greatly modified through the public hearing and comment process. The Council would like to hear comments on all of the proposals listed in Attachment 2 and any others which may occur to you.

#### Limited Entry in the Halibut Fishery

Early in 1982 the North Pacific Fishery Management Council developed a research proposal for a study of limited entry systems for the hook and line halibut fishery off Alaska. They set four primary objectives for a limited entry system:

1. That it distribute the hook and line halibut fishery in time and space to ensure resource conservation;
2. That it provide high quality, fresh and frozen fish to the consumer twelve months of the year;
3. That it encourage development of an economically viable and efficient year-round U.S. hook and line fishery that would make it possible for some fishermen to earn a major share of their income from hook and line halibut fishing and is made up of owner/operator rights holders;
4. That it ensure that no single individual or entity acquires excessive control of the resource and minimize disruption of the present fleet by using past performance to distribute initial rights in the fishery, using the market to transfer fishing rights after initial distribution.

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A contract between the Council and Northwest Resources Analysis (Bob Stokes) was signed on June 17, 1982 calling for an analysis of known limited entry systems and their ability to achieve the described objectives. The Council asked for a detailed study of the fishermen's share system. The study emphasizes that system because it was requested in the initial Fishermen's Conference Board request to the Council and because less is known about that system than other limited entry systems. Limitations on individuals or boats have been in existence for some time and their advantages and disadvantages are relatively well known. The share system has not been used for a fishery of any magnitude, although British Columbia intends to implement it for halibut in 1983.

The contractor, Northwest Resources Analysis, has been working closely with an industry steering group, soliciting their advice on the direction his study should take and what options to consider. The steering group consists of representatives of the major fishermen's organizations involved in the halibut fishery as well as representatives from the Council.

More details on that study and its current status are included in Attachment 3, an excerpt from the NPFMC Newsletter of August 1982.

The contractor finished an interim report on program design titled "Halibut Limited Entry Study Program Design" in November 1982. Copies of that study are available at the Council office. We expect the contractor's final report to be available for review at the Council meeting in February or March. When that report has been accepted by the Council it will be available for public distribution. The Council will then decide if they want to go ahead with limited entry and, if so, specify what system or systems they want to send to the public for review and comment. Prior to that decision the contractor will hold informational presentations on his study in Sitka, Seattle, and Kodiak.

If the Council decides to develop a limited entry system, there will be an extended public comment period with hearings in numerous communities in Alaska and in Seattle. Following those hearings the Council will decide what system to develop, complete development of the system, and ask the Department of Commerce through the National Marine Fisheries Service to implement it. It is doubtful that any system could be in place before late 1984.



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Attachment 1

Billing Code 3510-22

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

December 29, 1982

[Docket No.            ]

This Draft supersedes  
all others in circula-  
tion before this date.

50 CFR Part 301

Pacific Halibut Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA proposes a rule imposing a moratorium on the entry of certain fishermen into the halibut fishery in waters under U.S. jurisdiction in the northern Pacific Ocean (International Pacific Halibut Commission management areas 2C and 3), and that part of the Bering Sea and Aleutians (management area 4) south of 56° N. latitude. The proposed rule would forbid any person to harvest and sell halibut for commercial purposes from those waters from May 1, 1983, through December 31, 1985, who had not lawfully harvested and sold halibut from those waters between January 1, 1978, and December 31, 1982. This action is necessary to prevent a rush of new participants from entering the fishery in hopes of obtaining rights under a limited entry system which is being considered by the North Pacific Fishery Management Council.

DATES: Comments on the proposed rule must be received on or before [insert date 30 days after publication in FEDERAL REGISTER].

ADDRESS: Comments on the proposed rule should be sent to Jim Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510 (Please see request for comments in SUPPLEMENTARY INFORMATION, below). Copies of the initial regulatory flexibility analysis of this action are available at the same address.

FOR FURTHER INFORMATION CONTACT: Jim Branson, 907-274-4563.

SUPPLEMENTARY INFORMATION:

Background

In recent years, the fishery for Pacific halibut (Hippoglossus stenolepis) off the coasts of Alaska and the Pacific Northwest has witnessed a large increase in the number of participating fishermen despite the fact that halibut stocks during this time have been at depressed levels of abundance. This has required that halibut fishing seasons in these areas be restricted to periods of as little as five days per year. The resulting combination of many participants, a depressed resource, and short seasons has had a number of undesirable effects:

(1) The concentration of halibut fishing effort in very short periods of time each year may result in overharvesting of stocks that happen to be on the fishing grounds during those periods, while leaving underutilized other stocks that are on the grounds at other times of the year.

(2) For the great majority of participants, the halibut fishery no longer generates sufficient income to earn a significant part of their livings. (For some participants, this has had the effect of encouraging their diversification into other fisheries.)

(3) Fresh halibut, which is superior to the frozen product, is available to consumers only during the few weeks of commercial halibut seasons.

In order to address these problems, the North Pacific Fishery Management Council (Council) is investigating the establishment of a limited entry system for the northern Pacific halibut fishery. Major goals of this system would be the extension of the halibut fishery over a longer period of the year, and the encouragement of voluntary arrangements among current participants that would enable some of them to earn a major portion of their income from halibut fishing, perhaps through the trading of authorized harvest shares. The establishment of such a system is authorized by § 5(c) of the Northern Pacific Halibut Act of 1982 (the Act), Pub. L. 97-176, 16 U.S.C.773 et seq.

It is feared that the prospect of a limited entry system will cause substantial numbers of people with no previous participation or stake in the fishery to consider entering the fishery for the first time, solely in the hope of gaining a financially valuable right in the fishery under any limited entry system which might be adopted. A sudden influx of new participants during the period prior to implementation of a permanent limited entry system would have several undesirable effects:

(1) It would allow an unlimited increase in pressure on the halibut

resource;

(2) It would allow unlimited reductions in the average harvests of individual participants and hence reductions in per-vessel earnings;

(3) It would increase the number of individuals whose participation in and dependence on the fishery would have to be taken into account in the establishment of a limited entry program, and whose participation in the fishery might have to be terminated;

(4) It would result in additional and excessive investment in vessels and gear, much of which might have to be involuntarily retired in the establishment of an effective limited entry program.

In order to mitigate these undesirable results (particularly the third and fourth), the Council, under the authority of § 5(c) of the Act, has developed a proposed rule which would impose a moratorium on entry into the northern Pacific halibut commercial fishery; it is expected that the effective date of the moratorium will be May 1, 1983 (prior to opening of the 1983 halibut season). Under this moratorium (which applies to fishing in the fishery conservation zone, the U.S. territorial sea and internal waters off the coasts of Alaska), no person could harvest and sell halibut for commercial purposes in International Pacific Halibut Commission (IPHC) management areas 2C and 3, and in that part of IPHC management area 4 south of 56° N. latitude, unless that person had lawfully harvested halibut for commercial purposes from those waters and sold that halibut, reporting the sale in his name as required by State or Federal law, between January 1,

1978, and December 31, 1982. A person would be considered to have harvested halibut lawfully from those waters if that person has served as master or crew aboard a vessel there at a time when that vessel harvested halibut. If the halibut so harvested was sold, any person considered to have harvested that halibut would be considered to have sold it if the sale of the halibut was reported to the extent required by State and Federal law, and such sale lawfully recorded in the name of that person on the document of sale (State fish ticket or equivalent) required by law. The moratorium would not apply to that portion of area 4 north of 56° N. latitude in order to implement a provision of § 5(c) of the Act authorizing the Council:

to provide for the rural coastal villages of Alaska the opportunity to establish a commercial halibut fishery in areas in the Bering Sea to the north of 56 degrees north latitude during a 3 year development period.

The moratorium would expire at midnight on December 31, 1985. By that time it is expected that the Council will have developed the permanent limited entry system and that system will have been implemented; or that the Council will have determined that a permanent limited entry system should not be developed.

The fact that a person has obtained a State or IPHC license or permit to fish for or to sell halibut would not affect the application of the moratorium to that person. Unless a person met the criteria for participation in the fishery established by the proposed rule, that person would be forbidden to harvest halibut in the area specified and to sell that halibut, even if he had obtained all necessary permits.

It should be noted that the Council has not yet determined whether a limited entry system should ultimately be adopted, or what form any such system

might take. In view of the Council's desire to avoid imposing unnecessary interim constraints on the fishery, the proposed moratorium allows every current participant, whether master, crew member, or owner of vessels or gear, to continue to participate in that current capacity. New masters or crew members may be employed in the fishery, and investment in vessels and gear may continue. However, it should be noted that the rule requires that an individual qualified to harvest and sell halibut for commercial purposes must be aboard each vessel engaged in the commercial harvest of halibut; moreover, the sale of such halibut from such vessel must be reported and recorded in the name of that individual. Furthermore, it is emphasized that any new participation and investment is undertaken at risk, since imposition of a limited entry system is under active consideration.

The prohibition imposed by this rule, then, would be against the harvest of halibut within the area specified and the sale of such halibut, by those who have not harvested halibut within that area and sold such halibut during the qualifying period. Any scheme to evade this rule would fall within the prohibition of the rules.

Request for comments

The Council and Secretary seek public comment on the proposed moratorium. Comments should be submitted to the Council at the address noted above; the Council will transmit copies of all comments received to the Secretary for his consideration in this rulemaking proceeding.

Comments on the following issues would be particularly helpful in assuring that the moratorium meets the requirements of the Act:

- (1) Is the allocation of fishing privileges under the proposed

moratorium fair and equitable to all fishermen? Are any hardships created? If so, what is their nature and extent? What, if any, exceptions to the specified criteria should be made to ameliorate those hardships?

(2) Is reliance upon documents of sale (fish tickets or equivalent documents) as sole indicators of participation in and dependence on the fishery reasonable, fair, and equitable? Does the use of this criterion for participation under the moratorium create any hardships? If so, what other indicators should be examined?

(3) The Council has selected a five-year qualification period, 1978 - through 1982, as indicative of present participation in the fishery. Is this approach reasonable, fair and equitable?

(4) Does the proposed moratorium take account of historical fishing practices in, and the economics of, the fishery? Will it raise any question regarding the capacity of vessels used in the fishery to engage in other fisheries? If so, what is that capacity?

(5) Might the proposed moratorium cause any individual, corporation, or other entity to acquire an excessive share of the halibut fishing privileges?

In developing the proposed moratorium, the Council considered and rejected alternative approaches, including a moratorium on entry by vessels. Comments on such alternatives are welcome, however.

It must be emphasized that the Secretary has not made a final determination that the moratorium as proposed can be approved under the Halibut Act's criteria; comments are being solicited to enable the Secretary to make the necessary determinations. Thus, commenters are urged to make as comprehensive a review of the proposed regulation as possible. Final rules to implement the moratorium will be influenced by comments received on the proposed rule; comments received may lead to adoption of final rules that differ from this proposal or to withdrawal of the rulemaking.

It is expected that the Council and Secretary will hold public hearings on this proposal following publication of the proposed rule in the FEDERAL REGISTER. The time(s), date(s) and place(s) of such hearings will be subsequently announced.

#### Classification

The NOAA Administrator has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, because it will not result (1) in an annual effect on the economy of \$100 million or more; (2) in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Among alternatives considered, this rule involves the least net cost to society. By discouraging potentially unprofitable investment in and entry into the halibut fishery, and by reducing the number of persons whose participation will have to be considered



in the implementation of any limited entry system, this proposed rule can be expected to yield a net benefit to society.

An initial regulatory flexibility analysis has been prepared on this proposed rule under the Regulatory Flexibility Act, 5 U.S.C. §601 et seq. This document analyzes alternative approaches to the moratorium, including the proposed action, the inclusion under the moratorium of all prior participants and vessel owners, a prohibition against the entry of new vessels into the fishery, and a continuation of the status quo (no moratorium). The analysis presents a range of impacts on individual entities based on various numbers of participants that might be active in the fishery. On the one extreme, if approximately 15 percent of the 3,041 participants who were active in 1981 temporarily withdraw from the fishery for economic considerations and the remaining 2,500 individuals actually fish during the moratorium, average earnings per vessel would be expected to increase by about 21 percent from the average \$6,873 earned in 1981 (assuming static quotas and prices). On the other extreme, if all of the 6,481 "qualified" individuals actively participate in the fishery, average earnings per vessel could decline about 53 percent to just over \$3,000 per vessel. Regardless of how many "qualified" individuals participate, the analysis shows that a substantial risk exists that average vessel performance would be even more severely affected absent some mechanism (the moratorium) to reduce speculative entry into the fishery. The analysis concludes that among the alternatives considered, the proposed rule will have the least economic impact on small entities. Copies of the initial regulatory flexibility analysis may be obtained from the address noted above.

This proposed rule does not contain an information collection requirement or involve any Federal agency in the collection of information for purposes

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of the Paperwork Reduction Act of 1980.

An environmental assessment on this proposed rule was filed with the Environmental Protection Agency on \_\_\_\_\_. Based upon this assessment, the Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule does not involve a major Federal action significantly affecting the quality of the human environment and requiring an environmental impact statement under § 102(2)(C) of the National Environmental Policy Act.

The Council has determined that this proposed rule will be carried out in a manner that is consistent to the maximum extent practicable with the Alaska Coastal Management Program, in accordance with § 307 of the Coastal Zone Management Act of 1972 and its implementing regulations.

List of Subjects in 50 CFR Part 301

Fish, Fisheries, Fishing, International organizations.

DATED:

\_\_\_\_\_

National Marine Fisheries Service

## PART 301 - PACIFIC HALIBUT FISHERIES

For the reasons set out in the preamble, 50 CFR Part 301 is proposed to be amended as follows:

1. The authority citation for Part 301 is revised to read as follows:

AUTHORITY: TIAS No. 9855; 16 U.S.C. 773-773k.

2. A new §301.15 is added to read as follows:

§ 301.15 Moratorium on entry into the Pacific halibut fishery.

(a) Criteria for participation.

(1) From 12:01 A.M., Alaska Standard Time, on May 1, 1983, until 11:59 P.M., Alaska Standard Time, on December 31, 1985, no person may harvest and sell halibut for commercial purposes from the northern Pacific Ocean or that part of the Bering Sea and Aleutian Islands area south of 56° N. latitude unless that person had lawfully harvested and sold halibut for commercial purposes from those waters and reported such sale to the extent required by law, at any time between January 1, 1978, and December 31, 1982.

(2) An individual qualified to harvest and sell halibut for commercial purposes under paragraph (a)(1) of this section must be on board each vessel engaged in the commercial harvest of halibut in the waters described in paragraph (a)(1) of this section, and the sale of halibut so harvested must be recorded in the name of that individual as required by law.

(3) For purposes of this section--

(A) A person shall be considered to have harvested halibut for

commercial purposes from the waters referred to in paragraph (a)(1) of this section if that person served as master or crew aboard a vessel at a time when that vessel harvested halibut for commercial purposes from those waters; and

(B) Any person who is considered to have harvested halibut under paragraph (a)(3)(A) shall be considered to have sold that halibut for commercial purposes if sale of that halibut was reported to the extent required by law, and such sale was lawfully recorded in the name of that person on the document of sale required by law.

(b) Definitions. The terms used in this section have the following meanings:

(1) Bering Sea and Aleutian Islands area -- means waters under the jurisdiction of the United States within management area 4 (as defined in section 301.1 of this part).

(2) Halibut -- means Hippoglossus stenolepis;

(3) Northern Pacific Ocean -- means waters under the jurisdiction of the United States within management areas 2C, 3A and 3B (as defined in section 301.1 of this part).

(4) Waters under the jurisdiction of the United States -- means the internal waters and territorial sea of the United States and the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq.

(c) Relationship to other licenses and permits. The requirements of this section are in addition to all other requirements imposed by law for

participation in the halibut fishery. The issuance to a person of a State or International Pacific Halibut Commission license or permit purporting to authorize fishing for or sale of halibut during the moratorium period shall neither excuse nor constitute evidence of that person's compliance with paragraph (a)(1) of this section.

COMMENTS REQUESTED ON THE MORATORIUM

At this time the North Pacific Fishery Management Council and the Secretary of Commerce seek public comment only on the proposed moratorium. Comments should be submitted to the Council at P. O. Box 3136 DT (605 West Fourth Avenue), Anchorage, AK 99510 or submitted to the Council at public hearings during January 1983.

All comments and testimony received will be available for public inspection at the above address during regular business hours and copies will be transmitted to the Secretary for his consideration in the rulemaking procedure.

Comments are requested on the Notice of Proposed Rulemaking and on any alternate systems or procedures that you feel will accomplish the Council's objectives of preventing a rush of new participants from entering the fishery in 1983 in hopes of obtaining rights under some future limited entry system and stopping, or at least slowing, the increase in effort that has been taking place in the halibut fishery over the past five years.

In addition to the comments requested on the proposed rulemaking (listed as proposal A), two additional possibilities have been proposed. Proposal B would require eligible fishermen to use boats of approximately the same size they fished in the base period 1978 through 1982, thus restricting expansion of effort through an increase in the size and capacity of the fishing vessel.

Proposal C would defer a moratorium until January 1, 1984, but allow only those who fished in years other than 1983 to qualify for a license under that moratorium.

Particular areas for which comments would be useful on the above three proposals are:

Proposal A (Proposed rulemaking - Attachment 1)

- (1) Is the allocation of fishing privileges under the proposed moratorium fair and equitable to all fishermen? Are any hardships created? If so, what is their nature and extent? What, if any, exceptions to the specified criteria should be made to alleviate those hardships?
- (2) Is reliance upon documents of sale (fish tickets or equivalent documents) as sole indicators of participation in and dependence upon the fishery reasonable, fair, and equitable? Does the use of this criterion for participation under the moratorium create any hardships? If so, what other indicators should be examined?
- (3) The Council has selected a five-year qualification period, 1978 through 1982, as indicative of present participation in the fishery. Is this approach reasonable, fair, and equitable?
- (4) Does the proposed moratorium take account of historical fishing practices and the economics of the fishery? Will it raise any question regarding

the capability of vessels used in the fishery to engage in other fisheries if unable to continue in the halibut fishery? If so, what is that capability?

- (5) Might the proposed moratorium cause any individual, corporation, or other entity to acquire an excessive share of the halibut fishing privileges?

Proposal B. A proposed alternative reducing the increase in effort beyond that obtained through a moratorium on the individual only.

- (1) Those individuals registered as having sold halibut in 1978 through 1982 may fish in 1983 and 1984 (limit moratorium to two years).
- (2) Those qualifying for a license during the moratorium under (1) may not use a vessel of net tonnage greater than ten percent over that used by them during the base period.
- (3) Permits may be transferred only in hardship cases (illness, death, and so on).
- (4) The permit is valid only when a permit holder is aboard the boat and actively engaged in fishing during the moratorium period (1983 and 1984).
- (5) Permits will be issued only to individuals. On boats owned by partnerships or corporations the owners shall designate one individual to use the fishing permit.
- (6) The moratorium shall be replaced by a limited entry system for the 1985 season if one can be agreed upon. If a limited entry system cannot be implemented by 1985, the moratorium will end.
- (7) The permit shall be valid only in the area (IPHC regulatory areas) or areas where the holder fished during the qualifying base period (1978 through 1982).
- (8) A vessel owner shall be given a permit when during the base period the vessel was operated by one who was not an owner. That permit shall expire as soon as the owner disposes of his interest in the vessel by sale or death.
- (9) Permit holders who operated vessels under five net tons during the base period (1978 through 1982) may change vessels without restriction so long as the boats involved are less than five net tons.

Proposal C (Delay moratorium until January 1, 1984.)

Because of the controversial nature of the moratorium proposal plus the time restraints in its implementation, the moratorium could be made effective January 1, 1984 with a provision that permits would be issued only to those individuals who sold halibut at some time during a base period from 1978 through 1982 as well as in 1983; i.e., individuals who sold halibut only in 1983 would not qualify for a permit for 1984. This would allow adequate time for discussion and implementation of a moratorium.

Commentors are urged to make as comprehensive a review of the proposed regulation and alternate proposals as possible. Final rules to implement the moratorium will be determined by comments received. They may lead to adoption of final rules that differ from any of these proposals or to withdrawal of the rulemaking.



From NPFMC Newsletter  
of August 1, 1982

Council Reaffirms Position on Moratorium  
on New Entries to Alaska Halibut Fishery

The International Pacific Halibut Commission reported that the 1982 halibut season was even shorter than the truncated 1981 season, with the number of vessels again increasing. Off Southeastern Alaska the quota was caught in only five days, compared to seven days in 1981. As recently as 1977 the season lasted 73 days.

The Council renewed its strong recommendation to the Department of Commerce for a moratorium on new entries to the halibut fleet well in advance of the 1983 fishing season. While this action will not turn back the clock to earlier days of fewer vessels and longer seasons, it will keep the present serious situation from worsening by stemming the flood of new vessels into the fishery. The Council proposes that this moratorium be imposed at once to give both the Council and the public time to consider management alternatives to improve the quality and price of halibut to the consumer and stabilize the fishery so participants can expect reasonable returns on their investment and efforts.

The Council began its study of the halibut fishery in 1979 after representatives of the halibut fleet expressed their concern to the Council about shorter seasons, even though the resource was showing improvement. They were afraid that it would soon be impossible for a fisherman to earn a major share of his income from hook and line halibut fishing, even though the resource had supported a halibut fleet since the turn of the century. The Council formed a workgroup of halibut fishermen, industry representatives, and the regulatory agencies, including the Halibut Commission and the Alaska Commercial Fisheries Entry Commission, to search for solutions to the problem. They met several times in 1979 - 1981, concentrating their efforts on limited entry systems similar to those used by the State of Alaska and British Columbia. Neither system had been entirely successful in stopping the increase in effort in their fisheries. Although the number of participants was stabilized, fishing effort was not controlled by either system.

The situation in the halibut fishery continued to deteriorate. In 1981 the entire catch in the Gulf of Alaska was taken in less than two weeks. Consumer prices rose and quality deteriorated because of long storage times before it reached the market. The staff of the International Pacific Halibut Commission is concerned because the short seasons may have put too much pressure on some parts of the halibut stocks while not utilizing other parts. Their ability to manage the fishery is curtailed because there is so much fishing effort the quota can be exceeded in a day or so of fishing.

At the annual meeting of the International Pacific Halibut Commission in Seattle in February 1982 the American members of the Fishermen's Conference Board, a group of fishermen representatives from all over the North Pacific, developed a consensus on a request for limited entry based on a "fishermen's share" system and brought that consensus to the North Pacific Council at their

meeting in March. The Council responded by developing a research proposal which they subsequently sent out to bid that asked for a study of limited entry systems for the hook and line halibut fishery off Alaska that would accomplish the following purposes:

1. Distribute the hook and line halibut fishery in time and space to insure resource conservation.
2. Provide high quality fresh and frozen fish to the consumer twelve months of the year.
3. Encourage development of an economically viable and efficient year-round U.S. hook and line fishery that would make it possible for some fishermen to earn a major share of their income from hook and line halibut fishing and is made up of owner/operator rights holders.
4. Make sure that no single individual or entity acquires excessive control of the resource and minimize disruption of the present fleet by using past performance to distribute initial rights in the fishery, using the market to transfer fishing rights after initial distribution.

The Council also asked for a moratorium on participation in the 1982 halibut season; however, the halibut legislation then in Congress did not pass until May 17, too late to institute a moratorium. As mentioned earlier, the Council is again urging a moratorium to be in effect well before the 1983 season.

The halibut fishery off Alaska is still managed by the International Pacific Halibut Commission, three members each from the United States and Canada, who employ a permanent staff of Canadian and American biologists based in Seattle to do the research and develop management measures for the fishery. The Commission recommends to the member countries the seasons and regulations for the fishery each year, Canada and the United States then adopt those by national regulation. The fishery is controlled by Federal regulations wherever it may occur, in State waters or the FCZ. The Commission does not have the power to impose special restrictions on the nationals of either country. In the United States, that power rests in the Department of Commerce; the recently passed Halibut Act (PL 97-176) allows the North Pacific Fishery Management Council to develop a limited entry system as a recommendation to the Secretary of Commerce, who may then implement it. The Council, on the other hand, does not have the authority to change seasons, size limits, allocations, etc. That is a responsibility of the Federal government based on the recommendations of the IPHC.

The contract for a study of limited entry between the Council and Northwest Resources Analysis signed on June 17, 1982 calls for an analysis of known limited entry systems and their ability to achieve the previously described objectives, with further detailed study of the fishermen's share system. Emphasis on that system is made for two reasons: (1) It is the system currently favored by a fairly large segment of the halibut industry; and (2) more is known about other limited entry systems, their problems and advantages, than is known about the share system. The share system has not been used for a fishery of any magnitude, though British Columbia will institute a share system for halibut in 1983. We will have some benefit from

their experience. Other systems to be analyzed include a permit system similar to the one used in Alaska which places restrictions on the holder and the British Columbia system that ties the permit to a vessel tonnage limit.

The "share" system being studied by the contractor can be likened to shares of common stock in that they represent a specific portion of the resource and could be traded and sold the stock shares. Because an individual fisherman would not have to compete in time against all the other fishermen in the fishery, he should be able to concentrate on efficiency in harvesting his share of the resource. Long seasons should be possible so halibut could be fished whenever available, which is most of the year. Fishermen would be able to pick their fishing time to fit with other fisheries, better market conditions, equipment availability, and weather conditions. The present fishery of very short, intense periods forces fishermen to take unnecessary chances to fish the full period. An engine or equipment failure can mean the loss of the entire season and market conditions are never at their best when an entire year's catch is landed in a few days. Those, at any rate, are some of the perceived advantages of the share system.

Any limited entry system has disadvantages. Entry into the fishery by newcomers will be more difficult. Precautions will have to be taken to ensure that no one can monopolize the fishery. The cost of administration and enforcement can exceed the benefits.

Phase I of the contract was finished in July with a report at the Council meeting. Phase I identified the numbers of fishermen and boats which have participated in the halibut fishery since 1979 by port, area fished, vessel size and other characteristics, and the impacts on these groups of various criteria for eligibility to fish for halibut. The Council is also working on a parallel study of probable impacts of limited entry on the fishing industry and local communities. The Council gave some further direction to the contractor for Phase II, asking him to assess the impact of the following qualifying schemes:

1. Fishermen who made at least one delivery in at least one of the years 1979 - 81.
2. Fishermen who made at least one delivery, delivered over 200 pounds, over 500 pounds, and over 1,000 pounds in each of the three years 1979 to 1981.
3. Fishermen who delivered at least once, delivered over 200 pounds, over 500 pounds, and over 1,000 pounds in any two of the four years 1979 to 1982.
4. Fishermen who delivered in at least three of the four years 1978 to 1981.

They also suggested that the number of shares initially granted to a fisherman be based on his best, not his average, catch when multiple years determine share size. They recommended using 200 pounds as a working unit share size, but did not make a recommendation for an appropriate share size for transfer, etc. The Council was told by their legal staff that participation by fishermen in 1982 must be considered in any limited entry system developed, although it need not be given the same weight as participation in other years.

Phase II of the contract should be completed by the December Council meeting. Following receipt of that report, the Council will schedule public hearings to determine (1) if a limited entry system is the best approach to the problems of the halibut fishery, and (2) if the answer to the first question is positive, what form of limited entry should be used and the details of that particular system. Public hearing schedules will probably be announced in December.

HALIBUT MORATORIUM TELECONFERENCING PROCEDURES

The North Pacific Fishery Management Council will hold teleconferenced public hearings at eleven sites in Alaska: Seward, Cordova, Valdez, Soldotna, Yakutat, Sand Point, Unalaska, St. Paul, Sitka, Hoonah and Haines. Each of these sites will be connected with Anchorage where representatives of the Council and the National Marine Fisheries Service will be present to receive the public testimony. Seattle will be connected to Southcentral and Western Alaska sites during the hearings mainly to inform Seattle fishermen of the views held by residents of Southcentral and Western Alaska communities. An on-site hearing will be held in Seattle on January 20 to take public testimony.

The sites will be grouped as follows with all times Alaska Standard Time:

<u>January 24, 1983</u> (Monday)	Seward, Cordova, Valdez, Soldotna, Yakutat and Seattle	8 - 10 a.m.
<u>January 26, 1983</u> (Wednesday)	Sand Point, Unalaska, St. Paul, and Seattle	8 - 10 a.m.
<u>January 28, 1983</u> (Friday)	Sitka, Hoonah, Haines	8:30 - 10:30 a.m.

The periods of the teleconference have been limited to two hours. However, these may be extended if necessary. The teleconferencing network provides a place at each site for people to meet and arranges for a volunteer coordinator to be present to open up the room and make the appropriate connections with the telephone operators. These coordinators will also help distribute information concerning the moratorium though they are in no way affiliated with the Council and cannot answer questions concerning the moratorium.

The following list indicates the local volunteer coordinator and where and when people should gather:

Monday - January 24, 1983: 8-10 a.m. (AST)

<u>Seward:</u>	Alaska Vocational Tech. Center (Diane McRae: 224-3322)
<u>Cordova:</u>	High School (John Davis: 424-3266)
<u>Valdez:</u>	Prince William Sound Community College (Tom VanBrocklin: 835-2539)
<u>Soldotna:</u>	High School (Bill Musson: 262-7411)
<u>Yakutat:</u>	High School (Jerry Schoenberger: 784-3317)
<u>Seattle:</u>	Northwest and Alaska Fisheries Center (U.S. National Marine Fisheries Service: 442-7719)

Wednesday - January 26, 1983: 8-10 a.m. (AST)

Sand Point: School  
(Jeanette Kent: 383-3077)

Unalaska: City of Unalaska Recreation Center  
(Marilyn Rasmussen: 581-1616)

St. Paul: Pribilof School District  
(Edna Kauffman: 546-2221)

Seattle: Northwest and Alaska Fisheries Center  
(U.S. National Marine Fisheries Service: 442-7719)

Friday - January 28, 1983: 8:30-10:30 a.m. (AST)

Sitka: Community College  
(Don Cecil: 747-6653)

Hoonah: Community Education Adult Basic Education Room  
(Ken Wicks: 945-3611)

Haines: High School  
(Stephan McPhetres: 766-2644)