

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director

DATE: December 1, 1995

SUBJECT: Sablefish and Halibut IFQs

ESTIMATED TIME
2 HOURS

ACTION REQUIRED

- (a) Final review of Halibut Area 4 Catch Sharing Plan.
- (b) Initial Review of Vessel Buy-Down Amendment (Amendment 42 to the BSAI and GOA FMPs)

BACKGROUND

Halibut Area 4 Catch Sharing Plan

In February 1995, the International Pacific Halibut Commission (IPHC) requested that the Council consider a change in apportioning Area 4 subarea quotas for 1996 and beyond. The IPHC staff had recommended to the Commissioners at their annual meeting in January 1995, a redistribution of halibut quotas in Area 4 subareas according to the proportion of biomass in each area, which was calculated in 1994 based on habitat area estimates. IPHC staff now have decided to consider alternative methods of calculating Area 4 halibut biomass based on catch-per-unit-effort and habitat estimates, but are one to two years away from making final recommendations to the Commission. As a result, in September 1995, the Council initiated an analysis of a catch sharing plan to make subarea allocations for Area 4 in the interim. The catch sharing plan for halibut regulatory Area 4 would framework a formula to apportion subarea allocations, which would be applied to the Area 4 catch limit determined by the IPHC each January. The Council could revise these proportions as necessary through regulatory action.

To have a catch sharing plan in place for the IPHC annual meeting in January 1996, the Council needs to make a final decision in December 1995, and forward its recommendation to the Secretary of Commerce for approval. The IPHC would then use the allocations in setting annual Area 4 halibut suballocations. Alternatives included in the analysis (mailed to you on November 9) are:

Alternative 1: Status quo.

Alternative 2: Create a catch sharing plan for halibut regulatory Area 4 based on the 1995 allocations for subarea apportionments.

Option: Allocate the first 80,000 lb of quota greater than 5,920,000 lb (the total 1995 Area 4 catch limit) to Area 4E. Apportion any Area 4 quota above 6 million lb (5,920,000 +80,000 lb) according to the 1995 allocation percentages.

The Executive Summary of the analysis is included as item C-2(a).

Vessel Buy-Down Amendment

Amendment 42 to the GOA and BSAI FMPs would allow increased flexibility of halibut and sablefish quota share (QS) transfers while maintaining the Council's goals for the IFQ program to limit excessive consolidation, maintain diversity of the fleet, and allow new entrants into the fishery. Small boat fishermen have reported a scarcity of transferable QS with which to increase their holdings due to vessel category restrictions placed on these transfers in the IFQ program and further restrictions on QS holdings under the Modified Block Program.

The proposed management alternative would allow the transfer of larger vessel category QS for use on smaller category vessels by those QS holders who are under the block cap for a particular regulatory area. The flexibility to use larger vessel QS on smaller vessels would increase the pool of available larger blocks to the smaller vessel fleet (C and D for halibut and C for sablefish). Smaller vessel QS holders who are at the block cap would be able to increase their QS holdings by selling their smaller blocked holdings and purchasing larger blocks, which are currently limited in the smaller vessel categories in some areas.

During the 1995 IFQ season, halibut and sablefish IFQ fishermen and their representatives reported to the Council that many fishermen had received QS that equaled far fewer pounds than their recent catch history prior to implementation of the IFQ program. Limitations on QS transfers due to restrictions on area and vessel categories, sweep-up limits, and the block program further limited their ability to accumulate sufficient QS holdings for profitable fishing. Many fishermen indicated they were leaving small blocks of QS unfished that were too small to warrant fishing, in areas that were remote, or where they no longer fished.

For halibut, 33% of all QS issuances were less than 1,000 lb; for sablefish, 36% of all QS issuances were less than 3,000 lb. At the end of the 1995 season, 15% of halibut and 12% of sablefish remained of their respective quotas. Remaining IFQ ranged between 30% for halibut Area 4B and 13% in Area 3A, and 40% for sablefish in the Bering Sea and 7% in West Yakutat.

The alternatives included in the analysis (Item C-2 (b)) are:

Alternative 1: Status quo.

Alternative 2: Allow the transfer of larger vessel category (Class B & C) QS for use on smaller category vessels (Class C & D).

Implementation Team Report

The IFQ Industry Implementation Team met November 1-2, 1995; their full report will be presented at the January Council meeting. They did, however, consider the two action items before the Council. The Team received a report on the catch sharing plan, but did not take formal action. The Team also supported preparation of an analysis to allow the one-way transfer of large vessel category QS for use on smaller category vessels, excluding freezer boats for initial review at the December Council meeting. The Team also recommended different sweep-up levels for the analysis for Amendments 43/43 (Sweep-ups) under preparation for initial review at the January meeting (Item C-2(c)).

EXECUTIVE SUMMARY

The North Pacific Fishery Management Council is considering options for the allocation of Pacific halibut (*Hippoglossus stenolepis*) in the Bering Sea and Aleutian Islands (Halibut Regulatory Area 4). Final action will be taken by the Council at its December 1995 Council meeting to adopt a final catch sharing plan that incorporates their preferred management measure. The Council will then forward its recommendation to the Secretary of Commerce for approval. The International Pacific Halibut Commission (IPHC) would then use the allocations in setting annual Area 4 halibut suballocations.

In February 1995, the IPHC requested that the Council consider a change in apportioning Area 4 subarea quotas for 1996 and beyond. The IPHC staff had recommended to the Commissioners at their Annual Meeting in January 1995, a redistribution of halibut quotas in Area 4 subareas according to the proportion of biomass in each area, which was calculated in 1994 based on habitat area estimates (Sullivan and Parma 1994). IPHC staff are reviewing alternative methods of calculating Area 4 halibut biomass based on catch-per-unit-effort and habitat estimates. Staff has indicated they are one to two years away from making final recommendations to the Commission on a biomass-based methodology for setting Area 4 catch limits. As a result, in September 1995, the Council initiated an analysis of a catch sharing plan to make subarea allocations for Area 4 in the interim.

To have a catch sharing plan in place for the IPHC Annual Meeting in January 1996, the Council needs to review an analysis of the catch sharing plan and make a final decision in December 1995. This document was made available to the public on November 8, 1995. Alternatives included in this analysis are:

Alternative 1: Status quo.

Alternative 2: Create a catch sharing plan for halibut regulatory Area 4 based on the 1995 allocations for subarea apportionments.

Option. Allocate the first 80,000 lb of quota greater than 5,920,000 lb (the total 1995 Area 4 catch limit) to Area 4E. Apportion any Area 4 quota above 6 million lb (5,920,000 + 80,000 lb) according to the 1995 allocation percentages.

**FISHING VESSEL OWNERS' ASSOCIATION
INCORPORATED**

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

SINCE 1914

November 15, 1995

Mr. Richard B. Lauber, Chairman
North Pacific Fishery Management Council
605 W. 4th Ave., Suite 306
Anchorage, AK 99501-2252

RE: RIR/IRFA "Catch Sharing Plan Area 4 Halibut"

Dear Chairman Lauber:

The Fishing Vessel Owners' Association is in receipt of the Regulatory Impact Review for the catch sharing plan for Area 4 halibut. The following are our comments regarding that analysis.

The FVOA recommends a modification of Council option Alternative 2. The Council's option 2 is based on the IPHC Commissioners 1995 quota regime. The FVOA recommendation is based on the 1995 IPHC scientific staff recommended harvest levels for each area 4 subarea. The staffs recommendations and the FVOA catch sharing plan are as follows:

	1995 Staff Recommendations for Catch Limits	FVOA Recommended Sharing Plan for Area 4 Halibut
Area 4A	2,000,000	34%
4B	1,600,000	27%
4C	500,000	9%
4D	1,500,000	25%
4E	300,000	5%
Total	5,900,000	100%

Rationale.

During the last five years, the IPHC Conference Board has been requesting a quota increase in area 4D due to better than average fishing experience, the large habitat area, and what appeared to be a larger biomass of adult-sized halibut. The Commissioners took a conservative approach to these requests and compiled a 5-year study of habitat, CPUE and percent of biomass estimates before making any recommendations to increase area 4D quotas. The recommendations from the IPHC scientists are listed above based on a 5-year analysis. The scientific report that was used to support the staff recommendation was presented at the 1995 Annual Meeting and was as follows:

Table 3. Area 4 Biomass Distribution
(from the IPHC 1995 Annual Meeting Report)

Area Name	Habitat Area	CPUE (5-Year Average)	Percent Biomass	Area CEY
4A	8183	386.85	41.3	2.44
4B	6118	246.24	19.6	1.16
4C	561	225.25	1.6	0.09
4DS	5019	422.31	27.6	1.63
4DN	586	436.13	3.3	0.20
4E	4910	100.50	6.4	0.38
Total	25,377	224.50	100.0	5.92

The five year analysis clearly verified a very successful CPUE by the commercial fleet in area 4D, 187% better than the area 4 CPUE average; 400% better than area 4E and 190 % greater than the area 4C CPUE. It is also important to note that area 4D represents a significant habitat area having a large area adjacent to the continental shelf, which tends to be favorable habitat for halibut.

The Alternative 2 analysis in the RIR is based on the IPHC's actual harvest quotas set at the January 1995 annual meeting. The IPHC did not embrace the staff recommendations due to a significant political protest proposed by area 4C

representatives. There was an argument made that the 4D and 4C quotas had always been the same so they should continue to be the same or else any change would be a political allocation. This argument was made regardless of CPUE information, habitat availability and the staffs bio-mass calculations per area. In the past, the quotas approved were the same in 4D as 4C because the staff and commissioners did not want to guess wrong on expanding the 4D quota before they had adequate analysis to do so. To add some additional drama, all the affected CDQ groups had view points as well, and were not unanimous. The staff recommendations would have benefited 4D halibut CDQ and IFQ folks while 4C CDQ and IFQ folks would have taken drops in their harvest. Area 4E CDQ would have been increased as well if the staff recommendations had been accepted.

FVOA members believe that 4D based on the IPHC scientific 5-year report using habitat, CPUE, and percent of biomass, still warrants a larger harvest similar to what the scientists indicated was appropriate for the 1995 season.

The RIR states on page 4, "The IPHC attempts to set catch limits in proportion to the biomass of adult sized halibut in each regulatory area. The purpose of this management policy is to avoid local depletion and reduce the risk of over exploiting any stock components."

Also on page 4, the RIR states:

"Additionally, biomass-based catch limits would better protect against adverse stock impacts caused by localized depletion".

The scientific recommendation to the Commission, which the FVOA proposal is based on, clearly is based on biomass distribution and weighted by the scientists for habitat and CPUE. Alternative 2 in the RIR is not based on this.

Please note that Area 4B ended up with a quota in 1995 of 2,310,000 lbs. which was 46% greater than that recommended by the IPHC scientists. The Conference Board, which consists of the harvesters, recommended unanimously the following quotas: for area 4A - 2.0 million; 4B 2,000,000 lbs.; 4C - 800,000 lb.; 4D - 1,200,000 lbs.; and 4E - 200,000 lbs. The conference board members unanimously recommended an increase in 4D and 4E based on the staffs new report. Later, this unanimity unraveled with the equal/equal argument.

The RIR seems to prejudice itself by suggesting biomass distribution is less important than the allocation significance in the middle of page 4 of the RIR. The RIR fails to explore what those allocation differences are and potential importance. Additionally, the RIR seems to try to move away from biological management by stating, " biomass-based concept may not be supportable for individual subareas 4C, 4D and 4E". The RIR does not explain why these areas are immune from localized depletion.

Now that the Council has gone to an IFQ program where people trade and sell their family business, the only acceptable distribution of the resource is one based on the scientific base distribution of the resource.

If the Council is going to adopt a catch sharing program, it needs to base it on the best habitat and biomass distribution available. The 1995 IPHC quotas represented a political answer to area 4C concerns, the resulting harvest levels did not reflect the 5-year analysis by the IPHC staff. We request that the interim management catch sharing program be based on the IPHC staff recommendations for 1995, which took into consideration habitat, CPUE and biomass distribution. The percentage amounts for each area are listed in our proposal.

The Council's RIR additionally has an analysis to provide area 4E the first 80,000 lbs. of quota over the 1995 total area 4 catch (5,900,000 lbs.). The RIR suggests that this would be a nominal amount of cost to those who hold IFQs in other area 4 regions. It amounts to about \$160,000 of redistribution at the harvester level. The current allocated IFQ pounds for 1995 were 3,555,544 and the allocated CDQ poundage were 1,198,000. Area 4A is not a CDQ region. The 80,000 lbs. would represent 2.3% of the remaining IFQ allocation in the Bering Sea. The RIR attempts to minimize the impact by suggesting the impact is 1% of the total area 4 quota, even though area 4A has never been part of CDQ allocations. The RIR says this is normal; however, the RIR fails to mention 4E is 100% CDQ; area 4D is 30% CDQ, and 4C is 50% CDQ and 4B is 20% CDQ. The RIR fails to analyze this social allocation in the context of the existing CDQ allocations and the overall cost of CDQs to IFQ holders.

From another perspective, NOAA, ADF&G, ODF&W and WDF are experiencing budget cuts. If another 2.3% reduction in their budgets were proposed would the respective staffs consider that nominal or would they argue that any

additional reduction be considered in light of what was already being deducted?

Additionally, the 80,000 pounds would also come at the expense of 4B, 4C and 4D CDQ communities as well as the IFQ holders. FVOA believes that if we are all being asked to adhere to quotas for the sake of conservation, then the benefits from conservation efforts should be proportionately shared by all that participate and the Council should not give preferential treatment for some user groups. The FVOA proposed sharing plan is based on the IPHC 5-year scientific analysis which would allocate 300,000 lbs to area 4E. FVOA does not support the 80,000 pounds additional CDQ allocation to 4E under Alternative 2 or our own proposal.

In summary, we recommend that the catch share program allocating the habitat in area 4 be as follows: 4A - 34%; 4B - 27%; 4C - 9%; 4D - 25%; and 4E - 5%. These percentages are based on the actual quotas for area 4 recommended by the scientific staff of the IPHC in 1995. We also recommend no areas receive special allocations in the event that the area 4 quotas can be increased. We do not support the 80,000 lbs. additional allocation to 4E CDQ quotas.

Sincerely,



Robert D. Alverson
Manager

RDA:cb

Lowell Stambaugh
HCR 78 Box 623A
Naselle, WA 98638

September 12, 1995

The Advisory Committee to the Ram Division
Access Unlimited, Inc.
Strategic Fishing Alternatives
326 Center Avenue, #202
Kodiak, Alaska 99615

Dear Committee Members;

I would like to propose the following changes to the administrative rules for the Halibut Fishery:

#1. Proposed that for Areas 4 and possibly 3B that the size of allowable block combinations be tripled or at least doubled. That the sweep up combinations ceiling be in the 2-4,000 lb range for those areas.

#2. Proposed that the D & C vessel class be combined in those areas, eliminating D class as a category, perhaps entirely.

I put forward the following reasons to adopt these changes:

Historically the block system, as structured, was most strongly supported in SE Alaska and may well be suited to the situation there. However, few fishers westward have the same views. Many Quota Share blocks are logistically unfishable as even combined (swept up and reblocked). They result in combinations that are yet too small to make a viable profit on a fishing trip. This is a financial hardship to the owners of those shares, reducing even more their value. The boat class restriction places them with far fewer fishing options as well.

One would hardly stand alone in pointing to the weather and the distances between market ports in the westward areas. These, of course, motivate participants to look to larger boats and fish blocks to reduce risks of all kinds.

In the current situation, in area 4A, there exist many very small blocks. The rules of assignment of QS resulted in the creation of blocks far smaller than the "trip harvests" in qualifying years. There is a need to allow the participating remaining boat operators to return to a similar operating economic trip platform.

Even the present buyers westward are not as interested in less than a ton of fish to deal with.

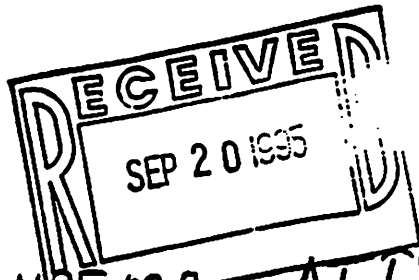
It seems to me that these suggestions will result in a better fishery. I thank you for your attention and your efforts on behalf of the fishery.

Sincerely,



Lowell Stambaugh

#1



Sept. 18, 1995

To the NPFC, ATT: Rick Lauber

I would like to voice a concern I have on the IFQ system.

Being in the D class category, I want to stay in the halibut business and to do so I need the option to buy or fish more share than I am currently able to get ahold of. My hands are tied.

Please consider a few thoughts I have that would help.

1. Let C class shares be bought and dropped to D class. There wont be enough to do any damage to the C class and for my position it would open up a lot more opportunity.

2. Let only D class hold more than 2 blocked shares.

3. Raise the sweepup clause to 3-5000 lbs. This would work good with #2.

#2

4. Make it so that a shareholder could lease other shares, otherwise there will be a lot of unfinished shares, especially the smaller blocks.

Please consider these suggestions, I think I speak for quite a few others in my position who need a way to get more poundage. This IFQ system has hurt my income bad enough, please don't hobble me further.

Sincerely,

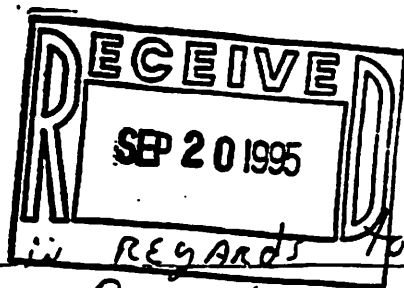
George Kirk, Flv Phant

POBx 2796

Kodiak, AK 99615

907-486-5433

Members of the Council,



I am writing to you in regards to the I.F.Q. program now in place for the halibut and sablefish long line fisheries in Alaska.

I live in Sitka, AK. and have been fishing commercially since 1977, mostly as a crewman. participated in the S.E. AK. salmon and herring, re-seine fisheries as well as Togiak herring, gillnet and seine, and Bristol Bay Red gillnet fishing.

I've King crabbed + Tanner crabbed the water of S.E. AK. and I've been crewing for black cod and halibut the past 10 years.

In 1984 I took the plunge and bought into the large, rat race of a fishery in Bristol Bay and have been paying for it ever since. Financially and emotionally, for 12 years I've been paying my dues and my debts bit by bit. With the help of crew positions for black cod and halibut and fishing my boat for herring in Togiak (gillnet and some halibut fishing as well as the former red runs. I've been fortunate and have made a comfortable living and kept ahead of my credit.

Now with I.F.Q.'s in effect, crew positions are a bit harder to come by. Even though I was lucky this year and found a good job it certainly can't be counted on in the future.

When I.F.Q.'s were issued I tried to find some halibut shares in the D category in AREA 4-A.

With the glut of salmon on the market farmed and wild stocks, there are a number of us in the smaller boat category that are trying to diversify enough to handle the ups and downs of the salmon industry. Between salmon, herring and halibut we should be able to cushion the effects of an off year in price or stocks of one or even two of the other three.

The 32 ft. Bristol Bay gillnet boat of the modern fleet is able to fish halibut. While not being the ideal vessel by any means it is adequate. Also the seasons go hand in hand and it's possible to get to Dutch Harbor by the end of July and have the month of August to catch the fish.

The problem is that there are very few blocks available in D class in AREA 4-A. And the blocks that do occasionally become available are too small to warrant buying.

I know there are C class vessels holding blocks of 3 to 6 or 7 thousand pounds that would rather sell than travel out to 4-A and catch their shares.

I've already taken a gamble and bought, by mortgaging my boat, two blocks totaling 17,000 lb in C class in AREA 4-A. I fished these shares on another boat, other than my own, this season last August. This worked out fine this year but I can't count on other boats year to year.

My options are to continue to fish on other boats, eliminating crew position that I would make available. Or build (at very high cost) a removable stern piece to meet the length requirements as they now stand.

I am not alone in this predicament. I know personally 5 other boat owners in the same situation and I would have to assume there are others or would be others who would get involved. I only hope they go to the Sept. meeting or write themselves

I believe a change in the system where share holders could sell down from C to D would rectify this situation. D boats could find shares to buy even 5 to 8 thousand pound total is worth it for us. And the C vessels would be able to find buyers for their 3 or 4 thousand pound blocks that may end up not being harvested at all.

I would suggest the D category be kept in place. Removing it all together may just keep the small boat operator out all together Bristol Bay, certainly can't cry, but there are plenty of D category boats else where in the state that may be squeezed out.

I'm not saying that I agree with the entire I.F.Q. plan other than this issue. But I do feel it's better than what we had and I'm just trying to fit into it the best way I can.

Thank you for taking the time to read this letter. I had planned on attending the meetings in Seattle in Sept. but things are up. Right now I'm writing this letter while on my way to Dutch Harbor to catch some halibut to keep making those payments, Ha to keep the banker happy.

Thanks again for your time.

Sincerely

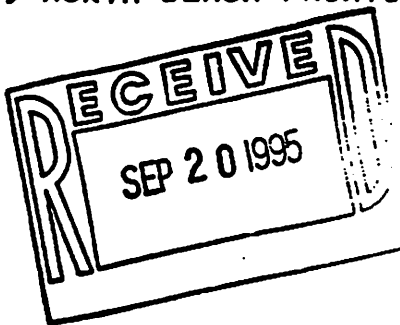
~~George R. Veneroso~~

George R. Veneroso

Geo R. Veneroso

620 Monastery St.

Sitka, Alaska 99815



1635 Whispering Pines Dr.
Seaside, Oregon 97138
September 20, 1995

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

Dear IFQ Advisory Panel Members:

I am writing to request that you consider allowing "B" Class IFQ to be fished on "C" Class length vessels. This would allow crewmen to purchase IFQ to use on the "B" Class vessels they crew on, which increases their likelihood of employment; and it allows crewmen to use their purchased quota on a smaller vessel when they have saved enough money to purchase one. Eventually, they might increase their operations back up to the "B" Class size, being skipper/owners rather than crewmen.

The net effect of this change would be that there would be, at times, slightly more gear in the "C" Class and less in the "B" Class than at present. This would create more crew positions, which addresses the problem that some crewmen have actually lost their jobs because fewer men are needed when the fishery is stretched out over a longer period of time.

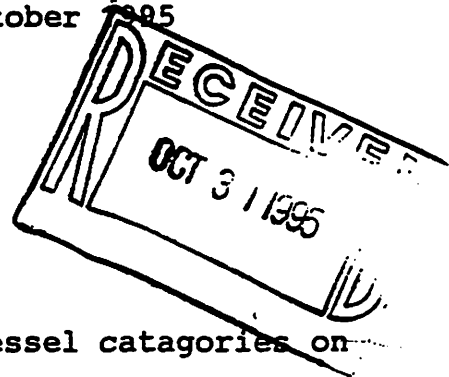
As far as I can see, this plan would foster employment and excellence in the fishery, without harming the resource in any way. I will be interested in hearing your ideas on this plan. Thank you for considering it.

Sincerely,



John Alfred Svensson

3966 Cleveland Ave. # 5
San Diego, California
(619) 688-9432
18 October 1995



Mr. Richard Lauber
North Pacific Management Council
Anchorage, Alaska

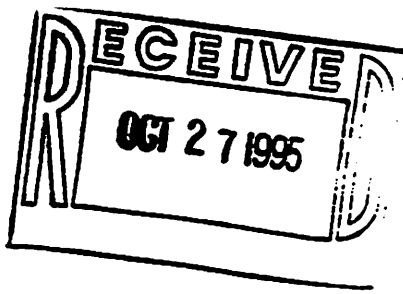
Dear Mr. Lauber and Council Members:

I strongly support using larger size IFQ vessel categories on smaller sized vessels. (Class B on Class C vessels, etc.) If this happens I will probably be able to get a job this next year with a vessel owner who has Class B IFQ and a C class vessel. I have crewed in the longline fishery for some fifteen or so years.

I am also hoping to buy into the fishery and this opens up more doors for me to pursue. As a crewperson, I strongly support the IFQ program, it was a real zoo before and I felt there was not a future in fishing. At least I am hopeful now.

Sincerely,

Bryan Carl Bailey
Bryan Carl Bailey



4604 Guemes View
Anacortes, Wa.
19 October 1995

Mr. Richard Lauber, Chairman
North Pacific Fisheries Management Council
Anchorage, Alaska

Dear Mr. Lauber:

I thank the North Pacific Fishery Management Council for passing the IFQ program. I am an ex-crewmember who has purchases IFQ with the intent to get more invested in the fishing business. I hope the Council will pass my being able to fish my own vessel, when I am able to purchase one. I am currently running a cannery tender and using my IFQ on it, It would be nice to use my B class IFQ on a smaller vessel in the future.

Sincerely,

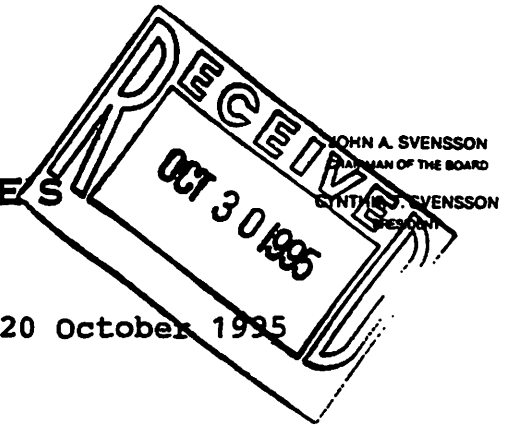
A handwritten signature in cursive script, appearing to read "Ben Nelson".

Ben Nelson

FRESH SEAFOOD
VESSEL MANAGEMENT
CONSULTING

OTSU FISHERIES
P.O. BOX 2527 • TELEPHONE (503) 738-0858
GEARHART, OREGON 97138

20 October 1995



Mr. Jeff Stephan
IFQ Implementation Team
North Pacific Fishery Management Council
P. O. Box 103136
Anchorage, Alaska 99510

Dear Mr. Stephan and Team Members:

I strongly hope that the IFQ Implementation Team considers allowing larger vessel IFQ to be used on smaller Vessels. I am hoping the B size IFQ can be used on C and D size vessels, likewise C size IFQ could be used on D size vessels. This would help people like myself and several of my friends, who own under 60 foot vessels and have their IFQ on over 60 foot vessels. It would also make more IFQ available to smaller operations, and especially to crewmen who wanted to purchase IFQ on the boats they crewed on and then start their own operation. Thank you for considering this.

Sincerely,

John A. Svensson

F/V Lively Jane

Handler Corporation

800 East Dimond Blvd.
Suite 3-665
Anchorage, Alaska 99515

Telephone 907-344-5856
Fax 907-349-5357

October 20, 1995

To: Jeff Stephen

From: Jerry Matson

Re: Halibut IFQ's

Jeff,

As you know, my family has been making our livelihood from the fishing industry for generations. I am an Alaskan Native, third generation fisherman and share holder of the CIRI Corporation. I have owned many vessels and harvested a variety of products. I have upgraded many times through the years to my current position of being the general and managing partner of two Limited Partnerships which own the F/V Alicia Jean at 105' and the F/V Handler at 126'.

Through the years the business entity which has owned or been involved in the vessels I have owned, and now own, has changed several times. A new vessel would be built or bought and a new partnership would be formed or dissolved. At all times I have remained the managing partner, whether individually as Jerry Matson, or under my business entity, Handler Corporation. Technically, my partners have always remained the same group of individuals, however, they too, have acted under their own names, under the name of their own partnership, and under their spouse's names. Our partnership structure is now down to Handler Corporation (general partner) and Carol Prosser (limited partner), whose husband, Robert, was one of my original partners.

The current Halibut IFQ regulations in place are such that I cannot harvest my share of IFQ's. I feel that my situation is unique, and should be looked at on an individual basis by the NMFS and/or other Regulatory Division, and would hope that after careful consideration, a ruling in my favor, would be justified.

The two situations I would ask them to consider are:

- 1. Treat NLP and OBLP as one in the same as the partnership structures are identical**
- 2. Allow us to fish our Class C category IFQ's from the Alicia Jean, a class B vessel**

Item 1 would allow Alicia Jean, which is owned by NLP to harvest IFQ's owned by her sister company, OBLP, which owns the IFQ's. Item 2 would allow us to harvest our Category C IFQ's ourselves.

Jeff Stephen
October 20, 1995
Page 2 of 3

I sat in on many of the preliminary Halibut IFQ meetings prior to the programs implementation. I came away from those meetings with the feeling that NMFS was trying to keep the IFQ's with the individuals who earned them. Because my partners and I changed business entities throughout the years, usually when we bought or built a new vessel, the majority of our IFQ's came down to a dissolved partnership and my current business (OBLP) had to actually purchase the IFQ's from the dissolved partnership. Through what I consider to be a technicality, I am not able to fish the majority of these IFQ's from my current business entities. I feel I am being penalized for having grown over the years in this industry. The IFQ's which OBLP and HC own came from two previously owned under 60' vessels. Since I sold those vessels and bought "up", I am now not allowed to harvest them from my current vessels.

From 1987 till 1995, I have harvested all my halibut quota shares in vessels 100ft and over. However, this year due to the implementation of the Halibut IFQ program, I was only allowed to fish +/- 15,000 lbs. of the 85,000lbs. I own. Both vessels were built prior to the implementation of IFQ's. F/V Handler, owned by OBLP which owns the majority of our IFQ's, was not built for the purpose of harvesting halibut. I built it with the intention of harvesting crab. I built the Alicia Jean with the intention of harvesting Halibut and crab, and tendering salmon. It was built in 1990 and has harvested halibut every year, including this year. It needs all these seasons in order to remain a viable business in this declining industry. The Handler is currently geared for and involved in year round crabbing. To gear down to fish Halibut from the Handler is just not cost effective for us.

This year RAM reviewed our situation and allowed us to fish our OBLP and our HC category B shares from the Alicia Jean. We were able to obtain a permit for our hired skipper to fish these on our behalf. Later in the year, we received notification from RAM that in order to obtain a permit, we had to show the same ownership on the IFQ's as on the vessel that would be harvesting the IFQ's. Had this been in effect when we requested our permit, we would not have been allowed to harvest our own halibut; again, the Handler was fishing crab all year and is just not geared to fish halibut.

In order to harvest our class C IFQ's we were forced to form a legal partnership with another company which owned an under 60' vessel. This was an expensive way to harvest these shares, however, we felt we didn't have an alternative.

Jeff Stephen
October 20, 1995
Page 3 of 3

We are open to any and all suggestions that would allow us to harvest the IFQ's in our possession. We have been looking at doing a trade, or selling our category C shares and buying category B shares. We are not trying to obtain more than we were originally eligible for, we are just trying to find a way to harvest the shares we own from the vessel we own that is equipped to harvest the halibut. Now we understand that there are motions before the board which would allow owners of IFQ's to harvest the halibut from a smaller category vessel, but not from a larger category vessel, than the IFQ shares are allocated to. The passing of this motion would further penalize us as it takes away the incentive of someone in the reverse situation from us to do a trade since they would be eligible to harvest, for example, their own category B IFQ's from a category C vessel they own.

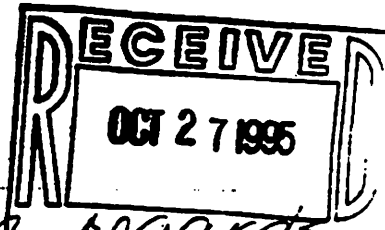
Fishing has been my livelihood all my life. My current partner and I are the last remaining individuals of all the fishing entities we have participated in over the years. The business entities were established for tax and liability purposes. Again, we simply want to find a way to harvest the IFQ's which we earned over the years from the vessel we currently own that is equipped to harvest them. It is not just about wanting to fish them, we need to fish them - we rely on the income to make our payments and pay for our insurance.

Please give our case your individual attention and place this issue on the agenda of the IFQ Industry Implementation Work Group which meets at the North Pacific Observer Training Center in Anchorage on November 1 - 2, 1995. We would be more than happy to present our case before the Committee at that time, at your request. Feel free to contact me direct in Seattle at 206-349-1548 or by fax at 206-349-1549, or contact Bo at our Anchorage office. I look forward to hearing from you soon.

Sincerely,

Jerry Matson
Jerry W. Matson *by Bo Seward*
President

10/24/95



Dear Mr. Stephan,

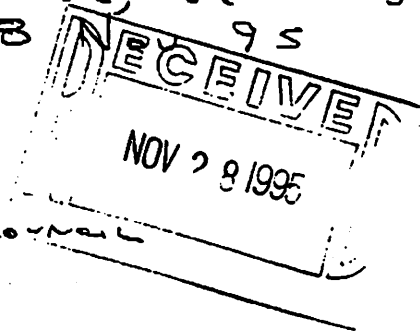
in regards

to fishing allocations of Q.S.
by vessel class. I Craig Norman
have 2,875 pounds in vessel
category D but no longer own
a vessel in that category. I
now own a vessel in category
C with additional poundage
in that category. I would
like to fish my quota from
category D on the boat I
have now (without leasing
a smaller boat) I would
like to know if anything is
going to be resolved or done
about this issue? Please
respond. I have been unable
to sell on trade.

Thank you

Craig Norman
Box 1905
Sitka, AK

99835
(907) 747-1092

1635 WHISPERING PINES
SEASIDE, OR 97138
28 95COPY FOR YOUR
INFORMATION

Mr RICHARD B. LAUBER, CHAIRMAN
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
ANCHORAGE, ALASKA.

DEAR Mr LAUBER AND COUNCIL:

I HOPE THE NORTH PACIFIC MANAGEMENT
COUNCIL WILL PASS THE PROPOSAL OF
FISHERMEN USING LARGE VESSEL I.F.Q. ON
SMALLER VESSELS. THIS WOULD HELP ME
AND MY CREW FOR I OWN A 58' BORT
AND HAVE 60' I.F.Q.

IT WOULD ALSO HELP THE FELLOWS WHO
CREW FOR ME (CURRENTLY) FOR THEY WANT
TO CONTINUE FISHING ON LARGER VESSELS,
INVEST IN THE BUSINESS, AND AFTER A FEW
YEARS, BUY THEIR OWN SMALLER VESSEL.

THANK YOU,

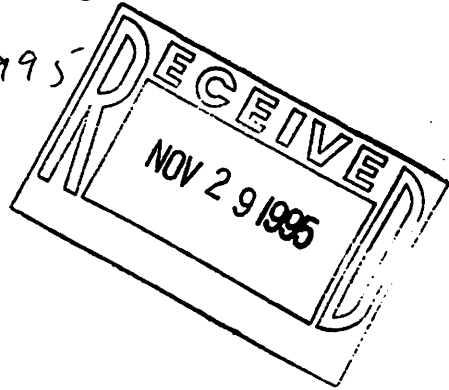
A handwritten signature in cursive script, appearing to read "John A. Svensson". The signature is written in dark ink and is positioned above the printed name.

JOHN A. SVENSSON
F/U LIVELY JANE

Randall Hansen
2214 NW 198
Shoreline, WA 98177

Nov 25 1995

Richard Lauber, Chairman
N. Pac. Fish. Manag. Council
605 W. 4th Ave. Suite 306
Anchorage, AK. 99501 - 2252



Dear Mr. Lauber:

I strongly support the use of larger size IFQ vessel categories on smaller sized vessels. This would allow me to upgrade my operation later even if I bought some larger category quota now, because I could use it now on my smaller vessel.

Thank you for allowing me to express my opinion.

Sincerely

Randall G. Hansen

DATE: November 29, 1995

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

FROM: Jeff Stephan
IFQ Industry Implementation Team

SUBJECT: IFQ Industry Implementation Team Recommendations For Council Action
At The December, 1995, Council Meeting

The IFQ Implementation Team (Team) met on November 1 and 2, in Anchorage. The Team is scheduled to make a report to you, and to provide you with the minutes of that meeting at your January, 1996, Council meeting. However, the Team requests that the Council take action on two specific and important issues at your December, 1995, meeting.

The Team respectfully requests the Council to reconsider the action that the Council took at the September, 1995, meeting relative to the issue of the "sweep up" provisions for halibut and sablefish. The Team also requests the Council to consider initiating an analysis of options that would permit the ownership of more than 2 blocks of sablefish or halibut, respectively, under specific circumstances. Further, the Team requests that the Council take action on these Team recommendations at your December, 1995, meeting.

At the September, 1995, Council meeting, the Council initiated an analysis that will evaluate 2 options each for increasing the sweep-up provisions for halibut and sablefish. Currently, 1,000 lbs. is the maximum amount permitted under the current sweep-up provisions for halibut; and 3,000 lbs. is the maximum amount permitted under the current sweep-up provisions for sablefish. The Council established the options for analysis of 3,000 lbs. and 5,000 lbs. for halibut, and 5,000 lbs. and 7,000 lbs. for sablefish, including the potential for different sweep-up levels among regulatory areas.

The Team addressed the issue of raising the sweep-up limits for halibut and sablefish at their April 5 and 6, 1995, meeting; the minutes of that meeting reflect the team's recommendation to the Council:

"Sweep up provisions the Team discussed revising the 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)"

DRAFT NPFMC Chairman Lauber; IFQ Team Recommendations; 11/29/95; Page 2/2 DRAFT

At their November 1 and 2, meeting, the Team discussed and made a recommendation relative to the options that the Council directed to be included in the analysis of a potential modification of the sweep-up provisions for halibut and sablefish. The Team also discussed and made a recommendation relative to adding an analysis of the ownership of more than 2 blocks for halibut and sablefish, respectively, under certain circumstances.

Recommendations:

- 1.a. The Team recommends that the Council analyze halibut sweep-up options of 3,000, 5,000, 7,000, and 10,000 lbs.
- 1.b. The Team recommends that the Council analyze sablefish sweep-up options of 5,000, 10,000, 15,000, and 20,000 lbs.
- 2.a. The Team recommends that the Council analyze options that would permit the ownership of 3 blocks and 4 blocks, respectively, of halibut in connection with the halibut sweep-up options of 3,000 lbs. and 5,000 lbs. (halibut sweep-up options of 3,000 lbs. and 5,000 lbs. should also be evaluated as stand-alone options, as recommended in 1.a. above)
- 2.b. The Team recommends that the Council analyze options that would permit the ownership of 3 blocks and 4 blocks, respectively, of sablefish in connection with the sablefish sweep-up options of 5,000 and 10,000 lbs. (sablefish sweep-up options of 5,000 and 10,000 lbs. should also be evaluated as stand-alone options, as recommended in 1.b. above)

The sense of the team is that the Block Program should be carefully evaluated in a comprehensive manner. However, the Team feels that it is imperative that a modification to the sweep-up provisions of the Block Program be made at the earliest possible moment, and independent of any other evaluation of the Block Program.

Thank you in advance for your careful consideration of the IFQ Industry Implementation Team recommendations that are explained above.

DRAFT FOR COUNCIL REVIEW

ENVIRONMENTAL ASSESSMENT

AND

REGULATORY IMPACT REVIEW/INITIAL REGULATORY FLEXIBILITY ANALYSIS

FOR

AMENDMENT 42 to the BSAI FMP

AND

AMENDMENT 42 TO THE GOA FMP

TO ALLOW THE USE OF LARGER VESSEL (CLASS B & C) QUOTA SHARES

ON VESSELS IN SMALLER SIZE CATEGORIES (CLASS C & D)

(BUYDOWN)

prepared by
Staff
North Pacific Fishery Management Council

December 1995

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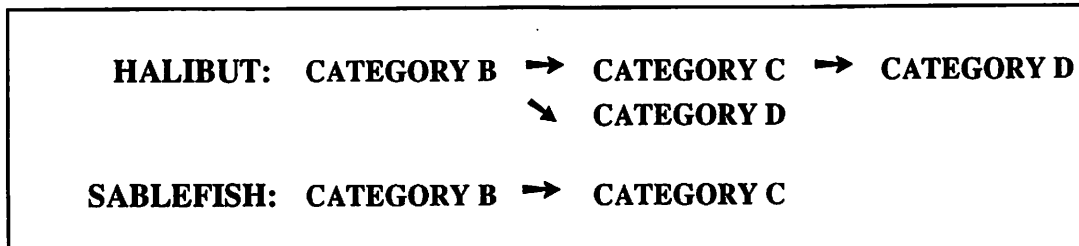
EXECUTIVE SUMMARY

This plan amendment would allow increased flexibility of halibut and sablefish quota share (QS) transfers while maintaining the goals of the North Pacific Fishery Management Council's IFQ program to limit excessive consolidation, maintain diversity of the fleet, and allow new entrants into the fishery. Small boat fishermen have reported the scarcity of transferable QS with which to increase their holdings due to vessel category restrictions on QS holdings under the IFQ program and further restrictions under the Modified Block Program.

The proposed action would allow the transfer of larger vessel category QS for use on smaller category vessels (ownership caps, including block limitations, would still apply) for a particular regulatory area. The alternatives included in the analysis are:

Alternative 1: Status quo.

Alternative 2: Allow the one-way transfer of larger vessel category (Class B & C) QS for use on smaller category vessels (Class C & D).



1. INTRODUCTION

This document is the draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for Amendment 42 to the Bering Sea/Aleutian Islands (BSAI) Groundfish FMP and Amendment 42 to the Gulf of Alaska (GOA) Groundfish FMP. Changes to the halibut IFQ program would be implemented through a regulatory amendment to 50 CFR part 676, Limited Access Management of Fisheries off Alaska under authority of the Magnuson Fishery Conservation and Management Act of 1975, P. L. 94-265, 16 U.S.C. 1801.

The proposed action addresses the need for increased flexibility of halibut and sablefish quota share transfers for categories B, C, and D vessels, while maintaining the goals of the IFQ program to limit excessive consolidation, maintain diversity of the fleet, and allow new entrants into the fishery. Use caps, owner-on-board restrictions, vessel IFQ caps, vessel categories, and the block amendment were originally incorporated into the IFQ program to maintain, as much as possible, the character of the fleet prior to IFQs, to allow for new entrants and crew members, and to protect Alaskan coastal economies dependent on fishing. The Council was concerned about the consolidation of QS into too few hands. The provisions mentioned above were designed to slow consolidation and limit the degree to which it could occur. The block provisions would have less impact on larger operations because QS allocations for an IFQ regulatory area that represent 20,000 lb in 1994 will remain unblocked. More owners/lessees of smaller vessels will have received blocked QS due to smaller harvests during the qualifying years.

Quota shares and IFQs are issued specifically for an IFQ regulatory area and vessel category and may not be used

on vessels in any other category. One exception allows IFQs from categories B, C, and D to be on-board a category A vessel, as long as the length overall of the freezer vessel corresponds to the category issued with the category B, C, or D IFQ and as long as no processed fish are on-board the category A vessel during the same trip.

Small boat fishermen have reported the scarcity of transferable QS with which to increase their holdings. Limited availability of QS is due to area and vessel category restrictions in the IFQ program implemented under Amendments 15/20 to the Bering Sea/Aleutian Islands and Gulf of Alaska Groundfish Fishery Management Plans (NPFMC 1992). Further restrictions were implemented under Amendments 31/35 (Modified Block Program) (NPFMC 1994).

The proposed management action would allow the transfer of QS from vessel categories B and C for use on smaller category vessels (ownership and block caps still apply) for a particular regulatory area. The QS would retain its original vessel category assignment in perpetuity. The flexibility to use larger vessel QS on smaller vessels would increase the available pool of larger blocks to the smaller vessel fleet (C and D for halibut and C for sablefish). Smaller vessel QS holders who are at the block cap would be able to increase their QS holdings by selling their smaller blocked holdings and purchasing larger blocks in another vessel category which are currently limited in some regulatory areas.

1.1 Management Background

The groundfish fisheries in the Exclusive Economic Zone (3 to 200 miles offshore) of the Gulf of Alaska, Bering Sea, and Aleutian Islands are managed under the Fishery Management Plan (FMP) for the Groundfish Fisheries of the GOA and the FMP for the Groundfish Fisheries of the BSAI. Both FMPs were developed by the Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The GOA FMP was approved by the Secretary of Commerce and became effective in 1978; the BSAI FMP became effective in 1982.

The Northern Pacific Halibut Act of 1982 (NPHA), P.L. 97-176, 16 U.S.C. 773 c (c) authorizes the regional fishery management councils having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. waters which are in addition to but not in conflict with regulations of the International Pacific Halibut Commission. The halibut IFQ program is implemented by federal regulations under 50 CFR part 676, Limited Access Management of Fisheries off Alaska under authority of the Magnuson Fishery Conservation and Management Act of 1975, P. L. 94-265, 16 U.S.C. 1801.

The National Environmental Policy Act (NEPA), Executive Order (E.O.) 12866, and the Regulatory Flexibility Act (RFA) require a description of the purpose and need for the proposed action as well as a description of alternative actions which may address the problem. Section 2 contains information on the biological and environmental impacts of the alternatives as required by NEPA. Impacts on endangered species and marine mammals are addressed in this section. Section 3 contains a Regulatory Impact Review (RIR) which addresses the requirements of both E.O. 12866 and the RFA that economic impacts of the alternatives be considered.

1.2 Purpose and Need for Action

During the 1995 IFQ season (the initial year of IFQ implementation), halibut and sablefish IFQ fishermen and their representatives reported to the Council that many fishermen had received quota shares that equaled far fewer pounds than their recent catch history prior to implementation of the IFQ program, and that IFQ fishermen and crew wanted to acquire additional QS regardless of the amount of their initial allocation. Limitations on QS transfers due to restrictions on area and vessel categories, sweep-up limits, and the block program further limited their ability to accumulate sufficient QS holdings to make fishing profitable.

At the end of the 1995 IFQ season, 13% of halibut and 10% of sablefish remained of their respective quotas (Table 1). After subtracting QS in the reserve pool currently under appeal, remaining halibut and sablefish totaled 11% and 6%, respectively. Remaining IFQ ranged between 8% for halibut Area 3A and 29% in Area 4B, and 1% for sablefish in Southeast Alaska and 37% in the Aleutian Islands.

Table 1. 1995 halibut and sablefish IFQ allocations, landings, and percent of quota remaining (Source: RAM).

	TAC			Reserve IFQ Pounds	Percent of Allocation	Remaining - Reserve	Percent Remaining
	Allocation Pounds	Remaining Pounds	Percent Remaining				
Halibut							
2C	9,000,000	1,197,093	13%	10,595	0.1%	1,186,498	13%
3A	20,000,000	1,985,948	10%	322,008	1.6%	1,663,940	8%
3B	3,700,000	503,100	14%	71,285	1.9%	431,815	12%
4A	1,950,000	370,231	19%	81,390	4.2%	288,841	15%
4B	1,848,000	533,417	29%	4,160	0.2%	529,257	29%
4C	385,000	85,559	22%	0	0.0%	85,559	22%
4D	539,000	106,270	20%	0	0.0%	106,270	20%
4E	0	0	0%	0	0.0%	0	0%
Total	37,422,000	4,781,618	13%	489,438	1.3%	4,292,180	11%
Sablefish							
SE	12,996,900	842,466	6%	678,610	5.2%	163,856	1%
WY	8,586,917	579,633	7%	415,299	4.8%	164,334	2%
CG	15,167,648	1,091,604	7%	550,817	3.6%	540,787	4%
WG	4,585,568	710,268	15%	293,888	6.4%	416,380	9%
AI	2,190,072	957,666	44%	138,853	6.3%	818,813	37%
BS	1,410,944	408,301	29%	0	0.0%	408,301	29%
Total	44,938,049	4,589,938	10%	2,077,467	4.6%	2,512,471	6%

Many fishermen indicated they were leaving small blocks of QS unfished that were too small to warrant fishing, in areas that were remote, or where they no longer fished. Some fishermen waited until the end of the season and did not fish due to bad weather. Additionally, the marketplace was weak for small, blocked quota. For halibut, 33% of all QS issuances were less than 1,000 lb; for sablefish, 36% of all QS issuances were less than 3,000 lb (Table 2). These amounts are the sweep-up limits under the modified block program implemented in Amendments 31/35.

An examination of completely unfished halibut and sablefish IFQ permits by area and size of blocked and unblocked IFQs further illustrates the amount of IFQ left unharvested (Table 3). The number of unfished permits in 1995 was greatest for recipients who were issued halibut IFQs less than 1,000 lb, for both blocked and unblocked IFQs. Where recipients were issued halibut IFQs greater than 10,000 lb, only Area 4B had a high percentage that were not fished at all. Permit usage followed a similar pattern for sablefish, although more permits were left completely unfished at all amounts of IFQ issuances, particularly in the Bering Sea, Aleutian Islands, and Western Gulf. An analysis of different sweep-up limits has been initiated under proposed Amendments 43/43 to further address unharvested IFQs.

TABLE 2. Individual halibut and sablefish blocked catcher vessel QS holdings converted to IFQ lb by regulatory area and vessel category.

HALIBUT

total blocked QS holdings

AREA	B		C		D		total	
	lb	# holdings	lb	# holdings	lb	# holdings	lb	# holdings
2C	432,014	131	6,783,203	1,147	1,617,349	1,093	8,832,565	2,371
3A	7,195,268	355	10,486,219	1,489	1,774,428	1,243	19,455,915	3,087
3B	2,012,796	243	1,372,462	551	206,530	258	3,591,788	1,052
4A	1,091,113	166	561,324	146	220,305	211	1,872,743	523
4B	1,420,556	82	266,780	35	96,072	28	1,783,408	145
4C	167,741	28	101,378	21	114,050	31	383,169	80
4D	457,956	49	40,923	14	0	0	498,879	63
TOTAL	12,777,444	1,054	19,612,289	3,403	4,028,734	2,864	36,418,467	7,321

<1,000 lb sweep-up limit

	B		C		D		total	
	lb	# holdings	lb	# holdings	lb	# holdings	lb	# holdings
2C	2,749	8	94,827	200	197,051	543	294,626	751
3A	10,442	20	147,573	355	209,388	784	367,403	1,159
3B	14,860	30	100,949	240	28,709	99	144,519	369
4A	3,990	6	17,998	34	19,906	46	41,894	86
4B	5,346	7	1,909	3	2,836	7	10,091	17
4C	3,247	5	3,883	5	3,219	11	10,348	21
4D	2,430	5	1,029	4	0	0	3,459	9
TOTAL	43,064	81	368,167	841	461,109	1,490	872,341	2,412
							2%	33%

SABLEFISH

total blocked QS holdings

	B		C		total	
	lb	# holdings	lb	# holdings	lb	# holdings
AI	1,036,496	63	224,645	41	1,261,141	104
BS	667,861	62	274,279	56	942,140	118
CG	7,148,365	208	5,435,692	414	12,584,057	622
SE	2,472,133	148	8,656,018	571	11,128,151	719
WG	1,869,313	107	792,822	98	2,662,135	205
WY	4,883,593	137	2,511,470	290	7,395,063	427
TOTAL	18,077,761	725	17,894,926	1,470	35,972,687	2,195

<3,000 lb sweep-up limit

	B		C		total	
	lb	# holdings	lb	# holdings	lb	# holdings
AI	23,273	22	31,976	25	55,249	47
BS	23,207	22	24,426	33	47,634	55
CG	28,694	50	160,955	212	189,649	262
SE	11,584	8	153,430	169	165,014	177
WG	26,095	22	27,075	27	53,170	49
WY	18,734	18	113,653	129	132,387	147
TOTAL	131,588	142	511,516	595	643,104	737
					2%	34%

11/30/95 THU 15:05 FAX 907 5867354 RAM DIVISION 5

National Marine Fisheries Service
 P.O. 21668
 Juneau Ak 99802-1668

Prepared: 30-Nov-95 12:18
 Restricted Access Mgmt Division
 (800) 304-4846

Table 3. Number of Permits Unfished by Area for halibut

Area	Blocking	Under 1k		1 To 5k		5 To 10k		Over 10k	
		total unfish	%	total unfish	%	total unfish	%	total unfish	%
2C	Block	682	493 72.3	611	138 22.6	254	6 2.4	106	1 .9
2C	Multiple	11	5 45.5	56	4 7.1	52	0 0	72	0 0
2C	Unblock	180	160 88.9	44	14 31.8	1	0 0	84	0 0
3A	Block	1085	913 84.1	690	225 32.6	290	18 6.2	113	2 1.8
3A	Multiple	14	4 28.6	63	11 17.5	37	0 0	124	1 .8
3A	Unblock	91	90 98.9	13	11 84.6	7	3 42.9	292	3 1
3B	Block	349	296 84.8	280	94 33.6	68	9 13.2	47	3 6.4
3B	Multiple	4	1 25	17	2 11.8	15	0 0	26	0 0
3B	Unblock	127	123 96.9	4	4 100	0	0 0	36	0 0
4A	Block	78	65 83.3	139	79 56.8	41	6 14.6	35	2 5.7
4A	Multiple	2	1 50	12	2 16.7	4	0 0	6	0 0
4A	Unblock	136	130 95.6	2	0 0	1	0 0	18	0 0
4B	Block	20	19 95	46	43 93.5	32	16 50	17	4 23.5
4B	Multiple	0	0 0	0	0 0	1	0 0	4	0 0
4B	Unblock	0	0 0	0	0 0	0	0 0	26	3 11.5
4C	Block	21	17 81	39	24 61.5	11	2 18.2	0	0 0
4C	Multiple	0	0 0	0	0 0	0	0 0	0	0 0
4C	Unblock	0	0 0	0	0 0	0	0 0	10	0 0
4D	Block	9	9 100	25	21 84	19	8 42.1	5	0 0
4D	Multiple	0	0 0	0	0 0	0	0 0	0	0 0
4D	Unblock	0	0 0	0	0 0	0	0 0	10	0 0

National Marine Fisheries Service
 P.O. 21668
 Juneau Ak 99802-1668

Prepared: 30-Nov-95 12:18
 Restricted Access Mgmt Division
 (800) 304-4846

Table 3. (cont.) Number of Permits Unfished by Area for sablefish

Area	Blocking	Under 1k		1 To 5k		5 To 10k		Over 10k	
		total unfish	%	total unfish	%	total unfish	%	total unfish	%
AI	Block	24	22 91.7	32	22 68.7	19	6 31.6	1	0 0
AI	Multiple	1	0 0	1	1 100	0	0 0	4	1 25
AI	Unblock	0	0 0	3	1 33.3	1	0 0	41	4 9.8
BS	Block	37	32 86.5	44	18 40.9	20	9 45	29	3 10.3
BS	Multiple	0	0 0	0	0 0	1	0 0	2	1 50
BS	Unblock	0	0 0	0	0 0	0	0 0	6	0 0
CG	Block	181	121 66.9	91	27 29.7	47	7 14.9	23	1 4.3
CG	Multiple	1	0 0	5	1 20	5	0 0	60	1 1.7
CG	Unblock	17	16 94.1	4	2 50	3	1 33.3	160	1 .6
SE	Block	98	78 79.6	89	17 19.1	65	4 6.2	43	0 0
SE	Multiple	0	0 0	14	2 14.3	8	0 0	78	0 0
SE	Unblock	63	56 88.9	17	8 47.1	8	1 12.5	176	6 3.4
WG	Block	29	26 89.7	32	18 56.2	28	13 46.4	30	7 23.3
WG	Multiple	0	0 0	5	0 0	0	0 0	15	1 6.7
WG	Unblock	40	34 85	3	2 66.7	0	0 0	35	1 2.9
WY	Block	84	63 75	72	27 37.5	53	6 11.3	22	1 4.5
WY	Multiple	1	0 0	6	1 16.7	6	0 0	23	0 0
WY	Unblock	33	30 90.9	9	4 44.4	2	0 0	108	2 1.9

Table 4 lists the pounds of unfished IFQs by area and vessel category as of November 30, 1995. These data include IFQs unharvested from the reserve pool, remaining IFQs from actively fished IFQ accounts and from completely unfished IFQ accounts.

Table 4. Unfished IFQs by area and vessel category as of November 30, 1995. (Source: RAM).

HALIBUT AREA	CATEGORY				TOTAL
	A	B	C	D	
2C	17,733	87,532	580,449	460,405	1,146,119
3A	24,232	478,389	1,011,880	508,168	2,022,669
3B	4,857	188,809	304,625	49,593	547,884
4A	4,710	146,072	154,389	49,334	354,505
4B	26,298	373,933	125,189	52,242	577,662
4C	1,831	50,418	20,908	22,136	95,293
4D	14,453	90,044	18,812	0	123,309
SABLEFISH	A	B	C	TOTAL	
SE	81,182	130,685	341,184	553,051	
WY	25,194	165,785	1,909	192,888	
CG	437,162	357,390	480,433	1,274,985	
WG	105,394	155,446	202,688	463,528	
AI	413,377	328,495	147,324	889,196	
BS	118,135	203,821	168,378	490,334	

Alternative 1: Status quo.

Vessel category restrictions for sablefish are defined in Section 4.4.1.1.4 (5) and 14.4.7.1.4 (5) of the GOA and BSAI FMPs and under §676.22 (a) of the implementing regulations for sablefish and halibut. Under the status quo, the QS or IFQ specified for one vessel category may not be used in a different vessel category. The Council designed the IFQ program with vessel categories to distribute QS among initial issuees. Four vessel categories were created for the seven halibut regulatory areas designated by the IPHC for waters off Alaska. Three vessel categories were created for the six sablefish regulatory areas. Vessel categories redefined under Amendments 33/37 (NPFMC 1995) include:

- (i) Category A - vessels of any length authorized to process IFQ species;
- (ii) Category B - vessels greater than 60 feet (18.3 meters) in length overall and not authorized to process IFQ species;
- (iii) Category C - vessels less than or equal to 60 feet (18.3 meters) in length overall for sablefish, or vessels greater than 35 feet (10.7 meters) but less than or equal to 60 feet (18.3 meters) in length overall for halibut and not authorized to process IFQ species; and
- (iv) Category D - vessels that are less than or equal to 35 feet (10.7 meters) in length overall for halibut and not authorized to process IFQ species.

Vessel length	Freezer Vessel (any length)	Catcher Vessel	
		Sablefish	Halibut
Over 60'	A	B	B
35' to 60'		C	C
0 to 35'			D

Alternative 2: Allow the one-way transfer of larger vessel category (Class B & C) QS for use on smaller category vessels (Class C & D).

Alternative 2 would allow the one-way transfer of larger vessel (Class B & C) QS (not including freezer vessels) to smaller vessel categories (Class C & D), but not allow the transfer of small vessel categories to larger vessels. The QS would retain its original vessel category assignment in perpetuity, but this proposed action would change the designation on initially issued QS to be the maximum size vessel on which that QS could be used. Subsequent transfers of QS across vessel categories would continue to be limited by the maximum vessel category allowed as designated on the initial QS certificate.

Alternative 2 proposes to increase the flexibility of halibut and sablefish quota share transfers while maintaining the goals of the Council's IFQ program to limit excessive consolidation, maintain diversity of the fleet, and allow new entrants into the fishery. Small boat fishermen have reported the scarcity of transferable QS with which to increase their holdings due to current area and vessel category restrictions. This proposal would also maximize the potential for small boat fishermen and crew members to enter the IFQ fisheries on small boats and provide additional opportunities for them to expand to larger sized vessels over time. Alternative 2 would permit IFQ-qualified fishermen to purchase larger vessel category QS to use on currently owned or crewed small vessels and allow them to move that QS with them as they move up to larger sized vessels.

2.0 NEPA REQUIREMENTS/ENVIRONMENTAL IMPACTS OF THE ALTERNATIVES

An environmental assessment (EA) is required by the National Environmental Policy Act of 1969 (NEPA) to determine whether the action considered will result in a significant impact on the human environment. The environmental analysis in the EA provides the basis for this determination and must analyze the intensity or severity of the impact of an action and the significance of an action with respect to society as a whole, the affected region and interests, and the locality. If the action is determined not to be significant based on an analysis of relevant considerations, the EA and resulting finding of no significant impact (FONSI) would be the final environmental documents required by NEPA. An environmental impact study (EIS) must be prepared if the proposed action may cause a significant impact on the quality of the human environment.

An EA must include a brief discussion of the need for the proposal, the alternatives considered, the environmental impacts of the proposed action and the alternatives, and a list of document preparers. The purpose and alternatives are discussed in Sections 1.1 and 3, and the list of preparers is in Section 6. This section contains the discussion of the environmental impacts of the alternatives including impacts on species listed as threatened and endangered under the Endangered Species Act (ESA).

The environmental impacts generally associated with fishery management actions are effects resulting from: 1) overharvest of fish stocks which might involve changes in predator-prey relationships among invertebrates and vertebrates, including marine mammals and birds; 2) physical changes as a direct result of fishing practices affecting the sea bed; and 3) nutrient changes due to fish processing and discarding fish wastes into the sea.

2.1 Environmental Impacts of the Alternatives

No biological or environmental changes will occur by adopting either of the alternatives. Both alternatives institute an allocation of QS among individuals across vessel categories and have no biological impact.

2.2 Impacts on Endangered, Threatened or Candidate Species Under the ESA

Species that are listed as threatened or endangered, or are candidates or proposed for listing under the Endangered Species Act (ESA), may be present in the BSAI and GOA. Additionally, nonlisted species, particularly seabirds, also occur in those areas and may be impacted by fishing operations. A list of species and a detailed discussion regarding life history and potential impacts on marine species can be found in the EA/RIR/IRFA for Amendments 31/35 (Block Program) (NPFMC 1994). Since this amendment strictly addresses allocation of QS, fishing activities under either of the alternatives would not be expected to cause any adverse effects.

2.2.1 Salmon

Listed species of salmon, including the Snake River sockeye salmon (*O. nerka*), fall chinook and spring/summer chinook salmon (both *Oncorhynchus tshawytscha*) may be present in the BSAI. These areas are believed to be outside the range of another listed species, the Sacramento River winter-run chinook salmon. A Biological Opinion conducted on effects of the groundfish fisheries concluded that groundfish fisheries are not likely to jeopardize the continued existence of endangered or threatened Snake River salmon species (NMFS 1994a). Neither of the alternatives are expected to adversely affect any listed salmon species.

2.2.2 Seabirds

Listed or candidate species of seabirds include the endangered short-tailed albatross (*Diomedea albatrus*), the threatened spectacled eider (*Somateria fischeri*), and the candidate (category 1) Steller's eider (*Polysticta stelleri*), or (category 2) marbled murrelet (*Brachyramphus marmoratus*), red-legged kittiwake (*Rissa brevirostris*) or Kittlitz's murrelet (*Brachyramphus brevirostris*). A formal consultation conducted by the U.S. Fish and Wildlife Service (USFWS) on the potential impacts of groundfish fisheries and subsequent informal consultation on impacts of 1994 groundfish fisheries on these species concluded that groundfish fisheries adversely affect, but do not jeopardize, the existence of the short-tailed albatross (USFWS 1989, 1994) if the incidental take allowance of up to two short-tailed albatrosses per year was not exceeded. The informal consultation also concluded that groundfish fisheries were not likely to adversely affect the spectacled eider, Steller's eider, or marbled murrelet. The USFWS did not comment on remaining candidate species at that time. Neither of the alternatives are expected to adversely affect any listed or candidate seabird species.

2.2.3 Marine Mammals

As with salmon and seabirds listed under the ESA, fishing activities under this proposed action are not likely to impact the threatened Steller sea lion (*Eumetopias jubatus*), in a manner, or to an extent, not previously considered in informal Section 7 consultations for 1994 groundfish fisheries (NMFS 1994b, c). The 10-nm annual trawl exclusion areas around Steller sea lion rookeries would be in place regardless of which alternative is chosen. These create refuges where no trawling can occur in areas important for sea lion breeding and foraging.

Other listed marine mammals include the endangered fin whale (*Balaenoptera physalus*), sei whale (*Balaenoptera borealis*), humpback whale (*Megaptera novaeangliae*), and sperm whale (*Physeter catodon*). None of these species are anticipated to be adversely affected by this proposed amendment because total harvests and overall fishing effort would not change. The impacts of marine mammals is further detailed in the EA/RIR/IRFA for Amendments 31/35 (Block Program) (NPFMC 1994).

2.3 Impacts on Marine Mammals not listed under the ESA

Marine mammals not listed under the ESA that may be present in the BSAI or GOA include cetaceans, [minke

whale (*Balaenoptera acutorostrata*), killer whale (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), and the beaked whales (e.g., *Berardius bairdii* and *Mesoplodon* spp.) as well as pinnipeds [northern fur seals (*Callorhinus ursinus*), and Pacific harbor seals (*Phoca vitulina*)] and the sea otter (*Enhydra lutris*). A list of species and detailed discussion regarding life history and potential impacts of the 1995 groundfish fisheries of the BSAI and GOA on those species can be found in an EA conducted on the 1995 Total Allowable Catch Specifications for the GOA and BSAI (NMFS 1994a). Neither of the alternatives are expected to adversely affect any listed or candidate marine mammals in a manner not already considered in previous consultations.

2.4 Coastal Zone Management Act

Each of the alternatives would be conducted in a manner consistent, to the maximum extent practicable, with the Alaska Coastal Zone Management Program within the meaning of Section 307(c)(1) of the Coastal Zone Management Act of 1972 and its implementing regulations.

2.5 Finding of No Significant Impact

None of the alternatives is likely to significantly affect the quality of the human environment; preparation of an environmental impact statement for selection of any of the alternatives as the proposed action would not be required by Section 102(2)(C) of the National Environmental Policy Act or its implementing regulations.

3.0 REGULATORY IMPACT REVIEW

The Regulatory Impact Review (RIR) provides information about the economic and sociological impacts of the alternatives including identification of the individuals or groups that may be affected by the action, the nature of these impacts, quantification of the economic impacts if possible, and discussion of the trade-offs between qualitative and quantitative benefits and costs.

An RIR is required by NMFS for all regulatory actions or for significant Department of Commerce or NOAA policy changes that are of significant public interest. The RIR: (1) provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action; (2) provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problems; and (3) ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost effective way.

Executive Order 12866, "Regulatory Planning and Review," was signed on September 30, 1993 and established guidelines for promulgating new regulations and reviewing existing regulations. While the order covers a variety of regulatory policy considerations, the benefits and costs of regulatory actions are a prominent concern. Section 1 of the order describes the regulatory philosophy and principles that are to guide agency development of regulations. The regulatory philosophy stresses that, in deciding whether and how to regulate, agencies should assess all costs and benefits of all regulatory alternatives. In choosing among regulatory approaches, the philosophy is to choose those approaches including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity) that maximize net benefit to the nation.

The regulatory principles in E.O. 12866 emphasize careful identification of the problem to be addressed. The agency is to identify and assess alternatives to direct regulation, including economic incentives, such as user fees or marketable permits, to encourage the desired behavior. When an agency determines that a regulation is the

best available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. Each agency shall assess both the costs and benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and the consequences of, the intended regulation.

An RIR is required for all regulatory actions that either implement a new FMP or significantly amend an existing FMP. The RIR is part of the process of preparing and reviewing FMPs and provides a comprehensive review of the changes in net economic benefits to society associated with proposed regulatory actions. The analysis also provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem. The purpose of the analysis is to ensure that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. The RIR addresses many of the items in the regulatory philosophy and principles of E.O. 12866.

Executive Order 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant." A "significant regulatory action" is one that is likely to:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

A regulatory program is "economically significant" if it is likely to result in the effects described in item (1) above. The RIR is designed to provide information to determine whether the proposed regulation is likely to be "economically significant."

3.1 Management Action Alternatives

Alternatives included in this analysis are:

Alternative 1: Status quo. Under Alternative 1 (status quo), the IFQ program for halibut and sablefish would maintain existing restrictions on the use of QS and not allow their transfer across vessel categories. No relief would be provided to small boat fishermen who find limited halibut vessel categories C and D QS and sablefish vessel category C QS available for transfer.

Alternative 2: Allow the one-way transfer of larger vessel category (Class B & C) QS for use on smaller category vessels (Class C & D). Alternative 2 would provide additional flexibility in the transfer of halibut and sablefish QS between vessel categories B, C, and D. Unharvested halibut IFQ totaled nearly 4.8 million lb, valued at approximately \$10.3 million; unharvested sablefish IFQ totaled nearly 4.6 million lb, valued at approximately \$9.4 million. The remaining unharvested IFQs can be primarily attributed to numerous small

issuances of QS distributed across regulatory areas and vessel categories (Table 1).

3.2 Identification of the Individuals or Groups That May Be Affected by the Proposed Action

A maximum of 6,640 individuals or corporations who were issued halibut QS in vessel categories B, C, or D and 1,974 individuals or corporations who were issued sablefish QS in vessel categories B or C may potentially be affected by the proposed management action (some QS holders may be at the individual cap) (Table 4). Halibut QS holders in categories C and D (5,754) may benefit from transferring B category QS to their smaller vessels. Likewise, a maximum of 2,662 category D QS holders might benefit from the one-way transfer of category C QS. Some category B and C QS holders may be negatively affected by the loss of QS for transfer within these categories.

Similarly, a maximum of 1,337 sablefish category C QS holders would gain the ability to transfer category B QS for use on their vessels, to the potential loss of a maximum 636 category B QS holders who might have sought a transfer of sablefish category B QS. Some of the losses would be offset, however, by gains made by halibut category B and C and sablefish B QS holders who would not have found a transferee for their QS under the status quo.

The price of QS might be expected to be affected by the proposed action. Alternative 2 might shift benefits to QS holders in halibut categories C and D and sablefish category C, while potentially shifting losses to current category B QS holders. QS holders in larger vessel categories who were unable to sell or transfer their QS under the status quo would benefit from the revenue generated from a direct sale of "unfishable" QS. Greater benefit might be accrued by their renewed ability to gain additional blocked or unblocked QS of a greater, and more economically beneficial, size by their sale of an "unfishable" QS block. However, if the one-way transfers are taken from the pool of unharvested, larger vessel category QS, the net economic effect would be expected to be positive.

Increased consolidation may occur under the proposed action within vessel categories B and category C (for halibut), as fewer QS may be available for transfer within those categories if large vessel category QS are transferred to the smaller categories. Fewer new entrants and crew members may gain entry to the IFQ fisheries in the larger categories. This may be offset by QS holders and crew members "moving up" to category B and halibut category C vessels. However, there may be less incentive for these individuals to "move up" if QS holders and crew members can fish their larger category IFQs on smaller category vessels.

Table 4. Halibut and sablefish QS recipients by regulatory area and vessel category.

AREA	Halibut			TOTAL
	B	C	D	
2C	125	1,021	984	2,130
3A	274	1,356	1,164	2,794
3B	195	511	255	961
4A	136	136	201	473
4B	78	34	27	139
4C	29	20	31	80
4D	49	14	0	63
4E	0	0	0	0
TOTAL	886	3,092	2,662	6,640

AREA	Sablefish		TOTAL
	B	C	
SE	117	501	618
WY	124	268	392
CG	179	379	558
WG	98	93	191
AI	58	41	99
BS	61	55	116
TOTAL	637	1,337	1,974

The EA/RIR/IRFA for Amendments 31/35 (Block Program) (NPFMC 1992) indicated that local coastal communities traditionally dependent on the Pacific halibut and sablefish fixed gear fisheries benefitted from having QS blocked into smaller vessel categories. QS blocks maintain diversity in the longline fleet by reducing the amount of QS available for consolidation by larger operations. Smaller, locally owned and operated vessels are more likely to deliver to local communities than larger vessels. Large vessels typically have the capacity to store large quantities of fishery product for extended periods of time, thus enabling these vessels to deliver to ports other than those located in local, coastal communities. By increasing the potential for delivery of fishery product in coastal communities, the block provisions provide more employment in the fishery processing sector for those communities.

Potential increased consolidation in the larger vessel categories may be offset by reduced consolidation in the smaller vessel categories under the proposed action, by allowing QS holders, new entrants, and crew members in categories C and halibut D to hold blocked and unblocked QS beyond current vessel category restrictions.

3.3 Administrative, Enforcement, and Information Costs

No significant additional administrative, enforcement, or information costs are expected either under the status quo (Alternative 1) or from the proposed action (Alternative 2).

4.0 INITIAL REGULATORY FLEXIBILITY ANALYSIS

The objective of the Regulatory Flexibility Act is to require consideration of the capacity of those affected by regulations to bear the direct and indirect costs of regulation. If an action will have a significant impact on a substantial number of small entities, an Initial Regulatory Flexibility Analysis must be prepared to identify the need for the action, alternatives, potential costs and benefits of the action, the distribution of these impacts, and a determination of net benefits.

NMFS has defined all fish harvesting businesses that are independently owned and operated, not dominant in their field of operation, with annual receipts not in excess of \$2 million as small businesses. In addition, seafood processors with 500 employees or less, wholesale industry members with 100 members or less, not-for-profit enterprises, and government jurisdictions with a population of 50,000 or less are considered small entities. A "substantial number" of small entities would generally be 20% of the total universe of small entities affected by the regulation. A regulation would have a "significant impact" on these small entities if it resulted in a reduction in annual gross revenues by more than 5%, annual compliance costs that increased total costs of production by more than 5%, or compliance costs of small entities that are at least 10% higher than compliance costs as a percent of sales for large entities.

If an action is determined to affect a substantial number of small entities, the analysis must include:

- (1) description and estimate of the number of small entities and total number of entities in a particular affected sector, and total number of small entities affected; and
- (2) analysis of economic impact on small entities, including direct and indirect compliance costs, burden of completing paperwork, or record keeping requirements, effect on the competitive position of small entities, effect on the small entity's cash flow and liquidity, and ability of small entities to remain in the market.

4.1 Economic Impact on Small Entities

These impacts do not appear to be significant within the meaning of the Act. They are not likely to lead to a reduction in the gross revenues received by the small business sector of the fleet.

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REVISED DRAFT FOR COUNCIL REVIEW

**ENVIRONMENTAL ASSESSMENT
AND
REGULATORY IMPACT REVIEW/INITIAL REGULATORY FLEXIBILITY ANALYSIS
FOR
AMENDMENT 42 to the BSAI FMP
AND
AMENDMENT 42 TO THE GOA FMP
TO ALLOW THE USE OF LARGER VESSEL (CLASS B & C) QUOTA SHARES
ON VESSELS IN SMALLER SIZE CATEGORIES (CLASS C & D)
(BUYDOWN)**

prepared by

Staff
North Pacific Fishery Management Council

December 10 1995

THE UNITED STATES OF AMERICA

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM FOR THE ATTORNEY GENERAL

RE:

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1. INTRODUCTION

The groundfish fisheries in the Exclusive Economic Zone (3 to 200 miles offshore) of the Gulf of Alaska, Bering Sea, and Aleutian Islands are managed under the Fishery Management Plan (FMP) for the Groundfish Fisheries of the GOA and the FMP for the Groundfish Fisheries of the BSAI. Both FMPs were developed by the Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The GOA FMP was approved by the Secretary of Commerce and became effective in 1978; the BSAI FMP became effective in 1982.

The Northern Pacific Halibut Act of 1982 (NPHA), P.L. 97-176, 16 U.S.C. 773 c (c) authorizes the regional fishery management councils having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. waters which are in addition to but not in conflict with regulations of the International Pacific Halibut Commission. The halibut IFQ program is implemented by federal regulations under 50 CFR part 676, Limited Access Management of Fisheries off Alaska under authority of the Magnuson Fishery Conservation and Management Act of 1975, P. L. 94-265, 16 U.S.C. 1801.

The National Environmental Policy Act (NEPA), Executive Order (E.O.) 12866, and the Regulatory Flexibility Act (RFA) require a description of the purpose and need for the proposed action as well as a description of alternative actions which may address the problem. Section 2 contains information on the biological and environmental impacts of the alternatives as required by NEPA. Impacts on endangered species and marine mammals are addressed in this section. Section 3 contains a Regulatory Impact Review (RIR) which addresses the requirements of both E.O. 12866 and the RFA that economic impacts of the alternatives be considered.

This document is the draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for Amendment 42 to the Bering Sea/Aleutian Islands (BSAI) Groundfish FMP and Amendment 42 to the Gulf of Alaska (GOA) Groundfish FMP. Changes to the halibut IFQ program would be implemented through a regulatory amendment to 50 CFR part 676, Limited Access Management of Fisheries off Alaska under authority of the Magnuson Fishery Conservation and Management Act of 1975, P. L. 94-265, 16 U.S.C. 1801.

1.1 Purpose and Need for Action

The proposed action addresses the need for increased flexibility of halibut and sablefish QS transfers for category B, C, and D vessels, while maintaining the goals of the IFQ program and IFQ modified block amendment to: limit consolidation, allow new entrants into the fishery, and protect coastal communities. Small boat fishermen have reported the scarcity of medium to large size blocks (7,500 lbs) in some areas and have requested that the Council enable them to rationalize their operations by purchasing shares from QS holders in larger vessel size categories. Large vessel operators (Category B) have reported difficulties in utilizing or marketing small Category B blocks and have requested the opportunity to downsize their operations or sell QS to owners of smaller vessels. The proposed amendment responds to these requests by enhancing flexibility while maintaining consistency with the basic tenets of the IFQ program.

By increasing flexibility in QS use, the proposed amendment may also benefit crew members who purchase Category B or C shares, who will have access to a larger pool of vessels from which to harvest their shares while working on deck and could subsequently purchase their own smaller vessel from which to harvest their shares as they stair-step their way into the fishery.

Under the proposed management action, ant transferred QS would retain its original vessel category designation in perpetuity. The flexibility to use larger vessel QS on smaller vessels would increase the available pool of larger blocks to the smaller vessel fleet (Category C and D for halibut and Category C for sablefish). Smaller vessel

QS holders who are at the block cap may be able to increase their QS holdings by selling their smaller blocked holdings and purchasing larger blocks in another vessel category that are currently limited in some regulatory areas.

Alternative 1: Status quo.

Vessel category restrictions for sablefish are defined in Section 4.4.1.1.4 (5) and 14.4.7.1.4 (5) of the GOA and BSAI FMPs and under §676.22 (a) of the implementing regulations for sablefish and halibut. Under the status quo, the QS or IFQ specified for one vessel category may not be used in a different vessel category. The Council designed the IFQ program with vessel categories to distribute QS among initial issues. Four vessel categories were created for the seven halibut regulatory areas designated by the IPHC for waters off Alaska. Three vessel categories were created for the six sablefish regulatory areas. Vessel categories redefined under Amendments 33/37 (NPFMC 1995) include:

- (i) Category A - vessels of any length authorized to process IFQ species;
- (ii) Category B - vessels greater than 60 feet (18.3 meters) in length overall and not authorized to process IFQ species;
- (iii) Category C - vessels less than or equal to 60 feet (18.3 meters) in length overall for sablefish, or vessels greater than 35 feet (10.7 meters) but less than or equal to 60 feet (18.3 meters) in length overall for halibut and not authorized to process IFQ species; and
- (iv) Category D - vessels that are less than or equal to 35 feet (10.7 meters) in length overall for halibut and not authorized to process IFQ species.

Vessel Categories

Vessel length	Freezer Vessel (any length)	Catcher Vessel	
		Sablefish	Halibut
Over 60'	A	B	B
35' to 60'		C	C
0 to 35'			D

Alternative 2: Allow the one-way transfer of larger vessel category (Category B & C) QS for use on smaller category vessels (Category C & D).

Alternative 2 would allow the one-way transfer of larger vessel (Category B & C) QS to smaller vessel categories (Category C & D), but not allow the transfer of small vessel categories to larger vessels. The QS would retain its original vessel category assignment in perpetuity, but this proposed action would change the designation on initially issued QS to be the maximum size vessel on which that QS could be used. Subsequent transfers of QS across vessel categories would continue to be limited by the maximum vessel category allowed as designated on the initial QS certificate.

Alternative 2 proposes to increase the flexibility of halibut and sablefish quota share transfers while maintaining the goals of the Council's IFQ program to limit excessive consolidation, maintain diversity of the fleet, and allow new entrants into the fishery. Small boat fishermen have reported the scarcity of transferable QS with which to increase their holdings due to current area and vessel category restrictions. This proposal would also maximize the potential for small boat fishermen and crew members to enter the IFQ fisheries on small boats and provide additional opportunities for them to expand to larger sized vessels over time. Alternative 2 would permit IFQ-qualified fishermen to purchase larger vessel category QS to use on currently owned or crewed small vessels and allow them to move that QS with them as they move up to larger sized vessels.

However, the proposed action does not mandate an alteration in the historic nature of the fleet or, necessarily, the distribution of QS across vessel categories. It is possible that only limited amounts of large vessel QS may be transferred for use of smaller vessels. But, the IFQ program gains an advantage from current participants (vessel owners and crewmen) being given the flexibility to both use their QS on vessels smaller than currently qualify under current regulations (i.e., "moving down") and be allowed the flexibility to transfer undesirable larger boat QS to small boat fishermen who could then either fish them on their currently owned (or crewed) vessels or "move up" to larger boats.

2.0 NEPA REQUIREMENTS/ENVIRONMENTAL IMPACTS OF THE ALTERNATIVES

An environmental assessment (EA) is required by the National Environmental Policy Act of 1969 (NEPA) to determine whether the action considered will result in a significant impact on the human environment. The environmental analysis in the EA provides the basis for this determination and must analyze the intensity or severity of the impact of an action and the significance of an action with respect to society as a whole, the affected region and interests, and the locality. If the action is determined not to be significant based on an analysis of relevant considerations, the EA and resulting finding of no significant impact (FONSI) would be the final environmental documents required by NEPA. An environmental impact study (EIS) must be prepared if the proposed action may cause a significant impact on the quality of the human environment.

An EA must include a brief discussion of the need for the proposal, the alternatives considered, the environmental impacts of the proposed action and the alternatives, and a list of document preparers. The purpose and alternatives are discussed in Sections 1.1 and 3, and the list of preparers is in Section 6. This section contains the discussion of the environmental impacts of the alternatives including impacts on species listed as threatened and endangered under the Endangered Species Act (ESA).

The environmental impacts generally associated with fishery management actions are effects resulting from: 1) overharvest of fish stocks which might involve changes in predator-prey relationships among invertebrates and vertebrates, including marine mammals and birds; 2) physical changes as a direct result of fishing practices affecting the sea bed; and 3) nutrient changes due to fish processing and discarding fish wastes into the sea.

2.1 Environmental Impacts of the Alternatives

No biological or environmental changes will occur by adopting either of the alternatives. Both alternatives institute an allocation of QS among individuals across vessel categories and have no biological impact.

2.2 Impacts on Endangered, Threatened or Candidate Species Under the ESA

Species that are listed as threatened or endangered, or are candidates or proposed for listing under the Endangered Species Act (ESA), may be present in the BSAI and GOA. Additionally, nonlisted species, particularly seabirds, also occur in those areas and may be impacted by fishing operations. A list of species and a detailed discussion regarding life history and potential impacts on marine species can be found in the EA/RIR/IRFA for Amendments 31/35 (Block Program) (NPFMC 1994). Since this amendment strictly addresses allocation of QS, fishing activities under either of the alternatives would not be expected to cause any adverse effects.

2.2.1 Salmon

Listed species of salmon, including the Snake River sockeye salmon (*O. nerka*), fall chinook and spring/summer chinook salmon (both *Oncorhynchus tshawytscha*) may be present in the BSAI. These areas are believed to be

outside the range of another listed species, the Sacramento River winter-run chinook salmon. A Biological Opinion conducted on effects of the groundfish fisheries concluded that groundfish fisheries are not likely to jeopardize the continued existence of endangered or threatened Snake River salmon species (NMFS 1994a). Neither of the alternatives are expected to adversely affect any listed salmon species.

2.2.2 Seabirds

Listed or candidate species of seabirds include the endangered short-tailed albatross (Diomedea albatrus), the threatened spectacled eider (Somateria fischeri), and the candidate (category 1) Steller's eider (Polysticta stelleri), or (category 2) marbled murrelet (Brachyramphus marmoratus), red-legged kittiwake (Rissa brevirostris) or Kittlitz's murrelet (Brachyramphus brevirostris). A formal consultation conducted by the U.S. Fish and Wildlife Service (USFWS) on the potential impacts of groundfish fisheries and subsequent informal consultation on impacts of 1994 groundfish fisheries on these species concluded that groundfish fisheries adversely affect, but do not jeopardize, the existence of the short-tailed albatross (USFWS 1989, 1994) if the incidental take allowance of up to two short-tailed albatrosses per year was not exceeded. The informal consultation also concluded that groundfish fisheries were not likely to adversely affect the spectacled eider, Steller's eider, or marbled murrelet. The USFWS did not comment on remaining candidate species at that time. Neither of the alternatives are expected to adversely affect any listed or candidate seabird species.

2.2.3 Marine Mammals

As with salmon and seabirds listed under the ESA, fishing activities under this proposed action are not likely to impact the threatened Steller sea lion (Eumetopias jubatus), in a manner, or to an extent, not previously considered in informal Section 7 consultations for 1994 groundfish fisheries (NMFS 1994b, c). The 10-nm annual trawl exclusion areas around Steller sea lion rookeries would be in place regardless of which alternative is chosen. These create refuges where no trawling can occur in areas important for sea lion breeding and foraging.

Other listed marine mammals include the endangered fin whale (Balaenoptera physalus), sei whale (Balaenoptera borealis), humpback whale (Megaptera novaeangliae), and sperm whale (Physeter catodon). None of these species are anticipated to be adversely affected by this proposed amendment because total harvests and overall fishing effort would not change. The impacts of marine mammals is further detailed in the EA/RIR/IRFA for Amendments 31/35 (Block Program) (NPFMC 1994).

2.3 Impacts on Marine Mammals not listed under the ESA

Marine mammals not listed under the ESA that may be present in the BSAI or GOA include cetaceans, [minke whale (Balaenoptera acutorostrata), killer whale (Orcinus orca), Dall's porpoise (Phocoenoides dalli), harbor porpoise (Phocoena phocoena), Pacific white-sided dolphin (Lagenorhynchus obliquidens), and the beaked whales (e.g., Berardius bairdii and Mesoplodon spp.)] as well as pinnipeds [northern fur seals (Callorhinus ursinus), and Pacific harbor seals (Phoca vitulina)] and the sea otter (Enhydra lutris). A list of species and detailed discussion regarding life history and potential impacts of the 1995 groundfish fisheries of the BSAI and GOA on those species can be found in an EA conducted on the 1995 Total Allowable Catch Specifications for the GOA and BSAI (NMFS 1994a). Neither of the alternatives are expected to adversely affect any listed or candidate marine mammals in a manner not already considered in previous consultations.

2.4 Coastal Zone Management Act

Each of the alternatives would be conducted in a manner consistent, to the maximum extent practicable, with the Alaska Coastal Zone Management Program within the meaning of Section 307(c)(1) of the Coastal Zone

Management Act of 1972 and its implementing regulations.

2.5 Finding of No Significant Impact

None of the alternatives is likely to significantly affect the quality of the human environment; preparation of an environmental impact statement for selection of any of the alternatives as the proposed action would not be required by Section 102(2)(C) of the National Environmental Policy Act or its implementing regulations.

3.0 REGULATORY IMPACT REVIEW

The Regulatory Impact Review (RIR) provides information about the economic and sociological impacts of the alternatives including identification of the individuals or groups that may be affected by the action, the nature of these impacts, quantification of the economic impacts if possible, and discussion of the trade-offs between qualitative and quantitative benefits and costs.

An RIR is required by NMFS for all regulatory actions or for significant Department of Commerce or-NOAA policy changes that are of significant public interest. The RIR: (1) provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action; (2) provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problems; and (3) ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost effective way.

Executive Order 12866, "Regulatory Planning and Review," was signed on September 30, 1993 and established guidelines for promulgating new regulations and reviewing existing regulations. While the order covers a variety of regulatory policy considerations, the benefits and costs of regulatory actions are a prominent concern. Section 1 of the order describes the regulatory philosophy and principles that are to guide agency development of regulations. The regulatory philosophy stresses that, in deciding whether and how to regulate, agencies should assess all costs and benefits of all regulatory alternatives. In choosing among regulatory approaches, the philosophy is to choose those approaches including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity) that maximize net benefit to the nation.

The regulatory principles in E.O: 12866 emphasize careful identification of the problem to be addressed. The agency is to identify and assess alternatives to direct regulation, including economic incentives, such as user fees or marketable permits, to encourage the desired behavior. When an agency determines that a regulation is the best available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. Each agency shall assess both the costs and benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and the consequences of, the intended regulation.

An RIR is required for all regulatory actions that either implement a new FMP or significantly amend an existing FMP. The RIR is part of the process of preparing and reviewing FMPs and provides a comprehensive review of the changes in net economic benefits to society associated with proposed regulatory actions. The analysis also provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem. The purpose of the analysis is to ensure that the regulatory agency systematically and comprehensively considers all available alternatives so that the public

welfare can be enhanced in the most efficient and cost-effective way. The RIR addresses many of the items in the regulatory philosophy and principles of E.O. 12866.

Executive Order 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant." A "significant regulatory action" is one that is likely to:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

A regulatory program is "economically significant" if it is likely to result in the effects described in item (1) above. The RIR is designed to provide information to determine whether the proposed regulation is likely to be "economically significant."

3.1 Management Action Alternatives

Alternatives included in this analysis are:

Alternative 1: Status quo. Under Alternative 1 (status quo), the IFQ program for halibut and sablefish would maintain existing restrictions on the use of QS and not allow their transfer across vessel categories. No relief would be provided to small boat fishermen who find limited halibut vessel categories C and D QS and sablefish vessel category C QS available for transfer.

Alternative 2: Allow the one-way transfer of larger vessel category (Category B & C) QS for use on smaller category vessels (Category C & D). Alternative 2 would provide additional flexibility in the transfer of halibut and sablefish QS between vessel categories B, C, and D. Table 1 summarizes the distribution of total halibut and sablefish catcher vessel QS holdings in percent of IFQ pounds by regulatory area and vessel category. For QS holdings $\geq 5,000$ lb (sufficient to economically harvest), less than 14 % of halibut QS holdings in any one regulatory area are available in Category D; 1% or less of QS holdings $\leq 5,000$ lb are currently distributed in Areas 3B, 4A, 4B and 4D. For sablefish, for all regulatory areas except Central Gulf and Southeast, Category B-QS holdings are much greater than Category C holdings (in pounds)

Table 2 illustrates the potential movement of larger vessel IFQ to smaller vessels. For example, under the status quo, there are 243 Category B IFQ holdings of 2 million lb, 551 Category C holdings of 1.4 million lb, and 257 holdings in Category D of 133,000 lb in halibut Area 3B. Alternative 2 would allow the use of the 243 Category B IFQs on Category C vessels for a potential maximum of 794 holdings of 3.4 million pounds. This represents an increase in maximum available holdings of 44% and available pounds for harvest of 147%. Additionally, Alternative 2 would allow the 243 Category B and 551 Category C holdings to be used on Category D vessels, for a maximum of 1,051 holdings of 3.6 million pounds. This represents an increase of 309% in IFQ holdings and 2,547% in IFQ pounds for the small boat fleet. These figures represent the maximum potential changes in IFQ distribution among vessel categories since not all of the holdings are expected to be transferred.

Table 1. Percent of halibut and sablefish QS holdings (by regulatory area and vessel category).

HALIBUT

< 5000 lb	Vessel Size Class			
	B	C	D	Total
	IFQ Pounds	IFQ Pounds	IFQ Pounds	IFQ Pounds
2C	6%	54%	40%	2,400,882
3A	8%	57%	35%	2,599,377
3B	22%	65%	13%	971,225
4A	29%	45%	26%	493,727
4B	45%	27%	28%	143,460
4C	36%	31%	33%	123,587
4D	66%	34%	0%	67,085

> 5000 lb	Vessel Size Class			
	B	C	D	Total
	IFQ Pounds	IFQ Pounds	IFQ Pounds	IFQ Pounds
2C	12%	88%	8%	6,273,229
3A	42%	54%	3%	16,517,470
3B	71%	29%	0%	2,546,956
4A	73%	26%	1%	1,302,212
4B	85%	14%	1%	1,597,011
4C	33%	54%	14%	377,673
4D	99%	1%	0%	418,896

SABLEFISH

< 5000 lb	Vessel Size Class		
	B	C	Total
	IFQ Pounds	IFQ Pounds	IFQ Pounds
AI	46%	54%	86,991
BS	53%	47%	137,584
CG	22%	78%	360,511
SE	24%	76%	477,373
WG	46%	54%	123,943
WY	21%	79%	284,453

> 5000 lb	Vessel Size Class		
	B	C	Total
	IFQ Pounds	IFQ Pounds	IFQ Pounds
AI	85%	15%	1,174,148
BS	74%	26%	804,558
CG	58%	42%	12,223,543
SE	22%	78%	10,650,778
WG	71%	29%	2,538,199
WY	68%	32%	7,110,608

Table a

Holdings of Halibut IFQ (Total)								
IFQ Size	Vessel Size Class							
	B		C		D		Total	
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds
2C	131	432,017	1,147	6,783,209	1,092	1,458,885	2,370	8,674,111
3A	355	7,195,261	1,489	10,486,193	1,242	1,435,393	3,086	19,116,847
3B	243	2,012,802	551	1,372,453	257	132,926	1,051	3,518,181
4A	166	1,091,116	146	561,327	210	143,496	522	1,795,939
4B	82	1,420,553	35	266,780	27	53,138	144	1,740,471
4C	28	167,740	36	241,823	29	91,697	93	501,260
4D	49	457,953	13	28,028	0	0	62	485,981
Total	1,054	12,777,442	3,417	19,739,813	2,857	3,315,535	7,328	35,832,790

Holdings of Halibut IFQ (Total)										
IFQ Area	Vessel Size Class									
	B		B+C				B+C+D			
	IFQ Holdings	Pounds	IFQ Holdings		Pounds		IFQ Holdings		Pounds	
			Number	% Increase	Total	% Increase	Number	% Increase	Total	% Increase
2C	131	432,017	1,278	11%	7,215,226	6%	2,370	117%	8,674,111	495%
3A	355	7,195,261	1,844	24%	17,681,454	69%	3,086	148%	19,116,847	1232%
3B	243	2,012,802	794	44%	3,385,255	147%	1,051	309%	3,518,181	2547%
4A	166	1,091,116	312	114%	1,652,443	194%	522	149%	1,795,939	1152%
4B	82	1,420,553	117	234%	1,687,333	532%	144	433%	1,740,471	3175%
4C	28	167,740	64	78%	409,563	69%	93	221%	501,260	447%
4D	49	457,953	62	377%	485,981	1634%	62	∞	485,981	∞
Total	1,054	12,777,442	4,471	31%	32,517,255	65%	7,328	156%	35,832,790	981%

Table 2 (cont.)

Total Sablefish IFQ						
IFQ Area	Vessel Size Class					
	B		C		Total	
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds
AI	63	1,036,495	41	224,644	104	1,261,139
BS	62	667,860	56	274,282	118	942,142
CG	208	7,148,363	414	5,435,691	622	12,584,054
SE	148	2,472,130	571	8,656,021	719	11,128,151
WG	107	1,869,317	98	792,825	205	2,662,142
WY	137	4,883,592	290	2,511,469	427	7,395,061
Total	725	18,077,757	1,470	17,894,932	2,195	35,972,689

Holdings of Sablefish IFQ (Total)						
IFQ Area	Vessel Size Class					
	B		B+C			
	IFQ Holdings	Pounds	IFQ Holdings		Pounds	
			Number	% Increase	Total	% Increase
AI	63	1,036,495	104	154%	1,261,139	461%
BS	62	667,860	118	111%	942,142	243%
CG	208	7,148,363	622	50%	12,584,054	132%
SE	148	2,472,130	719	26%	11,128,151	29%
WG	107	1,869,317	205	109%	2,662,142	236%
WY	137	4,883,592	427	47%	7,395,061	194%
Total	725	18,077,757	2,195	49%	35,972,689	101%

Table 3a

Area 2C Holdings of Halibut IFQ (Total)									
IFQ Size	Vessel Size Class								
	B		C		D		Total		
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	
0 - 999	54	18,383	240	110,035	688	219,923	982	348,341	
1,000-4,999	51	129,542	419	1,176,767	340	746,232	810	2,052,541	
5,000-9,999	15	103,510	269	1,933,976	54	368,782	338	2,406,268	
10,000-14,999	8	109,335	117	1,420,995	10	123,948	135	1,654,278	
15,000-19,999	3	71,247	61	1,069,798	0	0	64	1,141,045	
>=20,000	0	0	41	1,071,638	0	0	41	1,071,638	
Total	131	432,017	1,147	6,783,209	1,092	1,458,885	2,370	8,674,111	

Area 2C Holdings of Halibut IFQ (Total)											
IFQ Size	Vessel Size Class										
	B		B+C				B+C+D				
	IFQ Holdings	Pounds	IFQ Holdings		Pounds		IFQ Holdings		Pounds		
		Number	% Increase	Total	% Increase	Number	% Increase	Total	% Increase		
0 - 999	54	18,383	294	23%	128,418	17%	982	43%	348,341	58%	
1,000-4,999	51	129,542	470	12%	1,306,309	11%	810	138%	2,052,541	175%	
5,000-9,999	15	103,510	284	6%	2,037,486	5%	338	526%	2,406,268	552%	
10,000-14,999	8	109,335	125	7%	1,530,330	8%	135	1250%	1,654,278	1235%	
15,000-19,999	3	71,247	64	5%	1,141,045	7%	64	∞	1,141,045	∞	
>=20,000	0	0	41	0%	1,071,638	0%	41	∞	1,071,638	∞	
Total	131	432,017	1,278	11%	7,215,226	6%	2,370	117%	8,674,111	495%	

Table 30

Area 3A Holdings of Halibut IFQ (Total)								
IFQ Size	Vessel Size Class							
	B		C		D		Total	
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds
0 - 999	45	17,883	356	147,590	882	229,041	1,283	394,514
1,000-4,999	68	182,621	526	1,341,948	300	680,294	894	2,204,863
5,000-9,999	40	291,237	298	2,155,812	44	299,646	382	2,746,695
10,000-14,999	42	527,130	122	1,484,869	10	112,748	174	2,124,747
15,000-19,999	25	439,520	57	988,382	4	65,803	86	1,493,705
>=20,000	135	5,736,870	130	4,367,592	2	47,861	267	10,152,323
Total	355	7,195,261	1,489	10,486,193	1,242	1,435,393	3,086	19,116,847

Area 3A Holdings of Halibut IFQ (Total)										
IFQ Size	Vessel Size Class									
	B		B+C				B+C+D			
	IFQ Holdings	Pounds	IFQ Holdings		Pounds		IFQ Holdings		Pounds	
	Holdings		Number	% Increase	Total	% Increase	Number	% Increase	Total	% Increase
0 - 999	45	17,883	401	13%	165,473	12%	1,283	45%	394,514	72%
1,000-4,999	68	182,621	594	13%	1,524,569	14%	894	198%	2,204,863	224%
5,000-9,999	40	291,237	338	13%	2,447,049	14%	382	768%	2,746,695	817%
10,000-14,999	42	527,130	164	34%	2,011,999	36%	174	1640%	2,124,747	1785%
15,000-19,999	25	439,520	82	44%	1,427,902	44%	86	2050%	1,493,705	2170%
>=20,000	135	5,736,870	265	104%	10,104,462	131%	267	13250%	10,152,323	21112%
Total	355	7,195,261	1,844	24%	17,681,454	69%	3,086	148%	19,116,847	1232%

Table 3c

Area 3B Holdings of Halibut IFQ (Total)								
IFQ Size	Vessel Size Class							
	B		C		D		Total	
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds
0 - 999	64	18,721	249	102,067	216	37,647	529	158,435
1,000-4,999	68	190,973	224	532,418	40	89,399	332	812,790
5,000-9,999	38	283,102	50	342,052	1	5,880	89	631,034
10,000-14,999	23	278,977	20	229,556	0	0	43	508,533
15,000-19,999	25	427,325	4	65,506	0	0	29	492,831
>=20,000	25	813,704	4	100,854	0	0	29	914,558
Total	243	2,012,802	551	1,372,453	257	132,926	1,051	3,518,181

Area 3B Holdings of Halibut IFQ (Total)										
IFQ Size	Vessel Size Class									
	B		B+C				B+C+D			
	IFQ Holdings	Pounds	IFQ Holdings		Pounds		IFQ Holdings		Pounds	
		Number	% Increase	Total	% Increase	Number	% Increase	Total	% Increase	
0 - 999	64	18,721	313	26%	120,788	18%	529	145%	158,435	321%
1,000-4,999	68	190,973	292	30%	723,391	36%	332	730%	812,790	809%
5,000-9,999	38	283,102	88	76%	625,154	83%	89	8800%	631,034	10632%
10,000-14,999	23	278,977	43	115%	508,533	122%	43	∞	508,533	∞
15,000-19,999	25	427,325	29	625%	492,831	652%	29	∞	492,831	∞
>=20,000	25	813,704	29	625%	914,558	807%	29	∞	914,558	∞
Total	243	2,012,802	794	44%	3,385,255	147%	1,051	309%	3,518,181	2547%

Table 30

Area 4A Holdings of Halibut IFQ (Total)								
IFQ Size	Vessel Size Class							
	B		C		D		Total	
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds
0 - 999	54	8,035	41	18,974	162	25,252	257	52,261
1,000-4,999	48	136,903	73	202,657	46	101,906	167	441,466
5,000-9,999	22	153,503	20	149,841	1	5,881	43	309,225
10,000-14,999	19	239,234	7	87,781	1	10,457	27	337,472
15,000-19,999	10	174,710	4	69,965	0	0	14	244,675
>=20,000	13	378,731	1	32,109	0	0	14	410,840
Total	166	1,091,116	146	561,327	210	143,496	522	1,795,939

Area 4A Holdings of Halibut IFQ (Total)										
IFQ Size	Vessel Size Class									
	B		B+C				B+C+D			
	IFQ Holdings	Pounds	IFQ Holdings		Pounds		IFQ Holdings		Pounds	
			Number	% Increase	Total	% Increase	Number	% Increase	Total	% Increase
0 - 999	54	8,035	95	132%	27,009	42%	257	59%	52,261	107%
1,000-4,999	48	136,903	121	66%	339,560	68%	167	263%	441,466	333%
5,000-9,999	22	153,503	42	110%	303,344	102%	43	4200%	309,225	5158%
10,000-14,999	19	239,234	26	271%	327,015	273%	27	2600%	337,472	3127%
15,000-19,999	10	174,710	14	250%	244,675	250%	14	∞	244,675	∞
>=20,000	13	378,731	14	1300%	410,840	1180%	14	∞	410,840	∞
Total	166	1,091,116	312	114%	1,652,443	194%	522	149%	1,795,939	1152%

Table 30

Area 4B Holdings of Halibut IFQ (Total)									
IFQ Size	Vessel Size Class								
	B		C		D		Total		
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	
0 - 999	7	5,345	3	1,909	7	2,837	17	10,091	
1,000-4,999	17	59,181	14	36,629	18	37,559	49	133,369	
5,000-9,999	17	125,609	12	92,791	2	12,742	31	231,142	
10,000-14,999	12	142,733	2	24,204	0	0	14	166,937	
15,000-19,999	7	121,087	2	33,288	0	0	9	154,375	
>=20,000	22	966,598	2	77,959	0	0	24	1,044,557	
Total	82	1,420,553	35	266,780	27	53,138	144	1,740,471	

Area 4B Holdings of Halibut IFQ (Total)											
IFQ Size	Vessel Size Class										
	B		B+C				B+C+D				
	IFQ Holdings	Pounds	IFQ Holdings		Pounds		IFQ Holdings		Pounds		
			Number	% Increase	Total	% Increase	Number	% Increase	Total	% Increase	
0 - 999	7	5,345	10	233%	7,254	280%	17	143%	10,091	256%	
1,000-4,999	17	59,181	31	121%	95,810	162%	49	172%	133,369	255%	
5,000-9,999	17	125,609	29	142%	218,400	135%	31	1450%	231,142	1714%	
10,000-14,999	12	142,733	14	600%	166,937	590%	14	∞	166,937	∞	
15,000-19,999	7	121,087	9	350%	154,375	364%	9	∞	154,375	∞	
>=20,000	22	966,598	24	1100%	1,044,557	1240%	24	∞	1,044,557	∞	
Total	82	1,420,553	117	234%	1,687,333	532%	144	433%	1,740,471	3175%	

Table 34

Area 4C Holdings of Halibut IFQ (Total)									
IFQ Size	Vessel Size Class								
	B		C		D		Total		
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	
0 - 999	5	3,247	3	1,909	7	2,837	15	7,993	
1,000-4,999	14	41,406	14	36,629	18	37,559	46	115,594	
5,000-9,999	4	28,306	12	92,791	2	12,742	18	133,839	
10,000-14,999	3	38,183	2	24,204	1	14,944	6	77,331	
15,000-19,999	0	0	5	86,290	0	0	5	86,290	
>=20,000	2	56,598	0	0	1	23,615	3	80,213	
Total	28	167,740	36	241,823	29	91,697	93	501,260	

Area 4C Holdings of Halibut IFQ (Total)											
IFQ Size	Vessel Size Class										
	B		B+C				B+C+D				
	IFQ Holdings	Pounds	IFQ Holdings		Pounds		IFQ Holdings		Pounds		
			Number	% Increase	Total	% Increase	Number	% Increase	Total	% Increase	
0 - 999	5	3,247	8	167%	5,156	170%	15	114%	7,993	182%	
1,000-4,999	14	41,406	28	100%	78,035	113%	46	156%	115,594	208%	
5,000-9,999	4	28,306	16	33%	121,097	31%	18	800%	133,839	950%	
10,000-14,999	3	38,183	5	150%	62,387	158%	6	500%	77,331	417%	
15,000-19,999	0	0	5	0%	86,290	0%	5	∞	86,290	∞	
>=20,000	2	56,598	2	∞	56,598	∞	3	200%	80,213	240%	
Total	28	167,740	64	78%	409,563	69%	93	221%	501,260	447%	

Table 3_E

Area 4D Holdings of Halibut IFQ (Total)									
IFQ Size	Vessel Size Class								
	B		C		D		Total		
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds	
0 - 999	5	2,430	4	1,029	0	0	9	3,459	
1,000-4,999	16	41,716	8	21,910	0	0	24	63,626	
5,000-9,999	15	106,405	1	5,089	0	0	16	111,494	
10,000-14,999	4	45,668	0	0	0	0	4	45,668	
15,000-19,999	2	39,454	0	0	0	0	2	39,454	
>=20,000	7	222,280	0	0	0	0	7	222,280	
Total	49	457,953	13	28,028	0	0	62	485,981	

Area 4D Holdings of Halibut IFQ (Total)											
IFQ Size	Vessel Size Class										
	B		B+C				B+C+D				
	IFQ Holdings	Pounds	IFQ Holdings		Pounds		IFQ Holdings		Pounds		
		Number	% Increase	Total	% Increase	Number	% Increase	Total	% Increase		
0 - 999	5	2,430	9	125%	3,459	236%	9	∞	3,459	∞	
1,000-4,999	16	41,716	24	200%	63,626	190%	24	∞	63,626	∞	
5,000-9,999	15	106,405	16	1500%	111,494	2091%	16	∞	111,494	∞	
10,000-14,999	4	45,668	4	∞	45,668	∞	4	∞	45,668	∞	
15,000-19,999	2	39,454	2	∞	39,454	∞	2	∞	39,454	∞	
>=20,000	7	222,280	7	∞	222,280	∞	7	∞	222,280	∞	
Total	49	457,953	62	377%	485,981	1634%	62	∞	485,981	∞	

Table 4a

Total Sablefish IFQ in the Aleutian Islands						
IFQ Size	Vessel Size Class					
	B		C		Total	
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds
0 - 999	14	5,901	11	4,507	25	10,408
1,000-4,999	12	33,790	18	42,793	30	76,583
5,000-9,999	11	81,591	6	41,298	17	122,889
10,000-14,999	4	51,593	2	23,718	6	75,311
15,000-19,999	5	89,436	0	0	5	89,436
>=20,000	17	774,184	4	112,328	21	886,512
Total	63	1,036,495	41	224,644	104	1,261,139

Total Sablefish IFQ in the Aleutian Islands						
IFQ Size	Vessel Size Class					
	B		B+C			
	IFQ Holdings	Pounds	IFQ Holdings		Pounds	
			Number	% Increase	Total	% Increase
0 - 999	14	5,901	25	127%	10,408	131%
1,000-4,999	12	33,790	30	67%	76,583	79%
5,000-9,999	11	81,591	17	183%	122,889	198%
10,000-14,999	4	51,593	6	200%	75,311	218%
15,000-19,999	5	89,436	5	∞	89,436	∞
>=20,000	17	774,184	21	425%	886,512	689%
Total	63	1,036,495	104	154%	1,261,139	461%

Table 45

Total Sablefish IFQ in the Bering Sea						
IFQ Size	Vessel Size Class					
	B		C		Total	
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds
0 - 999	12	5,668	23	4,867	35	10,535
1,000-4,999	22	67,382	20	59,667	42	127,049
5,000-9,999	8	54,155	7	46,811	15	100,966
10,000-14,999	5	57,866	2	24,057	7	81,923
15,000-19,999	5	93,278	1	17,599	6	110,877
>=20,000	10	389,511	3	121,281	13	510,792
Total	62	667,860	56	274,282	118	942,142

Total Sablefish IFQ in the Bering Sea						
IFQ Size	Vessel Size Class					
	B		B+C			
	IFQ Holdings	Pounds	IFQ Holdings		Pounds	
			Number	% Increase	Total	% Increase
0 - 999	12	5,668	35	52%	10,535	116%
1,000-4,999	22	67,382	42	110%	127,049	113%
5,000-9,999	8	54,155	15	114%	100,966	116%
10,000-14,999	5	57,866	7	250%	81,923	241%
15,000-19,999	5	93,278	6	500%	110,877	530%
>=20,000	10	389,511	13	333%	510,792	321%
Total	62	667,860	118	111%	942,142	243%

Table 4c

Total Sablefish IFQ in the Central Gulf						
IFQ Size	Vessel Size Class					
	B		C		Total	
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds
0 - 999	44	12,759	159	39,997	203	52,756
1,000-4,999	23	65,522	100	242,233	123	307,755
5,000-9,999	32	238,394	35	264,072	67	502,466
10,000-14,999	14	173,346	26	325,766	40	499,112
15,000-19,999	16	285,545	18	317,085	34	602,630
>=20,000	79	6,372,797	76	4,246,538	155	10,619,335
Total	208	7,148,363	414	5,435,691	622	12,584,054

Total Sablefish IFQ in the Central Gulf						
IFQ Size	Vessel Size Class					
	B		B+C			
	IFQ Holdings	Pounds	IFQ Holdings Number	% Increase	Pounds Total	% Increase
0 - 999	44	12,759	203	28%	52,756	32%
1,000-4,999	23	65,522	123	23%	307,755	27%
5,000-9,999	32	238,394	67	91%	502,466	90%
10,000-14,999	14	173,346	40	54%	499,112	53%
15,000-19,999	16	285,545	34	89%	602,630	90%
>=20,000	79	6,372,797	155	104%	10,619,335	150%
Total	208	7,148,363	622	50%	12,584,054	132%

Table 48

Total Sablefish IFQ in the Southeast Gulf						
IFQ Size	Vessel Size Class					
	B		C		Total	
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds
0 - 999	39	12,361	152	42,541	191	54,902
1,000-4,999	40	103,100	117	319,371	157	422,471
5,000-9,999	20	142,446	83	614,792	103	757,238
10,000-14,999	10	124,011	40	511,375	50	635,386
15,000-19,999	7	122,513	38	656,965	45	779,478
>=20,000	32	1,967,699	141	6,510,977	173	8,478,676
Total	148	2,472,130	571	8,656,021	719	11,128,151

Total Sablefish IFQ in the Southeast Gulf						
IFQ Size	Vessel Size Class					
	B		B+C			
	IFQ Holdings	Pounds	IFQ Holdings		Pounds	
			Number	% Increase	Total	% Increase
0 - 999	39	12,361	191	26%	54,902	29%
1,000-4,999	40	103,100	157	34%	422,471	32%
5,000-9,999	20	142,446	103	24%	757,238	23%
10,000-14,999	10	124,011	50	25%	635,386	24%
15,000-19,999	7	122,513	45	18%	779,478	19%
>=20,000	32	1,967,699	173	23%	8,478,676	30%
Total	148	2,472,130	719	26%	11,128,151	29%

Table 4e

Total Sablefish IFQ in the Western Gulf						
IFQ Size	Vessel Size Class					
	B		C		Total	
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds
0 - 999	38	10,867	36	7,992	74	18,859
1,000-4,999	17	46,693	20	58,391	37	105,084
5,000-9,999	11	78,920	17	129,955	28	208,875
10,000-14,999	15	187,344	10	118,979	25	306,323
15,000-19,999	3	53,287	5	90,569	8	143,856
>=20,000	23	1,492,206	10	386,939	33	1,879,145
Total	107	1,869,317	98	792,825	205	2,662,142

Total Sablefish IFQ in the Western Gulf						
IFQ Size	Vessel Size Class					
	B		B+C			
	IFQ Holdings	Pounds	IFQ Holdings		Pounds	
			Number	% Increase	Total	% Increase
0 - 999	38	10,867	74	106%	18,859	136%
1,000-4,999	17	46,693	37	85%	105,084	80%
5,000-9,999	11	78,920	28	65%	208,875	61%
10,000-14,999	15	187,344	25	150%	306,323	157%
15,000-19,999	3	53,287	8	60%	143,856	59%
>=20,000	23	1,492,206	33	230%	1,879,145	386%
Total	107	1,869,317	205	109%	2,662,142	236%

Table 45

Total Sablefish IFQ in the West Yakutat						
IFQ Size	Vessel Size Class					
	B		C		Total	
	IFQ Holdings	Pounds	IFQ Holdings	Pounds	IFQ Holdings	Pounds
0 - 999	22	7,275	103	30,682	125	37,957
1,000-4,999	20	51,953	77	194,543	97	246,496
5,000-9,999	21	146,422	40	274,812	61	421,234
10,000-14,999	8	95,709	18	229,920	26	325,629
15,000-19,999	8	130,346	15	261,218	23	391,564
>=20,000	58	4,451,887	37	1,520,294	95	5,972,181
Total	137	4,883,592	290	2,511,469	427	7,395,061

Total Sablefish IFQ in the West Yakutat						
IFQ Size	Vessel Size Class					
	B		B+C			
	IFQ Holdings	Pounds	IFQ Holdings		Pounds	
			Number	% Increase	Total	% Increase
0 - 999	22	7,275	125	21%	37,957	24%
1,000-4,999	20	51,953	97	26%	246,496	27%
5,000-9,999	21	146,422	61	53%	421,234	53%
10,000-14,999	8	95,709	26	44%	325,629	42%
15,000-19,999	8	130,346	23	53%	391,564	50%
>=20,000	58	4,451,887	95	157%	5,972,181	293%
Total	137	4,883,592	427	47%	7,395,061	194%

An examination of total IFQ holdings and pounds by regulatory area, vessel category and size shows that a majority of total holdings are in smaller sized issuances (Tables 3 and 4). Using Area 3B again for example, 84% of Category D halibut IFQ holdings are smaller than 1,000 lb, nearly all of the remainder are between 1,000 and 4,999 lb (Table 3c). Allowing the use of Category B IFQs on Category C vessels would potentially increase holdings of less than 1,000 pounds from 249 to 313 and IFQ pounds from 102,100 to 121,000 (102,100 + 18,700); an increase of 26% in holdings and 18% in pounds. Allowing the use of Category B and C IFQs on Category D vessels would potentially increase available holdings of less than 1,000 pounds from 216 to 529 (145% increase) and IFQ pounds from 37,650 to 158,400 (321% increase). Larger potential increases are found with larger size of issuances.

3.2 Identification of the Individuals or Groups That May Be Affected by the Proposed Action

A maximum of 6,640 individuals or corporations who were issued halibut QS in vessel categories B, C, or D and 1,974 individuals or corporations who were issued sablefish QS in vessel categories B or C may potentially be affected by the proposed management action (some QS holders may be at the individual cap) (Table 5). Halibut QS holders in categories C and D (5,754) may benefit from transferring B category QS to their smaller vessels. Likewise, a maximum of 2,662 category D QS holders might benefit from the one-way transfer of category C QS. Some category B and C QS holders may be negatively affected by the loss of QS for transfer within these categories due to increased competition for use of those QS on smaller vessels. Similarly, Category B and C crewmen may find fewer available QS available in the marketplace for transfer.

Similarly, a maximum of 1,337 sablefish category C QS holders would gain the ability to transfer category B QS for use on their vessels, to the potential loss of a maximum 636 category B QS holders who might have sought a transfer of sablefish category B QS. Some of the losses would be offset, however, by gains made by halibut category B and C and sablefish B QS holders who otherwise might not have found a transferee for their QS under the status quo.

The price of QS might be expected to be affected by the proposed action. Alternative 2 might shift benefits to QS holders in halibut categories C and D and sablefish category C, while potentially shifting losses to current category B QS holders.

QS holders in larger vessel categories who were unable to sell or transfer their QS under the status quo would benefit from the revenue generated from a direct sale of unharvested QS. Greater benefit might be accrued from

Table 5. Halibut and sablefish QS recipients by regulatory area and vessel category.

AREA	Halibut			TOTAL
	B	C	D	
2C	125	1,021	984	2,130
3A	274	1,356	1,164	2,794
3B	195	511	255	961
4A	136	136	201	473
4B	78	34	27	139
4C	29	20	31	80
4D	49	14	0	63
4E	0	0	0	0
TOTAL	886	3,092	2,662	6,640

AREA	Sablefish		TOTAL
	B	C	
SE	117	501	618
WY	124	268	392
CG	179	379	558
WG	98	93	191
AI	58	41	99
BS	61	55	116
TOTAL	637	1,337	1,974

their renewed ability to gain additional blocked or unblocked QS of a greater, and more economically beneficial, size by their sale of an "unfishable" QS block. However, if the one-way transfers are taken from the pool of unharvested, larger vessel category QS, the net economic effect would be expected to be positive.

Increased consolidation may occur under the proposed action within vessel categories B and category C (for halibut), as fewer QS may be available for transfer within those categories if large vessel category QS are transferred to the smaller categories. Fewer new entrants and crew members may gain entry to the IFQ fisheries in the larger categories. This may be offset by QS holders and crew members "moving up" to category B and halibut category C vessels. However, there may be less incentive for these individuals to "move up" if QS holders and crew members can fish their larger category IFQs on smaller category vessels.

The EA/RIR/IRFA for Amendments 31/35 (Block Program) (NPFMC 1992) indicated that local coastal communities traditionally dependent on the Pacific halibut and sablefish fixed gear fisheries benefitted from having QS blocked into smaller vessel categories. QS blocks maintain diversity in the longline fleet by reducing the amount of QS available for consolidation by larger operations. Smaller, locally owned and operated vessels are more likely to deliver to local communities than larger vessels. Large vessels typically have the capacity to store large quantities of fishery product for extended periods of time, thus enabling these vessels to deliver to ports other than those located in local, coastal communities. By increasing the potential for delivery of fishery product in coastal communities, the block provisions provide more employment in the fishery processing sector for those communities.

Potential increased consolidation in the larger vessel categories may be offset by reduced consolidation in the smaller vessel categories under the proposed action, by allowing QS holders, new entrants, and crew members in categories C and halibut D to hold blocked and unblocked QS beyond current vessel category restrictions.

3.3 Administrative, Enforcement, and Information Costs

No significant additional administrative, enforcement, or information costs are expected either under the status quo (Alternative 1) or from the proposed action (Alternative 2).

4.0 INITIAL REGULATORY FLEXIBILITY ANALYSIS

The objective of the Regulatory Flexibility Act is to require consideration of the capacity of those affected by regulations to bear the direct and indirect costs of regulation. If an action will have a significant impact on a substantial number of small entities, an Initial Regulatory Flexibility Analysis must be prepared to identify the need for the action, alternatives, potential costs and benefits of the action, the distribution of these impacts, and a determination of net benefits.

NMFS has defined all fish harvesting businesses that are independently owned and operated, not dominant in their field of operation, with annual receipts not in excess of \$2 million as small businesses. In addition, seafood processors with 500 employees or less, wholesale industry members with 100 members or less, not-for-profit enterprises, and government jurisdictions with a population of 50,000 or less are considered small entities. A "substantial number" of small entities would generally be 20% of the total universe of small entities affected by the regulation. A regulation would have a "significant impact" on these small entities if it resulted in a reduction in annual gross revenues by more than 5%, annual compliance costs that increased total costs of production by more than 5%, or compliance costs of small entities that are at least 10% higher than compliance costs as a percent of sales for large entities.

If an action is determined to affect a substantial number of small entities, the analysis must include:

- (1) description and estimate of the number of small entities and total number of entities in a particular affected sector, and total number of small entities affected; and
- (2) analysis of economic impact on small entities, including direct and indirect compliance costs, burden of completing paperwork, or record keeping requirements, effect on the competitive position of small entities, effect on the small entity's cash flow and liquidity, and ability of small entities to remain in the market.

4.1 Economic Impact on Small Entities

These impacts do not appear to be significant within the meaning of the Act. They are not likely to lead to a reduction in the gross revenues received by the small business sector of the fleet.

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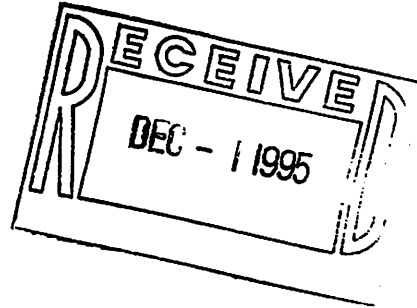
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December 1, 1995

AGENDA C-5
 DECEMBER 1995
 Supplemental

Richard B. Lauber
 Chairman, North Pacific Fishery
 Management Council
 605 West 4th Avenue, Suite 306
 Anchorage, Alaska 99510



Dear Mr. ^{Rick} Lauber:

NMFS believes that the Research Plan provides the best approach for addressing concerns regarding the observer program and the integrity of observer data. However, recognizing the Council's desire to consider an alternative to the Research Plan at its December 1995 meeting, we have identified an approach which would allow some improvements in the old Observer Plan and be funded through direct payment for mandated observer coverage costs (pay-as-you-go) rather than through a user fee.

The Research Plan was designed to replace the pay-as-you-go Observer Plan because the Council identified changes that were essential to the integrity of the Observer Program. The most important of these changes concerned the business relationships between observer contractors and vessel and plant owners and operators. Under the Observer Plan, vessel and plant owners and operators could negotiate directly with certified contractors for observer coverage. This gave rise to serious conflict-of-interest concerns and resulted in business practices which failed to ensure that observers were treated in a fair and equitable manner. This situation jeopardizes the integrity of the data collected by observers. The management of the North Pacific fisheries largely is dependent on observer data. Therefore, recognizing that resolving the conflict of interest issue is of fundamental concern, the Council indicated that any proposed alternative should create and maintain an "arms-length" relationship between contractors and vessel and plant owners, and ensure fair and equitable salaries and working conditions for observers.

Following the September Council meeting, the Council's Observer Oversight Committee (OOC) was convened to discuss options and formulate recommendations for the Council. In preparation for that meeting, NMFS staff drafted a briefing paper describing a pay-as-you-go alternative under which a single "umbrella" or prime contractor would be responsible for assuring that plants and vessels were provided with the observers necessary to meet mandatory coverage requirements. This prime contractor would receive payments for coverage from industry members and would subcontract with observer contracting companies who would, in turn, hire and deploy observers as directed. Under this scheme, opportunities for fishing companies to negotiate with observer providers would be reduced and concerns regarding observer salaries, insurance, and working conditions could be addressed through contract stipulations.



The OOC discussed possibilities for contracting out additional observer program functions such as checking observer data and debriefing. At this time, we believe that NMFS must maintain control of these functions to adequately monitor observer operations and assess the quality of observer data. We do not believe it appropriate at this time to contract out functions other than those directly associated with contracting for and deployment of observers, and ensuring that observers are provided with required safety and sampling equipment. In general, the OOC concurred with this position.

We believe the Council must recognize a fundamental difference between the current Research Plan and a modified pay-as-you-go program. The pay-as-you-go alternative being considered by the Council further removes the observer from NMFS. Instead of a direct contract between NMFS and observer contractors, NMFS would be required to go through a prime contractor to resolve issues or problems that arise at the observer or observer contractor level. A pay-as-you-go program will have to be carefully developed to ensure that NMFS's ability to identify and respond to observer or observer contractor issues is not unduly compromised.

If the Council chooses to forgo a user-fee based program under the Research Plan in favor of a modified pay-as-you-go system, NMFS would initiate a competitive procurement process to obtain a prime contractor. Based on input from the NMFS Office of Policy and Planning, and General Counsel from NOAA and the Department of Commerce, NMFS has determined that a competitive procurement process would best ensure accountability from the prime contractor, protect the interests of the agency and the Council, and provide free and open competition for a significant business opportunity. As part of this process, we would draft a request for proposals (RFP) and solicit responses from interested parties. All prospective bidders would be treated in the same manner and none would receive preferential consideration. Before preparing an RFP, NMFS would schedule a public meeting for prospective bidders, and solicit comments and suggestions concerning the statement of work from all interested parties. This procurement process would be expected to take approximately one year and additional time may be required for the prime contractor to issue subcontracts with companies providing observer services. We would develop a mechanism for assuring that observer coverage needs will be met in early 1997 if the procurement process is not completed by January 1, 1997.

A repeal of the Research Plan obviously was not anticipated when it was approved. If the Council chooses to take this action, we will need to investigate the regulatory changes required to terminate the 1995 fee collection program, issue refunds of 1995 fees collected to date, repeal the Research Plan, ensure that observer coverage requirements are continued into 1997 if the alternative program is delayed beyond January 1, 1997, and implement the new program. At this time, we anticipate that we would prepare the appropriate analyses and draft rulemaking, as well as a schedule for implementation of a new program, for Council review and final adoption at its April 1996 meeting.

Notwithstanding our preference for the current Research Plan, we believe that a properly designed and implemented pay-as-you-go system could help minimize concerns about the potential for erosion of observer data integrity. Each approach has strengths and weaknesses, but either could address concerns associated with observer contractor/industry business relationships and observer salaries, insurance, and working conditions. Staff will be available at the December Council meeting to review each option and respond to questions. Once we receive Council guidance, I will direct staff to act as rapidly as possible to develop and implement the preferred alternative.

Sincerely,



Steven Pennoyer
Director, Alaska Region