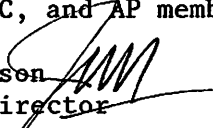


M E M O R A N D U M

TO: Council, SSC, and AP members

FROM: Jim H. Branson 
Executive Director

DATE: November 30, 1982

SUBJECT: Halibut Moratorium and Limited Entry Study

ACTION REQUIRED

- (a) Set public hearing(s) date and location for moratorium.*
- (b) Discuss special provisions for fishery in the Bering Sea north of 56°N with aim for proposals to IPHC by December 15.*

BACKGROUND

The Notice of Proposed Rulemaking for the halibut moratorium is expected to be published in the Federal Register around December 20. The draft notice and supporting documents were sent for your review in the November 24 Council mailing. Since then we have received revisions made by Washington D.C., NMFS. These changes are underlined in agenda item C-5(a). Explanatory notes in the margin were made by Council staff. The only significant changes are the specifying of a start date (May 1, 1983) for the moratorium and the requirement that a qualified individual be aboard each vessel harvesting halibut commercially during the moratorium [see p. 6 and p. 11 of C-5(a)]. Washington D.C. apparently is concerned that the previous language of the moratorium might create a loophole in that respect.

The Council has said it will hold at least one public hearing during the 30-day comment period following publication of the proposed rule. NMFS has been requested by Congressman Young [see item C-5(b)] to hold up to six hearings in Kodiak, Juneau, Seattle, Sand Point, Homer and Anchorage and to extend the comment period through February to allow crabbers to comment. Crab seasons are indicated in agenda item C-5(c). They do not appear to be a problem. We need to set a schedule for cooperative hearings with NMFS and decide who will attend on behalf of the Council. The Council should make a recommendation to NMFS on the length of the comment period; extending it more than the regulation-demanded 30 days will cut chances of having a moratorium in place by May 1.

Secondly, the Council needs to take a close look at how to handle the halibut fishery in the Bering Sea north of 56°N. The Northern Pacific Halibut Act of 1982 signed by the President on May 17, 1982 contained a special provision regarding limited access wherein "...the Regional Council may provide for the rural coastal villages of Alaska the opportunity to establish a commercial halibut fishery in areas in the Bering Sea to the north of 56 degrees north latitude during a three year development period."

Senator Stevens' intent [see agenda item C-5(d)] was clearly to give the village fishermen three years without season restrictions to establish a record for qualification in any future limited entry system. A possible method to accomplish that is to establish 12-mile zones around locations such as St. Paul, St. George and the Nunivak/ Nelson Island area. These special zones would be designated exclusive registration areas. Anyone could fish in them, but in only one zone and nowhere else in the Bering Sea (Area 4). Quotas for the small areas may not be necessary. They would be small enough to be unattractive to larger operations and the small operations are probably not capable of overstressing the resource. This year the villages of St. George and St. Paul caught 8,000 lbs and 12,000 lbs, respectively.

Chairman Tillion proposed this measure (October 19, 1982) to IPHC so it could be considered at the February IPHC meeting, you received a copy in the last Council mailing. If we have any other proposals we want them to consider they should reach them by December 15.

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Billing Code 3510-22

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.]

50 CFR Part 301

Pacific Halibut Fisheries

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

ACTION: Proposed rule.

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

Words
added

Dates
specified

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- 2 -

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

Comments were
previously
directed to
NMFS

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

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

SUPPLEMENTARY INFORMATION:

Background

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

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

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- 3 -

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

End of
paragraph
was deleted

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

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

Minor
word
revision

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

Minor
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revision

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

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resource;

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

Minor
word
revision

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

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

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

Words
added

Words
added
and
dates
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- 5 -

1978, and December 31, 1982. A person would be considered to have harvested halibut lawfully from those waters if that person has served as master or crew aboard a vessel there at a time when that vessel harvested halibut.

Dates
specified

If the halibut so harvested was sold, any person considered to have harvested that halibut would be considered to have sold it if the sale of the halibut was reported to the extent required by State and Federal law, and such sale lawfully recorded in the name of that person on the document of sale (State fish ticket or equivalent) required by law. The moratorium would not apply to that portion of area 4 north of 56° N. latitude in order to implement a provision of § 5(c) of the Act authorizing the Council:

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

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

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

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

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

New
Sentence

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

Examples of
schemes
deleted

Request for comments

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

New
Sentence

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

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

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- 7 -

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

New

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

New

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

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

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

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

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

New

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

Classification

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

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

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

New

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

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- 10 -

of the Paperwork Reduction Act of 1980.

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

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

List of Subjects in 50 CFR Part 301

Fish, Fisheries, Fishing, International organizations.

DATED:

National Marine Fisheries Service

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PART 301 - PACIFIC HALIBUT FISHERIES

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

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

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

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

§ 301.15 Moratorium on entry into the Pacific halibut fishery.

(a) Criteria for participation.

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

date specified

Minor word changes + dates specified

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

*** New

- (3) For purposes of this section--

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

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

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

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

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

(2) Halibut -- means Hippoglossus stenolepis;

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

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

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

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- 13 -

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

DRAFT

DON YOUNG
CONGRESSMAN FOR ALL ALASKA

COMMITTEES:
INTERIOR AND INSULAR
AFFAIRS
MERCHANT MARINE AND
FISHERIES

NOV 29 1982

Congress of the United States

House of Representatives

Washington, D.C. 20515

November 22, 1982

ACTION	ROUTE TO
	Sec. Dir.
	Deputy Dir.
	Admin. Off.
	Exec. Sec.
	Staff Asst. 1
	Staff Asst. 2
	Staff Asst. 3
	Economic
	Ext. Aff.
	Gen. Inv.
	San. Hyg.

Box 10, 101 12TH AVENUE
FAIRBANKS, ALASKA 99701
TELEPHONE 907/456-6949

Mr. William Gordon
Assistant Administrator for
Fisheries
National Oceanic and
Atmospheric Administration
Washington, D.C. 20235

Dear Bill:

As you are aware, the proposal by the North Pacific Fishery Management Council to establish a moratorium on entry into the halibut fishery as a first step in the eventual establishment of a complete limited entry system for halibut has generated a great deal of concern among fishermen in Alaska. I recently met with a number of fishermen from Kodiak and the Kenai Peninsula who indicated that there had not been sufficient opportunity for public comment on the moratorium proposal.

My support of the Halibut Act of 1982 and my efforts to have it passed were conditioned on the rights of all fishermen to have their views considered. As I stated on May 5, 1982, in remarks associated with passage of S.2244, "...it is the intent of this body that the Council look fully and fairly at all management systems that might be proposed..." If this condition is not being met, then I must question the actions of NMFS and the Council in this area.

In order to insure a fair appraisal of the proposed moratorium, I request that you hold a series of public hearings on the proposed regulations. At a minimum, these should include hearings in Kodiak, Juneau, and Seattle. In addition, Sand Point, Homer and Anchorage should be considered. To allow full public participation in the rulemaking process, the public comment period for the proposed rules should extend until at least the end of February, with hearings being scheduled from the end of January onward, thereby allowing an opportunity for fishermen who participate in the crab fisheries to comment. I also request that any hearings include one or more representatives of NMFS or NOAA from the Washington, D.C., office to insure that those who are directly involved in approving regulations are aware of the controversies connected with this proposal.

I am sure that you agree with me that everything possible should be done to insure that halibut stocks are kept in good condition. At the same time, I cannot support actions which place an unfair burden on any one group of halibut fishermen. If the regulatory process is not conducted in a fair and impartial manner, then the subsequent legal action that might result could have significant adverse consequences for fisheries management. Properly conducted public hearings could reduce the probability of this occurring. I look forward to a favorable response to this request.

Sincerely,



DON YOUNG

Congressman for all Alaska

cc: C. Tillion

DY:rhm

KING AND TANNER CRAB FISHERY STATUS, DECEMBER 1982 - APRIL 1983

Area	Dec.	Jan.	Feb.	Mar.	Apr.
A Southeast	XX				
E Prince William Sound	XX				
H Cook Inlet	XX				
J Westward					
Kodiak Dist.	<u>100000000?</u>		<u>10</u> XXXXXXXXXXXXXXXXXXXXXXXXXXXX		
Chignik Dist.			<u>10</u> XXXXXXXXXXXXXXXXXXXXXXXXXXXX		
S. Penn. Dist.			<u>10</u> XXXXXXXXXXXXXXXXXXXXXXXXXXXX		
E. Aleut. Dist.			<u>15</u> XXXXXXXXXXXXXXXXXXXXXXXXXXXX		
W. Aleut. Dist.	XX				
Bering Sea Dist.			<u>15</u> XXXXXXXXXXXXXXXXXXXXXXXXXXXX		
O Dutch Harbor	00000000000000000000000000				
R Adak	00000000000000000000000000				

15000000 = king crab season opens on the 15th
10XXXXXX = Tanner crab season opens on the 10th

Joint Resolution 448, requiring the President to designate the week of April 25, 1982, as Jewish Heritage Week.

The PRESIDING OFFICER. The joint resolution will be stated.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 448) to authorize and request the President to issue a proclamation designating April 25 through May 2, 1982, as "Jewish Heritage Week."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to the consideration of the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I fully support this resolution, and I ask unanimous consent that my name be added as a cosponsor of the Senate joint resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I send to the desk the names of Senators who are cosponsors of Senate Joint Resolution 181, a companion measure presently in the Judiciary Committee. I ask unanimous consent that their names be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The names are as follows:

Mr. D'AMATO, Mr. BOSCHWITZ, Mr. MOYNIHAN, Mr. LEVIN, Mr. DURENBERGER, Mr. HEFLIN, and Mr. RIEGLE.

The joint resolution (H.J. Res. 448) was ordered to a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NORTHERN PACIFIC HALIBUT ACT OF 1982

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 462, S. 2244.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2244) to give effect to the Protocol Amending the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Washington, March 29, 1979.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 875

Mr. STEVENS. Mr. President, on behalf of the chairman of the committee, Senator Packwood, I send to the desk two amendments.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Mr. Packwood, proposes an amendment numbered 873.

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendments be considered en bloc and that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

Amend page 17, strike line 3 and "vide," on line 4 and insert:

"Sec. 13. There are hereby authorized to be appropriated such sums as may be necessary for the Secretary of State to provide for fiscal year 1983 and beyond."

On page 8, line 7, insert the following immediately before the period: "Provided, That the Regional Council may provide for the rural coastal villages of Alaska the opportunity to establish a commercial halibut fishery in areas in the Bering Sea to the north of 58 degrees north latitude during a three year development period".

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendment (UP No. 873) was agreed to.

Mr. STEVENS. Mr. President, I thank the distinguished chairman, Mr. Packwood, for including the amendment to this protocol which I requested. The amendment provides rural coastal villages in Alaska the opportunity to participate in the commercial halibut fishery if a limited access scheme is adopted by our North Pacific Fishery Management Council.

At the February 1982 meeting of the International Pacific Halibut Commission, representatives of the village fishermen from the Pribilof Islands and the Nunivak/Nelson Island vicinity requested that the halibut fisherman, composed of groups represented on the Commission's Conference Board provide an opportunity for participation in the halibut fishery. The representatives proposed that the years 1979-81 be used as the base years for the existing halibut fishermen. The village fishermen were to be given an additional 3 years to enter the fishery and develop a harvest level that would serve as their base. If they were able to develop a commercial halibut fishery, they would be given shares in the limited entry program that correspond to the catch level that they achieve and if they did not the fishery would be limited to those fishermen who had fished during the 1979-81 period.

Residents of these villages are to have 3 years to establish themselves. In order to do this and not be subject to premature cutoffs in the fishing season because of attainment of the Bering Sea area quota, these fishermen are to be allowed to fish during the months of June and July without any limitations. By the end of the 3-year period, they will have established themselves and become a part of the limited entry system or if they do not pursue a commercial halibut fishery, they will not receive shares in the limited entry system.

The Conference Board members also recognized that the fishing effort in the Bering Sea area is concentrated in the southern regions near the Aleutian Islands and that the more northern areas have not experienced the harvest that could possibly be directed there.

Mr. GORTON. Mr. President, as a member of the Senate Commerce Committee, I have had an opportunity to consider this important legislation in committee, and I am pleased today to rise in support of it on the Senate floor.

S. 2244, the implementing legislation for the halibut treaty between the United States and Canada, is a statement of the positive relationship enjoyed by our country and Canada in management of the halibut fishery, a resource of tremendous economic value. In the spirit of continuing to build upon this relationship, agreements were reached between the United States and Canada regarding the halibut fishery of the Northern Pacific Ocean and the Bering Sea. A treaty was signed in March 1979, and that treaty was ratified by the Senate in March 1980.

S. 2244 provides for U.S. Commissioners to the International Pacific Halibut Commission, outlines the authority of the Secretaries of State and Commerce, contains procedures for halibut management, contains direction for the North Pacific Fishery Management Council, and authorizes sums for implementation of the legislation. In addition, S. 2244 provides authority to the Council and to the Secretary of Commerce to establish a system of limited access, provided that such a system comports with all of the requirements of the Magnuson Fishery Conservation and Management Act.

S. 2244 represents the culmination of years of effort by both United States and Canadian negotiators in reaching an understanding as to management of a valuable and important fishery resource, a significant share of which is produced by the Seattle-based fleet. I am happy to have had an opportunity to play a role in the contribution this legislation will make to the enhancement and promotion of United States/Canada fishing relations.

The PRESIDING OFFICER. The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Northern Pacific Halibut Act of 1982".

Sec. 2. As used in this Act the term: (a) "Convention" means the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa, Canada on March 2, 1953, as amended by the Protocol Amending the Convention, signed at Wash-

*Packwood is Sponsor
No. 6 - Sponsors Passed Senate 4/22
Sen. Howard Baker 4/27
Sen. Frank Lautenberg 4/27*

ington March 29, 1979, and includes the regulations promulgated thereunder.

(b) "Commission" means the International Pacific Halibut Commission provided for by article III of the Convention.

(c) "Fishery conservation zone" means the fishery conservation zone of the United States established by section 101 of the Magnuson Fishery Conservation and Management Act of 1978 (16 U.S.C. 1801 et seq.).

(d) "Convention waters" means the maritime areas off the west coast of the United States and Canada described in article I of the Convention.

(e) "Halibut" means fish of the species *Hippoglossus stenolepis* inhabiting Convention waters.

(f) "Fishing vessel" means—

(1) any vessel engaged in catching fish in Convention waters or in processing or transporting fish loaded in Convention waters;

(2) any vessel outfitted to engage in any activity described in paragraph 1; or

(3) any vessel in normal support of any vessel described in paragraph (1) of (2).

(g) "Secretary" means the Secretary of Commerce.

Sec. 3. (a) The United States shall be represented on the Commission by three United States Commissioners to be appointed by the President and to serve at his pleasure. The Commissioners shall receive no compensation for their services as Commissioners. Each United States Commissioner shall be appointed for a term of office not to exceed 2 years, but is eligible for reappointment. Any United States Commissioner may be appointed a term of less than 2 years if such appointment is necessary to ensure that the terms of office of not more than two Commissioners will expire in any 1 year. A vacancy among the United States Commissioners shall be filled by the President in the manner in which the original appointment was made, but any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which the Commissioner's predecessor was appointed shall be appointed only for the remainder of such term. Of the Commissioners—

(1) one shall be an official of the National Oceanic and Atmospheric Administration; and

(2) two shall be knowledgeable or experienced concerning the Northern Pacific halibut fishery; of these, one shall be a resident of Alaska and the other shall be a nonresident of Alaska. Of the three commissioners described in paragraphs (1) and (2), one shall be a voting member of the North Pacific Fishery Management Council.

(3) Commissioners shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in section 8101 of title 5, United States Code, et seq. and section 2671 of title 28, United States Code, et seq. Section 3(a) shall take effect on the 90th day after the date of enactment of the Act.

(b) The Secretary of State, in consultation with the Secretary, may designate from time to time alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise, at any meeting of the Commission, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

Sec. 4. The Secretary of State, with the concurrence of the Secretary, may accept or reject, on behalf of the United States, recommendations made by the Commission in

accordance with article III of the Convention and paragraph 14 and 15 of the annex to the Convention.

Sec. 5. (a) The Secretary shall have general responsibility to carry out the Convention and this Act.

(b) In fulfilling this responsibility, the Secretary—

(1) shall, in consultation with the Secretary of the department in which the Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this Act; and

(2) may, with the concurrence of the Secretary of State, cooperate with the duly authorized officials of the Government of Canada.

(c) The Regional Fishery Management Council having authority for the geographic area concerned may develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with regulations adopted by the Commission. Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited entry criteria set forth in section 303 (b)(8) of the Magnuson Fishery Conservation and Management Act. If it becomes necessary to allocate or assign halibut fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen, based upon the rights and obligations in existing Federal law, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of the halibut fishing privileges. Provided, That the Regional Council may provide for the rural coastal villages of Alaska the opportunity to establish a commercial halibut fishery in areas in the Bering Sea to the north of 56 degrees north latitude during a three-year development period.

Sec. 6. Any agency of the Federal Government is authorized upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish on a reimbursable basis, facilities and personnel for the purposes of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

Sec. 7. It is unlawful—

(a) for any person subject to the jurisdiction of the United States—

(1) to violate any provision of the Convention, this Act or any regulation adopted under this Act;

(2) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this Act or any regulation adopted under this Act;

(3) to forcibly assault, resist, oppose, impede, intimidate or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest or detention for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export or have custody, control or possession of, any fish taken or retained in violation of the Convention, this Act, or any regulation adopted under this Act; or

(6) to interfere with, delay or prevent, by any means, the apprehension, arrest or detention of another person, knowing that

such person has committed any act prohibited by this section.

(b) for any foreign fishing vessel, and for the owner or operator of any foreign fishing vessel, to engage in fishing for halibut in the fishery conservation zone, unless such fishing is authorized by, and conducted in accordance with the Convention, this Act and regulations adopted under this Act.

Sec. 8. (a) Any person who is found by the Secretary after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 7 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. Indetermining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, and history of prior offenses, ability to pay, and such other matters as justice may require.

(b) Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary and the Attorney General. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, in accordance with rules prescribed pursuant to section 2112 of title 28, United States Code. The findings, and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

Sec. 9. (a) A person is guilty of any offense if he commits an act prohibited by section 7(a), (2), (3), (4), or (6); or section 7(b).

(b) Any offense described in subsection (a) is punishable by a fine of not more than \$50,000 or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon; engages in conduct that caused bodily injury to any officer authorized to enforce the provisions of this Act, or places any such officer in fear of imminent bodily injury the offense is punishable by a fine of not more than \$100,000, or imprisonment for not more than 10 years or both.

(c) There is Federal jurisdiction over any offense described in this section.

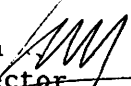
Sec. 10. (a) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of

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M E M O R A N D U M

TO: Council, SSC, and AP members

FROM: Jim H. Branson 
Executive Director

DATE: December 3, 1982

SUBJECT: Halibut Moratorium and Limited Entry Study

ACTION REQUIRED

- (a) *Set public hearing(s) date and location for moratorium.*
- (b) *Discuss special provisions for fishery in the Bering Sea north of 56°N with aim for proposals to IPHC by December 15.*
- (c) *Approve revised draft of Halibut Limited Entry Study: Program Design.*

BACKGROUND

Status of Moratorium

The Notice of Proposed Rulemaking for the halibut moratorium is expected to be published in the Federal Register around December 20. The draft notice and supporting documents were sent for your review in the November 24 Council mailing. Since then we have received revisions made by Washington D.C., NMFS. These changes are underlined in agenda item C-5(a). Explanatory notes in the margin were made by Council staff. The only significant changes are the specifying of a start date (May 1, 1983) for the moratorium and the requirement that a qualified individual be aboard each vessel harvesting halibut commercially during the moratorium [see p. 6 and p. 11 of C-5(a)]. Washington D.C. apparently is concerned that the previous language of the moratorium might create a loophole in that respect.

The Council has said it will hold at least one public hearing during the 30-day comment period following publication of the proposed rule. NMFS has been requested by Congressman Young [see item C-5(b)] to hold up to six hearings in Kodiak, Juneau, Seattle, Sand Point, Homer and Anchorage and to extend the comment period through February to allow crabbers to comment. Crab seasons are indicated in agenda item C-5(c). They do not appear to be a problem. We need to set a schedule for cooperative hearings with NMFS and decide who will attend on behalf of the Council. The Council should make a recommendation to NMFS on the length of the comment period; extending it more than the regulation-demanded 30 days will cut chances of having a moratorium in place by May 1.

Bering Sea Fishery North of 56°N

Secondly, the Council needs to take a close look at how to handle the halibut fishery in the Bering Sea north of 56°N. The Northern Pacific Halibut Act of 1982 signed by the President on May 17, 1982 contained a special provision regarding limited access wherein "...the Regional Council may provide for the rural coastal villages of Alaska the opportunity to establish a commercial halibut fishery in areas in the Bering Sea to the north of 56 degrees north latitude during a three year development period."

Senator Stevens' intent [see agenda item C-5(d)] was clearly to give the village fishermen three years without season restrictions to establish a record for qualification in any future limited entry system. A possible method to accomplish that is to establish 12-mile zones around locations such as St. Paul, St. George and the Nunivak/ Nelson Island area. These special zones would be designated exclusive registration areas. Anyone could fish in them, but in only one zone and nowhere else in the Bering Sea (Area 4). Quotas for the small areas may not be necessary. They would be small enough to be unattractive to larger operations and the small operations are probably not capable of overstressing the resource. This year the villages of St. George and St. Paul caught 8,000 lbs and 12,000 lbs, respectively.

Chairman Tillion proposed this measure (October 19, 1982) to IPHC so it could be considered at the February IPHC meeting, you received a copy in the last Council mailing. If we have any other proposals we want them to consider they should reach them by December 15.

Halibut Limited Entry Study: Program Design

This report by Northwest Resources Analysis dated November 1982 was sent to the Council family in the November 24 mailing. It is a revision of a report submitted earlier by Stokes to the limited entry steering group for comment at its meeting in Seattle on October 6. Council approval is needed of the revision before it can be distributed to the public.

7
Lundstrom

IN REFERENCE TO THE HALIBUT MORATORIUM

December 9, 1982

We support publication of the proposed rule but object to the present wording, because of the obvious bias toward the share system, and the seeming lack of concern for fishermen input and support. We want to limit effort and want the opportunity to air and consider our concern as an industry in the design of a limited entry system.

Mark S. Sundstr
V.P. - D.S.F.U. Seattle

Thomas R. Stewart
PVOA Petersburg

Nicholson DeLaney
Koodak Independent Halibut Vessels

John Zachara
Independent Fishermen of Alaska

Eric W. Jordan (conservationist)

Phil B. Woble NPFA
McCrudens

Stephen C. Stetson (Member KHFA)

B. D. Baber ALFA

Raymond M. M... BSFA

Stanley Mackay } met 2 h
Earl Parent } discuss



North Pacific Fisheries Association, Inc.

McCracken
(5)

HEADQUARTERS:

BOX 796 • HOMER ALASKA 99603

December 3, 1982

Dr. John V. Byrne, Administrator
NOAA
Hoover Dept. of Commerce Bldg.
14th St. & Constitution Ave. N.W.
Washington, D.C. 20230

Dear Dr. Byren:

I am writing on behalf of our organization, which represents commercial fishermen of all gear types on the lower Kenai Peninsula of Alaska. Our membership is deeply concerned with the proposed moratorium on entry into the Alaskan Halibut fishery, which has been proposed by North Pacific Fishery Management Council.

Due to the far reaching implications to all Alaskan coastal residents of the proposed share quota system which is inherent in this moratorium, we respectfully request that the NOAA general council hold public hearings in all the fishing communities involved in the halibut fishery. In addition, we would request that the period available for comment on the proposed moratorium be extended to the maximum allowable period of 90 days.

To allow for full participation in these hearings, we feel it would be most appropriate to schedule them after January 1, 1983. Due to crab seasons opening in December, as well as the holiday season, in which many Alaskans must travel significant distances to be with relatives, meetings in January would better assure full participation by the communities which will be permanently affected by any new regulation on the fishery. Due to their proximity to the resource and their participation in the halibut fishery, the following towns should be included: Seattle, Sand Point, King Cove, Unalaska, Kenai, Homer, Seward, Cordova, Valdez, Anchorage, Sitka, Juneau, Ketchikan, Wrangell and Petersburg, as well as a site in Western Alaska, such as Bethel.

It is, in our view, important that these hearings be conducted by NOAA rather than the NPFMC. Firstly, the legal responsibility for the proposed rule lies with your agency and there are legitimate concerns as to whether this action should be classified as a major rule. In the draft copy of the moratorium, dated 11/2/82, it states that NOAA has determined that this is not a major rule because, among other things, "it will not have a significant effect on competition, employment, investment, productivity,

innovation". We feel that these will all be directly effected by such a rule, and that hearings in Alaska are the appropriate places to address these questions.

Secondly, hearings conducted by the NPFMC would not provide a meaningful input for participants, due to the overwhelming predisposition to the share quote system and the moratorium that the council has shown.

We appreciate your attention in this matter, and if our organization can be of any assistance in scheduling these hearings, we would be more than happy to help.

Thank you again.

Sincerely,

NORTH PACIFIC FISHERIES ASSOCIATION

Dan Flynn
Dan Flynn
President

DF:ap

cc: House Democrats/Juneau
North Pacific Fishery Management Council
United Fishermen of Alaska
International Pacific Halibut Commission
William Gordon/NOAA
David Stockman/OMB
Bering Sea Fishermens Assoc.
National Federation of Fishermen
Sen. Frank Murkowski
Rep. Don Young
Sen. Ted Stevens
Malcolm Baldrige
Hugh Malone
Gov. Jay Hammond
Gov. Elect Wm. Sheffield
Cordova District Fisheries Union
Alaska Trollers Assoc.
Southeast Ak. Seine Boat Owners & Operators
Chignik Boat Owners Assoc.
Petersburg Vessel Owners Assoc.
United Fishermen's Marketing Assoc.
United Cook Inlet Drift Awsoc.
Peninsula Marketing Assoc.
Halibut Processors Cooperative
Alaska Longline Fishermens Assoc.
Commercial Fishermens Cooperative Assoc.

December 9, 1982

The below signed organizations and individuals support the immediate publication for public comment purposes of the proposed rule for a moratorium for the halibut fishery as it is currently written. We want the Commerce Department to be aware that the groups and individuals signed below have reservations to the current proposed rule as it is written and may ask for amendments to it during the comment period. Two of our objections are the obvious bias toward the share system and the seeming lack of concern for fishermen input and support. We want to limit effort and want the opportunity to air and consider our concerns.

Philip D. McCusker

Robert Brennan

J. Gregory Baker

Jay Brink

Eric W. Jr.

Nick DeLaney

Thomas L. Stewart

Stanley D. Mack

John Vaehang

Edward J. Wajand

North Pacific Fisheries Assn.

Fishing Vessel Owners Assn Seattle

Alaska Longline Fishermen's Association

Deep Sea Fishermen's Union of the Pacific
Conservationist

Independent Kodiak Halibut Vessels

Petersburg Vessel Owners Association

Alaska Peninsula Trawler Association

Independent Fishermen of Alaska/Sitka

ALASKA TROLLERS ASSOCIATION

Halibut Limited Entry Proposal - A Fisherman's Solution

Prepared by: Nick Delaney
Box 994
Kodiak, Alaska 99615
December 1, 1982

Nick Delaney has been an independent Kodiak halibut fisherman since 1971. Starting his involvement in the halibut industry with the ownership and operation of several small vessels, he has had one of the most productive halibut catch records in the Gulf of Alaska between 1978 and 1982. He is presently the halibut season operator of the 72' Kodiak vessel, the Eldan.

This presentation consists of two segments. Part I is an Opinion/Editorial outlining both the problems within the industry and the necessity of all participates ~~to work together~~ to work together. This segment was published in the December 1982 issue of Alaska Fisherman's Journal.

Part 2, due to be published in the January 1983 Alaska Fisherman's Journal is a specific limited entry proposal.

THE MIDDLE GROUND ON HALIBUT
Alaska Fisherman's Journal Dec. 1982

It has been with great interest that many halibut fisherman have watched the shares system-limited entry moratorium hoopla unfold during the last eight months. Some think we can find order and strength in a rapidly deteriorating fisheries situation through the increasingly unpopular shares-quota system; many are trying to find solutions to the problems in the halibut fisheries in the political arena, and that has taken on all the earmarks of Catch 22. It's non-Alaskan versus Alaskan, established versus non-established. Everyone seems a little too eager to cut off their own nose to spite their faces and leave the fishery itself an embittered and economically weakened skeleton compared with what could so easily be. Finally, we are seeing biological recovery and that's a good sign. Fortunately there seems to be some middle ground that may, with patience and care, revitalize the fishery for years to come if proper steps are taken now.

This middle ground is a comprehensive plan for abridged limited entry. Before it can be explored, a look at two recent historical phenomena taking place in Alaska is necessary. Each of these phenomena have had a great effect on the recent history of the halibut industry in Alaska. The first of these phenomena is the collection of radical changes in the political, economic, and social order of rural Alaskan coastal communities due to tremendous growth in the last ten years. The second phenomena is the extremely detrimental effect that the salmon limited entry programs have had upon an unregulated halibut fishery. Both of these phenomena have clearly affected the status quo of the traditional halibut fishery - a fishery originally comprised almost totally of non-Alaskan fishermen governed for many years by their own set of laws (i.e. mandatory lay-ups, union rules, etc.)

As Alaskan coastal communities grow, local political pressure for free economic access to as many natural resources as possible increases proportionately. These natural resources are, and will always be, the lifeline of these communities in Alaska. Present proposals for such methods as the halibut share system to try to solve the existing problems of too many fishermen bring understandable howls from many in Alaskan communities who, clearly and correctly, see a future of closed groups catching - forever - the fish that are found in their own backyards. In both philosophical and monetary terms, there is little discernible difference between the company fishtraps of 1930 Alaska and the results of an inequitable share system method of limited entry as recently proposed. Such a share system is a clear erosion of both existing economic bases and the potential local economic growth yet untapped. Any solution concerning limited entry in the Alaskan halibut industry must include at least the realistic opportunity for a gradual transfer of control of the fishery over a period of years from non-resident fishermen to resident fishermen. Equitable methods for such transfer can be worked out.

It has become apparent that there are real and deep-seated problems in the halibut fishery due to overcrowding. Overcrowding and shortened fishing season have obviously led to poor vessel utilization, bad market opportunities, and difficult management problems. It has also placed the developing smaller vessel fleet in Alaska at a disadvantage against the more experienced and better equipped large-boat fishermen.

Over the last six years the ~~major~~ major cause of overcrowding has been the artificial imbalance caused by the limited entry programs that have protected ~~the~~ ^{the} state-wide salmon fishery from increased numbers of fishermen while leaving the halibut open to all comers. Since the mid-1970's when the state of Alaska enacted salmon limited entry, the halibut fishery has been a relief valve. The halibut fishery has had to accept virtually all the fishing

effort expansion that would normally have been spread out proportionately between the two fisheries.

Statistics show that while the number of vessels and individuals operating in the statewide salmon industry has remained fairly constant since 1976, U.S. halibut vessels operating the Gulf of Alaska have increased almost 300 % between 1976 and 1981 (from 558 to 1569 vessels). Total halibut catch in this area during this period increased 10% (13.9 million to 15.4 million) while dockside revenues actually fell 15% (from \$20 million to \$17 million). Arguments that this increase in effort is unrelated to salmon limited entry are simply unsupported. The Alaskan salmon and halibut fisheries have always had a brother-sister relationship in the history of Alaska fisheries development. Their similarities in the state's fishing economy are especially strong in the area of common low capitalization costs that have historically enabled newcomers to enter the lower rungs of either fishery easily. Once the doors were closed on easy access to salmon, all professional halibut fishermen, from skiff fishermen to schooner men, have actually been subsidizing the cost of protection of another group of fishermen from free competition. They have suffered the rapid erosion of their own economic health.

As other fisheries stock continue to diminish, fears of additional fishing pressure upon the relatively small halibut resource remain very real and immediate. Considering that the state of Alaska's salmon limited entry laws are unlikely to change substantially, the halibut fishery must seek some equal protection under the law in order to survive what will undoubtedly be continuously increasing fishing pressure. The type of protection imposed should not be the one envisioned by the authors of the share system in which the Alaskan resource is carved up for a chosen few. Rather it should be one that will serve both the future needs of a developing Alaska and protect the rights of those that have historically depended

on the halibut resource for their livelihood. A solution through compromise and imagination remains the only long term answer for hope in the halibut fisheries and it is a solution that must be worked at by all concerned before they have nothing left to save.

Limited Entry Proposal - the Alaskan Halibut Fishery

For Management Areas 2US, 3A, 3B, and 4.

The conceptual aim of this proposal is three-fold:

(1) to allow the maximum number of fishermen possible to participate in the present fishery without diluting their individual economic share of the resource to the degree that either the fishing segment of the industry or proper management programs are threatened with immediate collapse

(2) to then attempt to strengthen the economic base of the fleet through a combination of stock enhancement, increased marketing opportunities, and a gradual retirement of a percentage of permits through a buy-out program using revenues collected by a tax on fleet catch

and

(3) creating a permit licensing structure that allows opportunities for new individuals to enter the fishery without imposing obstacles too economically restrictive to overcome.

The following guidelines serve as an attempt to find long-lasting corrections to many of the problems of the fishery. Within a framework that stresses simplicity, a result both pragmatic and fair is sought. The present realities of both Alaskan halibut management and the existing political arena have been kept in focus. These same realities tend to damper the feasibility of any of the more radical approaches - such as the share system - to finding an overall solution.

I. The issuance of permanent limited entry licenses to all owners of documented vessels engaged in the Alaskan fishery in any two of the four year period of 1979 - 1982 (Regulatory areas of 2US, 3, or 4 SE Alaska, Gulf of Alaska or Bering Sea)

A. Three size classification of licences would be issued dependant on tonnage of vessel fished during these years:

- "A" license- 5-19 ton vessel
- "B" license- 20-39 ton vessel
- "C" license- 40 + ton vessel

Without size classification based on past participation, the trend toward ever increasing capitalization and larger vessels would be irreversible within the total pool of license holders. This trend would negate all the purposes for which both limited entry and a temporary moritorium were enacted. Vessel classification would make the fishery more accessible to newcomers by maintaining a scale structure to the value of these permits.

B. A minimum catch level for each classification would be set to judge realistic engagement in the fishery as opposed to the purely speculative 'permit' fishing during these four years. Levels would be set as follows:

- "A" license: 1,000 lbs or more per year
- "B" license: 5,000 lbs or more per year
- "C" license: 10,000 lbs or more per year

C. All licenses could be freely transferable from one individual to another through sale, lease, or otherwise.

D. Restrictions preventing long term absentee or non-operating ownership of licenses would be enacted.

E. Owners operating vessels of two different tonnages during the four year period would qualify for a license of the greater tonnage.

F. Partnerships owning a single qualifying vessel would be entitled to only a single license.

A preliminary survey indicates approximately 1,000 licensed vessels would qualify for limited entry permits under the simplified point system proposed regarding the four Alaskan regulatory areas. The rough breakdown in size is as follows:

- 700 vessels 5-19 tons "A"
- 200 vessles 20-39 tons "B"
- 100 vessels 40 + tons "C"

2. No limited entry restrictions would apply to undocumented vessels under 5 tons. A percentage of the quota set yearly by the IPHC for each regulatory area would be set aside for utilization by this vessel group.

A. This percentage of quota would be equal or greater than historical levels in each regulatory area. Adjustments would be made to these percentages on a yearly basis. As local fisheries pass through developmental stages, the North Pacific Fisheries Council would be empowered to make such adjustments.

For reference it should be noted that in 1981 approximately 30% of the total catch in 2US (SE Alaska) was harvested by longliners under 5 tons. In areas 3A, 3B, and 4 approximately 9% of the total harvest was landed by this vessel size group. (IPHC, 1981 Annual Report)

In maintaining this portion of the total quota open to all US citizens regardless of past participation, the ability of the individual fisherman to experience upward mobility within the fishery would not be severely impaired. With open entry on the lower rungs, size classification of licensed permits on the upper ones, a complete ladder-like structure model would be in place that, while minimizing the ever-increasing fishing effort, would limit the economic repression of the serious newcoming fisherman.

3. For management purposes the harvesting of the halibut resources by the unlicensed and licensed vessels should take place at different time periods.

Using a 30 day month the following is a hypothetical breakdown of openings and closings:

- 6 day opening all licensed vessels
- 7 day closure of all fishing vessels
- 10 day opening all unlicensed vessels
- 7 day closure all fishing vessels

A. The length of the fishing openings for licensed vessels would insure that all vessels would maintain relative equilibrium in operational logistics. Unfair advantages for any particular size group would be minimized.

A six day fishing period is long enough for more productive operations in 5-20 ton range to make two deliveries. Vessels larger than 50 tons would have difficulty in being fully utilized.

B. Such unknown variables as weather would place smaller vessels at less a disadvantage in an opening system in which their portion of the quota was harvested in a separate opening. These variables would have the same relative effect on the individual operators.

4. The implementation of a Federal fish tax of approximately 2½% on all fish landed by licensed vessels should be investigated as a means to provide revenues to annually retire a certain percentage of licenses as they come up for sale.

Such license retirements would be an effective method to slowly strengthen the economic base of the commercial fleet. The number of licenses retired annually would probably be insignificant in relationship to the total number of licenses transferred and thereby have a minimal inflationary effect on the value of licenses. The NPFC would be entrusted with a termination of this tax at such point it was found to be unnecessary. This tax would also serve as an internal device to limit the effects of capital upgrading, that would occur within each licensed vessel classification, upon the fishery's economic base.

(10)

5. The establishment of an US halibut industry organization formed under the auspices of the North Pacific Fisheries Management Council.

This organization would be comprised of representatives from all halibut fishing organizations in Alaska and the Pacific NW, members of the processing sector, and representatives of the IPHC and the NPFMC. This organization would serve as an industry forum where problems encountered within the fishery could be openly discussed. Although the body would be strictly advisory many of the communicational short comings plaguing such a far flung and fragmentary industry would be alleviated. Twice yearly meetings, one the early fall to discuss preliminary landing and marketing information, and the other immediately preceding the annual IPHC winter management meeting would increase the needed cohesion between all elements comprising the industry.

6. All license fees presently being paid to the State of Alaska in the form of Interim Limited Entry Permits would go directly to the Administration of the Federal Licensing Program.