

M E M O R A N D U M

TO: Council, AP and SSC Members
FROM: Jim H. Branson
Executive Director
DATE: September 15, 1987
SUBJECT: Halibut Management



ACTION REQUIRED

- (a) Consider allocations policy recommendation from Policy & Planning Committee.
- (b) Review halibut proposals from industry and recommendations from the Halibut Management Team and the Halibut Regulatory Amendment Advisory Group (RAAG).
- (c) Approve proposals for public review.

BACKGROUND

(a) Halibut Allocations Policy

The Council's Policy & Planning Committee recommended the attached policy statement and management goals [item C-6(a)] as guidelines for the Council's consideration of halibut regulations. The North Pacific Halibut Act of 1982 authorizes the Council to implement regulations in the halibut fishery. The relevant section [§5(c)] of the Halibut Act is set out below:

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 nations 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)(6) 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 a 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 3 year development period.

Some questions were raised at the Policy & Planning Committee meeting on September 1-2 regarding whether all regulations adopted by the Council must be consistent with the limited entry criteria of the MFCMA or whether the requirement applies only to halibut limited entry regulations. The Committee was advised that a literal reading of Section 5(c) establishes a three-level "threshold" that any regulation adopted by the Council must pass:

1. The regulation must be approved by the Secretary of Commerce;
2. The regulation must not discriminate between residents of different states;
3. The regulation shall be consistent with the limited entry criteria of the Magnuson Fishery Conservation and Management Act.

It could be argued that Section 5(c) is vague and the Congress intended that the limited entry criteria only apply to halibut limited entry regulations. That section of the Act is inartfully worded in many places, but nothing in its legislative history would support such a liberal interpretation. Since Council adoption of allocative regulations in the halibut fishery may be controversial and may also lead to litigation, a conservative approach is advised. The limited entry criteria of the MFCMA are considerations that would, generally, be before the Council in its deliberation of any allocative regulations, regardless of the fishery.

(b) Reports from Halibut Management Team and RAAG

The Council will receive reports from the Halibut Management Team and the Halibut Regulatory Amendment Advisory Group detailing their respective reviews of halibut allocation proposals submitted in response to the Council's August 15, 1987 Call for Proposals. The Council will also review the recommendations of the Management Team and Advisory Group and decide whether to approve any of the proposals for public review. Agenda C-6(b) is a copy of the procedures the Council adopted in May 1987 for consideration of halibut regulatory proposals.

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

DRAFT

HALIBUT MANAGEMENT GOALS

Introduction

Under Section 5(c) of the Northern Pacific Halibut Act of 1982, 16 USC 773(c)(c), the North Pacific Council may develop regulations for the halibut fishery off Alaska. Those regulations must not conflict with regulations adopted by the International Pacific Halibut Commission. If the Council chooses to adopt halibut regulations, it will only adopt regulations that directly allocate the resource among users. To avoid conflict with the Commission's actions the Council will not adopt regulations that have the biological aspects of the fishery as their primary focus.

Although not required by the Halibut Act, the Council will ensure that any halibut regulation it may adopt is consistent with the Magnuson Fishery Conservation & Management Act's National Standards and the Council's Comprehensive Fishery Management Goals adopted December 7, 1984.^{1/} Regulations adopted by the Council under Section 5(c) of the Halibut Act are to be implemented with the approval of the Secretary of Commerce, must not discriminate between residents of different states, and shall be consistent with the limited entry criteria stated in Section 303(b)(6) of the Magnuson Fishery Conservation & Management Act as follows:

(A fishery management plan may)

(6) Establish a system for limiting access to the fishery in order to achieve optimum yield, if, in developing such system, the Council and the Secretary take into account--

- (A) Present participation in the fishery.
- (B) Historical fishing practices in, and dependence on, the fishery.
- (C) The economics of the fishery.
- (D) The capability of fishing vessels used in the fishery to engage in other fisheries.

1. See Attachment

- (E) The cultural and social framework relevant to the fishery.
- (F) Any other relevant considerations.

In developing regulations for the halibut fishery the Council will be guided by the following halibut management goals:

1. Promote conservation while providing for rational and optimal socioeconomic use of the resource.
2. Base management actions upon the best scientific data available.
3. Promote economic stability, growth, and self-sufficiency in maritime communities.
4. In accordance with goals 1 and 3, promote efficient use of fishery resources with due consideration for existing social and economic structures.
5. ~~Promote~~ ^{Assure} resource allocation that is fair and equitable to the fishermen concerned without assigning an excessive share of the privileges to any one fisherman or other entity.
6. Adopt allocative measures that are flexible enough to account for unpredictable variations in resource and industry and are based upon the rights and obligations in existing federal law.

NATIONAL STANDARDS FOR FISHERY CONSERVATION AND MANAGEMENT

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Comprehensive Fishery Management Goals
Adopted December 7, 1984

1. Conserve and manage fishery resources of the Region to assure long-term productivity of indigenous marine and anadromous fish stocks, maintenance of habitat quality and quantity, and full consideration for interactions with other elements of the ecosystem.
2. Ensure that the people of the United States benefit from optimum utilization of the nation's publicly-owned fishery resources.
3. Promote economic stability, growth and self-sufficiency in maritime communities.
4. Achieve optimum utilization by the U.S. fishing industry of fishery resources in the Exclusive Economic Zone off Alaska.
5. Minimize the catch, mortality, and waste of non-target species, and reduce the adverse impacts of one fishery on another.
6. Support efforts by the U.S. industry to develop new fisheries for underutilized species, while minimizing the negative impact on existing U.S. fisheries.
7. To the extent consistent with other comprehensive goals promote the economic health of the domestic fishing industry: Encourage the profitable development of underutilized resources: Discourage unneeded investments in fisheries with excess harvesting capacity.
8. Strengthen fisheries research, data collection, and analysis to ensure a sound information base for Council decisions.
9. Improve the flexibility, timeliness and efficiency of fishery management plan development, review and implementation processes.

HALIBUT REGULATION PROCEDURES FOR
THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL*

- Step 1 August 15 Publically announce cycle for halibut regulations and release a call for regulatory proposals (except for proposals specifically dealing with harvest quotas).
- Step 2 September 15 Deadline for receiving regulatory proposals. Proposals must conform to prescribed format (Attachment A). Initial categorization by management team (MT) as:
1. Incomplete
 2. Require Council action
 3. Require IPHC action
- Step 3 September 17 Halibut RAAG (regulatory amendment advisory group, similar to PAAG for groundfish plan amendment review) reviews proposals and team recommendations:
- The Halibut RAAG would:
1. Review and validate team recommendations on whether a proposal meets all the criteria in the Council's proposal format;
 2. Identify those proposals of high priority and estimate analysis time and costs for each, with input from the management team;
 3. Recommend additional alternatives to each proposal if possible.
 4. Forward IPHC-type proposals to the Commission for their consideration.
- Step 4 September 23 At the September Council meeting the Council reviews recommendations of the Halibut RAAG and team, and drops or approves regulatory proposals, and possibly adds proposals of their own. A team estimate of the time and effort required for each proposal will be needed at this meeting.
- Step 5 October 15 MT submits a Notice of Availability (NOA) after having completed a brief qualitative analysis of Council-approved proposals. NOA is published in the Federal Register for 30-45 days of public comment; during this time the MT continues analysis of proposals. (At preliminary meeting, usually in late November, IPHC reviews NOA and sends their comments and best estimates of next year's quotas to Council.)

*Approved by the Council in May 1987. Attachment B includes an extract from the Northern Pacific Halibut Act of 1982 and Council goals adopted in 1983.

- Step 6 December 9 At the December Council meeting the Council reviews public comments, further MT analyses, comments from IPHC, and takes final action on regulatory proposals. IPHC is notified of Council action and asked to consider any changes in their regulations that might be needed to implement Council measures.
- Step 7 December 20 Send final package to Secretary of Commerce for action. SOC reviews, approves/disapproves/amends, and publishes a Notice of Proposed Rule Making (NPRM) in 30 days.
- Step 8 January 20 NPRM 30-day comment period begins. IPHC meets late January, can comment to SOC on Council actions. Bio/conservation regs they develop will be implemented at approximately the same time as Council regs -- mid-April.
- Step 9 February 20 SOC prepares a Final Rule Making package (FRM).
- Step 10 March 10 FRM is published in the Federal Register.
- Step 11 April 10 Regulations become effective; published in IPHC regulatory package.

This procedure does not include full analysis of IPHC status of stock information, which becomes available in November. Consequently, regulatory proposals dealing specifically with harvest quotas will need to be reviewed and analyzed outside of this schedule. Because harvest quotas themselves most reasonably relate directly to biological/management considerations to be handled by IPHC, rather than by Council, such proposals can be handled by IPHC outside of the Council's schedule for review of allocative proposals.

Halibut Management Team Composition

Composition of the management team (MT) should include members of involved regulatory agencies; specific membership from other organizations may not be necessary. A suggested composition of the Halibut MT includes:

IPHC staff
 NMFS Regional Office staff
 NWAFC staff: biologist/economist
 ADF&G staff
 NPFMC staff

Halibut Regulatory Amendment Advisory Group Composition

Composition of the Halibut RAAG could be similar to the groundfish PAAG:

2 Council members (including NMFS-RD as IPHC Commissioner)
 2 SSC members
 2 AP members
 Halibut MT chairman

REPORT ON HALIBUT MANAGEMENT PROPOSALS
BY THE
HALIBUT REGULATORY AMENDMENT ADVISORY GROUP

On September 16-17, 1987 the Halibut Management Team (MT) and the Halibut Regulatory Amendment Advisory Group (RAAG) met to review and categorize 73 regulatory proposals received from the public. Several additional proposals were received after the September 15 deadline and could not be considered. The Halibut RAAG accepted, with slight modification, the recommendations of the MT. This report constitutes a summary of the public proposals and the recommendations to the Council of the Halibut RAAG on halibut management this year.

The proposals were first grouped into three categories: those requiring no action, those that should be referred to IPHC, and those that are appropriate for Council consideration.

NO ACTION REQUIRED (9 proposals)

Nine proposals were classified as requiring no action because either there was no identifiable proposal stated, there was no action possible to accommodate the request, or the request was for the status quo. Although weight should be given to explicit requests for status quo, the RAAG believed that status quo is always an option and does not warrant particular action.

IPHC (21 proposals)

Twenty-one proposals were categorized as most appropriate for consideration by the IPHC. Although many of these proposals could have allocative implications, they all refer to management measures already used by the IPHC or which are most reasonably handled by the Commission. These proposals were further classified as those dealing with:

- Season dates
- Size limits
- Area designations
- Hold inspections
- Gear type restrictions
- Trip limits
- Catch monitoring

NPFMC (43 proposals)

Forty-three proposals were categorized as warranting Council consideration. The Halibut RAAG does not recommend they all require Council action, but they are allocative in nature. The proposals were further classified into five general types. The following outlines the recommendations of the Halibut RAAG for each group of proposals:

Limited Access - Twenty-seven proposals were requests for some form of limited entry, including some specific requests for license limitation and share quota systems. The Halibut RAAG believes that these requests warrant substantial consideration by the Council, but that the time required for development and analysis is too great to include these in the current regulatory amendment cycle. Because the Council is currently considering limited entry for the sablefish longline fishery and will consider a commitment to study access control for the entire groundfish fishery, the Halibut RAAG recommends that limited entry for the halibut fishery be specifically included with consideration of limited entry for the sablefish or groundfish fisheries.

Bycatch - Two proposals centered upon concerns about the bycatch of halibut in other directed fisheries (e.g., sablefish, troll salmon). The Halibut RAAG believes that this issue should also be given substantial consideration by the Council, but that such bycatch issues should not be decided in isolation from those in other fisheries. More importantly, the RAAG believes that such bycatch problems may best be solved by implementing a suitable limited access program. Therefore, the Halibut RAAG recommends that bycatch proposals not be considered during the current amendment cycle, but be considered in the development of a limited access system.

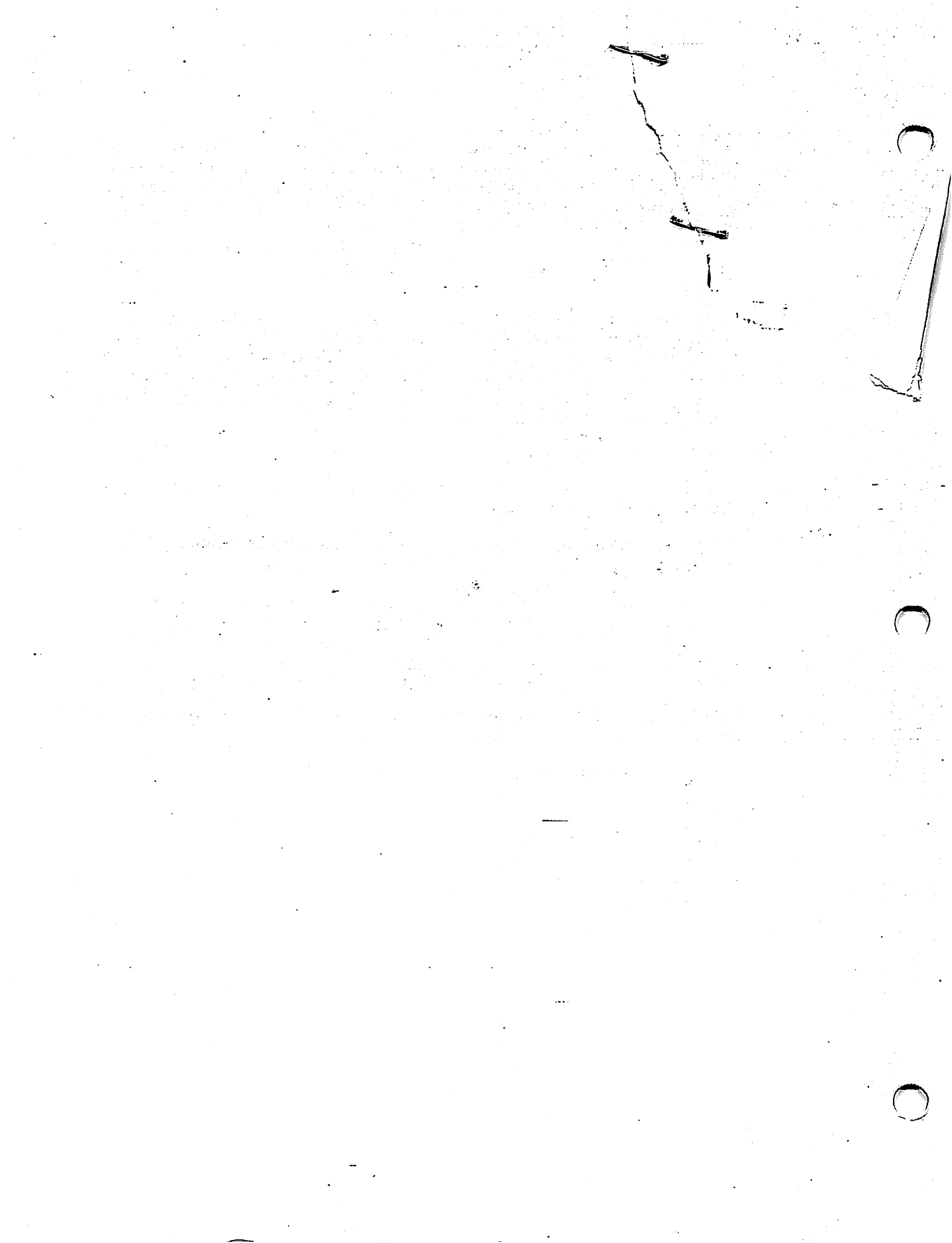
Exclusive Registration Areas - Eight proposals advocated establishing exclusive registration areas. While there were general requests to establish exclusive areas statewide or throughout the Gulf of Alaska, four proposals were for specific areas (Pribilof Islands, Atka Island, Nelson Island/Yukon Delta, and Prince William Sound.) Although there is only a short time available for development and analysis of these proposals, the RAAG believes that this group of proposals comprises about the only type of regulatory action that the Council could implement for the 1988 season. However, the RAAG cautions that the creation of exclusive registration areas could invite numerous future proposals for many more such areas and could also bias the initial allocation of limited access rights if such a program is established. Therefore, the Halibut RAAG recommends that specific proposals for one or more exclusive registration areas be considered by the Council for action during this amendment cycle, but only after discussion on the extent that such restrictions should be used to manage halibut and whether such measures would unduly hamper efforts to establish reasonable limited access programs.

Gear Limitation - Six proposals requested specific limits on the amount of gear (skates) that any one vessel could be allowed to fish. Such limitations to gear frequently are allocative and therefore warrant Council consideration. However, the IPHC will also be considering the use of gear limitations for conservation reasons next year. Since the IPHC will look at this type of proposal, the Halibut RAAG recommends that the Council defer consideration of gear limitations until at least next year, after an evaluation is made of IPHC action.

Vessel Size Limitation - Some proposals also advocated that a limit be placed on the size of vessels allowed to fish. The RAAG believes that this type of measure is clearly allocative, but that such limits are impracticable and would adversely impact the existing fleet. Therefore, the Halibut RAAG recommends that the Council not consider vessel size limitations.

In summary, the Halibut RAAG recommends that the Council:

1. Consider halibut limited access along with that for sablefish or the entire groundfish complex.
2. Delay consideration of bycatch proposals until more comprehensive bycatch proposals, including limited access, are developed.
3. Consider establishing exclusive registration areas for one or more of the specific areas requested, [but only after evaluating how such areas will bias future calculation of rights to initial allocations in a limited entry system and how to control the requests and pressure for many more such areas.] *NOT until in motion*
4. Defer consideration of gear limits until the IPHC acts upon similar proposals.
5. Take no action on vessel size limitations.



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INTERNATIONAL PACIFIC HALIBUT COMMISSION

ESTABLISHED BY A CONVENTION BETWEEN CANADA
AND THE UNITED STATES OF AMERICA

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September 15, 1987

Mr. Jim Branson
North Pacific Fishery Management Council
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Dear Jim:

As the North Pacific Fishery Management Council moves into discussions of effort management and limited entry in September for the sablefish fishery and in December for other groundfish fisheries, we request that the Council also recognize the need for similar discussions for the halibut fishery. Effort increases in the halibut fishery have made management of the resource extremely difficult, to the detriment of fishermen, processors, and the public.

The staff of the International Pacific Halibut Commission believes that a combined longline limited entry program is the best procedure for management of the halibut, sablefish, rockfish and Pacific cod resources. These species are caught by the same fishermen, often at the same time, yet the nontarget species are often discarded with considerable waste. High effort that is currently controlled primarily with very short seasons prevents retention of the nontarget species.

The Council will be reviewing many recommendations for alternate sablefish management received from the public, with difficult choices to be made among them. These same alternatives will apply for a combined longline effort management program. We believe that the status quo, open access, system is unacceptable. A moratorium would be a step in the right direction, but would effectively do little more than cap participation at an unacceptably high level. A fair procedure to reduce participation through a "point system" or other involuntary measure will be difficult to develop.

By eliminating the above alternatives, we conclude that the best longline limited entry would involve individual transferable quotas (ITQ). The individual fishermen would decide appropriate levels of participation by buying, selling or retaining shares. The property right gives fishermen the opportunity to decide when to fish, to take advantage of market conditions and other fishing opportunities, and to retain other longline caught species.

The Halibut Commission is actively exploring options for halibut management that will address the "derby" fishery. These options will offer some improvement, but are not the solution. Council action to bring longline effort in line with the resources exploited by the fisheries is the long term way to increase benefits from the resources. We will be pleased to cooperate with the Council on this matter.

Sincerely,



Donald A. McCaughran
Director

DAM/cc

cc: Commissioners