

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director

DATE: September 11, 1997

SUBJECT: Halibut and Sablefish IFQ Program

ESTIMATED TIME  
2 HOURS

ACTION REQUIRED

- (a) Final action on regulatory amendment for ownership requirements for hiring a skipper.
- (b) Discussion paper on the proposed weighmaster program.
- (c) Initial review of plan amendment to set rolling closures in the groundfish fisheries.

BACKGROUND

- (a) Final action on regulatory amendment for ownership requirements for hiring a skipper.

In this regulatory amendment, the Council is attempting to address the de facto leasing arrangements made by QS owners who buy nominal ownership of a vessel in order to hire a skipper to fish his or her QS. The Council has expressed concern that absentee owners conflict with its stated goal of having an owner-operated fleet for the IFQ fisheries. However, legitimate partnership arrangements have been made since implementation of the program such that individuals may not be fishing on board the vessel but may be actively involved in its management.

In June 1997, the Council approved and subsequently withdrew a motion that grandfathered existing partnerships and chose 51% ownership requirement for new partnerships. The Council then requested that certain aspects of the analysis be expanded for final action in September 1997 to better identify 'leasing' and legitimate hired skipper situations. The Council noticed the public through the June 1997 newsletter that its strong intent was to grandfather levels of ownership of a vessel for hiring a skipper to existing partnership arrangements as of April 17, 1997, the date of Council initial review of the analysis.

The analysis (Item C-3(a)) was distributed on September 12, 1997. Alternatives included in the analysis are:

Alternative 1: Status Quo. Ownership requirements for hiring a skipper to fish a QS holder's IFQ remain unspecified, allowing for minimal interest in vessels.

Alternative 2: Revise regulations to require a specific percentage of interest in vessels for QS holders wishing to hire skippers.

- Option A: Require a 5% minimum interest in vessel;
- Option B: Require a 20% minimum interest in vessel;
- Option C: Require a 49% minimum interest in vessel;

- Option D: Require a 51% minimum interest in vessel;  
Option C: Require that the percentage of vessel ownership reflect the IFQ's percentage of the vessel cap.

Alternative 3: Require QS holders wishing to hire skippers to have held a specific percentage of vessel ownership (the above options under Alternative 2) as of a certain date.

- Option A: As of the date of Secretarial approval of the IFQ Program;  
Option B: As of April 17, 1997 (the date of the Council's initial review of the analysis).

The analysis indicates that Alternative 2, Options A, B, and C would reduce the number of nominal and minimal ownerships in vessels, but would continue to allow most partnerships of equal interest. Option D would reduce the number of ownerships by 58% and would prevent a QS holder with equal ownership with one or more partners from hiring a skipper.

(b) Discussion paper on the proposed weighmaster program.

During the 1996 IFQ proposal cycle, Icicle Seafood submitted a proposal to require an independently certified observer (weighmaster) to be paid for by the buyer to weigh and record all IFQ offloadings of halibut and sablefish. At its October 1996 meeting, the Industry IFQ Implementation Team ranked this proposal first among 12 reviewed proposals. In December 1996, the Council requested that NMFS staff prepare a discussion paper describing the costs of and enforcement needs for a weighmaster program. NMFS responded that due to the requirements of the Sustainable Fisheries Act of 1996, staff would be otherwise committed. In April 1997, the Council requested IPHC staff to prepare a discussion paper describing the Canadian 'validator' system used in its halibut and individual vessel allocation programs. A discussion paper (Item C-3(b)) will be presented to the Council by Bob Trumble, IPHC staff. Specific recommendations outlined in the report include:

- Any future analysis of a weighmaster program should address present and future enforcement levels, present and future landing data quality, and effect on the politics of IFQs. The analysis should also consider waiving the 6-hour check-in if a weighmaster is present.
- Any future analysis of a weighmaster program should address market competition and fish prices that may result from a weighmaster program against the potential for increased misreporting of landings.
- In addition to weighing the advantages and disadvantages of processor, fishermen, or shared payments, any future analysis of a weighmaster program should address sources of funding available.
- Any future analysis of a weighmaster program should address the advantages and disadvantages of administration by NMFS, IPHC, PSMFC, and private contractors.
- Any future analysis of a weighmaster program should address the tradeoffs of simple versus complex duties and the relationship with enforcement, the desirability of and limitations on reciprocal validation with Canada, if scale certification sufficiently covers IFQ landings, and the number of potential weighmasters available in the ports.

The Council will consider the need to proceed with further development of a regulatory amendment to institute a weighmaster program given these staff and industry recommendations.

(c) Initial review of plan amendment to set rolling closures in the groundfish fisheries.

Voluntary efforts to keep fishing vessels off survey stations during the sablefish longline survey have been mostly successful; however, interactions between fishing vessels and the survey occurred in 1995 and 1996 and continued in 1997. The objective of area closures is to minimize the short-term depletion of sablefish abundance due to fishing in the survey area. Minimizing short-term depletion should preserve the survey time series and, as much as possible, ensure that future surveys reflect true changes in abundance. In October 1996, the IFQ Industry Implementation Team ranked this proposal third highest among 12 IFQ proposals. In December 1996, the Council requested that staff prepare a regulatory amendment to examine rolling closures for the longline and trawl fleet during the months of the sablefish longline survey.

During initial review in June 1997, the Council requested that staff further develop the analysis for a regulatory change to close designated areas around sablefish survey stations to longline and trawl vessels for short periods to allow those stations to 'rest' prior to surveying for stock assessment purposes. A discussion of alternative survey designs and dates, use of multiple survey vessels, and a combination logbook/survey assessment was added to the EA/RIR. NMFS survey scientists have reported to the Council that they will be reordering the sablefish survey beginning in 1998 to minimize interactions with the trawl fishery and this aspect has been severed from the decision document. NMFS staff consulted with the trawl and longline industry on proposed changes.

Mike Sigler, NMFS-Auk Bay Lab, will present the revised analysis (Item C-3(c)) that was distributed on September 8, 1997. The management alternatives include:

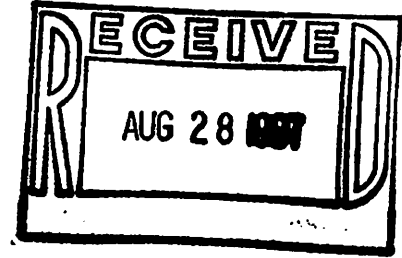
Alternative 1. Status quo. Voluntary closed areas, reordered survey sequence.

Alternative 2. Regulatory closed areas, gear-specific exemptions with annual review.



AGENDA C-3(a)  
SEPTEMBER 1997  
SUPPLEMENTAL  
UNITED STATES DEPARTMENT  
National Oceanic and Atmospheric  
National Marine Fisheries Service  
P.O. Box 21668  
Juneau, Alaska 99802-1668

August 25, 1997



Mr. Richard B. Lauber  
Chairman, North Pacific  
Fishery Management Council  
605 West 4th Avenue, Suite 306  
Anchorage, Alaska 99501-2252

Dear Rick:

The Council currently has under consideration an IFQ regulatory amendment to adopt a minimum percentage of vessel ownership required for holders of initial allocations of quota shares (QS) to be allowed to hire skippers to fish their IFQ. NMFS would like to call the Council's attention to an ancillary issue pertaining to hired skipper practices in the IFQ Program.

At issue is whether the FMP text and the regulations may be interpreted broadly to allow a QS holder to hire a skipper to fish its IFQ on a vessel in which the QS holder does not hold a direct ownership interest (for example, a QS holder who is a shareholder in a corporation that is the named owner of the vessel).

During both the 1995 and 1996 IFQ seasons, the RAM Division was requested by industry to "broadly" interpret the regulations so that the vessel ownership requirement could be satisfied by an applicant who could demonstrate "indirect" ownership. An applicant must satisfy the vessel ownership requirement in order to hire a skipper to use the applicant's IFQ. These requests were addressed on a "case-by-case" basis.

At the beginning of the 1997 season we announced a "one year only" policy to the fleet, notifying all non-individual QS holders that, for the 1997 season only, a person who could show an ownership interest in another "person" that owned a vessel would be allowed to hire a skipper to fish that person's IFQ.

The FMPs state that "Persons . . . who receive initial catcher vessel QS may utilize a hired skipper to fish their quota providing the person owns the vessel upon which the QS will be used." The IFQ Program implementing regulations at 50 CFR 679.42(i) and (j) accurately reflect this language. Further, the regulations and FMPs define the term "person" to mean an individual, corporation, partnership, association, or other entity. Literally interpreted, the regulations would require that, in the case of a corporation using a hired skipper, the corporation must itself be named as the owner of the vessel and would not be allowed to fish the corporate QS on a vessel owned by an individual shareholder in the corporation.

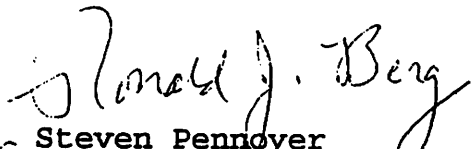


NMFS requests Council guidance on this issue. Should the Council wish the 1997 policy to continue, initiating an FMP amendment to that effect would be appropriate. On the other hand, if the Council wishes for the regulation and the current FMP language to be literally interpreted, no amendment needs to be initiated and NMFS will make appropriate policy adjustments for the 1998 season and beyond.

The RAM Division estimates that "indirect ownership" of the vessel exists in fewer than 25% of the applications for hired skipper cards (so, about 125 "indirect ownership" hired skipper cards have been issued during 1997 -- a more precise count would require a document search in the hard files of every QS holder who has applied for a hired skipper card).

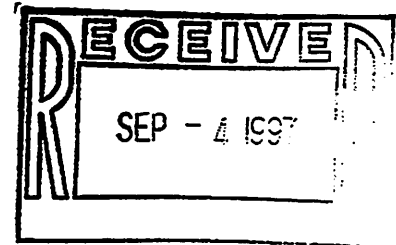
This issue should be added to the Council's September agenda. We will have NMFS staff present to explain this issue in greater detail and answer questions.

Sincerely,

  
For Steven Penoyer  
Administrator, Alaska Region

cc: Clarence Pautzke

P. O. Box 770881  
Eagle River, Alaska 99577  
September 1, 1997



Mr. Charles G. Pautzke and Board Members  
North Pacific Fishery Management Council  
605 West 4th Avenue Suite 306  
Anchorage, Alaska 99501-2252

Dear Mr. Pautzke and Board Members,

These comments are in regard to Halibut IFQs ---percentage of ownership in a vessel to be able to hire a skipper.

Our situation is a family operated fishing business. My two sons, (Robert and Scott) and I (family) own a fishing vessel which harvests halibut and scallops. You probably would remember us from our testimony and involvement throughout your scallop sessions leading up to the scallop moratorium ----F/V Wayward Wind, Max and Scott Hulse.

We received an initial 12,000 lbs of Halilbut IFQs which, upon my request to NMFS, was divided equally among the three of us as we all had ownership in the F/V Wayward Wind.

We try to market all of the product we harvest ourselves. My wife and I operate a small (home) processing plant in Eagle River, Alaska where we sell our product both wholesale and retail. My son, Scott, is the main fisherman with my wife and I along with Robert and his wife's help do the marketing.

**We understand your goal of having an owner-operated fleet for the IFQ fishery, however, should you require more than 33% ownership in a vessel it would deal us a great hardship. This scenario would require that Rob and I both be on board while fishing while our history is ---Scott fishes, Rob and I market the product.**

We also have an immediate short term problem-----because of the "Mr. Big" situation which caused the scallop fishery to be closed in 1995. In order to make boat payments we had to find other work for our fishing vessel, the F/V La Brisa. Luckily we acquired a three year charter contract (through '98). Due to this contract, we had to find another vessel to fish our IFQs and scallops.

I was able to acquire a small percentage of ownership in the Nomad II which is fishing our IFQs through our 1998 contract period. This arrangement has been good for us as

we are still able to market most of our quota ourselves. This type of arrangement might not be so far removed from the owner operated goal, as Doug Bowen, owner of the Nomad II, is able to get a start in fishing with eventually owning and fishing IFQs himself.

Possibly with a few restrictive guidelines, example, restrict the amount of IFQs owned by others a vessel could fish, the small percentage ownership scenario might be a real good situation overall. Young fishermen with only small amounts of capital could get a start by fishing others' IFQs, then eventually be able to purchase their own IFQs.

Thanks for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Max G. Hulse".

Max G. Hulse

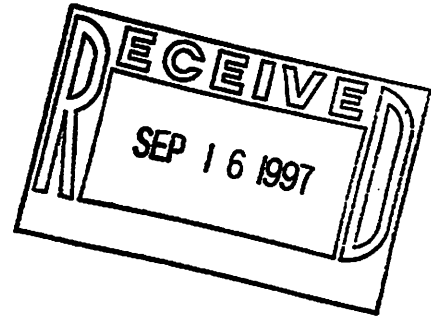
# Deep Sea Fishermen's Union of the Pacific

5215 Ballard Avenue N.W.  
Seattle, Washington, 98107  
Phone: (206) 783-2822

Fax: 783-5811



Established 1912



September 3, 1997

Committee To Review IFQ's  
Ocean Studies Board  
National Research Council  
2101 Constitution Ave. NW ; HA 470  
Washington, D.C., 20418

The Deep Sea Fishermen's Union of the Pacific (DSFU) established in 1912, is an independent union and the oldest organization of crewmen and skippers in the North Pacific. The Union is composed of longliners (non-vessel owners) who fish primarily in the Gulf of Alaska and the Bering Sea. The DSFU has been in the process all through the development of the halibut and sablefish Individual Fishing Quota Program (IFQ) in the North Pacific. The Officers of the Union participated in the North Pacific Fishery Management Council's debate for over ten years that it took to develop the new privatization plan.

The implementation of the halibut and sablefish IFQ program in the North Pacific has accomplished the major goals established in the 10 year development of the program. Safety has improved dramatically, the value of the catch at ex-vessel price has improved, bycatch has been reduced in both fisheries (halibut and sablefish). The consumer now has fresh fish nine months of the year which has expanded fresh demand through out the



country. The IFQ Plan has also enabled fishermen to develop a fishery business plan optimize opportunity to keep vessels working. The IFQ Plan has allowed some professional fishers the opportunity to be, once again, full time fishermen. Under open access most halibut fishermen were fishing less than seven days a year. I also believe enforcement of regulations has improved under this FMP. The repercussion of violations and ultimate fear of losing IFQ privileges has kept most operators in line. NMFS must reorganize manpower needs to put back at full strength the dockside personnel now short in the North Pacific. The dockside monitoring of this program is what sold the plan and makes enforcement work. This correction of returning to initial levels of dockside enforcement must be done immediately!

Along with the good we believed would come with the IFQ Program has come some deep concerns we knew would accompany this new management system. The DSFU believed from the beginning that traditional, long standing deckhands and hired skippers should be included in the initial allocation process. Many fishermen who had invested their entire working careers were cast aside and left at the mercy of a boat owner of record from 1985 to 1991. The Union has had a long and successful record of operation with the Fishing Vessel Owners' Association of Seattle (FVOA) since 1914. When it became apparent that including deckhands in the allocation process was not a reality, an agreement was struck between DSFU and FVOA on a long term contract called

the Set Line Agreement. The majority of the FVOA members are still honoring this contract. There are a small minority who because of economic strength due to IFQ's ownership, have broken their contractual agreement with their crews and are taking higher than agreed on boat shares or in some cases charging for the use of the IFQ permit.

The crews have been reduced in numbers. The Union lost approximately 30% of deck jobs since the implementation of IFQ's. Many fullshare totally experienced longliners, second generation fishermen, cannot find employment. The out of work list at the Union Hall has at times had 25 to 40 crewmembers' looking for work.

We hear reports out of Alaskan ports where crewmen with 15-17 years experience on one vessel are being replaced by either automated longline machines or dock side help, hired for \$100 to \$200 a day. The long valued skilled deckhand has been replaced by cheap inexperienced help. The IFQ quota share holder in many cases, is forgetting how his IFQ's were earned and is turning his back on his ex-partners. Greed still exists.

Many fishermen still believe a system to allocate IFQ's should have had some provision to reward the pre-IFQ partnerships that were in existence in this fishery and industry since the turn of the century. The system of a joint venture in this industry has now been drastically changed and human nature and the American demand for "more" has strained many working relationships between the quota share owner and his ex-partners.

Control of transferable of IFQ's should be strictly monitored. One of this programs major selling points was for an owner/operator fleet, second generation owners must meet a very soft definition of a qualified crewmen, and that second generation owner must be on board during harvest of his quota. Under the original plan and in development of the regulations, leasing by everyone except Class A share holders was prohibited. But a

practice of purchasing a fraction of another owners vessel is catching on and is threatening, I believe, the entire program This FMP was not designed to be a retirement plan for initial IFQ recipients. We have one case that expresses the frustration of leasing and transferability. A local vessel owner at the seasons end in 1996, laid off his entire six man crew, one of these crewmen, who had been on this vessel for a total of 17 years, had been personally groomed by the owner to skipper his operation into the future. This owner put a for sale sign on his vessel to eliminate his cost of insurance, maintenance, moorage, etc. He then "contracted" with another vessel to harvest his quota shares. His income derived from this lease, depending on who's story you believe, was 25% to 50% of the value of the fish caught on his card. His cost was a "buy in" to the ownership of the harvesting platform for as little a 1% ownership-who's value could be a buck (\$1.00).

So who is paying for all this new found wealth? These lease fees usually come right off the top or gross stock, then the harvesting vessel takes boatshare of 30% to 50% of the remainder of the revenue then expenses; fuel, bait, ice, grub, etc., are paid and then the crew shares the remainder. To simplify a little and be a bit more dramatic under a Union contract, a crewmen or hired skipper earns about 10% of the gross. Under these lease scams, a crewmen's income is about 3%.

So if this is just a small problem, we can all hold our breath. These boat owners who are earning about 30% boat share operating their own vessels, will soon realize they can eliminate their liability exposure, get rid of operating cost, maintenance and all the work associated with vessel ownership and operation and just stay home. Their income could jump 20% or even more if you include all the money saved by selling or tying up

their own vessel. For a small investment of a few dollars, he can become a very minority partner and collect big bucks for being given the rights to halibut and sablefish IFQ's.

This is not the IFQ program I supported - did you? The language for U. S. citizenship for purposes of IFQ ownership, appears to be adequate. We need to guard against foreign owners using "front people" to profit from IFQ's. As quota shares change hands, most fishermen will not have the financial resources to borrow to get started. Many have and will look to cannery's owned by offshore foreign owners who will "lend" to keep their plants operational with high value IFQ species.

The issue of new entrants having adequate opportunity need reinforcing. Two issues will be important. First, stop the leasing, make those owners of IFQ's who don't want to be fishermen any longer sell, making those leased quota shares available to those wanting to get in. Second, keep the owner onboard provision. Many vessel owners we are working with are assisting their crewmen with loan guarantees in acquiring quota shares. there are still a few honorable people in this business.

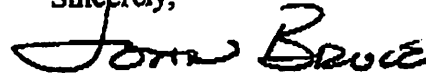
I believe that the majority of DSFU members' are much better off under the new FMP for halibut and sablefish. I also believe that a great asset was given to a very few lucky American fishermen. It is very distressing to see a few of this group get so greedy that it could place the whole management plan in jeopardy.

We need to continue to be flexible in regulatory changes and we need to get enforcement back to a level of coverage that is not embarrassing or a joke!

We look forward to working and making comments to the National Research Council committee.

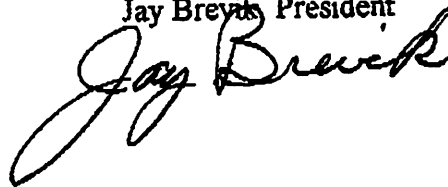
Thank you for your time!

Sincerely,



John Bruce, Director

Jay Brevitt, President



**DRAFT**  
**MINUTES**  
**IFQ INDUSTRY IMPLEMENTATION TEAM**  
**SEPTEMBER 21, 1997**

The IFQ Industry Implementation Team convened on Sunday, September 21, 1997 at approximately 9 a.m. during the Council's September Council meeting in Seattle. Jeff Stephan (Chairman), Norman Cohen, Arne Fuglvog, Jack Knutsen, John Woodruff, John Bruce, Don Iversen, Linda Kozak, and Dennis Hicks were in attendance. Staff present included Jane DiCosimo, Phil Smith, Jim Hale, Jay Ginter, Mike Sigler, Steve Meyer, Bob Trumble, and Heather Gilroy. Approximately six members of the public also participated.

**IFQ Weighmaster Program** The Team continued to support a weighmaster-type program whose primary function would be to monitor IFQ removals. An EA/RIR should be developed as soon as possible so that the program could be in effect in 1999. We also understand NMFS Enforcement will develop such a similar proposal in early 1998 and the Team encourages development of this report.

The key issue to see analyzed are identified in the current draft discussion IPHC document and are:

- 1) Administrator of program.
- 2) Who pays and how much.
- 3) Extent of monitoring.
- 4) Extent of duties.
- 5) Impact on CDQs.

The Team recommends clearly that the program needs to be developed as soon as possible. (Passed 7-2).

**Minimum Ownership to Hire a Skipper** The Team extensively discussed the hired skipper amendment. Six motions and amendments to motions failed. The Team approved by a vote of 5-4 to recommend Alternative 2, Option C (49%) and Alternative 3, Option A (January 29, 1993) to the Council.

**Sablefish Rolling Closures** The recommended that the Council send out the rolling closure EA/RIR for public review and schedule final action in September 1998 to receive a report from NMFS at that meeting on the success of an additional year of voluntary industry compliance with the reordered sablefish longline survey in 1998. (Passed unanimously).

**IFQ Proposals** The Team reiterated its interest in maintaining the Council's current IFQ proposal cycle which would schedule review of proposals during the December Council meeting. This would allow the Council to review these proposals subsequent to tasking of groundfish and shellfish proposals. The Team reviewed the IFQ proposals earlier than the Council cycle to avoid an additional fall meeting since it was already meeting to review the above redrafted analyses.

Of the 16 IFQ proposals and one generated as a result of team discussion, three proposals were recommended for the Council's consideration for further analysis for Council review in 1998. Proposals #3 (unanimous), #5 (unanimous), and #17 (6:1:2) were ranked as high priority. Proposal #3 would amend the plan and regulations to change all halibut and sablefish use and vessel caps from pounds to QS units. The Council has already approved such changes in the sweep-up plan amendment and Bering Sea halibut use cap regulatory amendment. Proposal #5 would redefine regulatory language describing 'a change in the corporation or partnership' and require that non-individual QS holders provide annual updates of ownership information. New proposal #17 modified proposal #4, which was to rescind the January 2, 1998 sunset date of the 10% leasing provision. The Team suggested that the Council consider a new leasing provision that would allow initial QS recipients to lease 10% of their QS pooled across all areas, with a suboption for analysis that would restrict this allowance to the Bering Sea, where the greatest need for it may exist. The Team recognized that this program would not be in place for the 1998 season.

## DRAFT

The following briefly summarizes the teams' rationale for not recommending the other proposals:

- #1 The Council adequately addressed this issue in early analyses; gear conflicts remain a concern.
- #2 This proposal would close traditional commercial fishing areas and can be better addressed under locally-based plans.
- #4 The vote for rescinding the sunset failed (4:5) and was replaced with proposal #17.
- #6 This proposal was referred to IPHC.
- #7,8 The team was sympathetic to the loss of jobs that generated this proposal, but team members noted that baiting machines could also increase job opportunities in the IFQ fisheries. The team noted this was not a program change.
- #9-12 The team noted these proposals provided a different solution to the problem identified in proposal #3, of changing cap levels as a result of changing quotas.
- #13 The Council adequately addressed qualifying years in original deliberations.
- #14 Technology will eventually allow cellular transmission of IFQ buyer reports from tender vessels.
- #15 The Team engaged in a similar discussion as for proposals #9-12.
- #16 The Team discussed the equity issue of approving an exception for salmon tenders in the troll fishery, but recommended disapproval. Fishermen should be able to comply with 6-hour notice requirements in State waters P. cod fishery.

*Alverson /  
Odegaard*

Option E ( Odegaard proposal)

As the staff analyzed the option

Currently there are vessel caps for halibut and blackcod

The staff analyzed this option using the respective halibut or blackcod caps versus the holdings of halibut or sablefish that a initial recipient might hold.

Under this option the council could require an initial recipient to have the same percentage of vessel ownership in a vessel that they currently own, as the ratio between a cap and the poundage held.

Example If the vessel cap of halibut is 1,000,000 units and a person holds 100,000 units then a minimum ownership would be 10 percent in the vessel that the poundage is fished on. The same procedure would be done for sablefish.

In the event a initial recipient held both species the greater or lesser percentage could be required as ownership.

Odegaard proposal as presented by Per Odegaard to the AP

Per's proposal would add the respective caps together and divide by the total poundage of sablefish and halibut held by an initial recipient. This would result in a percent of required ownership in a vessel.