



C4 Request for Year-Round Halibut and Sablefish Seasons

May 2020 Special Council Meeting

Action Memo

Council Staff: Sarah Marrinan
Action Required: Review proposal and determine whether to provide recommendations to the IPHC on changing season dates.

BACKGROUND

Proposed action

Proposal C4 is a request to extend the halibut and sablefish commercial Individual Fishing Quota (IFQ) seasons to a year-round fishery, in addition to supporting the proposal to increase the current adjustment policy of 10% of unused halibut and sablefish IFQ for use in the next season (Proposal C3). The proposer advocates for this action to relieve some of the financial pressure on harvesters and processors, who have been experiencing constrained markets, as well as incurring additional costs in order to take precautions to avoid the spread of COVID-19.

The halibut and sablefish commercial IFQ fisheries simultaneously opened on March 14, 2020. These seasons are scheduled to stay open through November 15, 2020.

The proposed action for a “year-round fishery” may be understood in several ways. The proposer may be asking to extend the end of the halibut and sablefish IFQ seasons through Dec 31, 2020. The proposer may also be asking that the fisheries either reopen or continue to stay open into the winter of 2021.

Regulatory process for changes

The halibut and sablefish IFQ seasons have traditionally been implemented simultaneously to reduce waste and discards for those that hold IFQ for both species. However, the regulatory authority for setting fishing periods for these two species is different, thus the regulatory process for changing these fishing periods would involve several steps and a coordinated management approach between agencies. The process for adjusting season dates for the commercial IFQ fisheries would depend on the extent of the changes (i.e. an extension of the 2020 season or additional adjustments to 2021).

Each year, the halibut commercial fishing period dates are selected by the International Pacific Halibut Commission (IPHC) at its annual meeting under the authority of the Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773b. According to the Halibut Act, Regional Fishery Management Councils may develop, and the Secretary of Commerce may implement, regulations governing harvesting privileges among U.S. fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations. An extension of the halibut fishing season would be in conflict with the fishing periods currently specified in IPHC regulations for 2020. Thus, for these dates to change, the IPHC would need to hold an intersessional meeting to consider this request. Under this agenda item, the Council will choose whether to provide a recommendation to the IPHC on halibut season dates. If the IPHC selects new season dates,

that recommendation is transmitted to the Secretary of State (ideally combined with any other proposals for regulatory changes), and upon approval and with the concurrence of the Secretary of Commerce, an emergency or interim rule would need to be published to give effect to these new regulations. This process would need to occur regardless of the extent to which halibut season was adjusted (into 2020 or into the winter of 2021).

For sablefish, U.S. Federal regulations at 50 CFR 679.23(g)(1) state that directed fishing for sablefish using fixed gear in any IFQ regulatory area may be conducted during the period specified by the Regional Administrator and announced by publication in the Federal Register.¹ This method of season announcement was selected to facilitate coordination between the sablefish season, chosen by the Regional Administrator, and the halibut season, adopted by the IPHC. Thus, an emergency extension of the season could occur through a notice in the Federal Register.

However, the Federal regulatory process for changing the halibut and sablefish IFQ seasons becomes more complex if the proposed modifications to the season extends to December 31 or also includes the winter of 2021. The implications of modifying the seasons to this extent would include a ripple effect into other Federal regulations (highlighted in more detail below), which would require further regulatory changes to accommodate.

Impacts of the proposal

Throughout the duration of the IFQ Program, the halibut and sablefish commercial fishing seasons have been set between late February/March through November (see Table 1). In the past, the IPHC has considered biological factors associated with halibut when setting these dates, including migration and spawning considerations. More recently, weather patterns, predicted tides in some fishing areas, the potential for whale depredation, and business considerations for harvesters and processors have been factored into the discussions surrounding the decision for these season dates.

There are a number of factors to take into account while evaluating a potential emergency change to the 2020 (and potentially 2021) halibut and sablefish commercial IFQ seasons. From a biological perspective, there may be no substantial concern around a year-round halibut season, as the total mortality is both monitored and managed on an annual basis. However, if the fishery were extended through the end of the year, logbook and biological sampling for the remaining two months would not be available for the assessment and remaining catch would need to be projected (I. Stewart, personal communication, 5/5/2020).

From a harvester perspective, this action could provide additional flexibility without requiring effort to shift to the winter months. As indicated by the proposer, the 2020 season has resulted in extremely challenging market conditions due to the impacts of COVID-19. As can be seen in Figures 1 and 2, catch rates have been reduced thus far as compared to previous years, particularly for halibut. A winter fishery could give harvesters the opportunity to seek additional markets around the holidays. If restaurants have reopened and overall markets have improved, there is potential harvesters could earn a greater ex-vessel value for fresh halibut than at the beginning of the 2020 season.

Some harvesters expressed interest in a year-round fishery prior to widespread awareness of COVID-19. Discussion about a year-round halibut fishery occurred at the 2020 Session of the IPHC Conference Board (CB090), which met February 4-6, 2020. According to its report,² the CB agreed that for both opening and closing, the dates should allow the longest fishing season possible in order to maximize time

¹ Federal Register notice for the 2020 season (84 FR 9978) is available at: <https://www.federalregister.gov/documents/2019/03/19/2019-05118/fisheries-of-the-exclusive-economic-zone-off-alaska-sablefish-managed-under-the-individual-fishing>

² Report of the 90th Session of the IPHC Conference Board (CB090): <https://iphc.int/uploads/pdf/cb/cb090/iphc-2020-cb090-r.pdf>

to catch quota, allow a longer season for the market, address halibut bycatch issues, and to minimize whale depredation. The report stated that the CB requested the formation of an ad-hoc stakeholder working group to review options for shifting to a year-round fishery. The work group is expected to work with the IPHC Secretariat and Contracting Party staff to determine the feasibility for an extended or year-round Pacific halibut fishery. To date, the stakeholder group has met once at the annual meeting to identify benefits and discuss support for either halibut bycatch allowance for IFQ holders during the winter or full open season. A report from this stakeholder group may be presented at the next interim or annual IPHC meeting (L. Behnken, personal communication, 5/5/2020).

Typically, with the ability to choose when their IFQ is harvested (between February/March – November fishing periods specified through regulations), most harvesters have chosen to operate primarily in the summer months, while coordinating participation in various salmon seasons. As there are many small boat operators in the IFQ fisheries, particularly for the halibut IFQ fishery, safety at sea has long been a primary factor in choosing a time with more favorable ocean and weather conditions under the flexibility in the IFQ Program. As can be seen from weekly landings in Figures 1 and 2, each season has followed a similar trend, with harvest rates peaking in the early and late summer (with a dip in landings during salmon seasons).

It is unclear whether this would be a proposal that would benefit processors. The IPHC’s Processor Advisory Board (PAB) has generally not supported longer seasons, for example recommending a season of March 21 – October 31 for 2020. The PAB report³ cites several market factors in their recommended opening date. October 31st is their traditional recommendation for a closing date, motivated by diminished catches, the onset of rough weather, and continuing decline in the fresh fish selling environment due in part to the approaching U.S. Thanksgiving holiday, and additional closures of processing facilities. As highlighted in the IFQ Program review,⁴ processor representatives have noted that margins essentially disappeared for processing halibut following IFQ Program implementation, and that some processors continue to process halibut to “keep the lights on”, cover operating costs, maintain a market for the fish for vessels with which they have relationships in other fisheries, and provide a longer employment season for their processing workers. Thus, unless the effects of COVID-19 present new incentives to remain open later in the year, some processors may not find it financially beneficial to continue accepting IFQ deliveries late into the winter of 2020 or early 2021.

Finally, an emergency proposal to change the halibut and sablefish commercial IFQ seasons to year-round would present numerous logistical challenges for managing agencies that would need to be addressed prior to implementation. The level of complexity depends on whether the fishery would be extended a few weeks past its scheduled close (requiring possibly limited regulatory changes) to all the way through the winter season of 2021 (requiring more substantial revisions to seasonal management). There are aspects of NMFS management that have been set up around the typical March to November seasons. This means regulatory processes would need to be closely examined and reconfigured to ensure effective fishery management can occur, and so unanticipated events would not curtail the IFQ fisheries. Examples of potential issues have been identified by staff of managing agencies are listed below. It is not expected that this list is exhaustive, and further analysis would be required to ensure a comprehensive and effective implementation of any changes to the halibut and sablefish IFQ seasons.

Logistical hurdles for an extension through December 31:

- A season that extended through to the end of the year would require changes to the IFQ Cost Recovery Program. Under regulations at § 679.45(b)(3)(iii) NMFS has the duty to publish the

³ Report of the 25th Session of the IPHC Processor Advisory Board (PAB025):
<https://iphc.int/uploads/pdf/pab/pab025/iphc-2020-pab025-r.pdf>

⁴ NPFMC/ NMFS. 2016. Twenty-Year Review of the Pacific Halibut and Sablefish Individual Fishing Quota Management Program. December 2016. Anchorage, AK.

standard prices in the last quarter of the calendar year. Standard prices would not reflect total IFQ landings if published early.

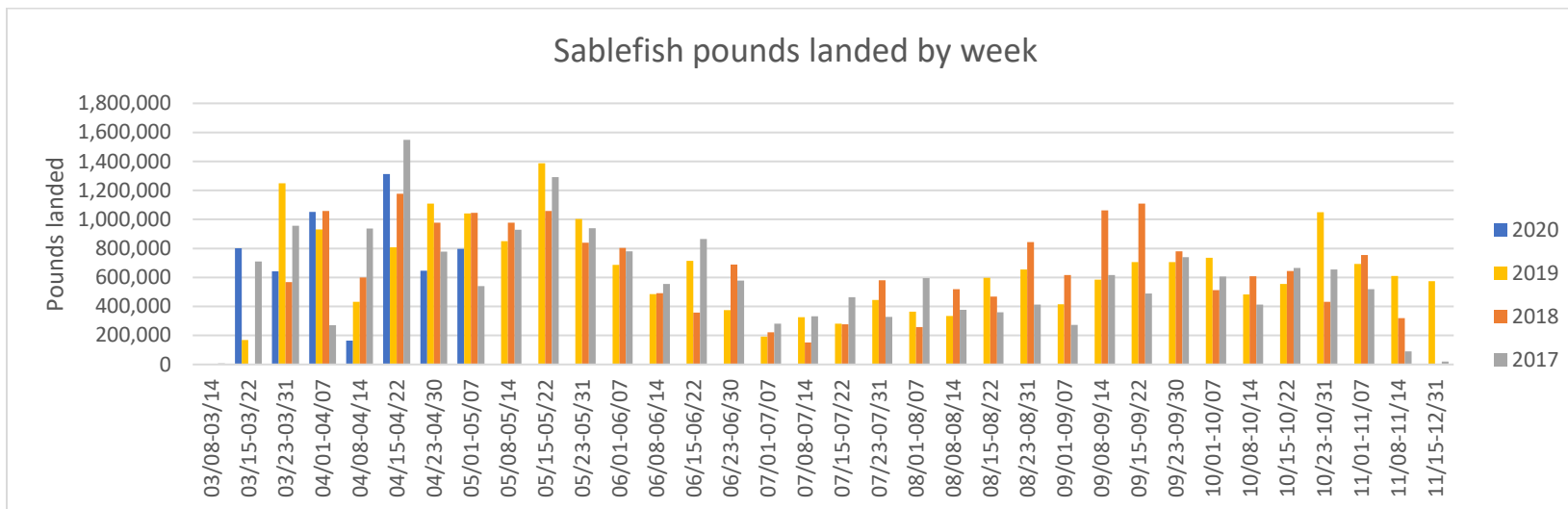
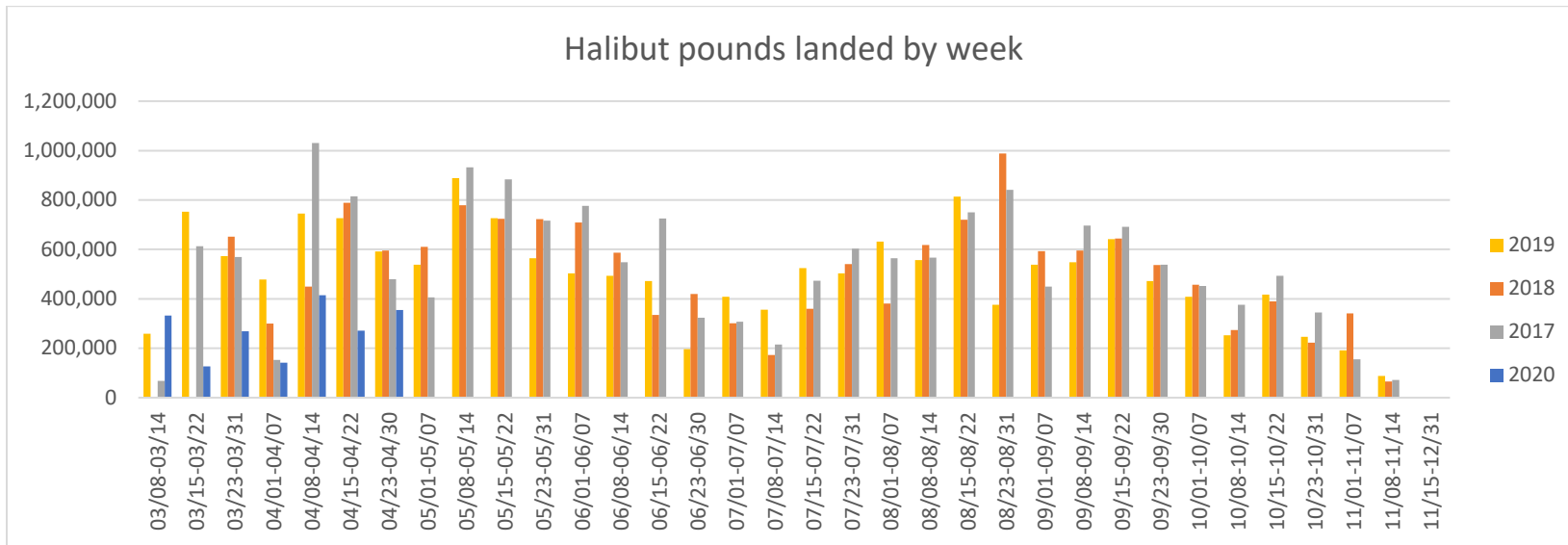
- There would likely be a number of logistical questions related to the North Pacific Observer Program as this program is designed around the calendar year. For instance, a season that extended through the end of the year would require changes to the way Observer Fees are calculated and generated for IFQ halibut/sablefish and groundfish fisheries. The Observer Fees have an end of season date (usually January 1st) that allows the fee coordinator to generate invoices that are sent to Registered Buyers (RB) and Shoreside Processors in January of each year. These fees need to be paid before Federal Processor Permits (FPP) and RB permits can be renewed each year in February.
- The automatic “rollback” of unused guided angler fish (GAF) is based around the commercial season closure date (used GAF automatically returns as commercial IFQ 15 days prior to the end of the season). An extension of the commercial season would require consideration of and likely changes to this program.
- There may be a number of enforcement considerations. In addition, a longer fishing season may increase enforcement and administrative resources, potentially increasing some of the administrative costs of a longer fishing season.
- NMFS Restricted Access Management (RAM) does not process IFQ transfers during the month of January because this time is reserved for the IFQ Annual Process to be run of the permit applications. The process is very complex due to the different types of IFQ transfers that occur throughout the season and the manner in which overfished and underfished pounds need to be returned to the QS holders. There are other reporting requirements and due dates that intersect with the annual process such as fee payment and ex-vessel value reporting which if not met, will prevent permit issuance.
- NMFS may have to revise its incidental catch projections for groundfish species caught in the sablefish and halibut IFQ fisheries, which in turn could have an effect on the amount available for other directed fisheries.

Logistical hurdles for a fishery that continued over to 2021 or started again January 1:

- From an emergency rule perspective, 2021 catch limits would not be set until the IPHC meets, the rule-making process for annual management measures is completed, and 2021 IFQ can be issued. The annual IPHC meeting typically occurs in late January/ February, after which there is a compressed process for setting and implementing the regulations.
 - This includes drafting the IPHC regulations and transmitting them to the Secretary of State for approval. The Final Rule is written, reviewed among offices in NMFS and published in the Federal Register.
 - This process also includes the issuance of IFQ. RAM identifies the QS: IFQ ratio for each regulatory area based on the current QS pool and proceeds to calculate and issue each permit.
 - It takes RAM additional time for calculating and accounting for the overages and underages associated with each QS holder based on the number and type of transfers that occurred between permit holders throughout the fishing year.
 - The 2021 sablefish annual catch limits are not effective until the publication of the final harvest specifications in the Federal Register. This typically occurs in late February to early March.

Table 1. Season dates for fishing under the IFQ Program for Pacific Halibut and Sablefish and for the Community Development Quota (CDQ) Program for Pacific Halibut

Fishing Year	Season Begin Date	Season End Date
1995	15-Mar	15-Nov
1996	15-Mar	15-Nov
1997	15-Mar	15-Nov
1998	15-Mar	15-Nov
1999	15-Mar	15-Nov
2000	15-Mar	15-Nov
2001	15-Mar	15-Nov
2002	18-Mar	18-Nov
2003	1-Mar	15-Nov
2004	29-Feb	15-Nov
2005	27-Feb	15-Nov
2006	5-Mar	15-Nov
2007	10-Mar	15-Nov
2008	8-Mar	15-Nov
2009	21-Mar	15-Nov
2010	6-Mar	15-Nov
2011	12-Mar	18-Nov
2012	17-Mar	7-Nov
2013	23-Mar	7-Nov
2014	8-Mar	7-Nov
2015	14-Mar	7-Nov
2016	19-Mar	7-Nov
2017	11-Mar	7-Nov
2018	24-Mar	7-Nov
2019	15-Mar	14-Nov
2020	14-Mar	15-Nov



Figures 1 and 2. Weekly halibut and sablefish IFQ landings in pounds, 2017-2020

Source: NMFS Alaska Region, <https://www.fisheries.noaa.gov/alaska/commercial-fishing/fisheries-catch-and-landings-reports>