

Interagency Staff Review of IFQ Proposals and IFQ Implementation Team Recommendations October 16, 2009

Proposal 1. Staff reviewed the proposal to allow retention of halibut in Area 4A that caught in pots in the directed IFQ sablefish fishery in the Bering Sea and Aleutian Islands management areas. This proposal was forwarded to the Council by the IPHC after its 2009 annual meeting because the proposal would affect the Council's sablefish IFQ fisheries. A regulatory amendment would be required with respect to the differences in the VMS clearance requirements for Area 4 halibut (as found in the Annual IPHC regulations) and BSAI sablefish (as found in Section 679). Halibut fishermen have to call the data clerks "within 72 hours before fishing," while sablefish fishermen have to call the data clerks "at least 72 hours prior to fishing." For enforcement purposes, staff recommends developing a new figure that identifies where halibut retention would be allowed (area that overlaps Area 4A with the BS and AI sablefish management areas); new regulations would identify the latitude and longitude where halibut retention would be allowed.

A small amount of sablefish pot fishery data is available from observer and logbook data, and is included in the SAFE Report. If the Council recommends that this proposal be analyzed, staff recommends that the proposed alternative require halibut to be retained if IFQs are held by fishermen on the vessel. Staff noted that regulations would be difficult to craft to avoid targeting of halibut in pots in this area; however, the sablefish pot configurations could reduce catchability of halibut.

Proposal 2: Staff reviewed the proposal to allow retention of sablefish in pots in the GOA Southeast Outside management area. This would require a regulatory amendment to Section 679 (plan too?) to allow a new gear type for sablefish. USCG staff recommends defining areas by lat/long where the new gear type would be allowed, and not by the 200 fathom contour. Enforcement of Proposal 2 is within the scope of the Joint Enforcement Agreement, it's not currently addressed in the Annual Operations Plan. If this proposal is implemented in regulations, NOAA would likely discuss the issue with Wildlife Troopers and possibly include it in the annual operations plan, as well as rely heavily upon the USCG for enforcement. If the Council recommends that this proposal be analyzed, staff recommends expanding the proposed action to require distinctive marking of buoys by gear type for all groundfish fisheries. This proposal would affect the EEZ only, and would be outside the scope of the joint enforcement agreement with the State of Alaska.

Proposal 3: Staff did not identify any legal, enforcement, regulatory, or data issues.

Proposal 4: Staff did not identify any legal, enforcement, or regulatory issues, but did identify significant database and data issues. Staff did note that the proposal likely requires significant and fundamental database restructuring to apply to QS and IFQ and manage attributes that now apply only to persons; that is, the ability to use a hired master. Transfer processes also would require revision. This work is expected to require significant time/money expenditures and IT resources. The proposal as submitted was somewhat unclear as to the types of QS/IFQ and use situations to be affected. The narrower interpretation applied by the committee to the original proposal would require more complex database adjustments because the properties of the QS/IFQ would change depending on the type of person holding the QS/IFQ. Reporting on use of hired masters would also become significantly more complex. Past and current efforts to limit the use of the first generation/hired skipper privilege have resulted in significant staff expenditures over the years. If the Council recommends that this proposal be analyzed because the many revisions to further limiting the use of hired skippers have been ineffective, staff recommends that the Council expand the analysis to include a sunset of this feature of the IFQ program so that the Council (and staff) time can be expended more productively.

Proposal 6: Staff did not identify any legal, enforcement, regulatory, or data issues.

Proposal 7: Staff did not identify any legal, enforcement, regulatory, or data issues.

Proposal 8. Staff identified legal issues with defining residency in the CDQ, CQE, and subsistence programs. A review of current requirements and meaning of terms "domicile" and "resident" is warranted to provide clarity; clarification may obviate the need for proposed regulatory amendments.

If the Council wishes to analyze this proposed action, staff recommended that the Council consider an alternative that would replace community residency requirements with a performance standard, although such an approach may not be more effective. The Council could consider removing residency requirements entirely because they are difficult to enforce and defer to communities for defining participation requirements. Staff concluded it may be more expeditious to eliminate program features that are problematic (see hired skippers) than to repeatedly tweak the regulatory features of the program (see changes to block program, sweep-ups, etc.).

Proposal 9: Staff did not identify any legal, enforcement, regulatory, or data issues.

Proposal 10: Staff identified that enforcement of use caps is problematic.

Proposal 11. Staff noted that the USCG recommends not enacting fishery regulation that encourages the retention of old vessels on the water for safety reasons, as a result of hearings related to the sinking of the *FV Alaska Ranger*.

Proposal 12: Staff did not identify any legal, enforcement, regulatory, or data issues.

Proposal 13. Staff commented that this proposal appeared to be arbitrary and capricious.

Proposal 14: Enforcement and IPHC are not in favor of exempting vessels under 26 feet from Prior Notice of Landing (PNOL) filings. The original intent and primary purpose of the PNOL was to allow Enforcement the opportunity to monitor an offload and IPHC staff to sample the landing and interview the skipper. The Council has been in favor of this regulatory tool for enforcement in the past. The original PNOL requirement was 6 hours. Enforcement supported changing it to the current 3 hours. Reducing a PNOL requirement for vessels less than 26 to one hour would hamper the ability to effectively monitor offloads. A one hour notification is simply not enough time for an authorized officer or sampler to get the information from the Data Techs, travel to the offload location, then locate the vessel. Reducing the prior notice to one hour would not provide sufficient time for an officer to monitor an offload even on the road system. The PNOL fills a gap for the lack of observer coverage. OLE routinely grants an early offload waiver, particularly if other information indicates that the vessel is in compliance with the regulations and IPHC samplers are available to meet the early offload.

In 2008, Enforcement gave 669 waivers. A waiver can not be guaranteed in every instance, but the cardholder or Registered Buyer may request one. A primary method that small boat halibut fishermen have been complying with this requirement for years is to call their PNOL in before they leave town to go fishing. If the information that they report (estimated weight, offload time, offload location, etc.) changes significantly during or after their trip, they may have to call in a new PNOL with the new information.

The PNOL exemption in effect for trollers delivering less than 500 pounds of halibut in conjunction with a lawful landing of salmon and the exemption for dinglebar fishermen delivering less than 500 pounds of halibut with a lawful landing of lingcod is there because regulations require trollers and dinglebar fishermen that have IFQ available for the vessel class and area they are working to retain the lawful halibut that they catch. The PNOL exemption is to encourage trollers and dinglebar fishermen to retain halibut they lawfully catch and to bring it in to report it.

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