

WRITTEN TESTIMONY OF PAUL K. SEATON,  
ALASKAN FISHERMAN

HEARING ON INDIVIDUAL FISHING QUOTAS FOR THE REAUTHORIZATION OF THE  
MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT

U. S. HOUSE OF REPRESENTATIVES

COMMITTEE ON RESOURCES

SUBCOMMITTEE ON FISHERIES, CONSERVATION, WILDLIFE AND OCEANS

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I am Paul Seaton, a fisherman from Homer, Alaska. I participate in numerous fisheries in the Gulf of Alaska including Halibut, Pacific cod, Tanner crab, and tender salmon and herring.

I was a member of the Alliance Against IFQs for Halibut and Sablefish, was a West Coast Advisory Panel member for the National Resources Council congressionally requested IFQ Study, was a board member of the Alaska Marine Conservation Council, and am a resident of a coastal fishing town. Although I am testifying as an individual fisherman, I combine some of the concerns of all these forums about the specifics of IFQ and their impacts.

Whenever Individual Fishing Quotas are considered, you will be bombarded with lots of competing economics and self-enrichment lobbying. This is because there is a lot of money on the table - halibut and sablefish IFQs alone represent over 800 million dollars given to selected people. I am going to ask you to apply your own common sense to this radical departure from the way all public resources are generally treated.

If you gave your child a car, a logger an exclusive use of a forest, or a fisherman a perpetual exclusive harvest share and later told them you wanted to put restrictions on the use of the gift, you would meet considerable resistance. If, however, you said to any of them, I will give you this property or privilege with certain restrictions, they would say THANK YOU.

This is the common sense I hope you will see in mandating that any new IFQ plan incorporate factors that advance the national goals for our fisheries and oceans.

Two areas I wish to cover:

- 1) Why specific mandatory Congressional standards are absolutely necessary, and
- 2) Three standards that will take much of the controversy out of implementation of IFQs.

1) Individual Fishing Quotas are a different animal from other Fishery Management Plans the Regional Councils handle. The Councils were originally created to contain fishery expertise by exempting public members from all federal conflict of interest laws. The Councils were advisory to the Secretary of Commerce and the intent was to provide a balanced, knowledgeable forum where each industry segment would battle for access to their share of the fish. The Secretary performed the full oversight function. However, a later Congress created the category of Limited Access Plans, which the Secretary is excluding from creating. In fact, the Secretary cannot even modify a Limited Access Plan but can only accept or reject a submitted Plan in its entirety. Within this limited access plan category, IFQs form a special challenge for the Management Council. Those shares, pounds, or percentages of the future harvests are based exclusively on past catch history. Therefore the 'concern' of the Council members who did not have a catch history of that species is negated. In fact, this leads to the vote trading exemplified by one NPFMC member's public statement that he disagreed with the halibut IFQ design but would support it as long as the longliners on the Council let him design the IFQ program for his trawl fleet.

A further problem for the public is that an IFQ plan or element can only be challenged by suing the Secretary. Judicial deference is given to the Secretary and Agency specifically based on the assumption that the expert agency was a 'disinterested party', while in reality the Secretary did not even have the authority to create or modify the plan. The Council would never qualify as a 'disinterested party' but cannot be challenged for the Plan.

I explain this not to ask that the Secretary design the plans, but to underscore the necessity for mandatory standards to ensure plans from the Councils meet your national goals, because there is no other remedy.

2) Standards that will take the controversy out of IFQ Plans:

(A) Conservation expectations must be incorporated into the Plan.

IFQs allow a longer period of harvest and give the fishermen to conduct their endeavors in a noncompetitive fashion. One of the chief benefits touted for IFQs is this allowance for more targeted fishing to reduce waste, bycatch and impact on the habitat. However, if these expected gains are not incorporated into the plan (such as reduction in allowed bycatch or use of only off-bottom trawls), fishermen may well opt to optimize other personal advantages. For example, crucifiers - mechanisms which allow bycatch or small fish to be striped off the line at the rail by breaking the unwanted fishes jaw while ripping out the hook - had been outlawed for years in the halibut fishery, but were made legal upon implementation of IFQs. This made the job easier for a boat to operate with fewer crew even though the expanded season gave plenty of time for careful fishing.

An IFQ standard could be: **EXPECTED CONSERVATION GAINS SHALL BE INCORPORATED INTO ANY NEW IFQ PLAN IN A WAY THAT ENSURES THEIR ATTAINMENT.**

(B) Fair and Equitable to all fishermen:

The Act has National Standard number 4 requiring fishery management plans to be fair and equitable to all fishermen. In the Halibut and Sablefish IFQ plan lawsuit, the Ninth Circuit Court of Appeals specifically found that the Plan did NOT meet that Standard. However, a plan is just required to be "consistent" with the National Standards and the Court found that the Council had weighed and favored the Economic Efficiency Standard. Thus, the Consistency with the National Standards provision provides no security for inclusion of requirements in IFQ plans.

The main objection to the Halibut/Sablefish IFQ plan was the fact the Council gave all the Quota Shares to vessel owners based on the theory that their investment was all that mattered. Neither captain, nor crew received any Shares as a fisherman. This inherent unfairness to the men and women who have invested their talent and lives to generate the catch history basis for the initial issuance will plague all IFQ programs. Congress should mandate that "fair and equitable" provision be incorporated in any new plan. Recognizing the specific 'crew share' provisions that Congress and the IRS has allowed as the basis for fishermen compensation can easily do this. Congress has also mandated for years that those crew share arrangements be in a written contract before the vessel leaves port. Those contracts have established the equitable business arrangements that each vessel owner and crew have found fair. If a vessel owner has always agreed that 35, or 50, or 60 percent of the gross catch was adequate compensation for his investment in vessel and gear in an ongoing fishery business, why should the vessel owner get 100 percent of the fish shares with IFQs? The real answer is that Fishery Management Councils are controlled by the vessel owners who have the time to participate and the money to hire lobbyists some of who are the Council Members themselves. Initial issuance based on agreed shares would mean that each participating entity would have something to bring back to the operation, and it would be equal to their historically agreed value.

The IFQ Standard could be as simple as **ANY NEW IFQ PLAN WILL RECOGNIZE EXISTING CREW AND VESSEL PERCENTAGES AS THE BASIS FOR INITIAL QUOTA SHARE ALLOCATION.**

(C) Processor Quota Share

The National Research Council found "no compelling reason" for inclusion or exclusion of processors from receipt of initial harvesting quota shares. However, it found NO compelling reason to establish a separate processor quota system - the so-called two-pie system. They suggested alternate ways of compensating processors if such a circumstance would exist without the "concomitant increase in complexity of the IFQ program."

The "two-pie" option is ripe for anti-competitive activities and antitrust violations. It would be a drag on innovation and new market development as the existing processors would be assured an unending future of fish for their current product. It would be a severe constraint on fishermen delivering product over the expanded season if the processor was busy with other species.

If upstream quotas are such a good idea, why have the processors not incorporated a quota for wholesalers - requiring the processors to sell the same fixed percentages of their processed fish to their historic wholesalers? Of course we all can see that such an anti-competitive program would be detrimental to the industry, just like two-pie processor quota would be detrimental. Ask yourself what the effect would be if you required all farmers to sell their future production only to the processor they sold to last year.

An IFQ standard could be; **THE COUNCILS CAN ALLOCATE ONLY HARVESTING QUOTA.**

In summary, to secure the benefits to the Nation enumerated in the Magnuson/Stevens Fishery Conservation and Management Act, Congress will need mandatory requirements for inclusion of those benefits in any new IFQ Plan. The Regional Fishery Management Councils receive huge pressures to emphasize other benefits and no check and balance system is in place other than congressional mandated IFQ standards.

Important standards would include:

**EXPECTED CONSERVATION GAINS SHALL BE INCORPORATED INTO ANY NEW IFQ PLAN IN A WAY THAT ENSURES THEIR ATTAINMENT.**

**ANY NEW IFQ PLAN WILL RECOGNIZE EXISTING CREW AND VESSEL PERCENTAGES AS THE BASIS FOR INITIAL QUOTA SHARE ALLOCATION.**

**THE COUNCILS CAN ALLOCATE ONLY HARVESTING QUOTA.**

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