



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

MAR - 4 2004

Mr. Donald Hansen, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place
Portland, OR 97220

RECEIVED

MAR 4 2004


Dear Mr. Hansen:

PFMC

NOAA Fisheries published an advance notice of proposed rulemaking (ANPR) and establishment of a control date of November 6, 2003 for the trawl individual quota (IQ) program (69 FR 1563, January 9, 2004) which excluded any references to processor quotas, either through an individual processor quota (IPQ) program or the ability of processors to own shares of IQ. The control date announces to the public that the Pacific Fishery Management Council (Council) may decide not to count activities occurring after the control date toward determining a person's qualification for an initial allocation or determining the amount of initial allocation of quota shares. As you'll recall, the Council, at its November 2003, meeting, adopted a control date of November 6, 2003 after reviewing a report by the Ad Hoc Trawl IQ Committee. The Council recommendation included a consideration of both individual fishing quota and IPQ for the groundfish trawl fishery and noted that the control date should apply to both of these IQ programs, in case the Council recommends, and legislation authorizes such IQ programs in the future.

NOAA Fisheries removed all references to processor quotas in the *Federal Register* notice on the control date because the Magnuson-Stevens Fishery Conservation and Management Act (MSA) does not authorize or address the use of IPQs. Further, section 804 of the Consolidated Appropriations Act of 2004 (Public Law 108-199), passed on January 23, 2004, states that "A Council or the Secretary may not consider or establish any program to allocate or issue an individual processing quota or processor share in any fishery of the United States other than the crab fisheries of the Bering Sea and Aleutian Islands." Although this provision had not been enacted in the appropriations language at the time the ANPR was published, it had been adopted by the House of Representatives and in conference, and it was anticipated that it would be included if any appropriations Bill were enacted in January.

I am aware that the Council is anxious to begin working on a NEPA document in support of a proposed groundfish trawl IQ program. Given the current status of IPQ programs described in the prior paragraph, the Council should not include any consideration of IPQ programs in NEPA documents in support of harvesting IQ programs.

However, the ANPR and control date notice does not preclude the Council from developing an IQ program that allows processors to own quota or includes other provisions that take into account the needs of fishing communities, including processors. NOAA Fisheries is committed to working with the Council to make progress on IQ program formulation and analysis.

Sincerely,



D. Robert Lohn
Regional Administrator