


MEMORANDUM

TO: Council, AP, and SSC Members

FROM: Clarence G. Pautzke 
Executive Director

DATE: June 16, 1989

SUBJECT: Sablefish management

ACTION REQUIRED

Refine sablefish longline IFQ and license limitation options for final analysis.

BACKGROUND

The Council has been refining the possible options for limited access systems during its past two meetings. The amendment schedule currently provides for full analysis of the selected alternatives during the summer with public review following the September Council meeting. The Fishery Planning Committee has recommended further refinements to the alternatives as shown in items C-6(c)(1&2). Their rationale is in item C-6(a)(1). Public comments are included in item C-6(c)(3).

Decision Points for Sablefish Longline IFQ Management System

This document was agreed upon by the Council at their April 14, 1989 meeting in Anchorage. Items which are underlined are comments by the Council. Those items recommended for deletion by the Fishery Planning Committee at its May meeting are marked in gray. Additions or word changes recommended by the Committee are bolded.

- I. Scope of Program
 - A. Species: Sablefish
 - B. Gear: Longline only, including historic pot boats
 - C. Areas:
 1. Gulf of Alaska
 2. Bering Sea
 3. Aleutian Islands

- II. Means of Access Control
 - A. Type of IFQ - A percentage of the TAC, possibly defined as a "unit"- the individual allocation varies from year to year with the size of the TAC and it could be expressed as a large number of "units" rather than a small percentage.
 - B. Coverage of IFQ
 1. Area
 - i. Gulf of Alaska, 4 areas - Southeast/outside and East Yakutat, West Yakutat, Central, Western
 - ii. Bering Sea
 - iii. Aleutian Islands
 2. Yearly
 3. Leave a portion of the fishery open access ~~(Prochoice)~~
~~Set a maximum landing per entity in the open portion.~~
Retain a portion of the TAC for bycatch as is done now. This bycatch amount will be removed from the overall TAC before the TAC for licenses is finalized. No license would be needed to land this bycatch sablefish.
 - C. Who initially: "Person" - As defined by the Magnuson Act with the exclusion of non U.S. citizens. Any individual who is a U.S. citizen, any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State but being controlled by U.S. citizens), and any Federal, State, or local government or any entity of any such government.
 1. Vessel owner(s) except when a qualified lease exists.
 2. Person leasing a vessel - qualified ~~or all~~ by a written bareboat contract. Evidence of a qualified lease would include paying the crew shares and supplying the fishing gear.
 3. ~~Permit holder(s) - based on State of Alaska permit~~

- III. Initial Allocation
 - A. Allocation: by qualification and eligibility.
 - B. Eligibility
 1. Years - 1984 through 1988.
 2. Landings threshold - a higher amount restricts more people but allows a greater share

for those eligible.

- i. Average - average of two best years landings.
- ii. Best year(s).

3. Duration of participation

- i. Must be a current participant within the 12 months prior to the final Council action.
- ii. Not necessarily a current participant but number of years participation.

4. Investment threshold - recognizes future participation, boats, gear, keel laid, etc.

- i. Qualifying with a history of participation.

C. Basis for how much per entity

1. Landings - a matter of record in NMFS files.

- i. Best year - as above.
- ii. Average - as above.
- iii. Stair step - used to reduce appeals, all qualified in a certain range receive the same amount.
- iv. Different amount of allocation based on initial participation in 1987 and/or 1988.

IV. Transferability

A. Degree of transferability: Totally transferable - eligible for sale and lease.

B. Transferable mechanisms

1. Management: Must pass through government - allows government to monitor control but slows down process a bit. Government approval required but transactions may be conducted privately.
2. Types - many other probably possible.
 - i. Reverse checking accounts (coupons) - allows for use of any size amount.
 - ii. New Zealand style - fixed minimum size of IFQs (100 lbs).
 - iii. Other.
3. Grace period - depends on transferability.
 - i. None - restricts fishermen during a good trip or between trips until they can locate IFQs.
 - ii. Set date before the season for transfers to be accomplished, after that transfers allowed during the season by emergency only on a case by case basis.
4. Transfers between areas: None - maintains strict biological controls.

V. Controls on Ownership, must discuss level of "control" or ownership and must define "control". The Council feels some form of control on ownership should be instituted but industry input and data analysis are needed before further decisions.

- A. Limit on "control" by any entity - Not required except as stated in National Standard 4 of the Magnuson Act.
- B. Require proof of ownership or participation to "control" - Same qualifications as used for initial allocation.
- C. Citizenship requirements (reflagging legislation) - either use existing legislation or change it. A legal opinion is requested concerning what can be required under existing legislation and what would be entailed in making the requirements more restrictive.

- VI. Duration of harvest rights - depending on transferability.
 - A. No specified ending date.
 - B. ~~Specified limited duration with reallocation following.~~ Note: deletion of this option was opposed by one member of the Committee.
 - C. Allow for review in a specified time (perhaps 5 years) - does not sunset the system but allows for major structural changes if required.

 - VII. Adjusting amount of IFQs available: Not necessary unless IFQs in absolute weight or for government needs (surveys, etc.)

 - VIII. Coastal Communities
 - A. Initially how community gains access, may require Magnuson Act change.
 - 1. Allocated - includes communities but reduces other participants shares.
 - 2. Allowed for - no initial allocation but allows communities to buy in and be "separate but equal".
 - B. Specific regulations
 - 1. Individuals or communities or coastal development organization - who gets them, person, town, corporation, etc.
 - 2. Qualification of ownership right - coastal, proximate, port, etc.
 - 3. Definition of community
 - 4. Use by owner or not - to be used by the entity, leased by it, or both.
 - 5. Special transferability rights - transferable when all others are not, etc.
 - 6. Administrating body - a special body set up to remove local conflicts and provide cohesion.
 - 7. Special duration rights - as with transferability.
 - 8. Amount to be allowed - limits amount totally allocated or allowed to communities.

 - IX. Administration
 - A. Agency: NMFS region - could be contracted to State of Alaska.
 - B. Dispute settlements
 - 1. Basis of judgement: Fact - reduces number of appeals.
 - 2. Hearing officer
 - i. ~~Administrative law judge with appeals to the Secretary of Commerce and then the court system - impartial and a federal employee.~~
 - ii. Appeals board with decision by the NMFS Regional Director and appeals to the Secretary and then the court system - open to question but more knowledgeable of germane issues.
 - iii. ~~Binding arbitration.~~
- The Council recognizes a need to be aware of the following items and may wish to comment on them but the Council and NMFS staffs will deal with the specifics.
- C. Enforcement
 - 1. Nature of right - must be defined (property, lease, harvest, etc) including its use as collateral and the ability of NMFS to censor the right.
 - 2. Ability to accurately account for catch - reporting, observer, and monitoring systems.

3. Adequate enforcement procedures - a new system requires new methods of enforcement (accountants).
4. New regulations - see above.
5. New penalties - see above.

D. Document trail

1. Time of landing - fish tickets.
2. Processor - secondary form to corroborate fish tickets.
3. Wholesale - allows enforcement to target fish at several levels.
4. Retail - difficult but allows total tracking of fish.

Decision Points for Longline Sablefish License Management System

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I. Scope of Program

- A. Species: Sablefish
- B. Gear: Longline only, including historic pot boats
- C. Areas:
 - 1. Gulf of Alaska
 - 2. Bering Sea
 - 3. Aleutian Islands

II. Means of Access Control

- A. Type of license: Vessel length (size) specific.
- B. Coverage of license
 - 1. Area
 - i. Gulf of Alaska - 1 area, Gulf-wide.
 - ii. Combine Bering Sea and Aleutian Islands.
 - iii. Combine Gulf, Bering Sea, and Aleutian Islands areas.
 - 2. Yearly
 - 3. Leave a portion of the fishery open access (Prochoice)
Set a maximum landing per entity in the open portion.
Retain a portion of the TAC for bycatch as is done now. This bycatch amount will be removed from the overall TAC before the TAC for licenses is finalized. No license would be needed to land this bycatch sablefish.
- C. Who initially: "Person" - As defined by the Magnuson Act with the exclusion of non U.S. citizens. Any individual who is a U.S. citizen, any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State but being controlled by U.S. citizens), and any Federal, State, or local government or any entity of any such government.
 - 1. Vessel owner(s) except when a qualified lease exists.
 - 2. Person leasing a vessel - qualified ~~or all~~ by a written bareboat contract. Evidence of a qualified lease would include paying the crew shares and supplying the fishing gear.
 - 3. Permit holder(s) - based on State of Alaska permit

III. Initial Allocation

- A. Allocation by qualification and eligibility.
- B. Eligibility
 - 1. Years 1984 through 1988.
 - 2. Landings threshold - may depend on vessel size, see ii below.
 - i. Average Need to land longline sablefish in either one or two qualifying years.
 - ii. Best year(s) Either the top landings from one year or an average of the top two years.
 - a. 1,000 lbs.

- b. 5,000 lbs.
- c. 10,000 lbs.
- d. 25,000 lbs for vessels over 50'.
- e. 50,000 lbs for vessels over 50'.

iii. Based on vessel size (or effort factor) - recognizes that different size vessels have different potentials.

3. Duration of participation

i. Must be a current participant within the 12 months prior to the final Council action.

ii. Not necessarily a current participant but number of years participation.

4. Investment threshold - recognizes future participation, boats, gear, keel laid, etc.

i. Qualifying with a history of participation.

C. Type of license - by vessel size, etc., useful depending on transferability and upgrading.

The Council feels that the following size classes were sufficient for a beginning but should be more appropriately defined with industry input. The length will be overall length as recorded in Coast Guard files.

- 1. Class A - less than 40 ft.
- 2. Class B - 41 to 50 ft.
- 3. Class C - 51 to 60 ft.
- 4. Class D - 61 to 70 ft.
- 5. Class E - ~~over 70~~ 71 to 100 ft.
- 6. Class F - over 100 ft.

IV. Transferability All choices considered under transferable rights need to take into account the protection of consumer and small business interests.

- A. Leasable but non-saleable - removes chance of absentee owners but allows all licenses to be used.
- B. Totally transferable - effort levels would increase with addition of large vessels but allows full freedom to industry.
- C. Combinative - Allow upgrades in vessel size class by tendering two licenses of a small class for one license of the next larger class (one vessel class upgrade).
- D. A system incorporating transferable and non-transferable licenses based on initial participation in 1987 and/or 1988 1988 and/or 1989.

V. Controls on Ownership

The Council feels some form of control on ownership should be instituted but industry input and data analysis are needed before further decisions.

- A. Limit on "control" by any entity - Not required except as stated in National Standard 4 of the Magnuson Act
- B. Require proof of ownership or participation to "control" - Same qualifications as used for initial allocation.
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VI. Duration of harvest rights - depending on transferability.

- A. No specified ending date.

- B. Specified limited duration with reallocation following. Note: deletion of this option was opposed by one member of the Committee.
- C. Allow for review in a specified time (perhaps 5 years) - does not sunset the system but allows for major structural changes if required.

VII. Adjusting Amount of licenses available: Buyback - if needed then by industry.

VIII. Coastal Communities

- A. Initially how community gains access, may require Magnuson Act change.
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The Council recognizes the need to be aware of the following items and may wish to comment on them but the Council and NMFS staffs will deal with the specifics.

C. Enforcement

1. Nature of right - must be defined (property, lease, harvest, etc) including its use as collateral and the ability of NMFS to censor the right. May wish to use license with effort size endorsements if needed.
2. Ability to accurately account for catch - reporting, observer, and monitoring systems.
3. Adequate enforcement procedures - a new system requires new methods of enforcement.
4. New regulations - see above.
5. New penalties - see above.

PUBLIC COMMENTS ON

SABLEFISH MANAGEMENT

Sablefish Limited Access Comments

Dean Adams, Seattle - The reasons that call for limited-entry are gaining momentum at an out of control pace. Unnecessary waste, unnecessary gear loss, unnecessary loss of income, unnecessary injuries, and, in some years, unnecessary loss of life, have all increased as Americanization continues. In order to continue to make a living, fishermen sacrifice safety for more hooks hauled and dangerously overloaded vessels. Limited-entry will not go away (even) if you turn your back to it.

Linda Behnken, Sitka - Favors a combination license/IFQ system. Licenses would be allocated to permit holders along with IFQs based on past participation. Small amounts of IFQ could be given to fishermen not qualifying for licenses. IFQs would be leasable in small amounts but large transfers would require sale of the license. No person could own more than one license and a ceiling would be placed on maximum IFQ aggregation.

Dennis Hicks, Sitka - Open access for sablefish should not be considered, the wastage is substantial. Fishermen routinely are losing as much as 80 or 100 skates of gear each. There is so much crowding on the grounds that lots of gear is being tangled and lost. Sablefish is going the way of halibut.

Mark Lundsten, Seattle - Every year now, effort has increased in the sablefish fishery, substantially. If you believe that the Alaskan fisheries will follow the pattern that fisheries the world over have followed, then fundamental first steps must be taken to avoid the conditions of overcrowded grounds, short seasons, lack of management control over stocks and fleets, and ever decreasing net return per unit of effort. The longline fleet has spoken loudly and clearly that a severe problem exists now in the sablefish and halibut fisheries. Hopefully, we can manage our resources and our fleets and not just respectively deplete and manipulate them.

Patricia Phillips, Pelican - The consumer is fed up with not knowing whether they are getting a good product or not. It seems, that the quality conscientious fishermen should be rewarded for delivering a quality one product. A license limitation plan does not reflect active participation in the sablefish fishery. Boats with very different histories get the same license. Crewmembers participation in the fisheries is also overlooked. The Council needs to bite the bullet and take a step in the right direction.

Note: Copies of all comments not attached have been included in previous Council mailings.

7/30/89
F/V Masonic
Western Gulf of Alaska

Dear Chairman Peterson,

I am writing this from the boat in the last stages of the sablefish season in the Gulf of Alaska, and hope it arrives in time for the June Council meeting.

Every year now, effort has increased in the sablefish fishery, substantially. If you believe that this problem will take care of itself, then I assume you will do nothing. But, if you believe that the Alaskan fisheries ~~the~~ will follow the pattern that fisheries the world over have followed, then fundamental first steps must be taken to avoid the conditions of overcrowded grounds, short seasons, lack of management control over stocks and fleets, and ever-decreasing net return per unit of effort - the whole oft-repeated litany of well-documented problems.

The longline fleet has spoken loudly and clearly that a severe problem exists now in the sablefish and halibut fisheries. There also exists a strong consensus ~~that~~ among fishermen that the Council members by and large make decisions based on personal political motivations and on the ~~interests~~ interests of special constituencies. For me,

it is enormously frustrating to see the "political games" that have been played continually with an acute and obvious management problem. The Council's job is to follow the National Standards. As the FOG Committee report stated one year ago, already, implementation of controls on the ground fish effort, whether by moratorium, permits, quota systems, or a combination of these, is consistent with those Standards. It is a conclusion of that report that "status quo" management is not.

I hope we are not doomed to cloud and subvert this issue again and again. I hope we can manage our resources and our fleets and not just respectively deplete and manipulate them.

Sincerely,

Mark S. Lundsten
(Mark S. Lundsten)