

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director

DATE: January 5, 1995

SUBJECT: Comprehensive Rationalization Plan (CRP)

ESTIMATED TIME
3 HOURS

ACTION REQUIRED

Review available information on implementation, administration, and enforcement costs of the License Limitation program under consideration.

BACKGROUND

As described in our newsletter following the December meeting, the AP and the Council spent considerable time in December reviewing the License Limitation alternatives developed over the past several months. Specific elements and options of primary interest were identified and are shown again under Item C-2(a) in your notebooks. Additional alternatives and system configurations identified in December will require additional analyses which are being conducted at this time. These should be finished in early February, in the form of another Supplement to the main document, so that the entire analytical package can be released for a formal public review period prior to an April decision by the Council.

Also included in the review package are the Community Profiles developed by the Council and the Fleet Sector Profiles and Preliminary Social Impact Assessment developed under contract by the Council. These are available now from the Council offices. An additional 'bridging' document is still underway which will provide more specific information on the social impact aspects of the License Limitation alternatives under consideration.

Based on formal Council action in December, the only CRP item scheduled for this agenda is a review of projected implementation, administration, and enforcement costs of the proposed program. Item C-2(b) is a report from NMFS on these issues. This report will also be incorporated into the public review package. The Council's Enforcement Committee report from November is also reiterated below:

The committee agreed that a simple licensing system would be the most enforceable at-sea. The committee's preferred option was for two area licenses, for the Bering Sea and Gulf of Alaska. The exclusive area registration alternative for five area licenses was preferred over a species-specific license. The latter would only require an enforcement officer to determine if a vessel has the appropriate area license rather than check for species endorsements. If the Council found species-specific licenses preferable, enforcement would be compounded by area licenses. It was also noted that under species endorsements, a vessel operator could be deemed a violator while fishing under his/her normal fishing practices if that operator was ineligible for that species endorsement. There would be increased costs to the operator of a longer boarding to determine compliance since verifying species endorsements requires at-sea versus fly-over

enforcement. The committee also discussed the inevitability of regulatory discards to remain in compliance with the species endorsements. The committee also discussed potential legal conflict under the full retention program proposed as part of the groundfish license system if a vessel operator had to choose between violating their species endorsement or violating full retention requirements. The complexity of the program may influence the ability to prosecute violators successfully.

The committee recommended that the following provisions be mandatory: (1) vessel license use caps; (2) species endorsements must be possessed prior to fishing; and (3) require a vessel to offload species without an endorsement prior to moving between fishing grounds.

The committee's preferred alternative ("Nature of Licenses" Numbering Scheme 200000) is the two area licenses(GOA and BSAI). The five area alternative was considered to be the next most effective (Numbering Scheme 300000). A combination of area licenses and species endorsements would not attain the goal in Problem Statement 14 to the CRP of simplifying enforcement; however, the Council may wish to balance enforcement concerns with other management needs of the program. Should the Council choose area and species licenses, the alternatives listed under Numbering Scheme 500000 or 600000 in combination with the species identified in Box 1 would be most effectively enforced.

Council Recommendations (December 8, 1994)

The following list of elements and options was used as a working document during Council discussions. Options shaded are those selected by the Council. The Council felt these options deserved more consideration than options not highlighted. Alternatives the Council did not shaded are still viable options and may be selected as part of any license limitation program.

The box on the bottom of page 5 was added to the list of elements and options to solicit public comment. Members of the Council felt that public input regarding the future direction of the CRP program is needed.

GROUND FISH LICENSES

Components and Alternative Elements Affecting Initial Assignment

License Classes	Numbering Scheme
A single class of licenses	1000000
Two license classes with Class B Permits For Participants From 1/1/80 - 12/31/93	2000000
Two license classes with Class B Permits For Participants From 1/1/88 - 12/31/93	3000000
Nature of Licenses	
Single license for all species and areas	100000
Licenses for FMP areas (i.e., GOA and BSAI)	200000
Licenses for FMP sub-areas (i.e., EG, CG, WG, BS, AI)	300000
Licenses for Pollock, P.cod, Flatfish, Rockfish, and Other fisheries	400000
Licenses for Pollock, P.cod, Flatfish, Rockfish, and Other fisheries by FMP areas	500000
Licenses for Pollock, P.cod, Flatfish, Rockfish, and Other fisheries by FMP sub-areas	600000
Licenses for fisheries (see Box 1) by FMP sub-areas	700000
Licenses for fisheries (see Box 1) by the following areas: EG, CG, WG, BSAI	800000
Licenses for fisheries (see Box 2) by FMP sub-areas	900000
Licenses for fisheries (see Box 3) by FMP sub-areas	A00000
Licenses for fisheries (see Box 4) by newly configured areas	B00000

Box 1	Fisheries Specified Under Options 700,000 and 800,000
BSAI Fishery Licenses:	GOA Fishery Licenses:
Pollock, Pacific Cod, Atka Mackerel, Yellowfin Sole, Other Flatfish, Water Rockfish, Squid (Fixed Gear), Rocksole, Turbots	Pollock, Pacific Cod, Deep Water Flats, Shallow Flatfish, Atka Mackerel

Box 2	Fisheries Specified Under Options 900,000
BSAI Fishery Licenses:	GOA Fishery Licenses:
Pollock, Pacific Cod, Atka Mackerel, Yellowfin Sole, Other Flatfish, Rockfish, Squid (Fixed Gear), Rocksole, Turbots	Pollock, Pacific Cod, Deep Water Flats, Shallow Water Flatfish, Atka Mackerel, Flathead Sole, Rockfish

Additionally, BSAI trawl sablefish will be bycatch only for any BSAI licensed vessel and Arrowtooth in any sub-area is open to any vessel holding a sub-area license.

Box 3	Fisheries Specified Under Options A00,000
Fishery Endorsements for BS and AI: Pollock, Pacific Cod, Atka Mackerel, Yellowfin Sole, Other Flatfish, Rockfish, Squid (Fixed Gear), Rocksole, Turbots, Trawl Sablefish	Fishery Endorsements for EG, CG and WG: Pollock, Pacific Cod, Deep Water Flats, Shallow Water Flatfish, Atka Mackerel, Flathead Sole, Rockfish
<p>Additionally, Arrowtooth in any sub-area is open to any vessel holding a sub-area license.</p> <p>Note: General licenses would be issued for GOA, BSAI, and GOA/BSAI. In case of the latter, GOA and BSAI are not separable. There would be no intermediate license at the sub-area level</p>	

Box 4	Fisheries Specified Under Options B00,000
<p>Target species are defined the same as in Box 3. Areas would be defined as WG, CG+WY, EY+SO in the GOA and AI and BS.</p> <p>Note: General licenses would be issued for GOA, BSAI, and GOA/BSAI. In the latter case, GOA and BSAI are not separable. There would be no intermediate license at the sub-area level</p>	

License Recipients

Current owners	10000
Current owner, then owner at the time of landing, then permit holders (no duplicate)	20000
Current owners, then permit holders (no duplicates)	30000
Current owners, owners at the time of landing, and permit holders (duplicates allowed)	40000

License Designations

No restrictions	1000
Catcher vessels & Catcher/processors	2000
Vessel length	3000
Inshore & Offshore	4000
Catcher vessels & Catcher/processors and vessel length	5000
Catcher vessels & Catcher/processors and Inshore & Offshore	6000
Inshore & Offshore and vessel length	7000
Catcher vessels & Catcher/processors, Inshore & Offshore, and vessel length	8000

Qualifying Periods

Jan. 1, 1978 - Dec. 31, 1993	100
Jun. 28, 1989 - Jun. 27, 1992	200
Jun. 28, 1989 - date of final action	300
Jan. 1, 1990 - Dec. 31, 1993	400
The three years prior to the date of final action	500
Jun. 28, 1989 - Jun. 27, 1992 & the three years prior to the date of final action	600
Each of the three calendar years from 1/1/90 - 6/27/92 & the 365 days prior to final action, except for fixed gear P. cod use 6/23/91 - 6/27/92 rather than 1/1/90 - 6/27/92	700
Jan. 1, 1988 - Jun. 27, 1992	800

Landings Requirements For General License Qualification

One Landing	10
Two landings	20
5,000 pounds	30
10,000 pounds	40
20,000 pounds	50

Landings Requirements for Endorsement Qualification

One landing in qualifying period	1
Two landings in qualifying period	2
Three landings in qualifying period	3
Four landings in qualifying period	4
One landing in year prior to council action	5
Two landings in year prior to council action	6
Three landings in year prior to council action	7
Four landings in year prior to council action	8

Components and Alternative Elements Affecting the Ownership, Use, and Transfer of Licenses

Who May Purchase Licenses

1. Licenses could be transferred only to "persons" defined as those eligible to document a fishery vessel under chapter 121, Title 46 U.S.C. (greater than 50% U.S. ownership).
2. Licenses could only be transferred to "persons" with 76% or more U.S. ownership, with "grandfather" rights for license recipients with 75% or less U.S. ownership (Chapter 802, Title 46 U.S.C.).

Vessel/License Linkages

1. Vessel must be transferred with license.
2. Licenses may be transferred without a vessel, i.e., licenses may be applied to vessels other than the one to which the license initially was issued.

Options Regarding the Separability of Species and/or Area Designations

1. Species and/or Area designations are not separable, and shall remain as a single license with those initial designations.
2. Species and/or Area designations shall be treated as separable licenses and may be transferred as such.
3. Species and/or Area designations shall be regarded as separable endorsements which require the owner to also own a general license before use or purchase.

Vessel Replacement and Upgrades

1. No restrictions on vessel replacement or upgrades, except that the vessel must meet the "Use Restrictions" (License Designations) defined by the initial allocation.
2. Vessel may not be replaced or upgraded.
3. Vessel may be replaced or upgraded within the bounds of the 20% Rule defined in the moratorium proposed rule.

License Ownership Caps

1. No limit on the number of licenses or endorsements which may be owned by a "person."
2. No more than 5 area licenses per person with grandfather provisions.
3. No more than 10 area licenses per person with grandfather provisions.
4. No more than 15 area licenses per person with grandfather provisions.
5. No more than 5 fishery/area endorsements per person with grandfather provisions.
6. No more than 10 fishery/area endorsements per person with grandfather provisions.
7. No more than 15 fishery/area endorsements per person with grandfather provisions.

Vessel License Use Caps

1. No limit on the number of licenses (or endorsements) which may be used on a vessel.
2. No more than 1 area license (endorsement) may be used on a vessel in a given year.
3. No more than 2 area licenses (endorsements) may be used on a vessel in a given year.
4. No more than 3 area licenses (endorsements) may be used on a vessel in a given year.
5. No more than 4 area licenses (endorsements) may be used on a vessel in a given year.
6. No more than 5 area licenses (endorsements) may be used on a vessel in a given year.

Vessel Designation Limits

1. A vessel which qualifies for multiple designations (i.e., both as a CV and as a CP or as both inshore and offshore) under the use restriction component will be able to participate under any designation for which it qualifies.
2. A vessel which qualifies for multiple designations under the use restriction component must choose a single designation.

Buy-back/Retirement Program

1. No buy-back/retirement program.
2. Fractional license system. (Fractional licenses may be issued to vessel owners at the time of landing and/or permit holders.)
3. Industry Funded Buy-back Program with right of first refusal on all transfers of licenses.

License Ownership Caps

1. No limit on the number of licenses or endorsements which may be owned by a "person."
2. No more than 5 area licenses per person with grandfather provisions.
3. No more than 10 area licenses per person with grandfather provisions.
4. No more than 15 area licenses per person with grandfather provisions.
5. No more than 5 fishery/area endorsements per person with grandfather provisions.
6. No more than 10 fishery/area endorsements per person with grandfather provisions.
7. No more than 15 fishery/area endorsements per person with grandfather provisions.

Two-Tiered Skipper License Program

1. Do not implement a Two-Tiered Skipper License Program.
2. Implement a Two-Tiered Skipper License Program.

Community Development Quotas.

1. No CDO allocations
2. 3% of any or all groundfish TACs for CDQs patterned after current program w/o sunset provision.
3. 7.5% of any or all groundfish TACs for CDQs patterned after current program w/o sunset provision.
4. 10% of any or all groundfish TACs for CDQs patterned after current program w/o sunset provision.
5. 15% of any or all groundfish TACs for CDQs patterned after current program w/o sunset provision.

Community Development Licenses.

1. No Community Development Licenses.
2. Grant an additional 3% non-transferable licenses to CDQs communities.
3. Grant an additional 7.5% non-transferable licenses to CDQs communities.
4. Grant an additional 10% non-transferable licenses to CDQs communities.
5. Grant an additional 15% non-transferable licenses to CDQs communities.

Other Provisions (Choose any or none of the following)

1. Licenses represent a use privilege. The Council may convert the license program to an IFQ program or otherwise alter or rescind the program without compensation to license holders.
2. Severe penalties may be invoked for failure to comply with conditions of the license.
3. Licenses may be suspended or revoked for multiple violations.
4. Implement a Skipper Reporting System which requires groundfish license holders to report skipper names, address, and service records to NMFS.
5. An analysis of the impact of various rent collection levels and mechanisms, and enforcement and program implementation costs is required.
6. Vessels which qualify for the NPFMC license limitation program that have been lost or destroyed are still eligible to receive earned licenses and endorsements. (This provision was not included in the list of elements and options approved at the December Council meeting, but is carried over here from previous Council documents relating to the license limitation program.)

The Council is also considering alternatives which may have significant impacts on the license limitation program and on future phases of the CRP process.

1. Sunset. Include a sunset provision in the license limitation phase of the CRP process.
2. No license transfers. Implement a license limitation program that does not allow licenses to be transferred.

The Council is requesting the industry and public to consider these provisions in the context of the overall CRP development which includes an intent to phase into IFQ development.

CRAB LICENSES

Components and Alternative Elements Affecting Initial Assignment

	Numbering Scheme
License Classes	
A single class of licenses	100000
Two license classes with Class B Permits for participants from 1/1/80 - 12/31/93	200000
Two license classes with Class B Permits for participants from 1/1/88 - 12/31/93	300000
Nature of Licenses	
Single license for all species and areas	10000
Licenses for species (e.g., <i>C. opilio</i> , <i>C. bairdi</i> , Red, Blue and Brown King Crab)	20000
Licenses for each species/area combination	30000
License Recipients	
Current owners	1000
Current owners and permit holders	2000
License Designations	
No restrictions	100
Catcher vessels & Catcher/processors	200
Vessel length	300
Catcher vessels & Catcher/processors and vessel length	400
Qualifying Period	
Jan. 1, 1978 - Dec. 31, 1993.	10
6/28/89 - 6/27/92 --- (6/29/80 - 6/25/83 for D.H. Red, 6/29/85 - 6/25/88 for Prib Blue)	20
6/28/89 - 6/27/92 --- (6/29/80 - 6/25/83 for D.H. Red & 6/29/85 - 6/25/88 for Prib. Blue. These two groups must also have made a landing in any federally managed crab fishery between 6/28/89-6/27/92. For Norton Sound Red and Blue King Crab fisheries, and for Prib. Red King Crab, must have made a landing in 1993 or 1994.	30
1/1/92 - 12/31/94 --- (6/29/80 - 6/25/83 for D.H. Red & 6/29/85 - 6/25/1988 for Prib. Blue. These two groups must also have made a landing in any federally managed crab fishery between 1/1/92-12/31/94. For Norton Sound Red and Blue King Crab fisheries, and for Prib. Red King Crab, must have made a landing in 1993 or 1994.	40
1/1/88 - 6/27/92	50
Minimum landings	
No minimum	1
1 landing for Red & Blue King, 3 landings for Brown King, <i>C. opilio</i> , & <i>C. bairdi</i>	2
3 landings of King or Tanner crab from federally managed fisheries during the qualifying period	3

Components and Alternative Elements Affecting the Ownership, Use, and Transfer of Licenses

Who May Purchase Licenses

1. Licenses could be transferred only to "persons" defined as those eligible to document a fishery vessel under chapter 121, Title 46 U.S.C.
2. Licenses could be transferred to "persons" with 76% or more U.S. ownership, with "grandfather" rights for license recipients with 75% or less U.S. ownership (Chapter 802, Title 46 U.S.C.).
3. Licenses are non-transferable.

Vessel/License Linkages

1. Vessel must be transferred with license
2. Licenses may be transferred without a vessel, i.e., licenses may be applied to vessels other than that to which the license was initially was issued.

Options Regarding the Separability of Species and/or Area Designations

1. Species and/or Area designations are not separable, and shall remain grouped as in the initial allocation.
2. Species or Area designations shall be treated as separable licenses and may be transferred as such.
3. Species or Area designations shall be regarded as separable endorsements which require the owner to also own a more general license before use or purchase.

Vessel Replacement and Upgrades

1. No restrictions on vessel replacement or upgrades, except that the vessel must meet the "License Designations" defined by the initial allocation.
2. Vessel may not be replaced or upgraded.
3. Vessel may be replaced or upgraded within the bounds of the 20% Rule as defined under the moratorium proposed rule.

License Ownership Caps

1. No limit on the number of licenses or endorsements which may be owned by a "person."
2. No more than 5 area licenses per person with grandfather provisions.
3. No more than 10 area licenses per person with grandfather provisions.
4. No more than 15 area licenses per person with grandfather provisions.
5. No more than 5 fishery/area endorsements per person with grandfather provisions.
6. No more than 10 fishery/area endorsements per person with grandfather provisions.
7. No more than 15 fishery/area endorsements per person with grandfather provisions.

Buy-back/Retirement Program

1. No buy-back/retirement program.
2. Fractional license system. (Fractional licenses may be issued to permit holders.)
3. Industry Funded Buy-back Program with right of first refusal on all transfers of licenses.

Two-Tiered Skipper License Program

1. Do not implement a Two-Tiered Skipper License Program.
2. Implement a Two-Tiered Skipper License Program.

Community Development Quotas.

1. No CDQ allocations.
2. Set aside 3% of crab fisheries with GHLS for CDQs patterned after current program w/o sunset provision.
3. Set aside 7.5% of crab fisheries w/GHLS for CDQs patterned after current program w/o sunset provision.
4. Set aside 10% of crab fisheries w/GHLS for CDQs patterned after current program w/o sunset provision.
5. Set aside 15% of crab fisheries w/GHLS for CDQs patterned after current program w/o sunset provision.

Community Development Licenses.

1. No Community Development Licenses.
2. Grant an additional 3% non-transferable licenses to CDQs communities.
3. Grant an additional 7.5% non-transferable licenses to CDQs communities.
4. Grant an additional 10% non-transferable licenses to CDQs communities.
5. Grant an additional 15% non-transferable licenses to CDQs communities.

Other Provisions (Choose any or none of the following)

1. Licenses represent a use privilege. The Council may convert the license program to an IFQ program or otherwise alter or rescind the program without compensation to license holders.
2. Severe penalties may be invoked for failure to comply with conditions of the license.
3. Licenses may be suspended or revoked for multiple violations.
4. Implement a Skipper Reporting System which requires groundfish license holders to report skipper names, address, and service records to NMFS.
5. An analysis of the impact of various rent collection levels and mechanisms, and enforcement and program implementation costs is required.
6. No Future Super-exclusive Area will be proposed.
7. Catcher processor vessels are defined as: those vessels which were required to carry a mandatory State of Alaska Shellfish Observer and are capable of pulling (hauling) pots and immediately processing harvested crab.
8. Vessels which qualify for the NPFMC license limitation program that have been lost or destroyed are still eligible to receive earned licenses and endorsements. (This provision was not included in the list of elements and options approved at the December Council meeting, but is carried over here from previous Council documents relating to the license limitation program.)

Individual Transferable Pot Quota System

In addition to the components above, an Individual Transferable Pot Quota (ITPQ) System Alternative has been proposed in concept only. Under this option, the components affecting the initial assignment of crab licenses will remain unchanged. However, once it is decided which persons qualify for which vessel size and processing designations, licenses would be linked to a limited number of pots. Pots could be transferred to meet individual vessel requirements. Many of the component sets regarding the use and transferability of licenses may not apply under a ITPQ system. The Council will have to specify in more detail if additional analysis of the ITPQ system is desired.

The Council is also considering alternatives which may have significant impacts on the license limitation program and on future phases of the CRP process.

1. Sunset. Include a sunset provision in the license limitation phase of the CRP process.
2. No license transfers. Implement a license limitation program that does not allow licenses to be transferred.

The Council is requesting the industry and public to consider these provisions in the context of the overall CRP development which includes an intent to phase into IFQ development.

SUMMARY
Implementation Plan
Proposed Groundfish and Crab License System

Potential number of licenses

- Approximately 3,400 groundfish licenses with 12,000 area/species endorsements and about 550 crab licenses with 1,800 area/species endorsements.

Agency responsibilities

- RAM Division will determine eligibility, issue licenses, process transfers, and consider appeals.
- NMFS Enforcement and the U.S. Coast Guard will monitor compliance with the groundfish license system.
- ADFG will monitor compliance with the crab license system.

Monitoring species endorsements (page 5)

- The objective of species endorsements is to limit participation in specific directed fisheries.
- NMFS will monitor fishing for groundfish under species endorsements on the basis of retained catch composition in the same manner that directed fishing standards or "Retained Percent Amounts" (RPAs) are monitored.
- Vessel operators without species endorsements will be allowed to retain bycatch amounts of groundfish as defined by RPAs.
- Vessel operators without species endorsements must discard catch in excess of bycatch amounts as defined by RPAs. This requirement likely will increase regulatory discards.

Cost of implementation (page 14)

- \$475,000 and 10 positions for general licenses with area endorsements.
 - RAM 5 positions
 - GCAK 4 positions
 - Enforcement 1 position
- \$1,495,000 and 14 Federal government position plus 20 contract positions with area and species endorsements.
 - RAM 5 positions
 - GCAK 4 positions
 - Enforcement 5 positions + 20 contracted positions

Cost estimates do not included estimated costs for:

- monitoring compliance with the 76 percent U.S. ownership provision for license transfers, or
- expansion of the CDQ program to other groundfish.

Skipper license or reporting system (page 7)

NMFS currently does not collect information that would clearly identify hired skippers. Existing data sources such as ADFG fish tickets, CFEC permits, and NMFS vessel logbooks are either incomplete or not easily accessible. Aspects of the skipper license proposal that link qualifications to the U.S. Coast Guard Fishing Master License need to be clarified.

No additional costs are suggested for the skipper license system because NMFS would incorporate it as an element of the overall groundfish and crab license program. The cost of the skipper license program, as with all elements of the license program, would be in terms of the implementation time necessary to incorporate each element into the overall program.

Expansion of existing data collection programs such as ADFG fish tickets and CFEC permits should be considered rather than establishing a separate reporting system.

CDQ program (page 11)

The current pollock CDQ program is based on the allocation and harvest of a single species in a fishery with relatively low bycatch of other groundfish and prohibited species. Expansion of the CDQ program to all groundfish in the BSAI will require decisions about how bycatch of groundfish and prohibited species will be handled and the monitoring system that will be required to manage compliance with multiple quotas for individual vessels. Processor vessels participating in the expanded CDQ fishery will require two observers and, probably, scales to weigh groundfish catch. The cost of monitoring the expanded CDQ fishery cannot be estimated until a more clear description of the fishery is provided.

Permit fees

Permit fees to cover the cost of issuing licenses are permitted under the Magnuson Act. Based on the RAM Division budget proposed in this document, a permit fee of approximately \$50 per general license could be collected. NMFS staff will prepare further analysis of establishing permit fees.

**Implementation Plan
Proposed Groundfish and Crab License System**

Prepared by

National Marine Fisheries Service
Alaska Regional Office
January 3, 1995

Introduction

This chapter contains NMFS's preliminary implementation plan and estimated implementation costs for the proposed groundfish and crab license plan for the North Pacific. Alternatives for the groundfish and crab license systems have several components:

- (1) a general license and separable area or species endorsements issued to current vessel owners which would limit the areas and target fisheries in which a vessel could participate;
- (2) a license issued to qualified skippers and the requirement that a licensed skipper be onboard any vessel fishing with a groundfish or crab license

OR

a mandatory skipper reporting system for information collection purposes only; and

- (3) expansion of the Community Development Quota fisheries to include all groundfish and crab fisheries in the BSAI.

This implementation plan primarily addresses the license limitation program followed by a discussion of implementation of the skipper licensing or reporting options and an expanded CDQ program.

Implementation of Groundfish and Crab License Systems

Primary elements of the proposed groundfish and crab license system were highlighted by the Council at its December, 1994 meeting. These proposed primary elements are used as the basis for NMFS's initial description of the license system and estimates of administrative, monitoring, and enforcement costs for the program.

Implementation of the groundfish and crab license program is comprised of (1) initial licensing and processing transfers, and (2) monitoring and enforcement of the use of licenses. NMFS will

issue licenses and monitor transfers for both the groundfish and crab programs. Monitoring and enforcement of the use of groundfish licenses and endorsements will be done by NMFS Enforcement and the U.S. Coast Guard. Monitoring and enforcement of the use of crab licenses and endorsements will primarily be the responsibility of the Alaska Department of Fish and Game (ADFG) and the State Fish and Wildlife Protection Division. Discussion of the administrative and implementation costs reflect this distribution of responsibilities.

Initial licensing and monitoring transfers

Licenses will be issued to current vessel owners based on the catch history of the vessel during the qualifying period. RAM Division initially will create a database combining information from the NMFS Moratorium database, the CFEC vessel license file, processor weekly production reports (WPR), and ADFG fish tickets. The combination of these data should provide an initial indication of current vessel ownership and catch history. Bills of sale or affidavits of current ownership of undocumented vessels may also be necessary as supplemental information to establish vessel ownership.

Catch and production reports such as processor WPRs, vessel logs, and fish tickets previously submitted to NMFS will be used to determine whether the vessel met landings requirements, the area and species endorsements that the vessel owner is entitled to, and the license designations such as vessel type (catcher vessel versus catcher/processor), vessel length category, or inshore/offshore designation.

The Alaska Region can expect to issue approximately 3,400 groundfish licenses with about 12,000 area/species endorsements and about 550 crab licenses with about 1,800 area/species endorsements.¹ These estimates do not include licenses that may be issued under the two-tiered skipper license program or Community Development Licenses.

Confidential data: The two primary sources of catch history data that will be used to determine eligibility for licenses or endorsements are ADFG fish tickets and NMFS WPR. Both of these datasets are confidential. Fish tickets records cannot be released without a waiver from the permit holder to whom the ticket was issued. This person is often not the vessel owner.

¹The number of groundfish licenses and endorsements is based on configuration 915411 as summarized in Table 3 of Appendix VII (11/14/94). The number of crab licenses and endorsements is based on configuration 31421 as summarized on page 176 of the September 18, 1994 draft analysis.

Currently, NMFS releases WPRs, vessel logbooks, or observer data only to the vessel owner as recorded on the NMFS groundfish permit. NMFS will have to develop procedures for release of this data to anyone other than the vessel owner at the time of harvest.

Initial determination of eligibility for a general license or any endorsements will be made by NMFS on the basis of the catch history of the vessel. In the case of a current vessel owner who does not have control over the catch history data because he or she was not the permit holder (fish tickets) or vessel owner (WPR) during the qualifying period, NMFS could only verify that the vessel catch history met the qualification criteria. Details about the landings history of the vessel could not be released to the current vessel owner without a signed waiver from the permit holder or previous owner. This constraint may become an issue in the case of a current vessel owner who believes he or she is eligible for area or species endorsements not initially issued by NMFS. Establishing minimum landings requirements (such as 20,000 pounds) will increase the need for a more precise catch history dataset and probably will increase the number of challenges to NMFS's initial eligibility determinations.

License designations: Licenses may be designated by vessel type, vessel length category and as "inshore" or offshore". This information should exist on records previously collected by NMFS which will be used to build the license system database.

The purpose of the inshore/offshore designations remains unclear. ADFG has stated that this designation will be used only as a "place-holder" for future inshore/offshore landings restrictions. The current inshore/offshore allocation applies only to the processing component and only to pollock and Pacific cod in the BSAI and pollock in the GOA. The means through which 1993 inshore/offshore activity will be used to determination license designations for fishing vessels must be more specific. Some catcher vessels landed fish under both an inshore and an offshore allocation in 1993. Some vessels may not have landed any of the inshore/offshore species in 1993. In addition, the question of whether the inshore/offshore designation will be attached to the general license (as will vessel type or length) or to the species endorsements must be addressed.

Who may purchase licenses: The Council has indicated interest in restricting license transfers to individuals who are U.S. citizens and partnerships and corporations with 76 percent or more U.S. ownership. Initial license recipients would have grandfather rights. NOAA GC has stated that this restriction is inconsistent with U.S. and international law. Notwithstanding the legal issues raised by GC, substantial administration and enforcement costs would be associated with investigating and

verifying the citizenship of each transfer applicant, particularly if they are corporations. Staff necessary to provide this level of enforcement of the ownership provisions are not included in the current cost estimates of the license limitation program.

The U.S. Coast Guard requires vessel owners to sign an affidavit of U.S. citizenship in the vessel documentation application. NMFS could implement a similar system which would require an affidavit of citizenship but would not involve specific research into the citizenship of each applicant. Investigations would be done on a case by case basis if there were indications that the applicants had falsified information on the affidavit.

Appeals: The appeals process for the license limitation program will be identical to that currently used for the halibut and sablefish IFQ program. Appeals of initial administrative determinations to deny a benefit (initial license issuance, transfers, etc.) will be considered by an appeals officer in the RAM Division.

Interim licenses: Interim licenses and endorsements may have to be issued when a legitimate appeal cannot be resolved prior to the initiation of fishing under the license limitation program. It is likely that most of these appeals will involve catch history data and eligibility for area or species endorsements. However, regulations must specify the circumstances under which interim licenses or endorsements will be issued to assure that frivolous appeals are not filed or delayed in order to obtain an interim license or endorsements.

Monitoring and enforcement

Monitoring and enforcement of fishing under the groundfish and crab licenses which will be done by NMFS Enforcement, the U.S. Coast Guard, NOAA General Counsel, and the State of Alaska (crab). The appropriate licenses and endorsements must be onboard the vessel at all times. In-season transfers or after the fact endorsement transfers to cover catch composition overages will not be allowed.

Species endorsements are the element of the groundfish license system which has the most influence on implementation complexity and costs. Monitoring area endorsements would require that a vessel fish only in specific areas but would not limit the directed fisheries in which they could participate (other than existing limitations). Compliance with area endorsements could be verified by aerial surveys and by observer reports. However, species endorsements will require that NMFS monitor the target fisheries in which a vessel is participating. In other words, the catch of all vessels will have to be monitored to assure that

vessels are "targeting" only on those species groups for which they hold a species endorsement.

Monitoring Licenses with Species Endorsements: Species endorsements would be used to identify which vessels could participate in a directed fishery for a particular species or species group. At its December meeting, the Council highlighted two options (A00000 and B00000) that would provide for separable species endorsements. Option A00000 specifies the species groups by FMP sub-areas. Option B00000 specifies the subareas to Bering Sea, Aleutian Islands, Western Gulf, Central Gulf plus West Yakutat, and East Yakutat and Southeast Outside.

The general groundfish license would be issued with endorsements for the FMP subarea and species endorsements for:

BS and AI

pollock
Pacific cod
Atka mackerel
rockfish
yellowfin sole
rock sole
other flatfish
Greenland turbot
squid (fixed gear only)
sablefish (trawl only)

EG, CG, and WG

pollock
Pacific cod
Atka mackerel
rockfish
deep-water flatfish
shallow-water flatfish
flathead sole

Four existing TAC categories do not have species endorsement categories:

1. **flathead sole** in the BSAI (30,000 mt TAC in 1995) vessels could be required to have an "other flatfish" endorsement in order to retain more than bycatch amounts of flathead sole;
2. **rex sole** in the GOA (9,960 mt TAC in 1995) vessels could be required to have a deep-water flatfish endorsement in order to retain more than bycatch amounts of rex sole;
3. **arrowtooth flounder** which could be retained by any vessel with an area endorsement; and
4. **other groundfish** (sculpins, smelt, eulachon, capelin, shark, skate, octopus, squid (GOA only)) which could be retained by any vessel with an area endorsement.

In addition, **gear specific** species endorsements would be issued for two species - squid and sablefish.

NMFS will monitor species endorsements on the basis of retained catch composition in a manner similar to that currently used to monitor directed fishing standards (DFS) or "Retainable Percent Amounts" (RPA).² The RPA is used to determine the amount of a species or species group that can be retained onboard a vessel if the directed fishery for that species is closed. They are used primarily to slow the harvest of certain species or species groups as harvests approach total allowable catch levels. Catch in excess of the RPA must be discarded. NMFS monitors RPAs for catcher vessels on the basis of landed catch weight and for processor vessels on the round weight equivalent of processed product as determined by standard product recovery rates.

Vessels with species endorsements may retain any amount of the particular species or species group subject to all other regulations on fishing activity. Vessels without species endorsements for a particular species or species group must operate as if the RPAs apply even when a directed fishery is open.

To minimize the complexity of the species endorsement regulations, RPAs and species endorsement standards must be the same for a particular species or species group. For example, if the RPA that defines bycatch amounts for a particular species is 20 percent of the retained catch onboard the vessel, then the species endorsement standard should also be 20 percent. In other words, if the vessel owner does not have a species endorsement, his or her retained catch may be comprised of no more than 20 percent of this particular species.

Harvests of species or species groups in excess of the species endorsement standards must be discarded (as is required under directed fishing standards) so that the vessel's catch composition remains within the constraints of the species endorsements they hold. Species endorsements could, therefore, lead to an increase in regulatory discards if vessel operators regularly harvest fish in excess of species endorsement allowances.

²In the proposed regulatory revisions to directed fishing standards, NMFS is attempting to eliminate the use of the terminology "Directed Fishing Standard(s)" and replace it with "Retainable Percent Amount" (RPA) which more clearly identifies that the percent in question refers to the amount of bycatch that may be retained onboard a vessel when directed fishing for a particular species is closed.

Effective enforcement of retainable bycatch amounts (RPAs) and species endorsements require both at-sea and dockside monitoring to verify landings records for catcher vessels and processed product reports by processor vessels. The U.S. Coast Guard currently boards vessels and checks logbook records against product inventory. With species endorsements, fishermen should expect both the frequency and duration of boardings to increase. NMFS Enforcement believes that substantially increased dockside monitoring will be necessary to provide adequate monitoring of catch composition requirements under species endorsements. The dockside monitoring effort will focus on verifying the accuracy of catcher vessel landings reports (fish tickets) and will monitor offloading of processed product from processor vessels to verify logbook records.

Species endorsements and full retention requirements: Species endorsements would limit the directed fisheries in which a vessel could participate as defined by retained catch composition, while full or improved retention is intended to require retaining all groundfish except that which must be discarded under RPAs or fishery closures. However, species endorsements combined with a requirement that all groundfish catch be retained may result in a legal conflict because vessel operators would have to choose between violating full retention requirements by discarding groundfish or violating the species endorsement by retaining groundfish in excess of the RPA. The Council previously addressed this potential conflict when debating whether to base DFSs on total catch composition or retained catch composition. At that time, the Council decided not to recommend regulations that would hold a fisherman responsible for their overall groundfish catch composition before it was brought onboard the vessel. If the Council reconsidered this position, under some full retention requirements, vessel operators would be required to retain and process groundfish harvested in excess of their species endorsements.

Permit fees

The Magnuson Act authorizes the Secretary of Commerce to collect fees to cover administrative costs incurred in issuing permits. For example, based on a \$195,000 annual budget for RAM and 4,000 groundfish and crab general licenses, approximately \$50 per permit could be charged to recover administrative costs. NMFS will prepare an analysis of requiring permit fees to cover the costs of issuing halibut and sablefish ITQs and limited entry licenses for Council consideration.

Skipper License system or reporting system

Skippers of groundfish and crab vessels are considered in two elements of the proposed license limitation program. First,

Skippers for Equitable Access (SEA) has proposed a "two-tiered" skipper license program. Second, the general provisions include a proposed requirement for NMFS to collect information on skippers in the fleets to build a database for possible future allocations under an ITQ program.

Two-tiered skipper (or Captain's) license system

SEA proposes that a category of licenses be created for vessel captains. A licensed captain would be required to be onboard any vessel participating in the fisheries under the groundfish and crab license limitation program. Eligibility criteria include (1) a Coast Guard Fishing Master License, (2) at least three documented landings per year in the subject areas and fisheries for a minimum of three years. NMFS Captain's Licenses may be transferred only to individuals who meet the above eligibility criteria and may be leased in cases of "emergencies" and for the purpose of training crewman working toward the position of Captain.

Several issues arise in initial analysis of the SEA proposal:

1. **Identifying hired captains is difficult.**

It is difficult to estimate the number of hired captains in the groundfish and crab fleets. This lack of information makes it difficult to provide the Council with meaningful analysis of the SEA proposal and is also the primary source of costs that will be associated with implementation of this proposal.

NMFS currently does not collect information specifically about vessel captains. There are two possible sources of information among the data currently collected by NMFS, neither of which is complete or easily accessible:

Fish tickets - Fish tickets are required for all groundfish harvested or processed in State waters and for all crab harvests regardless of their location. Each fish ticket must include an imprint of a CFEC permit card which is issued to individuals. The combination of fish ticket landings information and the CFEC permit card provides documentation of an individual's participation in a fishery. There are two difficulties with using fish tickets to determine the number of hired captains:

- (1) the permit holder may be the vessel owner, the hired captain, or any other crewperson. Comparison of the vessel owners social security number with the social security number associated with the person filling out the fish ticket would provide a list of people who made landings but were not vessel owners. However, it does not mean that all these people were hired captains.
- (2) fish tickets are not required for groundfish harvested or processed outside State waters so this source of information on potential hired captains would not be available for many catcher/processor vessels.

Vessel logbooks - All catcher/processor vessel operators submit vessel logbooks to NMFS which must be signed by the "owner, operator, or representative". Several difficulties arise in using logbooks to identify hired captains:

- (1) signatures do not identify whether the person is the captain or another authorized individual;
- (2) signatures are often illegible and are not accompanied by any other information through which to identify an individual such as a social security number (making comparison of names with vessel ownership files much more difficult);
- (3) the name of the person signing the document has not been entered into any computer database.

For these reasons, NMFS would not use vessel logbooks as a primary source of information to identify potentially eligible hired captains. The logbooks could be used by applicants as supporting documentation, however, confidentiality waivers would have to be obtained from the vessel owners for release of the logbooks pages bearing the captain's signature.

If the Captain's license proposal were approved by the Council and the Secretary of Commerce, NMFS would attempt to identify as many hired captains as possible through fish ticket records, CFEC permits, letters to vessel owners, and other means of public notice. However, it is possible that a some hired captains would not be identified by NMFS's primary data sources. Hired captains who believed they met eligibility criteria would be asked to apply for a skipper's license and provide supporting documentation such as U.S. Coast Guard Sea Service Forms or vessel logbooks.

2. **The requirement that all skippers hold a Coast Guard Fishing Master License may mean that hired captains of vessels less than 200 gross tons would not meet eligibility criteria.**

The U.S. Coast Guard issues Fishing Master Licenses for vessel classes ranging from 100 gross tons (gt) to 1,600 gt and above. Master Licenses are required for operators of vessels 200 gt and above and optional for vessels between 100 and 200 gt. Although there is no direct relationship between vessel length and gross tonnage, in general, vessels 125 feet and over could be 200 gt or greater and vessels less than 125 feet are likely to be less than 200 gt. In the groundfish fleet, approximately 135 vessels are 125 feet and greater length overall. In other words, the majority of the 4,000 groundfish fishing vessels that may be

eligible for general licenses are likely to be less than 200 gt and, therefore, not be required to have licensed masters.

3. Skipper license transferability requirements need to be clarified.

The SEA transferability requirements state that Captain's license can only be transferred to other qualified Captains, implying that these qualified Captains must have a U.S. Coast Guard Fishing Master License and have met landings requirements. However, it is likely that the NMFS licensed captain will want to record all groundfish and crab landings under their name because of the possibility of future allocations under ITQs. If that is the case, it may be difficult for mates or other crew to establish the minimum landings requirements necessary to purchase a NMFS skipper's license.

A less clear problem is the possibility that the existence of a NMFS Captains license, which restricts the individuals allowed to be captains or masters of fishing vessels participating in the groundfish and crab fisheries, may make it more difficult for individuals to get the sea time necessary to qualify for U.S. Coast Guard Fishing Master License which is, in turn, necessary to be eligible to purchase the NMFS Captains license. In other words, will the NMFS Captains license make it more difficult for masters and mates to get the sea time necessary to advance in the U.S. Coast Guard Fishing Masters License categories?

Implementation costs for the two tiered skipper license proposal: Gathering data, determining eligibility, issuing captain's licenses, and monitoring transfers would be the responsibility of RAM Division. These tasks would have to be accommodated under the overall budget for the groundfish and crab license limitation program. Implementation costs are less if the burden is placed on the applicants to provide supporting documentation not readily available to NMFS through existing databases. However, regardless of the design of the two-tiered skipper license proposal, additional time will be required in the implementation phase of the license limitation program to identify potential eligible applicants, process and review applications and their supporting documentation, and monitor license transfers. If NMFS staff is required to research hired captain's eligibility in vessel logbooks, substantial time could be added to the implementation period.

Mandatory skipper reporting system: Captains of many groundfish and crab vessels currently document sea time on the U.S. Coast Guard Sea Service Form and many of them fill out fish tickets using their CFEC permit card. Specific options for the skipper reporting system have not been explored in depth by staff. The objective appears to be to design a system that would record the

catch history of a particular captain. If this is the case, one option may be to require (or suggest) that all hired skippers purchase CFEC permit cards and fill out fish tickets for all landings made by the vessel when they were on duty. This would essentially reinstate the collection of fish tickets for processor vessels and catcher vessels delivering outside State waters. This option would allow NMFS to take advantage of an existing data collection mechanism rather than developing a new system to collect information on skipper participation.

Community Development Quotas

Expanding the CDQ program to all groundfish and crab in the BSAI is an element of the current groundfish and crab license proposal. The expanded CDQ program could be folded into the existing pollock CDQ program in terms of the procedures used to apportion the overall CDQ among the eligible Western Alaska community groups. However, the monitoring program for the pollock CDQ program will not be adequate to monitor CDQs.

The pollock CDQ is primarily harvested in mid-water pollock fisheries which have relatively low levels of groundfish or prohibited species bycatch. This would not necessarily be true of CDQ fisheries for other groundfish species such as Pacific cod or many flatfish species. Groundfish bycatch that occurs in the pollock CDQ fisheries accrues against the open access quotas for these species groups. For example, Pacific cod caught as bycatch in the CDQ fisheries is counted against the open access trawl TAC for cod. Halibut bycatch accrues against the open access mortality limit for the pollock/Atka mackerel/other species category. However, once the halibut mortality limit is reached, only bottom trawl fisheries close. Mid-water pollock fisheries continue so neither the pollock CDQ fisheries or the open access pollock fisheries are completely closed when the halibut mortality limit is reached.

The proposal for the expanded CDQ program needs to specify how other groundfish bycatch and prohibited species catch would be accounted for in the CDQ fisheries. Some of the questions that need to be addressed include:

1. How would each CDQ group and their partner processors and vessels be allocated groundfish quotas sufficient to cover directed fishing and bycatch needs?
2. Would separate PSC mortality limits be set for the CDQ fisheries?
3. Would vessels be required to stop fishing once they had reached any one of these catch limits or would overage and underage provisions be made?

4. What would be required to adequately monitor the catch of all species in order to assure that none of these quotas had been exceeded? Would all catch accounting be based on observer information? Even with two observers on each vessel, could existing sampling procedures provide the information necessary to enforce catch, bycatch, and PSC catch limits on an individual vessel?

On this last question, NMFS believes that the current catch estimation procedures used in the mid-water pollock CDQ fisheries will not be adequate to provide the data necessary to manage individual vessel catch, bycatch, and PSC limits. First, the pollock CDQ fishery requires individual vessel monitoring of the target species only, not monitoring of all groundfish species. Second, the catch composition of the mid-water pollock fisheries is usually between 95 percent and 98 percent pollock which minimizes the difficulty of estimating and accounting for other groundfish catch.

NMFS requires two observers and certified bins for volumetric estimates of catch in the pollock CDQ fisheries.³ Because the catch is nearly all pollock, a standard density factor is applied to convert total groundfish catch weight to pollock catch weight. However, in mixed species groundfish fisheries, determination of a density factor to apply to total groundfish catch estimates is much more complicated because of the variation in the species composition of the catch. The primary problem is providing the observer with a large enough sample of the fish to reliably estimate the density of fish in the bin. Although observers currently are applying density factors to volumetric estimates of catch in the open access fisheries, the reliability of these procedures in determining individual vessel catch by species is unknown. However, catch estimates using these procedures currently are aggregated and used to determine fleetwide quotas and closures - not to stop an individual vessel from fishing. The potential problems with volumetric estimates of catch weight are the primary reason NMFS has recommended at-sea weighing of groundfish catch rather than volumetric estimates.

In order to implement an expanded CDQ program, NMFS needs to evaluate current catch estimation procedures and determine the changes in equipment or procedures used by the vessel operators or the observers that will be necessary to provide data adequate to monitor individual vessel quotas in the mixed species fisheries. Additional in-season management and possibly observer program staff will be required to monitor expanded CDQ fisheries.

³NMFS currently is preparing draft regulations to require scales to weigh total groundfish catch in the pollock fisheries, which would include the pollock CDQ fisheries.

This additional staff is not included in the implementation costs provided in this document.

CDQs for crab: The Council has briefly discussed the difficulties associated with determining CDQs for crab fisheries that operate with GHGs rather than a specified TAC. However, monitoring and enforcement of harvests in the crab fisheries are the responsibility of the State of Alaska and NMFS would defer to the State to develop the appropriate monitoring plan and estimated costs to present to the Council.

Community Development Licenses: Providing that the Council specified qualification criteria and established the procedure by which CDLs for groundfish or crab would be issued, these licenses would be incorporated with all other types of licenses that would be issued and monitored by NMFS or the State of Alaska and included in the cost estimates provided in this document.

Estimated Annual Cost of
Groundfish and Crab License Limitation Program

Fisheries Management Division

Preparation of proposed and final regulations and subsequent amendments will be accomplished with existing staff.

Restricted Access Management Division

Total: 5 positions	\$195,000
Database development and support (1 position)	\$ 60,000
Design applications and instructions, hold workshops, answer phone calls and correspondence, mail out applications and instructions, review applications, records research, etc. (2 positions)	\$ 70,000
Monitor transfers (1 position)	\$ 35,000
Secretary (1 position)	\$
30,000	

NMFS Observer Program

The current proposals do not call for increases in observer coverage levels or changes in observer duties as a direct result of the license limitation program. Therefore, no additional costs to the Observer Program are estimated at this time.

NMFS Enforcement

Additional Enforcement Officers will be required for the License Limitation Program.

Area endorsements only will require 1 additional officer at \$80,000 per year.

Species endorsements will require 5 additional Enforcement Officers (Federal government employees) and 20 Enforcement Aides (contracted positions) to provide dockside monitoring of catcher vessel deliveries and processor vessel offloads to verify compliance with catch composition limitations. The Enforcement Officers will cost approximate \$400,000 per year and the contracted Enforcement Aides \$700,000 per year for a total of **1,100,000 per year.**

U.S. Coast Guard

The U.S. Coast Guard expects that enforcement of general licenses with area and species endorsements will require a 20 percent increase in cutter days to maintain the current level of vessel boardings and expect contact with the fleet. This increase in cutter days will be carried out with existing staff and budget.

NOAA General Counsel

An additional two fishery management attorneys, a paralegal and administrative assistant would be required to handle this litigation, at an expected annual cost of **\$200,000**. This estimate includes salary and benefits, office space and furnishings, training, computer hardware and software, telephone, and supplies. Hiring and relocation costs are not included in this estimate.

Total Estimated Implementation Costs:

With area endorsements - 10 positions and \$475,000 per year

With species endorsements - 14 Federal government positions,
20 contract positions and
\$1,495,000 per year.

Addendum to the Groundfish and Crab License Limitation Proposal

(additional text for discussion on monitoring licenses with species endorsements on page 5)

Tables 1 and 2 show an example of the area/species endorsements that would be issued to a particular trawl catcher/processor based on an assumed catch history. An "X" indicates the retained species in each area during the qualifying period. All TAC species are listed on the table, separated into two sections. First, is the list of TAC species that are also species endorsement categories under option A00000 and B00000. Second, is the list of TAC species that are not included on species endorsement lists.

If the catch distribution of retained catch shown in Tables 1 and 2 were used to determine eligibility under option A00000, this vessel would receive:

- (1) a general license for GOA/BSAI, and
- (2) the following 17 area/species endorsements:

Western Gulf: Pacific cod, Atka mackerel, and rockfish

Central Gulf: Pacific cod, deep-water flatfish, shallow-water flatfish, Atka mackerel, flathead sole, and rockfish

Bering Sea: Pacific cod, Atka mackerel, yellowfin sole, other flatfish, rock sole, Greenland turbot, rockfish, and sablefish

Under the license limitation program, the vessel would have to comply with the following:

1. when the fisheries for which they received species endorsements are **open for directed fishing**, this vessel could retain an unlimited amount of any of these species;
2. when arrowtooth flounder is **open for directed fishing**, this vessel could retain an unlimited amount;
3. when fisheries not in (1) or (2) are **open for directed fishing**, this vessel could retain only bycatch amounts of any of these species subject to RPA (or DFS).

For example, the vessel does not have a species endorsement for pollock in the BSAI, so they may retain pollock up to 20

percent of any other species that is open for directed fishing and for which they have an area/species endorsement. Any pollock catch beyond bycatch amounts must be discarded even if pollock is open for directed fishing;

4. when any fishery is closed to directed fishing (on bycatch only status) the vessel must comply with RPAs (DFSS) for the closed fisheries.

There are four TAC categories that are not addressed in either the species endorsement list or the text of alternative A00000 or B00000 - they are sablefish in the GOA, rex sole in the GOA, flathead sole in the BSAI, and "other" species in the GOA and BSAI.

1. **"other species"** could be handled like arrowtooth flounder in that any vessel with an endorsement in a particular area could retain unlimited amounts of "other species" as long as the directed fishery were open.¹
2. **sablefish** is on bycatch only status for trawl gear in the Eastern Gulf by regulation. In the Western and Central Gulf the Regional Director is authorized to place sablefish on bycatch only status but is not required to do so. The effect of not issuing a species endorsement for sablefish is to expand the bycatch status of sablefish for trawl gear to the entire GOA.
3. **rex sole and flathead sole** are two existing TAC categories that are not addressed by the species endorsement list. The discussion below for these two species also will apply to any other species that are separated from a species group in the future.

Rex sole was separated from the deep-water flatfish complex in the GOA in 1994 and flathead sole was separated from the other flatfish complex in the BSAI in 1995.

Not issuing species endorsements for these two species, or for other species split out from species groups in the future, will result in no directed fisheries being allowed for the particular species. In other words, without an endorsement, no vessel will be authorized to catch more than bycatch amounts of these species.

¹"other species" are sculpins, smelt, eulachon, capelin, shark, skate, octopus, and squid (GOA only). Squid is a separate TAC category in the BSAI.

If the Council wishes to continue to allow directed fishing for rex sole or flathead sole, or for any species separated from the species group in the future, there are two options:

- (1) separate species endorsements could be issued for rex sole and flathead sole under the current license limitation proposal, or
- (2) directed fishing for these species could be authorized under the area/species endorsement for the species group of origin. For example, directed fishing for rex sole in the GOA could be authorized for all vessels holding species endorsements for deep-water flatfish and directed fishing for flathead sole in the BSAI could be authorized for all vessels holding species endorsements for "other" flatfish. Vessels that did not hold these species endorsements would be allowed to retain deep-water flatfish, rex sole, other flatfish, and flathead sole based on the RPAs (DFSS).

The choice of which option to use must also consider the procedure that Council wishes to use for species that are separated from species groups after implementation of the license limitation program.

Table 1. Example of groundfish species retained by a trawl catcher/processor in Gulf of Alaska fisheries by FMP sub-area, zone, and species or species group. "X" indicates retained catch by area and species.

TAC species or species group	WG	CG		EG	
	610	620	630	640 (WY)	650 (EY+SEO)
ON ENDORSEMENT LIST					
Pollock					
Pacific cod	X	X	X		
Deep-water flatfish		X	X		
Shallow-water flat.			X		
Atka mackerel	X	X			
Flathead sole		X	X		
Rockfish	X	X	X		
NOT ON ENDORSE. LIST					
Rex sole		X	X		
Sablefish	X	X	X		
Arrowtooth flounder		X			
Other species					

Table 2. Example of groundfish species retained by a trawl catcher/processor in Bering Sea/Aleutian Islands area fisheries by FMP sub-area, and species or species group. "X" indicates retained catch by area and species.

TAC species or species group	Bering Sea	Aleutian Islands
ON ENDORSEMENT LIST		
Pollock		
Pacific cod	X	
Atka mackerel	X	
Yellowfin sole	X	
Other flatfish	X	
Rock sole	X	
Greenland turbot	X	
Rockfish	X	
Sablefish (trawl only)	X	
Squid (trawl only)		
NOT ON ENDORSE. LIST		
Flathead sole		
Arrowtooth flounder		
Other species	X	

P.O. Box 890
Petersburg, Alaska 99833
January 10, 1995

Mr. Richard Lauber
Chairman
North Pacific Fishery Management Council
Post Office Box 103136
Anchorage, Alaska 99510

Re: ANDREW MCGEE -- License Limitation Alternatives

Dear Mr. Lauber:

I recently received the Council's Newsletter of December 20, 1994 and am writing to express my strong objections to some of the options that the Council is considering. I am concerned that if the Council adopts them I would be prevented from continuing my efforts to raise my vessel, the ANDREW MCGEE, and return the vessel to service.

As you may remember, I testified before the Council on August 6, 1992 asking the Council to be sure the ANDREW MCGEE was included within the moratorium so that I could continue with the project. The Council voted unanimously to allow my vessel to participate during the moratorium. A copy of the letter to me from Clarence Pautzke dated August 11, 1992 is attached to this letter.

Now, however, after reading the December 20th Newsletter it appears to me that I may not be able to fish my boat after all. I am writing to ask that you consider my situation as you review these options and that you not do anything that would overturn your 1992 decision permitting the ANDREW MCGEE to return to fishing.

Background

I am a commercial fisherman and a year round resident of Alaska. I have been actively involved in the fishing industry since 1972. My wife and I are the sole shareholders of companies owning three commercial fishing vessels, an 83 foot cannery tender, a 37 foot gillnetter and the ANDREW MCGEE, a sunken crabber/trawler with a registered length of 111 feet, which I have been trying to raise over the past few years. Because of problems with the flotation of the vessel and difficulties raising the money the project has taken longer than I had hoped. However, I am now in a position to put together sufficient funds to continue the project. Before I do that I need to know whether I can use the vessel.

Mr. Richard Lauber

January 10, 1995

Page 2

I am experienced with salvaged vessels and have successfully raised four over the years. I acquired the ANDREW MCGEE in September of 1989 in order to realize a long time dream to own a vessel of more than 100 feet and to catch crab and groundfish. The boat was originally built in 1978 and fished in both the crab and groundfish fisheries. The vessel was fishing and had landed its catch in early 1988 when it hit a rock and sank in the vicinity of Whale Pass, Kodiak Island.

Immediately after acquiring the boat I spent more than \$60,000 in an unsuccessful effort to raise her. I did not have sufficient flotation at the time to bring her up. The following year, after arranging for a market for the product, I was successful in bringing the boat to the surface two more times, but still was unable to raise her completely due to bad weather and the failure of some equipment. This cost me more than \$120,000.

After these efforts to raise the boat, the Council came up with its moratorium proposal in June 1992. As proposed, the moratorium was unclear as to whether the ANDREW MCGEE would qualify. After my lawyer submitted a written motion on my behalf on July 27, 1992 and after my testimony before the Council the next month, the Council unanimously approved the motion to allow me to use the ANDREW MCGEE during the moratorium period. As you know, however, the moratorium regulations are still not final and may not be for months. This uncertainty has made it difficult to raise the money necessary to complete the project. Since then, however, I have continued to work at other jobs in order to fund the effort. I have also continued to work with salvors, attorneys and others in preparation for the raising.

License Limitation Alternatives

The problem now is that some of the alternatives under consideration by the Council would prevent my boat from receiving a license, even though the Council found expressly that it could participate in these fisheries. For that reason I am writing to let you know which alternatives would keep me from using my boat and to ask that you consider my situation as you develop the license program.

If there is any procedure available for special exceptions should my boat not otherwise qualify I would appreciate knowing how to apply and being considered for such treatment.

Groundfish -- License Recipients

I strongly support the highlighted provision which would make licenses available to current owners only. This would clarify my ability to obtain a license and avoid the problem of

sorting out possible claims by earlier owners. To allow owners at the time of landing or permit holders would result in the potential for immediate expansion of the fleet and for a major increase in capacity in the long term. It would also be a very complex system to administer.

Groundfish -- Qualifying Periods

This is a critical category for my boat since it has been sunk for several years. Of the eight alternatives only the following two would include my boat:

Jan. 1, 1978 - Dec. 31, 1993

Jan. 1, 1988 - June 27, 1992

I am strongly opposed to the selection of any other date because it would mean I would be ineligible to ever get a license for my boat.

Groundfish -- Landings Requirements

If the narrower qualifying period is chosen (Jan. 1, 1988 - June 27, 1992), then I would strongly urge the Council to select the minimum number of landing requirements, specifically, only one landing. Otherwise my vessel may be precluded since it sank early in 1988 and few landings were made after January 1, 1988.

Crab -- License Recipients

For the same reasons noted above with respect to groundfish license recipients, I strongly support awarding licenses only to current owners.

Crab -- Qualifying Periods

Of the five alternative qualifying periods only the following two would include my boat:

Jan. 1, 1978 - Dec. 31, 1993

Jan. 1, 1988 - June 27, 1992

I strongly object to any proposed qualifying period that does not permit a boat that fished prior to February 5, 1988 from qualifying for a license.

Crab -- Minimum Landings

For the reasons noted above, I support the "no minimum" option since otherwise my vessel may be ineligible for a license.

THE COALITION FOR STABILITY IN MARINE FINANCING

January 10, 1995

Mr. Richard B. Lauber
Chairman
North Pacific Fishery Management Council
605 West 4th Avenue
Anchorage, AK 99501

RE: **Comprehensive Rationalization Plan (CRP) -- Proposals to Limit the Transfer of Crab and Groundfish Licenses**

Dear Mr. Lauber:

As you know, the Coalition for Stability in Marine Financing (the "Coalition") has followed the Council's activities in connection with the CRP process and related issues that could adversely affect lenders and other creditors involved with vessel assets in the North Pacific fishing industry. The proposals raised at the Council's December meeting and reported in the December 20th newsletter (at pages 5 and 10) which would prohibit the transfer of crab and groundfish licenses are of particular concern to members of the Coalition. If implemented as proposed, these prohibitions would frustrate marine lending on assets involved in these fisheries as well as creating an unworkable limitation on routine vessel transfers. We urge that as you analyze these options you consider amending the proposals to permit license transfers under certain limited circumstances.

We understand that the purpose behind both the proposed sunset provision limiting the license limitation program to a specific time period, and the proposed prohibition on license transfers is to encourage the prompt transition from a license plan to a quota share plan. While we have no particular objection to this goal, unless modified as suggested below, the limitation on transfers will have unforeseen and adverse consequences to the entire industry.

As described in the Council's newsletter, the proposed prohibition on license transfers would be broad and absolute. Apparently a vessel could not be sold, together with its license, since that sale would involve a prohibited license transfer. As drafted, this would include all manner of potential transfers ranging from a distribution of assets in the event of the owner's death or the dissolution of the owner's marriage, to the termination of a partnership or other business arrangement. Such a limitation would have a seriously chilling effect on all aspects of commerce involving these vessels.

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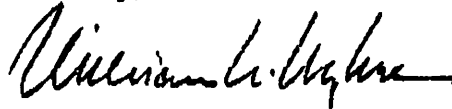
Of particular concern to a secured lender is the inability to obtain the vessel's license in the event of foreclosure. Under the current proposal a potential purchaser at a marshal's sale would be unable to acquire the vessel's fishing license along with the vessel itself. Such a limitation would utterly frustrate the lender's statutory right to foreclose the mortgage and would clearly diminish the pool of potential purchasers, not to mention the price they might be expected to pay. A fishing vessel that had no fishing license or other legal authority to fish would be of little value to a fisherman. As a result the value of the vessel as loan collateral would be sharply diminished if not eliminated both to traditional lenders as well as to other marine creditors who rely on the vessel's creditworthiness before doing business with the vessel's owner.

The Coalition believes that the proponents' objectives can be achieved with a more tailored limitation that would not create the problems identified above. Specifically, permitting the transfer of any license in connection with the sale or transfer of the underlying vessel, would address the concerns identified above. In so doing the objective of discouraging speculation in vessel licenses could be achieved. Another option would be to provide a specific exemption allowing license transfers where the license was legally acquired through a security agreement, vessel foreclosure or other operation of law. The Council created a similar exemption from the prohibition on the transfer of halibut and sablefish IFQs. See 58 Fed. Reg. 59375 at 59407-8 (Nov. 9, 1993). These kinds of clarifications would address the concerns of lenders, creditors and vessel owners, without encouraging the speculation in vessel licenses with which the proponents of this proposal are concerned.

We urge the Council to consider carefully the issues raised above in its evaluation of the license limitation proposals under review. Should you have questions concerning this letter or the position of the Coalition please do not hesitate to contact us. We would be happy to provide additional information or to have one of the Coalition members contact you directly.

Thank you for your consideration of these comments.

Sincerely,



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