

License Limitation

Decision Points for Fixed Gear Sablefish Management

This outline presents the proposed license limitation system for longline and pot sablefish fishing. The **grayed** areas represent options requiring choices.

- I. Scope of program
 - A. **Sablefish**
 - B. **Longline and pot vessels**

- II. The who, what, when, where, and how of IFQs
 - A. **What** - Each **License** would be vessel size specific. The length would be overall length as recorded in Coast Guard files. There would be **six vessel classes**:
 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 - 71 to 100 ft.
 6. Class F - over 100 ft.
 - B. **Where** - **Two management areas**: the entire Gulf of Alaska and the combined Bering Sea/Aleutian Islands.
 - C. **When** - Licenses would be re-issued yearly to those who owned them. **Initial allocations would be made in 1990 for the 1991 fishing year.**
 - D. **Who** - The person who owned or was a lease holder of a vessel that made sablefish longline or pot landings.
 1. **"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.
 2. **Initial allocations to:**
 - i. **Vessel owner(s)** except when a qualified lease exists.
 - ii. **Person leasing a vessel (lease holder)** - Qualified by a written bareboat contract. Evidence of a qualified lease would include paying the crew shares and supplying the fishing gear.
 - E. **How licenses would be initially allocated**
 1. The owner or lease holder must have made longline or pot landings of sablefish in the **years 1984 through 1988.**
 2. **Participation in the sablefish longline or pot fishery within 12 months prior to final Council action.**
 3. Initial license allocations would be **based on the recorded landings** of the vessels (fish tickets). The recorded landings would be either:
 - i. **Best years landings during the period.**
 - ii. **Average of the two best years landings during the period.**

4. **A minimum poundage may be required in order to be allocated a license (see E(3), above). Three choices of minimum poundage are under consideration. These minimums could apply differently to different vessel size classes.**

- i. 10,000 lbs.
- ii. 25,000 lbs for vessels over 50 ft.
- iii. 50,000 lbs for vessels over 50 ft.

F. **Appeals could be brought forth based on disability or extreme extenuating circumstances such as sinking of a vessel. Consideration might be given to those involved in oilspill cleanup in 1989.**

G. **Leave a portion of the fishery open access**

1. **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.**
2. **A portion of the TAC, 5%-10%, would be set aside for a directed fishery for those persons who do not control any sablefish licenses. This is designed to allow new entrants to the fishery with no cost associated with acquiring a license.**

III. TRANSFERABILITY

A. **License could be transferable in one of two ways:**

1. **Leasable but non-saleable.**
2. **Both leasable and saleable.**

B. **Combinative - Allow upgrades in vessel size class by tendering two licenses of a class for one license of the next larger class (one vessel class upgrade). [Not possible if III(A)(1) is chosen].**

C. **A system incorporating transferable and non-transferable licenses based on initial participation in 1987 and/or 1988:**

1. **Persons whose vessel made initial landings in 1987 and subsequent years would be issued non-transferable licenses.**
2. **Persons whose vessel made initial landings in 1988 would be issued non-transferable licenses.**

D. **Non-transferable license could be:**

1. **Valid for an indefinite period of time**
2. **Valid for only a set number of years (perhaps 2 or 5)**

IV. MISCELLANEOUS

A. **All license transfers would have to be approved by NMFS based on findings of eligibility criteria prior to fishing.**

B. **Licensees are management area specific and may not be transferred between areas.**

C. **No specific limits would exist on the number of licenses one person could control. Excessive ownership would be subject to U.S. Department of Treasury anti-trust enforcement.**

D. **In order to control a license, a person (proof of citizenship may be required) must:**

1. **Be the owner or lease holder of the vessel using the license.**
2. **Be a participant in the sablefish fixed gear fishery (documentation to include income dependency, duration of experience, and/or other criteria).**

E. **Any buyback program to reduce the number of licenses would be industry sponsored and funded.**

V. DURATION OF LICENSE LIMITATION HARVEST RIGHTS

A. **No specified ending date so that the licenses would be good for an indefinite period of time.**

B. **Allow for review of the system in 5 years. The system would not sunset but major structural changes could occur if required.**

VI. COASTAL COMMUNITIES - exceptions to the above criteria

- A. Determining how coastal communities could gain access to sablefish harvest rights for use by their members:
1. Allocated - These IFQs would go only to communities with no history of resident participation or to a government agency(s) for those communities. This may require changes to the Magnuson Fishery Conservation and Management Act.
 2. Allowed for communities to acquire IFQs by means of special regulations to buy, sell, and control them.
- B. Specific regulations which may be necessary if one of the above options are chosen. The following are a list of some questions which would have to be answered should that occur.
1. Who receives or is allowed exceptions for IFQ control? Possible examples include individuals, coastal development organizations, communities, corporations, etc.
 2. What delineates those groups (above) eligible for these exceptions?
 3. What other definitions of persons and organizations are necessary?
 4. Would these entities be required to use the IFQs or could they lease them?
 5. Would these entities be required to be vessel owners or lease holders?
 6. If there are other transferability restrictions would these entities have exceptions?
 7. Would a special administrative panel be established to remove local conflicts and provide cohesion?
 8. Would limits be placed on the amounts each entity would be allowed to control?
 9. Would a total number or percentage be established for overall IFQ control by these entities?

VII. ADMINISTRATION

- A. NMFS Alaska regional office would administer the IFQs although the function could be contracted to the State of Alaska.
- B. Settlement of appeals disputes during the allocation process.
1. The basis of judgement for use in appeals will be fact. That is, errors on fish ticket records will be considered. Extreme hardship concerning participation in the 12 months prior to final Council action would be considered. Lease holders would have to come to the Appeals Board with certified records and agreement of the owner of record of the vessel. If such agreement cannot be reached, judicial proceedings outside of the Appeals Board would be required.
 2. The Appeals Board would hear initial appeals. Subsequent appeals would go to NMFS Alaska Regional Director followed by appeals to the Secretary of Commerce and then the court system.

The Council is aware of the following items but the Council and NMFS staffs will deal with the specifics.

- C. Enforcement
1. Nature of harvest right. - This must be defined (property, lease, harvest, etc) including its use as collateral and the ability of the government to censure the right.
 2. Establishing a system to accurately account for catch including reporting, observer, and monitoring systems.
 3. Adequate enforcement procedures need to be established. A new system might require new methods of enforcement including enforcement agents which have accountant type duties.
 4. New regulations would be required.
 5. New penalties for violations would be required

Alternative 4: License Limitation

The license limitation alternative might be a dual-level system. Fully transferable licenses could be issued to persons owning a vessel and qualified lease holders (lessees) whose vessels made landings of some stipulated minimum poundage or more in 1984 through 1988 (10,000, 25,000, and/or 50,000 lbs, perhaps dependent on vessel size). Participation in 1989 might be required in order to receive a transferable license or any license. Non-transferable licenses could be issued to those owners whose vessels landed less than some minimum poundage of sablefish and/or those who made their first landings in 1987 or 1988. Alternately, no licence would be issued to those who did not meet the minimum qualifications. The transferable licenses would be saleable and leasable or only leasable whereas the non-transferable licenses would be neither. Both types of licenses would be area specific between the Gulf of Alaska, and the Bering Sea/Aleutian Islands.

Licenses would be designated by vessel size category:

Class A:	Less than 40 ft.
Class B:	41 to 50 ft.
Class C:	51 to 60 ft.
Class D:	61 to 70 ft.
Class E:	71 to 100 ft.
Class F:	Over 100 ft.

All size measurements are based on U.S. Coast Guard vessel registration lengths.

Determination of Eligibility. Landings data from fish tickets for the years 1984 through 1989 would be collected from the State of Alaska Commercial Fishery Entry Commission and NMFS data files. These data would include all reported sablefish fixed gear landings from the EEZ off Alaska regardless of the state of landing. The files would be organized by vessel owner and vessel and totaled for each on a yearly basis. The definitions of person, vessel owner, and lease holder would be the same as for IFQs, Alternative 3, above. Flow diagrams showing who would be eligible for licenses and the appeals process are shown in Figures 4.5 and 4.6. Participation in the 12 months prior to final Council action might be a criteria, depending on the option chosen.

There are several main options, referred to as principles, which must be decided upon if license limitation is instituted. These principles determine who is eligible to receive licenses, what type of license they would receive, and ultimately, the size of the fixed gear fleet operating on sablefish. Table 4.5 shows the four principles and the relative impact each will have on fleet size. The four principles are:

- 1.) Require participation in the 12 months prior to final Council action. This provision would ensure recent participants be included and not those who have ceased participation. Since final Council action is in January, 1990, this would effectively require vessel owners to have landed sablefish by fixed gear in 1989. It is possible some landings might occur in the first two weeks of 1990 and these would be counted while landings in the first two weeks of 1989 would not be counted. The Council might consider exemptions to those involved in oil spill cleanup in 1989 who did not participate in the sablefish fishery.
- 2.) Require that a minimum poundage be landed. This would ensure that those vessels in the sablefish fixed gear fleet were dedicated sablefish vessels rather than those merely establishing a record of participation or experimenting without intent to continue participation. The minimum poundages considered are 10,000 lbs for all vessels, 25,000 lbs

for those vessels over 50 ft, and 50,000 lbs for those vessels over 50 ft. These minimum could be applied differently to different vessel size categories.

3.) The base period required for qualifying landings. In an effort to limit overall effort, the purpose of license limitation, one option is to grant different weight to those who have a longer record of participation in the fishery. One means of doing this would be to consider different qualifying periods. The three base periods under consideration are: 1984-1986, 1984-1987, and 1984-1988.

4.) The use of non-transferable licenses. Non-transferable licenses could be used as a means of gradually reducing the fleet size and not abruptly stopping some fishermen from landing sablefish with fixed gear. These type of license could be allocated to those with landings but not qualifying for transferable license because of one of the previous three principles. The non-transferable licenses would have to be time length specific, anywhere from one year to the lifetime of the person receiving the license.

One group of people would receive transferable licenses regardless of the other options chosen. This first group qualifies by: owning or being the lease holder of (1) a vessel making sablefish fixed gear landings in 1984, 1985, or 1986; (2) landing the minimum poundage of fixed gear-caught sablefish between 1984 and 1988; and, (3) landing sablefish in the 12 months prior to final Council action.

Notifications of eligibility would be sent to owners of all vessels which had documented landings during the qualifying base period. Fishermen could be allowed to receive a license for each vessel they qualified for, regardless of whether or not they still owned or leased it, or they could only receive the largest vessel size class license they qualified for, per area, unless they still owned or leased other qualified vessels.

Verification of Entitlements. Challenges to entitlements would be allowed during a specified appeals period. They would be processed in the same manner and based on the same grounds as those filed under IFQs, Alternative 3, described above. Upon completion of the appeals period, licenses would be issued to qualifying persons upon payment of a nominal fee to cover administrative costs.

Annual Renewals of Licenses. The licenses would be reissued each year upon payment of an annual administrative fee for the permit to fish. Lawful owners of licenses would be tracked through records submitted to NMFS. Licenses would be denoted as transferable or non-transferable, depending on the option chosen.

Transferability. The licenses would be either transferable or non-transferable, depending on the option chosen. All licenses would be reissued yearly, with nominal charges to cover administrative expenses. Transferable licenses, good in perpetuity, would be issued by vessel size class as noted above.

There are two options for transferability: (1) sold or leased, or (2) only leased. These licenses could be transferred with or without a vessel. However, they would have to be used with a vessel equal to or smaller than the size class of issue. As with IFQs, all transfers would have to be approved by NMFS, based on eligibility criteria, and only qualified persons could control a license. If licenses were only leasable then the Council would have to specify what happens to a license after the license holder retires from the fishery or dies. Criteria would have to be set by the

Council to judge who could be qualified to receive reissued licenses from NMFS. If criteria were set, they might depend on such things as experience in the fishery, vessel ownership, training, etc.

Persons eligible to control licenses after the initial allocation would include vessel owners and qualified lease holders. In addition, depending on the option chosen, some sablefish fixed gear crewmembers could control licenses. This eligibility might be judged by the number of years fishing for sablefish with fixed gear and/or income dependency on that fishery.

Vessel size classes would exist as a means of controlling expansion of effort in the fishery. If licenses were transferable, a person could expand the size of the vessel they fish by buying a license for a larger vessel size. Alternately, they could trade in to NMFS two licenses of the same size class and area for one license of the next larger size class in the same area. This combination of licenses could, over time, reduce the number of vessels in the fleet, although it might not have the same effect on total fishing capacity (number of hooks fished, etc.).

Depending on the option chosen, non-transferable licenses would be issued to those qualified vessel owners who did not qualify for transferable licenses. The non-transferable licenses would be size specific but would not be saleable, leasable, or combinable. Alternately, no license might be issued to those not qualifying by landing the minimum amount, first year of landing, or participation in 1989.

Monitoring and Enforcement. Institution of a license limitation system would require increased administrative costs to track license ownership. License checks would also be made at-sea and dockside. An example of such a reporting system, along with its projected administrative costs, is more fully described in Appendix II.

The same limits and criteria on control specified for IFQs would apply for licenses. As with IFQs, a five-year review of the system is one option.

Other Management Measures. All the management measures now used for fixed gear sablefish management would be used under licenses. In addition, most, if not all, measures which the Council expects to use in continued open access in the future would also be required (Table 4.1). The degree to which these future measures would be used, and when they would be implemented, would depend on the number of licenses issued. The greater the number of licenses and effort, the sooner these additional measures would be used and the more the license system would resemble open access, Alternative 1.

Supplemental Open Access Fishery. Depending on which option is chosen, a supplemental open access fishery might exist as a directed fishery or as bycatch only in other fixed gear fisheries. Should this option be chosen, 5%-10% of the quota, by current management area, might be set aside. These set asides might vary by area depending on how the final system is structured, the level of participation in the open access fishery, and the sablefish stock size in each area.

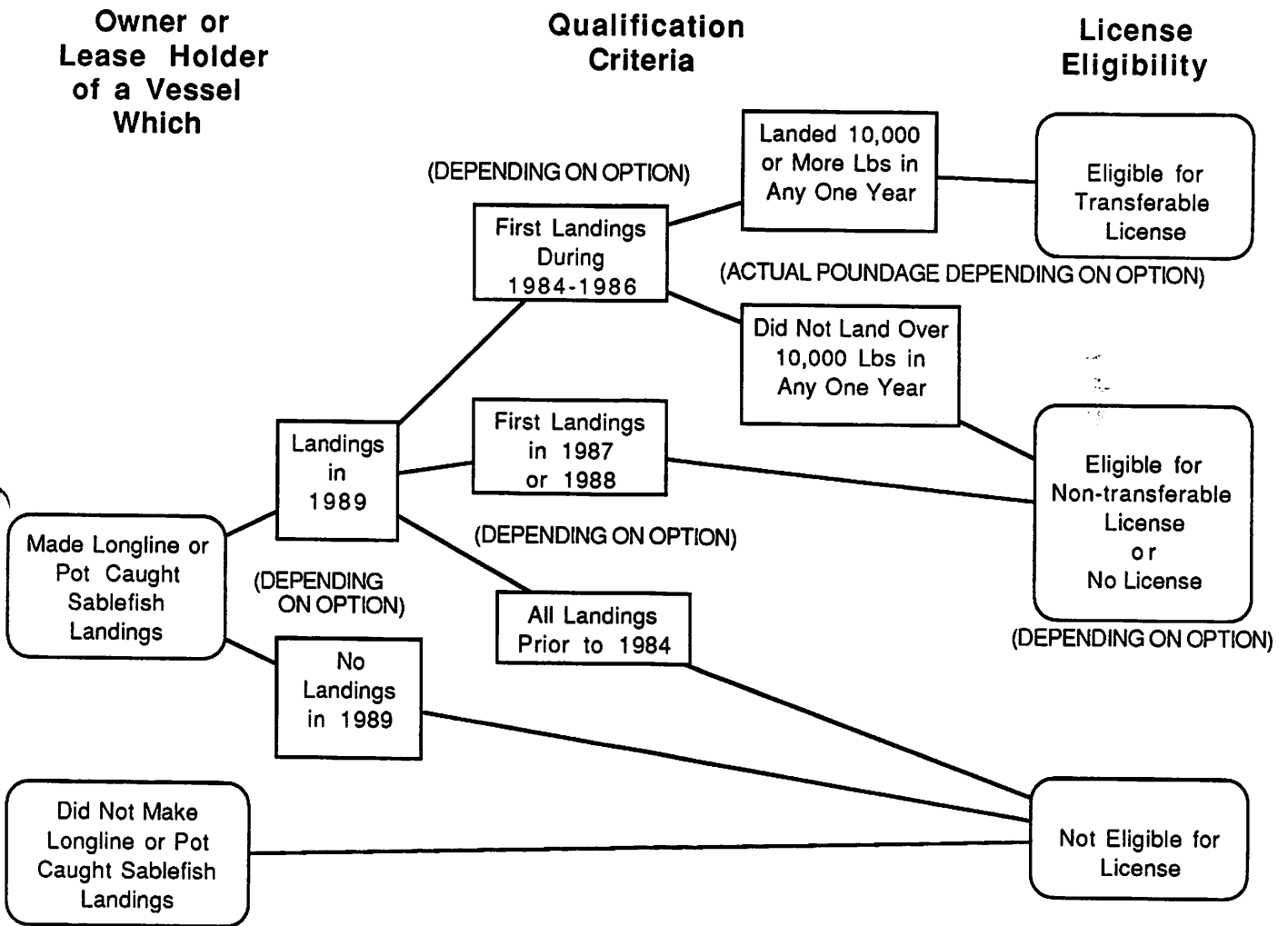
The open access fishery, either directed or bycatch, would be for the same purposes as outlined under IFQs, Alternative 3, above. The major difference would be that any person would be able to participate in the bycatch fishery regardless of whether or not they controlled a license.

Community Licenses. The use of licenses by coastal communities would be the same as described for community IFQs, Alternative 3, above. The communities would not be guaranteed a percentage of the TAC. Instead, they would be allocated or allowed to acquire licenses for use by their residents.

Figure 4.5

Determination of Eligibility for Sablefish Fixed Gear License

Licenses Would be Issued Separately for Each Management Area and Would be for a Specific Vessel Size Class

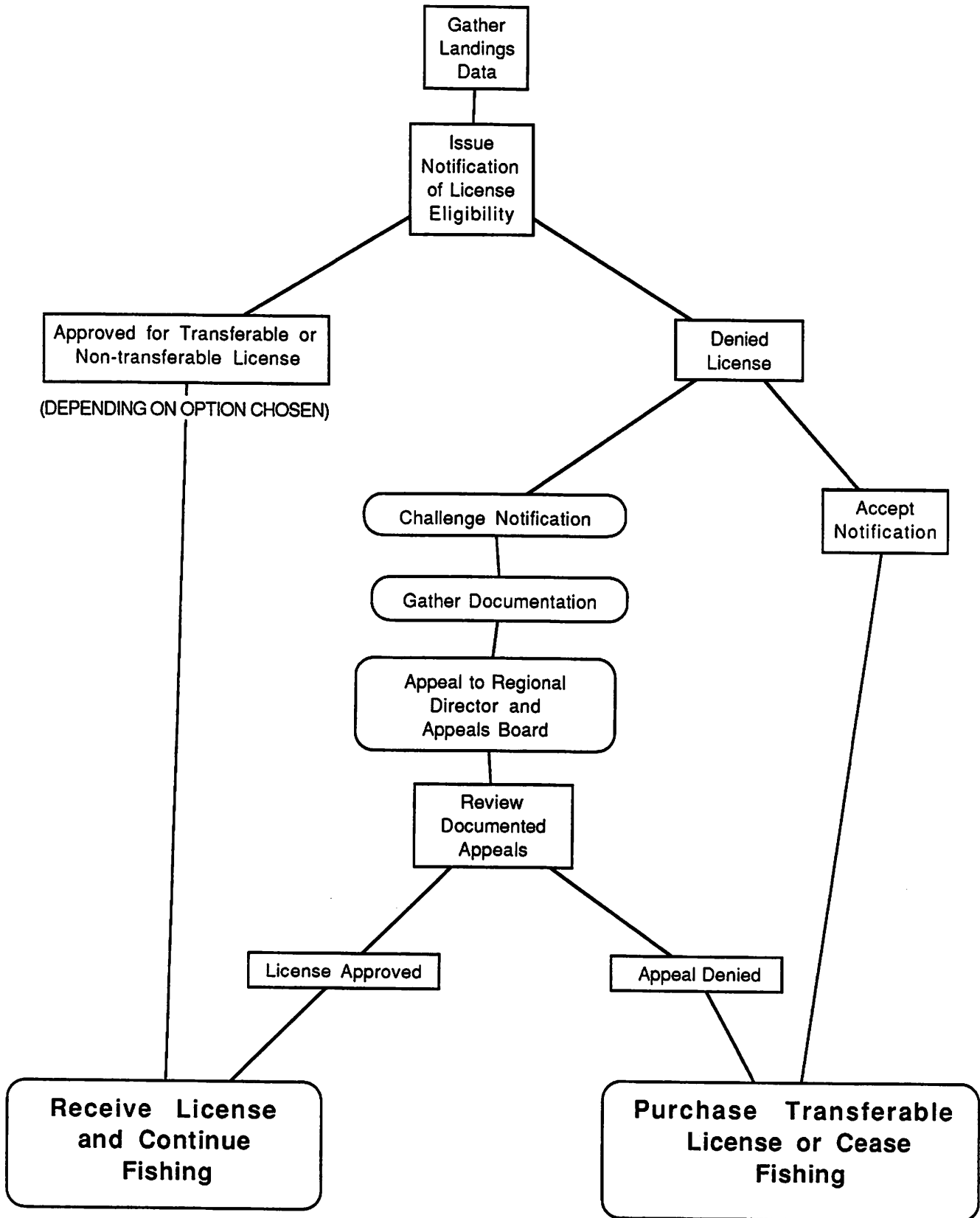


MANAGEMENT AREAS	
Gulf of Alaska	
Bering Sea/Aleutian Islands	

VESSEL SIZES	
Class A	Below 40 ft.
Class B	41 to 50 ft.
Class C	51 to 60 ft.
Class D	61 to 70 ft.
Class E	71 to 100 ft.
Class F	Over 100 ft.

Figure 4.6 Sablefish License Issuance

Licenses Would be Specific to Area and Vessel Size Class



License qualifying criteria and how they affect fleet size

The major principles	(A) Smaller fleet Bigger cutback	(B) Average fleet Average cutback	(C) Larger fleet Smaller cutback						
Principle 1 Must participate in most recent 12 months	Must have fished in 1989	-	Doesn't matter						
Principle 2 Minimum poundage	<table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">(I)</td> <td style="text-align: center;">(II)</td> </tr> <tr> <td style="text-align: center;">50,000 lbs</td> <td style="text-align: center;">or 25,000 lbs</td> </tr> <tr> <td style="text-align: center;">10,000 lbs</td> <td style="text-align: center;">< 50 ft</td> </tr> </table>	(I)	(II)	50,000 lbs	or 25,000 lbs	10,000 lbs	< 50 ft	10,000 lbs for everyone	No minimum required
(I)	(II)								
50,000 lbs	or 25,000 lbs								
10,000 lbs	< 50 ft								
Principle 3 Base period	1984-1986	1984-1987	1984-1988						
Principle 4 Transferable vs. non-transferable	No license to anyone who doesn't qualify	Non-transferable license to those who don't qualify by: year (I) weight (II)	Transferable license to all						
Fleet size:	less than 200 People	???	1,060 People						

The number of licenses would vary tremendously depending on which combination of principles is chosen. The listing below gives the unique numbers of licenses while the following two pages of examples give the number of licenses based on which combination of principles is chosen. The actual number of vessels involved in the fishery would be less than this since some vessels hold licenses for both areas.

RANGE OF NUMBER OF LICENSES

197	286	403	584	752
210	309	423	651	819
218	324	466	678	832
270	347	502	682	1,049
284	363	513	708	1,336

License Limitation

1989 Participation Not Required

<u>Choice</u>	<u>Total Number of Licenses</u>	<u>Gulf of Alaska Licenses</u>	<u>Bering Sea/ Aleutian Islands Licenses</u>
1(C), 2(A)i, 3(A), 4(A)	423	369	54
1(C), 2(A)i, 3(A), 4(B)i	678	568	110
1(C), 2(A)i, 3(A), 4(B)ii	682	588	94
1(C), 2(A)i, 3(A), 4(C)	1,336	1,132	204
1(C), 2(A)i, 3(B), 4(A)	584	497	87
1(C), 2(A)i, 3(B), 4(B)i	678	568	110
1(C), 2(A)i, 3(B), 4(B)ii	1,049	896	153
1(C), 2(A)i, 3(B), 4(C)	1,336	1,132	204
1(C), 2(A)i, 3(C), 4(A)	678	497	181
1(C), 2(A)i, 3(C), 4(B)i	678	497	181
1(C), 2(A)i, 3(C), 4(B)ii	1,336	1,132	204
1(C), 2(A)i, 3(C), 4(C)	1,336	1,132	204
1(C), 2(A)ii, 3(A), 4(A)	466	402	64
1(C), 2(A)ii, 3(A), 4(B)i	752	621	131
1(C), 2(A)ii, 3(A), 4(B)ii	682	588	94
1(C), 2(A)ii, 3(A), 4(C)	1,336	1,132	204
1(C), 2(A)ii, 3(B), 4(A)	651	545	106
1(C), 2(A)ii, 3(B), 4(B)i	752	621	131
1(C), 2(A)ii, 3(B), 4(B)ii	1,049	896	153
1(C), 2(A)ii, 3(B), 4(C)	1,336	1,132	204
1(C), 2(A)ii, 3(C), 4(A)	752	621	131
1(C), 2(A)ii, 3(C), 4(B)i	752	621	131
1(C), 2(A)ii, 3(C), 4(B)ii	1,336	1,132	204
1(C), 2(A)ii, 3(C), 4(C)	1,336	1,132	204
1(C), 2(B), 3(A), 4(A)	502	427	75
1(C), 2(B), 3(A), 4(B)i	819	670	149
1(C), 2(B), 3(A), 4(B)ii	682	588	94
1(C), 2(B), 3(A), 4(C)	1,336	1,132	204
1(C), 2(B), 3(B), 4(A)	708	585	123
1(C), 2(B), 3(B), 4(B)i	819	670	149
1(C), 2(B), 3(B), 4(B)ii	1,049	896	153
1(C), 2(B), 3(B), 4(C)	1,336	1,132	204
1(C), 2(B), 3(C), 4(A)	819	670	149
1(C), 2(B), 3(C), 4(B)i	819	670	149
1(C), 2(B), 3(C), 4(B)ii	1,336	1,132	204
1(C), 2(B), 3(C), 4(C)	1,336	1,132	204
1(C), 2(C), 3(A), 4(A)	682	588	94
1(C), 2(C), 3(A), 4(B)i	1,336	1,132	204
1(C), 2(C), 3(A), 4(B)ii	682	588	94
1(C), 2(C), 3(A), 4(C)	1,336	1,132	204
1(C), 2(C), 3(B), 4(A)	1,049	896	153
1(C), 2(C), 3(B), 4(B)i	1,336	1,132	204
1(C), 2(C), 3(B), 4(B)ii	1,049	896	153
1(C), 2(C), 3(B), 4(C)	1,336	1,132	204
1(C), 2(C), 3(C), 4(A)	1,336	1,132	204
1(C), 2(C), 3(C), 4(B)i	1,336	1,132	204
1(C), 2(C), 3(C), 4(B)ii	1,336	1,132	204
1(C), 2(C), 3(C), 4(C)	1,336	1,132	204

License Limitation

1989 Participation Required

<u>Choice</u>	<u>Total Number of Licenses</u>	<u>Gulf of Alaska Licenses</u>	<u>Bering Sea/ Aleutian Islands Licenses</u>
1(A), 2(A)i, 3(A), 4(A)	197	176	21
1(A), 2(A)i, 3(A), 4(B)i	324	297	27
1(A), 2(A)i, 3(A), 4(B)ii	270	255	15
1(A), 2(A)i, 3(A), 4(C)	513	423	90
1(A), 2(A)i, 3(B), 4(A)	284	255	29
1(A), 2(A)i, 3(B), 4(B)i	324	297	27
1(A), 2(A)i, 3(B), 4(B)ii	403	339	64
1(A), 2(A)i, 3(B), 4(C)	513	423	90
1(A), 2(A)i, 3(C), 4(A)	324	297	27
1(A), 2(A)i, 3(C), 4(B)i	324	297	27
1(A), 2(A)i, 3(C), 4(B)ii	513	423	90
1(A), 2(A)i, 3(C), 4(C)	513	423	90
1(A), 2(A)ii, 3(A), 4(A)	210	188	22
1(A), 2(A)ii, 3(A), 4(B)i	347	291	56
1(A), 2(A)ii, 3(A), 4(B)ii	270	234	36
1(A), 2(A)ii, 3(A), 4(C)	513	423	90
1(A), 2(A)ii, 3(B), 4(A)	286	255	31
1(A), 2(A)ii, 3(B), 4(B)i	347	291	56
1(A), 2(A)ii, 3(B), 4(B)ii	403	339	64
1(A), 2(A)ii, 3(B), 4(C)	513	423	90
1(A), 2(A)ii, 3(C), 4(A)	347	291	56
1(A), 2(A)ii, 3(C), 4(B)i	347	291	56
1(A), 2(A)ii, 3(C), 4(B)ii	513	423	90
1(A), 2(A)ii, 3(C), 4(C)	513	423	90
1(A), 2(B), 3(A), 4(A)	218	190	28
1(A), 2(B), 3(A), 4(B)i	363	300	63
1(A), 2(B), 3(A), 4(B)ii	270	234	36
1(A), 2(B), 3(A), 4(C)	513	423	90
1(A), 2(B), 3(B), 4(A)	309	259	50
1(A), 2(B), 3(B), 4(B)i	363	300	63
1(A), 2(B), 3(B), 4(B)ii	403	339	64
1(A), 2(B), 3(B), 4(C)	513	423	90
1(A), 2(B), 3(C), 4(A)	363	300	63
1(A), 2(B), 3(C), 4(B)i	363	300	63
1(A), 2(B), 3(C), 4(B)ii	513	423	90
1(A), 2(B), 3(C), 4(C)	513	423	90
1(A), 2(C), 3(A), 4(A)	270	234	36
1(A), 2(C), 3(A), 4(B)i	513	423	90
1(A), 2(C), 3(A), 4(B)ii	270	234	36
1(A), 2(C), 3(A), 4(C)	513	423	90
1(A), 2(C), 3(B), 4(A)	403	339	64
1(A), 2(C), 3(B), 4(B)i	513	423	90
1(A), 2(C), 3(B), 4(B)ii	403	339	64
1(A), 2(C), 3(B), 4(C)	513	423	90
1(A), 2(C), 3(C), 4(A)	513	423	90
1(A), 2(C), 3(C), 4(B)i	513	423	90
1(A), 2(C), 3(C), 4(B)ii	513	423	90
1(A), 2(C), 3(C), 4(C)	513	423	90

License Limitation

Percentage Distribution of Licenses, by Region, Based on the Total Number of Licenses Issued

<u>Total Licenses</u>	<u>SE Alaska</u>	<u>SC Alaska</u>	<u>W Alaska</u>	<u>Alaska Total</u>	<u>Washington</u>	<u>Other</u>
197	50.5%	6.7%	11.9%	69.1%	26.3%	4.6%
210	48.8%	8.2%	13.0%	70.0%	25.6%	4.3%
218	47.4%	8.8%	13.5%	69.8%	26.0%	4.2%
270	51.5%	9.0%	12.3%	72.8%	23.5%	3.7%
284	48.7%	10.1%	10.8%	69.7%	26.0%	4.3%
286	47.1%	11.5%	11.5%	70.2%	25.8%	4.1%
309	45.6%	12.4%	11.7%	69.7%	26.4%	3.9%
324	49.1%	10.4%	9.4%	68.9%	25.5%	5.7%
347	46.5%	12.1%	10.4%	69.1%	24.9%	6.1%
363	45.0%	13.4%	10.6%	68.9%	25.3%	5.7%
403	50.5%	12.4%	10.4%	73.3%	23.5%	3.2%
423	43.0%	8.5%	16.1%	67.6%	27.9%	4.5%
466	40.3%	9.7%	17.2%	67.2%	27.7%	5.2%
502	37.6%	10.7%	18.3%	66.6%	28.0%	5.4%
513	50.9%	13.2%	9.7%	73.8%	21.2%	4.9%
584	41.9%	10.7%	14.1%	66.7%	28.6%	4.7%
651	38.9%	12.0%	15.4%	66.3%	28.5%	5.2%
678	42.8%	10.9%	12.6%	66.3%	28.6%	5.1%
682	39.1%	14.7%	16.1%	69.9%	24.9%	5.2%
708	36.5%	13.3%	16.1%	65.9%	28.8%	5.4%
752	39.7%	12.3%	13.7%	65.7%	28.4%	5.9%
819	37.3%	13.5%	14.4%	65.2%	29.0%	5.8%
1,049	37.6%	17.5%	14.4%	69.5%	25.7%	4.8%
1,336	39.4%	17.2%	14.1%	70.7%	23.9%	5.4%

Number of Transferable Licences Under Various Qualification Schemes

<u>1984-1986</u>	<u>1989</u> <u>Required</u>	<u>1989</u> <u>Not Required</u>
50,000 lbs / 50 ft	197	423
25,000 lbs / 50 ft	210	466
10,000 lbs / All	218	502
No Minimum	270	682

<u>1984-1987</u>	<u>1989</u> <u>Required</u>	<u>1989</u> <u>Not Required</u>
50,000 lbs / 50 ft	264	584
25,000 lbs / 50 ft	286	651
10,000 lbs / All	309	708
No Minimum	402	1,084

<u>1984-1988</u>	<u>1989</u> <u>Required</u>	<u>1989</u> <u>Not Required</u>
50,000 lbs / 50 ft	324	678
25,000 lbs / 50 ft	347	752
10,000 lbs / All	363	819
No Minimum	513	1,336

Excerpt of Council Discussion on CDQs at January 1990 Council meeting:

Henry Mitchell: Mr. Chairman, before I make a motion, I have passed out a document which you should all have in front of you, which is entitled, "Assistance for Economically Disadvantaged Fishing Communities under the Sablefish Management Plan: Working Paper." (copy attached to this transcript)

What I would like to do is to put this working paper forward as a motion and to have it on the table and explain it and try to work through this to design this as the program, if that's acceptable.

Don Collinsworth (Chairman): Yes, that would be an acceptable way of approaching it.

Mitchell: Then I would move this document which you all have, "Assistance for Economically Disadvantaged Fishing Communities under the Sablefish Management Plan," as the coastal community program.

[Motion was seconded, but voice undistinguishable]

Collinsworth: Would you like to speak to your motion?

Mitchell: Yes, I would. This is slightly different from the provisions that Senator Stevens provided for in his proposed amendments to the Magnuson Act. I think this actually falls more in line with what the Council process is all about. There's a role in here for the Council, there's a role in here for the State of Alaska in terms of assisting these communities in developing their plans; there's a lot of checks and balances to be sure that this isn't a run-away program. The conditions, of course, are that :

"In order to ensure that fishing vessels associated with eligible communities in Alaska, as designated, have reasonable access to and opportunity to catch sablefish under the authority of the Council, the Secretary may approve community development quotas in accordance with the following provisions:

(1) The Governor of Alaska is authorized to recommend to the Secretary that a community within Alaska be designated as an eligible economically disadvantaged fishing community. To be eligible, a community must meet all of the following conditions:

- (a) the community be located on the coastline at a site accessible to commercial fishing vessels;
- (b) I think is very stringent, that that same community be unlikely to be able to attract and develop economic activity other than commercial fishing that would provide a substantial source of employment;
- (c) have culturally and traditionally engaged in and depended upon fishing in the waters off its coasts,
- (d) have not previously developed harvesting or processing capabilities sufficient to support substantial participation in the commercial sablefish fisheries because of the lack of sufficient funds for investment in harvesting or processing equipment, and
- (e) have developed a fishery development plan approved by the Governor that includes arrangements to
 - (A) acquire or contract with fishing vessels and processing plants for the development of commercial sablefish fishing based primarily in the community or region;
 - (B) provide employment of persons in the community and otherwise contribute to the economic development and improvement of the community as a whole; and

(C) provide sufficient financing to implement the plan successfully.

(2) The Governor shall develop such recommendations in consultation with the North Pacific Fishery Management Council.

(3) The Governor shall forward any such recommendations to the Secretary, following consultation with the Council. Upon receipt of such recommendations, designate a community as an eligible economically disadvantaged fishing community if:

(a) the community meets the criteria set forth in (A) above; and

(b) the Secretary finds that the State has reasonable assurances that sufficient financing and other arrangements will be available to implement the plan successfully.

(4) Not more than a total of ____ percent of the total allowable catch of sablefish each year, determined on a management area basis, may be utilized in aggregate by designated eligible economically disadvantaged communities. No community may be designated as an eligible economically disadvantaged community for more than 10 consecutive or nonconsecutive years."

Now, I've read that and I'd further like to say that one reason that I think . . . you might think that the Governor of the State would just try to go forward and get as many small communities, but if you really think about politics in the State, some of these communities, especially for instance if you thought there would be a small community in Southeast that would be trying to do this, there would be a number of other people in Southeast who have a really strong interest in the fishery that will be pinging on the Governor and his administration to be sure that perhaps the plan not be accepted or that that it be such a minimal plan that it really wouldn't be feasible, so there's a number of checks and balances here that I think will lead to the program and the communities under it having the development taking place under this program be relatively the small developmental projects and they would have the benefit of the expertise of the State and its employees who would work with them and also the expertise around the Council, or whatever expertise the Council wanted to provide in terms of its recommendations and findings to the Secretary and so I don't think it's a run-away program that is going to be some sort of big grab of the resource. Also, it doesn't allow . . . these quotas that they would obtain, that would be set aside for them to fish under, of course, they would not be able to use them for more than a 10-year period, whatever period you felt appropriate if you didn't want to accept 10 years, and of course I've left the percentage blank so that we could perhaps go through and try to determine. . . I don't think that at this time all the communities that might function and I don't think it's advisable to say, well, we're going to cut out this area or that area, but I think this naturally cuts out all but a very few communities, but of course that's all open to discussion and maybe we can come up with some ball park figure that could go out for analysis.

John Peterson: I would like to have the communities named, or have some kind of a handle on how many there would be, also what region this covers, whether it covers the entire coast of Alaska or where they might be. I think that would certainly help me because you have some kind of a boundary involved.

Mitchell: It covers all management districts at the present time, as written.

Peterson: Also, in 1(a) it says, "be located on the coastline at a site accessible to commercial fishing vessels;" you've probably covered it elsewhere, but I think it would be important in that sentence to have "adjacent to the fishing grounds," so its reachable to the community. Otherwise you're talking about a distant water type of operation unless it is adjacent and useful to the community. Then, in (e) down at the bottom of the page, you're talking about a fishery development plan and I really don't know what that is. I'd like a feasibility study and a

business plan because I think, a feasibility study to see if each community has the necessary infrastructure, safe harbors, water supply, power supply, labor supply, transportation, all of these things that you need for an operation of that sort.

Mitchell: Mr. Chairman, I would be willing to say that under "have developed a fishery management plan. . ." you could insert the words, "have done the appropriate business plans, feasibility studies, prior to the Governor submitting that to the Council and onward to the Secretary."

Peterson: I don't know what the Governor would require but I think that would be a proper requirement to be included, and going through the rest of it, I guess I get down to the last paragraph and Steve mentioned this, if you set a percentage how do you divide that among the communities? If you set. . .and does that. . .any percentage. . .is it available to the communities. . .at what point is it available? Do you set aside a percentage of the TAC and then you wait until a community is qualified and then you release something and if you've got one community does it get the total amount; how do you divide this up as you go down, and I don't know what the answer to that is. What amount of fish would be needed to have a viable fishery, that's what your feasibility study would show. So, these are the sorts of things that need to be included in this.

Mitchell: Well, I think you could design it so tight that it would just absolutely be impossible to have the flexibility; you have to rely on the good judgement of the State of Alaska, the people sitting here on the Council, and ultimately the Secretary, as far as approving something that's going to not only work and help these communities, but also not take away from the other interests too much that it's a burden on them, and I think that with having all these entities involved we have an incredible array of checks and balances that will assure good functioning, well thought-out developmental projects.

Peterson: Those are some of the comments I have and some of the concerns that I have on this. With some changes in it. . ., but again, you get down to this last paragraph and that probably requires some further discussion on how that would be handled. I don't know. You're not going to have a whole. . .you're not going to have five villages or 25 villages come on line at the same time, and it might be over a period of years that they come on, so how would you suggest. . .

Mitchell: Well, I think right from the start the Council should make a determination. . .you're looking at giving out a percentage of the IFQs and my thought was that we would recommend a percentage be set aside, by area, and that that amount that would be set aside would be the total pool that would ever be available and the Secretary could maybe approve a plan for a community to use 200 tons a year, depending on the scope of the plan and how it fit into the community development project, and he could say, 'in my opinion you only need this for 3 or 4 years, and maybe I'll let you renew it for 3 or 4 years,' but after that time, that's it, and then perhaps he could come back and let somebody else, maybe 5 years down the line, use that quota, but at that point that other community, may be able to retain that quota. That's another thing that's really not addressed here, whether those communities that initially get this, that's up for discussion, would actually be able to retain it into a indefinite period of time or if our limit is they only have the use of that quota for as much as up to three years. . .

Peterson: . . .three year or five years or some . . .

Mitchell: And you could say that maybe they should keep it all or maybe it should be a flexible thing and maybe it could go back and be used by other communities.

Bob Alverson: I think something needs to go on the record for justification why those people that happen to be involved in just the sablefish fishery are being asked to provide their income and their livelihood for this special program, in and by themselves. I know Henry's put on the record already that it's unlikely that the legislature is unwilling to address these problems within Alaska, but there needs to be justification on the record why residents from Oregon and Washington and other areas, why Alaska fishermen fishing within the federal waters should

forego a percentage of their resource that they participated in and someone else hasn't. I'd like to hear some justification why this should be case.

Mitchell: Well, just some general thoughts on this. The resource is a resource that belongs, at this point at least, to everybody in the United States, ostensibly held in trust for us by the Secretary of Commerce and it occurs to me that there are a number of communities along the coast within the jurisdiction of the Council, and that's why I made this only apply to the Alaska communities, because I believe our jurisdiction as far as where our fishery management plans extend offshore from the boundaries of the State of Alaska. I don't think that our jurisdiction extends offshore from the State of Washington, unless I'm wrong about that. So that is why, I wasn't trying to discriminate, that is why I said "Alaska communities" and I kept it to a program within the State of Alaska.

Alverson: If I could follow up. Only residents of Alaska can participate and it would seem more appropriate that communities in Washington and Oregon and the Governors of Washington and Oregon should be able to similarly put forward programs for their disadvantaged communities such as the Hoonahs, the Quileuts (?), the Makahs (?), and the tribal communities that we have in the San Juans, and very desperate communities in those areas, but Washington and Oregon are part of this Council, Mr. Chairman, and their residents have equal access to these resources and should have equal access to participate.

Mitchell: Well, Mr. Chairman, I don't know, if it says in here that it's the residents, this is a community basis. I suppose, when you get down to what might develop, you might have a community like Atka that starts off in a program and in fact they may do business originally that has a boat from Washington, and so the residents of Oregon or Washington state may be participating in the benefits of this program that we're carrying out. It does not exclude people from other states from participating in what's envisioned as joint ventures that are going to be established to make this thing work. That's number one. Number two, I believe the United States government has an obligation to assure that communities within the jurisdiction of the United States that have economic opportunities on their doorstep be assisted in trying to develop those resources adjacent to their communities. Additionally, I think that there's some equity arguments here. There are many communities along the Alaska coastline that haven't developed substantial commercial fisheries that they may have, had they had the opportunity to develop certain commercial fisheries and there are people who will allege that the opportunities for their developing substantial commercial fisheries in the past was taken away from them by the type of fishery management regimes imposed by the federal government when they managed the inshore fisheries in Alaska and those same opportunities maybe being taken away by activities in the past by the federal managers and the present federal managers they way they allocated resources to the foreign governments principally through the early part of the 80s and subsequently resources which they started to commercial fish in small quantities may now be impacted by the actions of this Council in terms of taking opportunities away from them as far as in these small fisheries. So, I think there's some equity arguments here that the Secretary has to recognize.

Alverson: Henry, why sablefish fishermen? [may have lost some here; tape seems to fade]

Rick Lauber: Henry, would you have any objection, at the bottom of the line at the very first page, of inserting some language in front of fishing vessels, such as "U.S." and in front of processing plants, "U.S."? [Mitchell responded: No, no problem whatsoever] Lauber: Obviously, I didn't want to see the pumpkin fleet sail back over the horizon.

Mitchell: No, that wasn't my intent.

Collinsworth: Consider that a friendly amendment?

Mitchell: Friendly amendment.

Blum: Mr. Mitchell, I wonder if in partial addressing of Mr. Alverson's stated concerns that the percentage would be a percentage of the shares allotted to Alaskan-based fishers and that since the fishers based in Oregon and Washington would not have the same provision for participating, or that the coastal communities would not have, that that would be a equitable way of addressing the Alaskan special need.

Mitchell: Well, I don't think the shares originally would come out of one chunk from Washington, Oregon or from Alaska, they're coming out of the total pie first, which are coming out of the federal resource pie before you would even allocate the remainder in whatever quota system you developed, so I don't think that that's really an argument. Also, those individuals that, if you divided the pie first and gave it to the Alaskans who had participated, why is that they should alone carry that burden? They're not going to be participating in these economically disadvantaged resources any more so than a boat from Seattle or Oregon who may participate in these type of joint ventures that are envisioned to get this thing going.

Blum: So, in fact, there's not going to be equal participation or equal opportunity to participate in these under the design that you have in mind?

Mitchell: No, there would be equal opportunity.

Blum: Everybody could pay, is that the equal opportunity?

Mitchell: Everybody could pay to do what?

Blum: Could pay from their share to the disadvantaged coastal communities of Alaska.

Mitchell: Everyone is not paying from their share because they would come out of the total pie before the shares were divided, ultimately. This pool would be taken off the top originally.

Larry Cotter: A couple of comments. First of all, I think we need to remember that this is part of a IFQ system that we're in the process of developing and what we're doing is, as Mr. Mitchell alluded to earlier, is we're in essence granting harvest rights to a resource to a particular group of people, those rights contained within them, economic windfalls and opportunities into the future. It seems to me that if we providing windfalls to that group of people that it is not inappropriate to provide a mechanism for bonafide economically disadvantaged folks who live in economically disadvantaged communities accessible to the sablefish grounds, who also have a social and cultural heritage that is tied to the sea and to the resource, to be able to have access to some of that product.

[stopped transcribing and just listened for any discussion on actual communities and how they would be chosen]

-----more discussion on applications, etc.-----

Ron Hegge: Henry, I suppose those that were in here the other day would fall into this category?

Mitchell: Which communities?

Hegge: The people that testified to us on the hearing?

Mitchell: Well, I don't know if Nelson Island would. I think the Secretary would have to make a decision if they put in a plan to do a sablefish fishery he would have to look at their plan and make the findings under this and it may be that he would say that, 'Gee, they're not really adjacent to this resource,' and maybe he would say if there's a plan in effect at that time for the same sort of thing in other types of groundfish, or in halibut in future years, or cod, he might say, I think it's more feasible for you folks to do cod, I don't know. It's his call. They way

it's written now it would not prohibit them from making the application, but of course it would be up to the secretary to make the determinations under this.

Hegge: Why wouldn't each of the . . . since Petersburg and Juneau are on inside waters but obviously successful black cod villages, or whatever, why wouldn't all the small communities on the inside passage qualify that have not developed, and there are quite a few, all the way up from Ketchikan . . .

Mitchell: Have not developed what?

Hegge: They have not developed a sablefish opportunity.

Mitchell: Well, that really should be amended. I just noticed that yesterday and it's into the groundfish fishery. And also, if you really wanted to make it more stringent than that you could also say or 'other substantial commercial fishing opportunities,' which would then prohibit any community that had a substantial interest in the developed salmon fishery, or substantially developed herring fishery from participating.

Hegge: And, how about proximity to developed communities? I mean, it makes sense that . . .

Mitchell: It would be a call of the Secretary as far as what he thought was . . . somebody's suggested adjacent waters, and it would be his definition of what is adjacent. Now, traditionally, adjacent to many types of fishermen is anywhere from ten miles to 3,000, I don't know what the Secretary would rule.

Cotter: I'd like to suggest a couple of amendments and offer them as friendly amendments. In the first line, insert the word "longline" in front of fishing vessels in order to ensure that longline fishing vessels associated with eligible communities. I think that's what we're talking about. Is that agreeable, Mr. Mitchell? [affirmative response]

In the third line, delete "catch sablefish" and replace it with "develop substantial commercial fisheries." Would that be O.K., Henry? [affirmative response]

In item 1(a), add to the end of that statement, "and the sablefish fishing grounds." [Mitchell: O.K.]

That's as far as I've gone with that and I think it says what it says and does what it does.

Peterson: Mr. Chairman, I have a couple of other comments on it. At the bottom of the first page, where it says "includes arrangements to (A) acquire or contract with U.S. fishing . . . based primarily in the community or region;" the "or region" bothers me because for the same reason you were talking about, adjacent region covers a lot of area and it would seem to me the intent of this is to develop some kind of industry in the community and if the intent, or if it can be used, if the quota or rights to fish or whatever it is they get, gives the opportunity to simply leasing it out for the income from that, that I think would not be acceptable and I don't think it would qualify. But, if you have a region and there may be a possibility that a vessel could be leased by the community to deliver product to an existing processing plant, that wouldn't provide much employment for this community.

Mitchell: Well, that's going to be the call of the Secretary, to determine if this is a plan that is really doing something to help this disadvantaged community; that's all inherent here. The language says provide employment of persons in the community and otherwise contribute to the economic development and improvement of the community as a whole. Those are substantial findings that the Secretary has to make. And if he makes an arbitrary finding based on one person getting on one vessel that's traveling 1,000 miles to catch fish and then ship home \$1 million dollars, he's not going to approve that plan. There's no way he's going to approve that plan. . the checks and balances that are in here are very substantial.

Collinsworth: I do think there are a number of checks and balances. First of all, the Governor of this state is not going to bring forward to the Council a recommendation that is a hokey thing. There's a level of integrity there that that office stands for and they're not going to propose something that's a scam. It is done in consultation with the Council, and then it is recommended to the Secretary and the Secretary has final discretionary authority. I think this does establish a process there that is one that has a lot of safeguards in it and the intent is to look at very disadvantaged communities that do not have economic opportunities other than perhaps accessing the marine fishery resources in areas adjacent to those communities and unless you can put together a package that makes sense and that's reasonably calculated to result in final opportunity to develop some kind of a stable fishing economy within those fishing communities, it's just not going to fly.

Pennoyer: I understand that; I guess I didn't hear the answer to Mr. Peterson's question--why do we include region then and not have it specific to the community?

Mitchell: I don't understand.

Pennoyer: Well, it says 'development of commercial sablefish fishing based primarily in the community or region;' why not just the community, "the opportunity and employment in the community."

Mitchell: Well, a community's in a region.

Pennoyer: But you've accepted crossing region out. . . [interrupted]

Cotter: I think what we're doing is, semantics are important here, but they work in both ways. For the development of commercial sablefish fishing based primarily in the community? What does that mean? As Henry says, the community is indeed in a region, and if we're looking at Atka, I don't know how much sablefish there is within 3,000 yards of Atka, and I suspect that you may be looking at the Aleutian region, Aleutian area, and. . . I think common sense applies here.

--several people talking at once--

Peterson: There's a possibility that they could deliver to a processing plant nearby; if there's sablefish produced in Bristol Bay, they can deliver it to Togiak or Dillingham, that I can understand, but when you talk region, you talk a big area and I don't know, I just. . . it still goes back to the business plan and the feasibility studies. . .

Mitchell: Sure, the checks and balances are there. I don't know why we've been sitting here cutting this out and cutting that out, I mean if there's some real solid problems with these type of plans they're going to get picked off along the way. The Governor's going to pick it off first or the Governor's person sitting on the Council, all the Council members are going to pick it off, and if you don't like what the Council did, the whole industry is going to be back in Washington, DC telling the Secretary not to do it.

Lauber: When you say development in a community or region, let's say for instance we had a community that was in, the waters off it were in the Bering Sea. Now they caught 3 million pounds of fish, would the percentage that's in here, that would be eligible for, would be a percentage of say, that 3 million pounds of fish, or is it 50 million pounds? I understand that the total possible would be whatever the percentage of the TAC was, but as far as. . . are they going to have to take fish off of their coast, because you've got Bering Sea/Aleutian Islands, basically I would think that where most of the disadvantaged communities are, but it also happens to be the waters where the least amount of blackcod are caught, and probably where the fewest disadvantaged communities are located would be where the most blackcod is caught, so, are you able to take the disadvantaged communities and get their fish down in Southeast Alaska, or Yakutat?

Mitchell: No, I don't think that necessarily they should move but you could consider that. I wasn't really going to speak to it here, but I was going to suggest when we looked at a percentage, just to say that as a start, if you took, if you just said offhand, that most of the development is going to be in the Bering Sea and Aleutians, or the Western Gulf, I don't know how many communities might be down there, if you looked at the percentage of resource available, if the Secretary took 20% and set aside in year "x" when this starts, out of the Bering Sea, that would put 200 tons into the community development pie; if you took 20% out of Aleutians, that would be 400 tons. Then, if you said there aren't as many villages maybe around in the Western Gulf that might qualify, but maybe there are a few, maybe we could recommend to the Secretary as much as up to 10% of the quota on the Western Gulf, but I don't know if you'd need that much; it would depend on those communities. I don't think we should restrict the Secretary from saying that a community like Atka should only fish in the Aleutians. The Secretary, with a plan they might come to him with, might say you know what would make this plan feasible for a 3-year or 4-year period, they might have to get more quota than what he had originally recommended, so he might say I'd like you to go and fish down in the Western Gulf and take 50 tons out of there and I'll give you 150 tons in this area. I think those should be left open and that the recommendations should be flexible to some degree. But I think that we've got to cap an amount so that industry knows what the possibilities are. The figures I came up with would probably be somewhere, maybe as much as a 1,000 tons or as little as 500, as a start. And that still doesn't mean it's going to get used, and it's still doesn't mean that the Secretary can't say to the people in the area, or to the holders of the quota who will ultimately have it, well you can go fish this quota also that year based on this.

Peterson: Would you put in a percentage, not to exceed 500 tons, or whatever. . . ?

Mitchell: I think before we do that we should look at what you think would be a likely amount that would be a good starting point for the Secretary to have that would make it feasible for a few of these communities to try to develop some plans around participating in this fishery because I don't want to throw out a number here that's going to shock everybody and, you know. . .

-----more discussion on percentages, etc; nothing on the actual communities-----