

ENFORCEMENT CONSULTANTS REPORT ON FIXED GEAR SABLEFISH CATCH  
SHARE PROGRAM REVIEW, INCLUDING FEDERAL ELECTRONIC FISH TICKETS FOR  
OPEN ACCESS SABLEFISH DELIVERIES

The Enforcement Consultants (EC) has reviewed the documents pertaining to Agenda Item F.6 and has the following comments.

*Modify the Own/Control Limit:*

At the April Council meeting, the Council selected the following as the Preliminary Preferred Alternative (PPA) for this issue:

Alternative 2a (PPA): No action for permit ownership (any percentage ownership in a permit is a count of 1); however, holding a permit is counted only if the vessel owner has a greater than 20% share. Partial vessel ownership is capped at two vessels, i.e. the 20% or less ownership in a vessel exemption could only be used twice. After this two-permit exception is reached, then any permits registered to a vessel, wholly- or partially-owned by the entity, would count toward the three permit limit, as described under No Action.

The PPA's proposed method for calculating vessel ownership for compliance with the control rules adds new layers of complexity to the existing regulations. Under this alternative, National Marine Fisheries Service (NMFS) will have the additional administrative responsibility of calculating and tracking vessel ownership information at multiple levels. Every vessel owner that is not the sole owner of their vessel will be required to understand and fill out a vessel ownership interest form in order to comply with the new regulations.

Alternatively, the NMFS-recommended alternative (Agenda Item F.6.b, NMFS Report 2) would produce a similar outcome, but with a diminished regulatory and administrative burden; the calculation of ownership would remain the same, but only the vessel owners who want the exemption would need to apply for the requested exemption. The qualification standard for the exemption remains the same, but places the requirement to request that exemption on those who want the exemption.

If the Council decides to move ahead with an action alternative, the EC endorses the NMFS-recommended alternative as described in Agenda Item F.6.b, NMFS Report 2. The EC evaluated three issues in coming to a consensus on its recommendation: complexity of regulation, regulatory burden on the individual and fleet, and the administrative burden on NMFS. To achieve the desired outcome of the PPA (increased flexibility regarding permit ownership calculation), increased regulatory complexity is a given. It is our assessment the NMFS alternative will lessen the regulatory burden on the fleet at large, while lessening the administrative burden on the NMFS.

*Requiring Federal Electronic Fish Tickets for West Coast Sablefish Deliveries:*

The Department of Commerce (DOC) Office of Inspector General (OIG) recently completed an audit of the West Coast Sablefish Limited Entry Permit (LEP) Tier Fishery and reported the following:

- 1. NOAA does not have adequate data and does not track or enforce landings overages violations in the Pacific Sablefish Permit Stacking individual fishing quota (IFQ).*
- 2. In addition to its incomplete controls over monitoring Pacific Sablefish landings, NOAA has also not effectively enforced restrictions on landings overages. As noted in table 2, we identified 189 instances where actual landings exceeded the allowed landings for individual permits from 2008 through 2013. Although the majority of the overages were not significant as compared to the fishery's daily trip limit, 12 of the overages totaled 32,607 pounds. NOAA did not take any action to correct the overages, such as requiring the purchase or leasing of an additional permit, reducing allowable landings in the subsequent fishing year, or referring the violation to Office of Law Enforcement (OLE).*

The OIG report included the following recommendations:

- (1) Require all Limited Entry Fixed Gear Sablefish deliveries to be recorded on the Pacific States Marine Fisheries Commission (PSMFC) e fish ticket.
- (2) Use the IFQ Vessel Account System to load and track fixed gear sablefish tier deliveries.

A decision on Recommendation 2 may be premature in that other options for tracking tier deliveries may be identified, but for the EC, Recommendation 1 is a vital enforcement tool, not only for LEP sablefish, but for all West Coast sablefish deliveries.

Moving to an electronic format will provide multiple benefits to industry, science, management, and enforcement, such as:

For industry, data electronically entered into the system can be verified and validated at the time of entry by the buyer/first receiver and provides a tool for those buyers to capture and track fish tickets, generate tax reports, and summarize data for their own internal purposes.

For enforcement, as reported by the EC at the April 2014 Council meeting, enforcement of landing overage violations, both tier/daily trip limit (DTL) and open access (OA) deliveries could be greatly enhanced through access to accurate, near real time tracking of landings against tier limits, conversion to DTL landing limits when tiers are exhausted, and daily/weekly OA deliveries. Each of these delivery scenarios creates unique enforcement challenges for federal and state enforcement personnel. For example, the following questions may arise: What is the status of a vessel's tier(s)? Which tiers are/were credited to a particular landing? Is/was the owner on board? Is the DTL

delivery within limits? Is the OA delivery within limits, daily, weekly, or cumulatively? What is the potential for an illegal split delivery, i.e. underreporting? How many daily deliveries were made by a given vessel during a reporting week, month, or bi-monthly period? What was the cumulative total of those deliveries? And in which state(s) were the deliveries made?

OA deliveries are exceedingly challenging for state dockside enforcement. E-ticket reporting would improve cumulative trip limit monitoring immensely. The current OA regulations allow for 300 lb/day, or 1 landing per week of up to 800 lb, not to exceed 1,600 lb/2months. Therefore, for the daily limit, up to six deliveries may need to be tracked over a two month period, while a minimum of two deliveries may need to be tracked over that same two month period for the weekly limit.

#### *Implementation Issues Associated with Electronic Fish Tickets: Agenda Item F.6.b*

##### Issue 1: Threshold for E-Ticket deliveries

Some have suggested that for Alternative 4, (all deliveries be recorded on the e-ticket) a sub-option should be developed establishing a threshold for e-ticket reporting, i.e. 100 or 200 pounds. The rationale for this suggestion being that e-reporting of small deliveries places a significant burden on buyers. To the contrary, the EC believes establishing a reporting threshold would create needless regulatory complexity to this proposed reporting process. It could potentially create confusion for buyers to have to determine whether paper or electronic reporting is appropriate for relatively small deliveries. In discussions with some buyers, they indicate that one simple reporting rule for all West Coast Sablefish deliveries is their preferred option.

Through discussions with Pacific Council staff, the EC has determined that over the past three years there were 981 OA sablefish deliveries of 200 pounds or less made on the West Coast, averaging 327 deliveries per year. 25 percent (245 or approximately 82 trips a year) of those deliveries were comprised of 50% or less of sablefish. 67 percent (657 or approximately 220 trips a year) were 100 percent sablefish. It is our conclusion that the vast majority of all these trips were targeted DTL or OA sablefish trips. Consequently, the threshold concept is not viable in that it will not address the EC cumulative trip limit monitoring problems, because all deliveries, small or large, need to be tracked and monitored against either DTL or OA cumulative trip limits.

##### Issue 2: What burden(s) are placed on the state management agencies?

The EC has no comment other than to point out that e-ticket reporting is already accepted for all commercial landings in Oregon. Washington continues to make progress in moving in a similar direction and California is in discussion with PSMFC exploring the functionality of e-ticket reporting.

##### Issue 3: Would first receivers be required to have some type of current, valid Federal first receiver (FR) site license?

The EC does not believe a Federal FR site license needs to or should be a requirement for West Coast sablefish deliveries. The Federal FR license is used in trawl rationalization as a means for deploying catch monitors (CM) and implementing elements of the CM Program, i.e. evaluating site/facilities capabilities and requirements, none of which are elements of the sablefish LEP or OA fisheries. A state buyer's license would be a continuing requirement.

Issue 4: Would incidentally caught species on sablefish directed trips be required to be recorded on the e-ticket?

Yes, complete recording of the trip is, at a minimum, desired, if not necessary, particularly where the e-ticket is used in lieu of paper reporting.

Issue 5: Could transportation tickets still be used?

Yes, in the same way the states use this process under their current regulations.

**In conclusion, the EC recommends:**

- (1) If modifications to the own/control limit are deemed appropriate by the Council, adopt the NMFS-recommended alternative listed in Agenda Item F.6.b, NMFS Report 2.
- (2) Adopt Alternative 4: A federal requirement that all sablefish deliveries (primary/tier, DTL, and OA) be recorded on an e-ticket that documents the associated federal groundfish permit number (with the exception of OA, which may have either a federal vessel documentation number or a state number, per specific state requirements).
- (3) All incidentally caught species associated with the sablefish delivery should be recorded on the e-ticket with no minimum threshold exception.

PFMC  
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