

SABLEFISH PERMIT STACKING PROGRAM REVIEW: POTENTIAL CHANGES TO THE OWN AND HOLD REGULATIONS

Current Own/Hold Regulations

The Sablefish Permit Stacking Program was implemented through Amendment 14 to the Pacific coast groundfish fishery management plan (FMP). Amendment 14 limits permit ownership (by number of permits and by only allowing individuals to own permits) and provides an owner-on-board requirement intended to maintain the owner-operator character of the fleet, encourage local ownership of small businesses, and a connection between the fishing fleet and local coastal communities (Am 14 EA, p.33 & 38). The current own/hold regulations limit participants in this program to owning or holding three permits, whereby ownership or holdership of any percentage of a permit counts as 1 permit.

The ownership restrictions were outlined in the Amendment 14 EA (March 2001) as follows (summarized for space):

- The Council restricted the number of fixed gear sablefish permits owned by an individual to three permits.
- Exceptions were made for individuals who owned permits in excess of the limit as of November 1, 2000. These individuals were not allowed to accumulate more permits.
- An individual's ownership is calculated by summing the total permits for which an individual held some ownership interest, regardless of how small the percentage.
- At the time of final adoption of these provisions, the Council struck language that would have required permit owners to also have an ownership share in the vessel for which the permit was registered.

Regulations at 660.25(b)(3)(iv)(C)(2) specify the ownership restrictions listed above and also state that ownership interest from "holding" permits is counted towards the 3 permit limit in addition to owning permits. A permit holder is the owner of the vessel registered to sablefish permits. However, the implementing regulations (from Amendment 14a final rule, 66 FR 41152, p. 41155, changes from proposed rule) clarified that those "holding" permits should be included in the count towards the 3 permit limit, and was confirmed by the Council as what they had intended with Amendment 14.

Current Status of Permits

As of July 2013, there are a total of 164 sablefish permits, which are owned by 109 unique owners; 72 own just one permit, 21 own 2 permits and 15 own 3 permits, additionally 1 entity owns 4 permits. It's important to note that there are instances where some of these unique permit owners contain shareholders in common. However, most of the individuals owning 1 permit are either one individual or a husband/wife partnership. Approximately 45 permits are registered to vessels where the vessel owner does not own the permit.

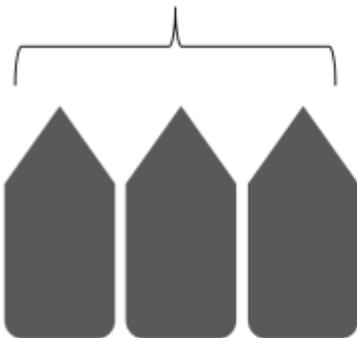
The Issue

A motion made under Agenda Item G.2 at the September 2013 Council meeting "add[ed] a bullet under 'April' [to the program review calendar] to consider a draft range of alternatives for the

ownership and control of LE Sablefish tier permit issue as recommended in the supplemental GAP Report”. Due to the need to have a range of alternatives available for analysis over the winter, a draft range of alternatives is presented after the following description of the issue.

The 3 permit own and hold limit has created an issue for some permit owners who participate in both the Pacific coast sablefish permit stacking program and the North Pacific Fishery Management Council (NPFMC) managed Individual Fishing Quota (IFQ) Program for fixed-gear Pacific halibut and sablefish fisheries in and off of Alaska. Regulations for the Alaska sablefish IFQ program require that individual owners of catcher vessel quota shares (QS, vessel categories B, C, or D) be onboard the vessel during all IFQ fishing. An exemption to the owner on board requirement allows initial recipients of catcher vessel QS to employ hired masters to fish his or her IFQ, but only if the initial recipient owns a minimum of 20 percent interest of the vessel on which they hire a master to fish their IFQ permits. The regulations were structured in this way to maintain a predominantly owner-operator fishery. In order to harvest their QS under this exemption, participants in the Alaska sablefish fishery have invested in partial ownership of multiple vessels, some of which also harvest sablefish in the Pacific coast sablefish primary fishery. When vessels that are owned in part by QS holders in the Alaska IFQ program switch to fishing in the Pacific coast sablefish primary fishery, they find it impacts the owner’s sablefish permit count such that they are at, or may exceed the 3 permit own and hold limit in the primary sablefish fishery.

U.S. West Coast sablefish: May not have ownership interest in more than 3 endorsed permits



U.S. North Pacific halibut/sablefish: May have 20% ownership interest in up to five vessels. Must have 20% ownership interest to avoid owner-on-board requirements

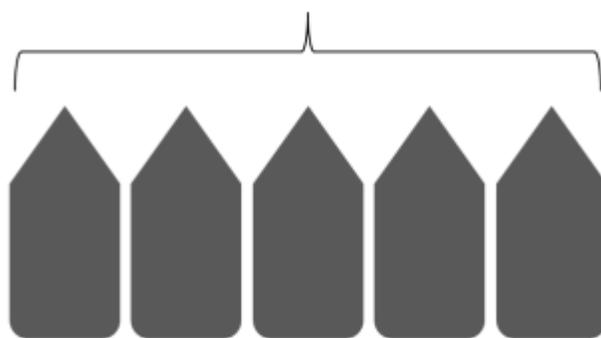


Figure 1: Simplified schematic of ownership interest requirement differences for U.S. sablefish fisheries off West Coast and Alaska

Potential Range of Alternatives for Consideration

Alternative 1: Status Quo, the limit to own and hold is 3 permits. Any level of permit ownership would count as 1 permit towards limit of 3. Additionally, any permits registered to a vessel, wholly or partially owned by the entity, would count toward the three permit limit. Select permit owners are grandfathered in with more than 3 permits based on what they owned as of 11/1/00.

Any group ownership interest in the permit results in a permit count of 1 being attributed to each group member.

Example: The partnership of Mary and Mike Smith hold a tier permit. As a result, each have 1 permit towards the 3 permit limit, and the partnership also has a count of 1 towards the limit. Similarly, Group Z (owned by John Doe and his partners) has X% ownership of a vessel registered to the permit owned by Mary and Mike Smith. Group Z accrues a count of 1 permit held towards the 3 permit limit AND John Doe and each of his partners accrue a count of 1 permit held towards the 3 permit limit.

Another Example: John Doe owns GF0001 (a limited entry fixed gear sablefish endorsed permit). John Doe is the sole shareholder in Doe Inc. GF0002 is owned by Mary and Mike Smith.

Doe Inc. owns the vessel Fairweather and it is registered to GF0001 and GF0002. Doe Inc. is credited with a count of 2 and John Doe is credited with a count of 2 (owns 1 permit and holds 1 permit). (Mary and John each have a count of 1.)

Alternative 2a: Status Quo 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.

Example: John Doe owns GF0001 and 20% of the vessel Fairweather. Fairweather is registered to GF0001 and GF0002. GF0002 is not owned by John Doe. John Doe has a count of 1 permit because he owns GF0001 but is not credited with a hold count for GF0002 because he only has a 20% interest in the vessel.

If John Doe owned 21% of Fairweather, then his own and hold count would be 2 because he owns GF0001 and owns more than 20% of the vessel registered to the second permit.

Alternative 2b: Status Quo for permit ownership (any percentage ownership in a permit is a count of 1), however holding a permit is only counted if the vessel owner has a greater than 30% share.

Example: John Doe owns GF0001 and 30% of the vessel Fairweather. Fairweather is registered to GF0001 and GF0002. John Doe has a count of 1.

If John Doe owned 31% of Fairweather, then his own and hold count would be 2 because he owns GF0001 and owns more than 30% of the vessel registered to the second permit.

Alternative 3: Maintain a three permit limit but calculate control based on percentage ownership of permits and vessels. Total ownership (permit ownership and holdership) is capped at 300%. 1st and 2nd generation owners would be limited to a total of 300 percent. (The intent being to limit total ownership to 3 permits which is status quo.)

Example: John Doe wholly owns GF0001 and 20% of the vessel Fairweather. Fairweather is registered to GF0001 and GF0002. John Doe has a count of 120%.

Another possible example: The partnership of Mike and Mary Smith own 3 permits. As such, Mike and Mary Smith, as a partnership, have 300% of total ownership, which is the limit. However, Mike as an individual has 150%, as does Mary.

Alternative 4: Increase the own and hold limit to 6 permits. Partial or any percent ownership or holdership is a count of 1 towards the limit of 6. (Permit counts are determined as under status quo.)

Example: John Doe owns GF0001, GF0003, and 20% of the vessel Fairweather. Fairweather is registered to GF0001, GF0002, and GF0004. John Doe owns 2 permits and holds 2 additional permits due to partial ownership of Fairweather for a total count of 4.

Alternative 5: Status Quo on permit owner (no one may own more than 3 permits unless grandfathered in). Cap the number of tier permits an entity may register to a vessel at 3. Cap the number of limited entry fixed gear tier vessels an entity can own at three. The maximum own and hold limit is effectively increased to 12 permits (an entity could own 3 permits and have partial or total ownership of three vessels each of which are registered to three different permits owned by others).

Example: John Doe owns GF0001, GF0002, and GF0003. Mr. Doe also owns 20% of the vessel Alpha, 10% of the vessel Beta, and 30% of the vessel Gamma. Alpha is registered to GF0004, GF0005, and GF0006; Beta is registered to GF0007, GF0008, and GF0009; and Gamma is registered to GF00010, GF00011, and GF00012. John Doe owns 3 permits and has partial ownership of 3 vessels that each hold 3 permits; his total count is 12. In this example, Doe could not register his own permits to any other vessels he owns beyond Alpha, Beta, and Gamma, but he could lease the additional permits out to other vessels. He has maxed out on the number of vessels he has an ownership interest in and they are in the primary fishery. Also, Alpha, Beta, and Gamma are at the limit of 3 permits registered to them during the primary season; they cannot remove a permit mid season and add a 4th permit.

Alternative 6: Status Quo on 3 permit limit, but the calculation is based only on ownership of permits; holding or leasing a permit/ ownership in the vessel would not count towards the 3 permit limit. A person could own 3 permits and hold any number of additional permits by registering the vessel(s) they own to permits owned or leased by other persons.

Example: John Doe owns GF0001, GF0002, and GF0003, and 20% of the vessel Fairweather. Fairweather is registered to GF0004, GF0005, and GF0006. John Doe owns 3 permits and his partial ownership of a vessel registered to other permits does not affect his own and hold limit; his total count is 3.

Table. Summary of Alternatives

Alternative	Cap	Permit Ownership	Holding (owning a vessel for which a permit is registered but not owning the permit)	Data Required
Alternative 1	3 permits	Status Quo (any part ownership of a permit counts as full control of the permit)	Status Quo (any part ownership of a vessel counts as full control over any permits associated with the vessel)	A list of permits and vessels in which an individual has any ownership interest.
Alternative 2a	3 permits	Status Quo	Only ownership of more than 20% of the vessel counts.	Requires submission of percent of ownership forms for vessels (as required for trawl – exception for owning less than a 2% interest).
Alternative 2b	3 permits	Status Quo	Same as 2a but use a 30% threshold.	Same as Alt 2a
Alternative 3	300% of a permit.	Control calculated based on percent ownership of vessel.	Control calculated based on percent ownership of vessel.	Same as Alt 2a
Alternative 4	6 permits	Status quo	Status quo	Same as Alt 1
Alternative 5	12 permits (3 owned permits and ownership in 3 vessels which may each have three permits)	Status quo	Status quo	Same as Alt 1
Alternative 6	3 permit ownership limit, no limit on number held for the vessels an individual owns.	3 Status Quo	N/A (no limit)	Same as Alt 1

Additional Considerations

- To what extent is holding or leasing a permit controlling it; how could this impact the owner-operator nature of the fleet?
- How will increasing the control limits affect those that are grandfathered in with exceptions to the current control limits?

- How will the alternatives affect data collection (i.e. time burden of filling out ownership interest forms)?