

USE OF SABLEFISH SETNET LANDINGS TO QUALIFY FOR FIXED GEAR SABLEFISH TIERED CUMULATIVE LIMITS

MAY 15, 2001

NOTICE OF AVAILABILITY OF ANALYSIS, SCHEDULE FOR FINAL DECISION, AND SYNOPSIS OF ANALYSIS

The Pacific Fishery Management Council (Council) announces the availability of a draft environmental assessment/regulatory impact review/initial regulatory flexibility analysis for an amendment to the West Coast groundfish regulations. Specifics of the proposal are outlined below. The document is available from the Council office immediately (503-326-6352) or may be downloaded from the Council website (www.pcouncil.org) in the near future.

Submitting Comment--Written comments on the proposed action and analysis received at the Council office by **June 5, 2001** will be included in the materials distributed to the Council for consideration prior to its final decision. Comments received by **May 29** will be mailed to Council members prior to the meeting. **After June 5**, it is the submitter's responsibility to provide Council staff with an adequate number of copies to assure coverage of the Council (a minimum of 40 copies). There will be an opportunity for verbal testimony on this issue at the Council's June meeting.

Send written testimony to: Pacific Fishery Management Council 2130 SW 5 th Ave., Suite 224 Portland, OR 97201 Deadlines: see preceding paragraph	Verbal testimony will be taken at: Park Plaza International Hotel 1177 Airport Blvd. Burlingame, CA 94010 Tuesday, June 12, 2001
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Final Council Decision--The Council is scheduled to make a final decision on this issue Tuesday, June 12, 2001 at the Council meeting in Burlingame, California.

Proposed Action--The Council is considering recommendation of an adjustment to the tier qualifying requirements for the three-tier cumulative limit system for the primary limited entry fixed gear sablefish fishery. The proposed action would add another category of landings that would count toward assignment of a fixed gear sablefish endorsed permit to a cumulative limit tier: sablefish landings from 1984 through 1987 made by vessels using setnet gear under experimental fishing permits (EFP) north of 38° N latitude (Point Reyes, California) to the United States-Canada border.

Regulated Fishery--Pacific Coast groundfish fisheries in the Exclusive Economic Zone (EEZ) (three to 200 nm offshore) off Washington, Oregon, and California are managed under the Council's Pacific Coast groundfish fishery management plan (FMP). The FMP includes the limited entry fixed gear sablefish fishery, a segment of the Pacific Coast groundfish fishery north of 36° N latitude to the United States-Canada border. Only fishpot and longline gear may be used in the limited entry fixed gear sablefish fishery. Setnet gear has been banned north of 38° N latitude in all segments of the groundfish fishery since the inception of the groundfish plan in 1982.

Problem Summary--The Council omitted setnet landings made under EFPs from the qualifying requirements for the three-tier limited entry fixed gear sablefish fishery. It had previously made a preliminary determination that such landings warranted consideration in the allocation of access privileges. Those who participated in the EFPs with setnet gear believed they were investing in the future of the fixed gear fishery and took part in the fishery with Council consent. If, in determining the level of a vessel or permit's qualification for harvest

privileges the Council and NMFS disallow landings taken under the setnet EFPs, it may discourage fishers in the future from taking part in experimental fisheries. A public policy that discourages participation in EFPs may inhibit useful innovation in the fishery.

Legal Basis and Key Objectives--The legal basis for this proposal is the groundfish FMP approved by the Secretary of Commerce under the authority provided by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Key objectives related to this regulatory amendment and the related national standards for the Magnuson-Stevens Act are as follows:

- **Promote Equity.** (This objective relates to National Standard 4 on allocation and FMP Objective 13 on equitable sharing.)
- **Encourage Innovation.** (Innovation may contribute toward progress in achieving National Standard 5 [consider efficiency], 6 [take into account variations and contingencies], 9 [minimize bycatch and bycatch mortality], and 10 [promote safety].)

Main Alternatives--

Alternative 1: Status Quo – No change. Vessels that took part in experimental fishing for sablefish with setnet gear in the mid 1980s will continue to fish using the harvest privileges assigned on the basis of their landings with longline or fishpot gear. Setnet landings will not be considered as a basis for upgrading the sablefish tier to which a sablefish endorsed fixed gear groundfish limited entry permit has been assigned.

Alternative 2: Credit for Setnet Landings Taken Under EFPs from 1984-1987 – The sablefish catch history for vessels fishing with setnet gear north of 38° N latitude under EFPs from 1984 through 1987 will be counted as part of the permit catch history for the purpose of determining qualification for a tier level in the three-tier program used to manage the limited entry fixed gear sablefish fishery. This provision applies only for permits already endorsed for fixed gear sablefish.

Synopsis of Analysis--All 164 holders of fixed gear limited entry permits endorsed for sablefish would be expected to experience some adverse impact if any permits are moved from a lower tier level to a higher tier level as a result of implementing Alternative 2, with the exception of any owner of a permit that is moved to a higher tier. Based on a review of permit catch histories and expected tier changes, the owners of permits that do not change tiers are expected to experience a 0.76% decline in gross sablefish revenues from the primary fixed gear sablefish fishery. When all sources of fishing revenue are taken into account, the percent change in gross revenue is expected to be substantially less than 0.76%. Changes in net revenue will likely be less than change in gross revenue. No adverse effects are identified for the physical or biological environment.

Request for Comment--In addition to comments on the appropriateness of the proposed action and the adequacy of the analysis with respect to the Magnuson-Stevens Act, National Environmental Policy Act, and other applicable laws, comment is sought on issues related to the Regulatory Flexibility Act (RFA).

RFA Issues--The purpose of the RFA is to relieve small businesses, small organizations, and small governmental entities from burdensome regulations and record-keeping requirements. It cannot be determined that the actions considered in this proposal will not have significant impacts on small entities. Public comment is invited on adjustments that would reduce the impacts on small entities while achieving the regulatory objectives and on whether the analysis adequately takes into account impacts on small entities.

*Phil's motion(3) - Phil C2.wpd
Seconded by Bob Alverson.*

*Ralph Brown supported the motion agreed w/ GMT
Statement
Robinson said he cannot predict how a court would
rule. Eileen said ->
then change to "the permit has a
2 fixed gear sablefish endorsement"
see Eileen's C2.wpd matter and seconded
around as a friendly amendment*