

FUTURE COUNCIL MEETING AGENDA PLANNING

The primary purpose of this agenda item is to provide initial information to Council Members early in the Council meeting to facilitate planning for future Council meeting agendas.

The Executive Director will review initial drafts of the three-meeting outlook and the June Council meeting agenda, and respond to any questions the Council may have regarding these initial planning documents. This agenda item is essentially informational in nature; however, after hearing any reports and comments from advisory bodies or the public, the Council may wish to provide guidance to the staff for use in preparing for Agenda Item C.7 at which time final consideration of the three-meeting outlook and draft June agenda are scheduled.

Council Tasks:

- 1. Receive information on potential agenda topics for the next three Council meetings.**
- 2. Receive information on an initial draft agenda for the June 2007 Council meeting.**
- 3. Provide guidance on the development of materials for Agenda Item C.7 (June agenda and three-meeting outlook).**

Reference Materials:

1. Agenda Item C.1.a, Supplemental Attachment 1: Preliminary Draft Three-Meeting Outlook for the Pacific Council.
2. Agenda Item C.1.a, Supplemental Attachment 2: Preliminary Draft June Council Meeting Agenda, June 10-15, 2007 in Foster City, California.
3. Agenda Item C.1.c, Public Comment.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. Council Discussion of Future Council Meeting Agenda Topics

Don McIsaac

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Mr. Donald K. Hansen, Chairman
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
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March 15, 2007

Agenda item, (C), Future Council Meeting Agenda Planning:

Chairman Donald K. Hansen,

As you know the Sablefish Tiered program is an IFQ program and as such has an excessive ownership and use provision, which was recommended by the P.F.M.C. and implemented by the NMFS. Currently the excessive ownership cap is 3 tiered sablefish permits and the use limit per vessel is also capped at three sablefish permits. These caps are not a problem for our members. However a problem has developed in how the terms "control and use" are counted for purposes of determining the three permit limit by the NMFS.

In 2006 the NMFS finished the implementation of various aspects of the tier sablefish program. In order to establish verification of ownership and control each permit holder sent ownership information pertaining to the permit or permits owned to NMFS plus ownership information of the fishing vessel on which a permit would be fished. Vessel owners submitted the appropriated partnership, corporate and sole proprietor information. In counting ownership and control of permits NMFS counts a permit against a person regardless of percent owned. If a person has a partnership of 50% each person is credited with one full permit. This accounting has not resulted in any problems that we are aware of, and this is what we expected based on the action of the council.

The problem we have encountered is that a permit is also counted against the use and ownership caps if a person has any ownership in any

vessel that might be fishing a tiered permit. If you happen to be an owner in more than one vessel is where we have experienced a problem. I have attached the March Groundfish Advisory Panel, GAP, minutes, which addresses this issue. The minutes contain an actual circumstance and two proposed solutions. Without some relief people are being required to sell off their permits or being told they can not fish the permits on their vessels.

In another situation a person could have ownership in two vessels and own no tiered permits. If one vessel fished three permits belonging to the crew and the other vessel fished one permit belonging to a crew the vessel owner would be in violation of the excessive control and use provision by one permit. If the council believes that ownership in a vessel is a reasonable tool to use for determining excessive limits we request that those with minority interest in a vessel have some relief.

I have talked to several of our vessel owners where they have some ownership interest in a second vessel and in all cases this problem could be resolved, for them, if minority ownership in an additional vessel of 20 percent or less was not counted for purposes of ownership and control. It has been suggested that this issue could be taken up under the biennial spec process and be more efficiently addressed than if it was a stand alone regulatory action. We, therefore request that the Council add this issue to be analyzed during the next biennial spec process. The GAP unanimously requested this issue be considered by the council at the March meeting.

Sincerely,



Robert D. Alverson, manager
Fishing Vessel Owners Association

Agenda Item D.6.b
Supplemental GAP Report
March 2007

**GROUND FISH ADVISORY SUBPANEL REPORT ON COUNCIL THREE-MEETING
OUTLOOK AND APRIL 2007 COUNCIL MEETING AGENDA**

The Groundfish Advisory Subpanel (GAP) requests that the Council agenda the following issue for the GAP discussion for the April Council meeting:

Fishery - Sablefish Tiered fishery.

Issue - The definition and interpretation of ownership and control for purposes of determining excessive ownership of sablefish tiers.

Current Problem: The problem arises when a person has invested in more than one fishing vessel. The limit of 3 permits per person and vessel use limit of 3 are not a problem.

Example of the problem: There is a vessel owner and his partner who each own 50% of a vessel. In addition to this, one of the partners owns 20% interest in a second vessel with his brothers. Both vessels fish the maximum of three tiers. However, the vessel owner only personally owns 50% of one permit, which is fished on the first vessel, of which he owns 50%. Because ownership and control includes his name on the Coast Guard ownership certificate papers of both vessels as well as whom NMFS has named on the tiered permit, this particular vessel owner owns and controls 6 permits. He is being charged with ownership and control of 3 permits on his brothers' vessel, none of which he has ownership in. He is also being charged with the three permits being fished on his vessel which he has 50% ownership.

Anyone who has ownership in more than one vessel, regardless of the ownership percentages can find themselves in this situation. NMFS has included vessel ownership as part of the control definition because they contend the vessel will get some financial benefit for the fish being fished on the vessel and therefore has some control over the permit. The GAP does not believe this to be the case and is not part of the intent of ownership and control of a permit. The control is with the person who actually owns the fishing permit not the owners of the vessel.

Solution 1: Drop the ownership of a vessel from the definition of ownership and control of a sablefish tier.

Solution 2: Ownership of less than 50% of a vessel will not count toward ownership and control of a sablefish tier.

This discussion will likely provide some insight on how excessive use and ownership caps might be enforced and considered for the trawl individual transferable quota program.

PFMC
03/08/07