

February 23, 2009

TO: Frank Lockhart, Assistant Regional Administrator, NMFS, Sustainable Fisheries Division  
FROM: Kevin Ford, Team Leader, Fisheries Permit Office  
SUBJECT: Pros/Cons of Severable Species Endorsement from "B" Groundfish Permits

I understand that certain members of the GAC requested that NMFS provide pros and cons of implementing a program that allows for species endorsements (sablefish and lingcod) that are severable from a "B" Groundfish permit. Below are some of the pros and cons of severable species endorsements. Also, attached is a list of the many combinations of A and B permit ownership one person or entity might have. Generally, the tradeoff before us is between flexibility for B permit owners with endorsements and administrative burden and additional cost for NMFS.

### **PROS**

- 1) Allows an endorsement owner to sell or temporarily convey the endorsement to another individual and retain his/her B permit.
- 2) Allows an individual who qualified for a B permit but did not qualify for a species endorsement to potentially obtain an endorsement on a permanent or temporary basis. In this situation, the B permit owner need only obtain the endorsement and does not have to obtain both a B permit (which is redundant) and the assigned endorsement.
- 3) Similarly, allows for a B permit owner who may have one species endorsement to obtain the other species endorsement (Mr. A qualifies for a B permit with a sablefish endorsement and he can obtain the lingcod endorsement later) without having to obtain another person's B permit with the desired endorsement.

### **CONS**

- 1) **Increased Workload:** Preliminary Preferred Alternative (PPA) provides that up to 1000 B permits could be issued to vessel owners with approximately 400 B permits having a sablefish endorsement and about 200 permits having a lingcod endorsement. The number of B permits alone is more than twice the number of the existing A permits. The number of transfers of A permits is about 100-150 per year. Annual renewals and transfers of the B permits will add a significant workload for NMFS. In addition to the B permit actions, the potential number of transfers involving individual species endorsements could be significant as well. Even if a one transfer rule is applied to both the permit and endorsements, the potential transfer activity is great.

One concern is a number of the B permit owners have historically been marginal or occasional participants in the fishery. As such, these individuals would be more likely to lease the permit and/or endorsement out more frequently than those who participate in the fishery on a more consistent basis.

- 2) **Separate Transfer Rules for Endorsements:** If you allow for severability of the endorsement from the permit, NMFS will need to develop separate rules and processes to effectively assign, track and monitor the endorsements. Here is a list of some of the additional requirements NMFS will need to undertake if endorsements are severable from the permit:
  - a. NMFS will need to assign a unique ID to the endorsement to allow the agency to track its current status.
  - b. NMFS will need to assign a status code to the endorsement.
  - c. NMFS will need to assign an effective dates to the endorsement
  - d. NMFS will need to associate an “owner” with the endorsement for specific dates. NMFS may need to obtain address/contact information for an endorsement owner. NMFS will need to be able to produce an endorsement history
  - e. NMFS will need to associate an endorsement to a permit which may change over time.
  - f. NMFS will need to prepare either a B permit transfer form that includes a means to request an endorsement transfer or provide a separate endorsement transfer form.

These additional rules will add complexity for NMFS staff and the public, and potentially add confusion for permit/endorsement owners. Our experience with the A Permit program is that individuals who are part time participants either do not read the rules and/or do not understand the rules. These individuals can consume a large amount of staff time when it comes to performing a transaction involving their permit. The potential for confusion and need to educate participants is large for the B permit program given that many have minimal landings in the fishery over the years.

A couple of key questions in defining the rules are: Can an individual that does not own a B permit own a species endorsement? Does a species endorsement have to be assigned to a B permit at all times? What is the definition of a transfer of endorsement? Can a species endorsement be transferred multiple times? If a species endorsement is transferred, when is it effective? How can NMFS deal with an endorsement that a holder attempts to convey to someone who does not own a B permit [example: Mr. Jones owns a B permit and sablefish endorsement. Mr. Jones dies and in his will leaves the B permit to his son and leaves the endorsement to his daughter]. Barring direction otherwise, should NMFS renew a permit that has someone else’s endorsement (presuming the lease arrangement is staying the same) or should NMFS automatically remove all endorsements that are not owned by the B permit for purposes of renewal?

- 3) **Permit and Endorsement Relationship:** My understanding is that in order to fish sablefish in a B groundfish fishery, a vessel must be registered to a valid B permit with an appropriate endorsement to fish for either sablefish or lingcod. The proposed severability of the endorsement from the B permit breaks apart a basic relationship between permit and endorsement, which are required to fish for either sablefish or lingcod. We anticipate that there may be possible confusion where some individuals may feel that the endorsement is a stand-alone fishing privilege. Also, because the endorsement conveys a trip limit, one may be able to fish B species during a cumulative limit period but the acquisition of an endorsement may not be effective until the next cumulative limit period. Another possible confusion is some may think that severability allows for “stacking” of endorsements. Of course, this will not be allowed. I note that we have had several individuals attempt to stack fixed gear, non sablefish permits in the A program to a single vessel.

- 4) **Cost:** The additional activities associated with transfers will increase costs to NMFS and potentially the endorsement owner. NOAA policy requires that the agency charge for administrative services associated with a product (i.e. map) or privilege (permit/endorsement). We anticipate charging an annual renewal fee (currently \$125 for the A permit) for the B permit. NMFS must recalculate the costs on annual basis. NMFS does not charge for an A permit transfer currently, but the authority to do so exists in regulation. NMFS may consider charging a fee for all transfers in the future, which in itself generates additional work. A fee might serve as a mechanism to reduce the number of transfers. Any fee collected will be deposited to U.S. Treasury as the Magnuson-Stevens Act does not provide for such monies to be returned to NMFS to offset labor/ mailing costs associated with renewal or transfer activities. So the additional workload and costs associated with the B permit and endorsements will be carried out with existing resources.
- 5) **Consistency with A permits:** In the current A permit system, the existing endorsements are not severable. The size endorsements, gear endorsements, and sablefish endorsements are not severable from the permits. Structuring the B permit system in a fundamentally different way could add more confusion for the public and more work and cost for NMFS. In the A system, one reason for non-transferability was the attempt to prevent expansion of the fishery. If the B permit system is managed so differently from the A system the record would need to explain why this difference makes sense.
- 6) **Latent Effort:** The PPA would result in a fishery with significant permitted latent effort, because many permits would be issued to vessels with minor or sporadic participation. Allowing severability of the endorsement would make it easier for the latent effort to be deployed.
- 7) **Example of Other Potential Complexities of a Severable Endorsement:** As of January 1, Mr. Smith owns a B permit and in May he leases a sablefish endorsement from Mr. Jones which is assigned to his B permit. In July, Mr. Smith decides to sell his B Permit to Mr. Bishop. If NMFS assumes that endorsement is not part of the transfer and returns it to Mr. Jones, where is the endorsement reassigned to? If Mr. Jones has multiple B permits, he may want to redirect to one specific permit. If there is a one transfer limitation, Mr. Jones may not be able to reassign it to an existing permit that has a vessel registered to it.

**Conclusion:** The severability of endorsements may provide flexibility to permit/endorsement owners but it comes at a cost and adds significant complexity. Like the states, NMFS has a finite set of resources to give to permit activities. Given that the open access fishery has a value that is considerably less than the A limited entry fishery, it is hard to justify the use of a disproportionate amount of NMFS resources to manage the B permit program. Efforts to make the rules governing A and B fisheries more consistent will reduce the administrative burden and costs to NMFS, reduce costs to the permit/endorsement owners, and reduce possible confusion about the rules.

## Open Access Permit Options

### A permits

1a	A permit trawl
2a	A permit fixed gear non sablefish
3a	A permit fixed gear with sablefish (can stack up to 3 tiers)

### B Permits

1b	B permit no endorsement
2b	B permit with sablefish only
3b	B permit with lingcod only
4b	B permit with lingcod and sablefish

### A + B Options

1a 1b	A permit trawl + B permit no endorsement
1a 2b	A permit trawl + B permit with sablefish only
1a 3b	A permit trawl + B permit with lingcod only
1a 4b	A permit trawl + B permit with lingcod and sablefish

2a 1b	A permit fixed gear non sablefish + B permit no endorsement
2a 2b	A permit fixed gear non sablefish + B permit with sablefish only
2a 3b	A permit fixed gear non sablefish + B permit with lingcod only
2a 4b	A permit fixed gear non sablefish + B permit with lingcod and sablefish

3a 1b	A permit fixed gear with sablefish (can stack up to 3 tiers) + B permit no endorsement
3a 2b	A permit fixed gear with sablefish (can stack up to 3 tiers) + B permit with sablefish only
3a 3b	A permit fixed gear with sablefish (can stack up to 3 tiers) + B permit with lingcod only
3a 4b	A permit fixed gear with sablefish (can stack up to 3 tiers) + B permit with lingcod and sablefish

\*Did not break out each tier as a separate option but that is a possibility