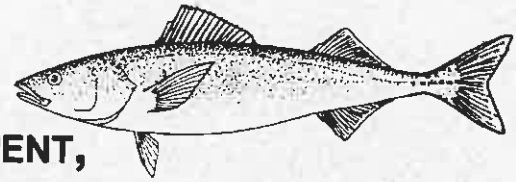
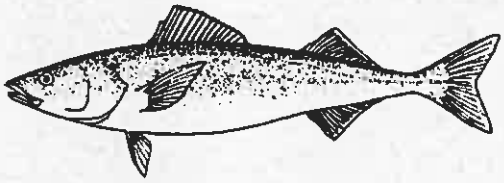
AMENDMENT 9
TO THE FISHERY MANAGEMENT PLAN FOR PACIFIC COAST GROUNDFISH
(LIMITED ENTRY FIXED GEAR SABLEFISH ENDORSEMENT)



ENVIRONMENTAL ASSESSMENT,
REGULATORY IMPACT REVIEW,
INITIAL REGULATORY FLEXIBILITY ANALYSIS,
AND FISHING IMPACT STATEMENT



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THIS ENVIRONMENTAL ASSESSMENT, REGULATORY IMPACT REVIEW, INITIAL REGULATORY FLEXIBILITY ANALYSIS, AND FISHING IMPACT STATEMENT WAS PREPARED BY THE PACIFIC FISHERY MANAGEMENT COUNCIL STAFF:

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INTRODUCTION

The management action recommended to the Secretary of Commerce (Secretary) in this document would amend the Pacific Coast Groundfish Fishery Management Plan (FMP) to create a fixed gear sablefish endorsement that would be required for licensed longline and fishpot vessels to take part in the primary limited entry fixed gear sablefish fishing opportunity north of 36°N Latitude (the US-Vancouver, Columbia, Eureka, and Monterey management areas). The recommended action constitutes Amendment 9 to the groundfish FMP.

This document has been drafted to assist the public in understanding the actions contemplated by the Council and to assist the Council and National Marine Fisheries Service in their decisions. It is a proposed FMP amendment including an Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis and Fishery Impact Statement.

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone of the U.S. (3 to 200 miles offshore) in the Pacific Ocean off the coasts of California, Washington and Oregon are managed under the Pacific Coast Groundfish Fishery Management Plan. Sablefish is one of the most valuable components of the groundfish fisheries off the West Coast. In 1994, $13.6 million of non-Indian sablefish landings accounted for 17 percent of the value of all Council managed groundfish landings, both those on shore and at sea. Over 93 percent of the non-Indian harvest is taken by the limited entry fleet (trawl, longline and fishpot vessels with limited entry licenses) and of that, 42 percent is harvested by the limited entry fixed gear vessels (longline and fishpot vessels). The remaining 7 percent of the non-Indian sablefish harvest is taken by open access vessels. Sablefish is the principal groundfish species harvested by limited entry fishpot vessels and most of the limited entry longline fleet.

Fixed gear sablefish fishers had a nearly year-round fishery as recently as 1985. For 1995, the target harvest for the derby fishery was 70 percent of the total limited entry fixed gear harvest guideline and the derby season length was fixed at seven days. For 1996, the derby season has been set to last 5 days. For both 1995 and 1996, the derby was (may be) followed by a single period cumulative limit fishery which harvested the remainder of the fish available for the primary sablefish fishery. The limited entry fixed gear sablefish harvest remaining outside the primary fishing opportunity is taken in a small daily trip limit fishery (300-350 pounds of landings per day for the remainder of the year). Trawl vessels take sablefish as part of mixed stock fisheries. Their harvest is controlled through cumulative limits. Harvest in the open access sablefish fishery is controlled with a daily trip limit of 300-350 pounds.

From 1991-1994, the Council considered substantial changes to its management of the limited entry fixed gear sablefish fishery. The primary focus during this period was design and evaluation of an individual quota (IQ) program. Cumulative trip limit options were also developed and analyzed as alternatives to IQs. At its October 1994 meeting, the Council set aside consideration of a sablefish IQ program. This action was in part a response to controversy about the program and in part a response to a Congressional request that the Council defer action while important policy decisions were made at the national level. These policy decisions are expected in 1996 as part of the reauthorization of the Magnuson Fishery Conservation and Management Act (MFCMA).

At this time, because of: (a) controversy surrounding an IQ program; (b) a moratorium on new IQ programs, and (c) a pressing need to resolve problems in the derby fishery, the Council is:

1. recommending that the Secretary further limit participation in the fixed gear sablefish fishery, and
2. reconsidering use of cumulative limits to replace the derby fishery.

This document covers the Council's recommendation that the Secretary adopt a sablefish endorsement. The Council's reconsideration of the use of cumulative limits is continuing under a separate process.

PURPOSE AND NEED FOR REGULATORY ACTION

Problems commonly attributed to the current derby fishery relate to safety, inefficiency, resource wastage, and social conflict. If past trends continue, the derby fishery will continue to shorten in length and many of the problems will become worse. These problems are a function of two primary factors (1) excess capacity in the fishery and (2) the means used for controlling total harvest.

ISSUE

While the license limitation program has limited the number of vessels which may participate in the groundfish fishery, there is still substantial opportunity for vessels to move from a nonsablefish segment of the limited entry groundfish fishery to the sablefish fishery.

RECOMMENDED ACTION AND RATIONALE

The recommended action is to establish a sablefish endorsement for longline and fishpot limited entry permits. The endorsement qualifying criteria would be at least **16,000** pounds in one year from 1984 to **1994**.

The catch history used to qualify would be the catch history of the permit. This includes the catch history of the vessel that initially qualified for the permit and the catch history of any other vessels with which the permit rights were associated during the time the rights were associated with the vessel (if the current permit is the result of the combination of multiple permits, then for the combined permit to qualify for an endorsement, at least one of the permits which were combined must have had sufficient sablefish history to qualify for an endorsement; or the permit must qualify based on catch occurring after it was combined, but within the qualifying period). The catch history of a permit also includes the catch of any interim permit held by the current owner of the permit during the pendency of an appeal on a permit denied under the groundfish limited entry program, but only if (1) the appeal on which the interim permit was based was lost and (2) the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery. All sablefish catch history referenced in the options is catch of sablefish managed by the Council that is taken with longline or fishpot gear. Harvest taken in tribal sablefish set asides is not included.

The sablefish endorsement would be required for fixed gear limited entry vessels to take sablefish against the limited entry allocation in the area north of 36° N latitude (the Monterey, Eureka, Columbia and Vancouver management areas) during periods of time specified in the regulations (to be recommended by the Council). The general intent is that an endorsement be required to take part in the major limited entry fixed gear sablefish harvest opportunities, but no endorsement be required when management measures are intended to allow only small or incidental sablefish harvests. (Under the current management system, the endorsement would be required except during the small daily trip limit fishery. No sablefish endorsement would be needed for a vessel to take limited entry fixed gear sablefish when the derby and/or cumulative limit fisheries are closed.)

In reaching this recommendation the Council compared the proposed sablefish endorsement to a status quo under which participation in the limited entry fixed gear sablefish fishery would continue to be limited only by the limit on the number of longline and fishpot groundfish limited entry permits. Alternative qualifying requirements and scopes considered in developing the recommended sablefish endorsement are enumerated at the start of Chapter 3.

The decision to recommend a sablefish endorsement is made in the context of a policy environment which does not allow other capacity control measures to be developed: individual quota and vessel buyback programs.

The Council believes there is a reasonable probability that the fixed gear sablefish fleet will expand based on (1) past trends in the number of participants, (2) increasing sablefish prices, (3) constraints in other fisheries, and (4) new entry in anticipation of future access limitation, including individual quotas. The Council expects a sablefish endorsement-imposed cap on the number of vessels participating to be effective in limiting an expansion of the fleet size. While the initial cap will be slightly above recent fleet sizes, the cap may be immediately effective because in any given year there has been a tendency for some vessels to drop out of the fishery temporarily.

Given that the endorsement is effective in capping the number of participating vessels, future savings in variable and fixed capital costs are expected to generate efficiency benefits and prevent further deterioration in the fishery of the kind which has lead to many of the problems listed above.

Like the Amendment 6 license limitation program, the sablefish endorsement is another step toward reducing capacity in the fishery. It is not inconsistent with, and the Council anticipates it will assist in, future management changes. The Council has stated its intent to end the derby fishery and is currently considering cumulative limits as the tool for achieving this goal. Imposition of cumulative limits on the primary sablefish fishery will limit the incentive for individual vessels to expand capacity (limit "capital stuffing"). With tighter control on the number of vessels and their volume of production, fishery managers will be in a better position to reduce capacity effectively through such means as a buyback program (when legislative changes allow); through the consolidation of fishing privileges by means of an individual quota program (when legislative changes allow); or by associating cumulative limits with permits and allowing more than one permit to be registered with a vessel.

The rationale for specific provisions of the recommended sablefish endorsement are provided in Chapter 3.

IMPACTS

Conservation

No significant physical or biological impacts are expected from adoption of a sablefish endorsement.

National Efficiency (Cost Benefit Analysis) and Cost Effectiveness

Efficiency--Sablefish Endorsements

I. Costs
   A. Quantified costs: $125,000 (Two years of start-up costs. No new ongoing costs.)
   B. Unquantified costs:
      - Costs for permit holders to apply
      - State personnel time during implementation
      - Disruptive and dislocational effects[1/]
      - Increased regulatory complexity

II. Benefits:
   A. Cost Reduction (Harvester and Processor)
      1. Short-run variable and fixed costs
         - no effect
      2. Long-run variable and fixed costs
         - Constraint on increases in variable and capital costs
   B. Needed equivalent in annual benefits over 25 years to balance quantified costs:
      - $11,000 per year (0.14 percent of the ex-vessel value of the 1995 fishery), based on an OMB recommended 7 percent discount rate.

1/ Actions which entail less disruption and dislocation will tend to be more efficient than actions which achieve the same ends with more disruption. Disruption occurs when there is a rapid reallocation.

Benefits in addition to the break even equivalent of $11,000 a year would be required to balance the unquantified costs listed in II.A.

Socioeconomic Effects

Harvest Distribution

In general, a greater proportion of longline vessels in California will not qualify for endorsements than in Washington or Oregon. However, many of the nonqualifying California vessels come from an area in which a sablefish endorsement will not be required. All pot vessels would qualify under the Council recommended sablefish endorsement qualifying criteria.

A sablefish endorsement may result in redistribution of harvest which is substantial for some vessels. There are some vessels which have become larger producers since 1994 that would not receive endorsements. One group particularly susceptible to the disruptive effects of the creation of a sablefish endorsement are those who have recently purchased permits. For the adopted qualifying requirement the number of nonqualifying permits transferred to new owners is 15 (lower than for any other option with a similar number of permits qualifying). Any debt loads incurred as a result of the recent investment made by these owners may make them financially vulnerable to the sudden loss of access to sablefish harvest (a source of revenue for paying off the debt). A 30 to 40 foot permit is currently selling for about $20,000 (June 1996).

Present/Recent Participation

Two aspects of the proposed sablefish endorsement program take present participation into account: (1) the qualifying period includes years up through 1994; and (2) consideration of permit catch history for the purpose of making an initial allocation. Creation of an effective limited entry program generally requires reliance on control dates published when consideration of the program begins. Such control dates are necessary to prevent a flood of new entrants from exacerbating problems and making any effort to control capacity through a license program ineffective. Reliance on the control dates reduces the Council's ability to include catch in years since publication of the control date for the purpose of determining an initial allocation. However, reliance on permit catch history for the sablefish endorsement, rather than personal catch history, allows the program to take into account changes in the persons "currently participating" which occur between the control date and implementation. Assigning catch history to the person would limit fishers' ability to enter or leave the fishery between the time development of the program begins and a final decision is made on whether or not to implement the program.

Historic Participation

Extending the qualifying period back through 1984 takes into account historic participation. In 1991, the Council began to set the West Coast sablefish season to conflict with the Alaska season. This forced vessels with economic, social and cultural ties to the West Coast to choose between the West Coast and Alaska fisheries. By including years prior to 1991 in the adopted sablefish endorsement qualifying requirements, vessels which pioneered the sablefish fishery and qualified for a limited entry permit[2/] but chose to participate in the Alaska sablefish fishery in recent years are allowed to qualify for a sablefish endorsement.

Dependence

The sablefish endorsement qualifying requirements establish that most permit owners with a substantial historic dependence on the fishery will qualify for a sablefish endorsement (the primary exceptions relate to situations in which permits have been transferred). Nonqualifying vessels which earned more than 5 percent of their 1995 income from sablefish comprised 14 percent of the fleet which participated in 1995.

2/ The license limitation system had a 1984-1988 qualifying period.

Disruption, Effects on Other Fisheries, and Ability to Engage in Other Fisheries

In general, the greater the regulation induced change in the distribution of landings between vessels and areas from one year to the next, the greater the disruption which occurs. Vessels losing fishing opportunities must either find ways to regain that opportunity or find replacement activities. Based on 1995 landings and revenue, vessels with permits which do not qualify for a sablefish endorsement (displaced vessels) may be seeking to make up in other fisheries about $750,000 of lost sablefish revenue (based on PacFIN data). Most fixed gear sablefish vessels are multifishery vessels. The other fisheries in which all sablefish vessels participate are an indicator of the fisheries to which nonqualifying vessels may turn to recover lost sablefish income. The nonsablefish fisheries with the greatest number of sablefish vessels participating and the greatest percentage of dependence on the nonsablefish species were "other groundfish", crab, and tuna. While in the past some sablefish vessels have tended to participate in the salmon fishery, current conditions in that fishery have reduced recent involvement and limit its availability as a viable alternative for nonqualifying vessels. Ability to enter some of the other major alternative fisheries may be limited. The West Coast dungeness crab fishery has recently come under state license limitation programs, tuna availability tends to be cyclical in nature and many of the other groundfish species (primarily rockfish) on which nonqualifying vessels might target have recently been subject to more restrictive harvest controls.

Social and Cultural Framework

Since the fishery is already managed under a license limitation system, the proposed sablefish endorsement does not substantially change the nature of the environment which supports the current cultural and social framework of the fixed gear limited entry sablefish. Redistributive and disruptional potential are discussed in sections above.

Bargaining Strength and Processors

While the total amount of fish available to processors will not change, a sablefish endorsement would give more bargaining strength to the vessels in their relationship with processors, particularly if cumulative limits are eventually adopted.

Permit Values

The values of permits for which sablefish endorsements are issued would most likely increase while those without endorsements will likely decline.

Need for Allocative Actions

The sablefish endorsement creates another group able to take the fixed gear sablefish harvest guideline for which sablefish allocational considerations may arise: fixed gear limited entry vessels without sablefish endorsements harvesting sablefish outside the primary fixed gear sablefish fishery.

FINDINGS

Executive Order 12866

Implementation of the recommended sablefish endorsement would not be considered a significant regulatory action within the meaning of Executive Order 12866.

Regulatory Flexibility Act (RFA)

The recommended sablefish endorsement may possibly have a significant impact on a substantial number of small entities under the meaning of the RFA.

Coastal Zone Consistency

The recommended action is consistent to the maximum extent practicable with the coastal zone management programs of Washington, Oregon and California.

Endangered Species Act and Marine Mammal Protection Act

The recommended action is not anticipated to jeopardize survival of endangered/threatened species or have any adverse effects with regards to marine mammal populations.

National Environmental Policy Act

The recommended action would not be a major action having significant impact on the quality of the marine or human environment of the West Coast. Mitigating measures related to the recommended action would not be necessary. No unavoidable adverse impacts on protected species, wetlands, or the marine environment would be expected to result from the options considered here.

1.0 Introduction

1.1 Overview

The management action recommended to the Secretary of Commerce (Secretary) in this document would amend the Pacific Coast Groundfish Fishery Management Plan (FMP) to create a fixed gear sablefish endorsement which would be required for licensed longline and fishpot vessels to take part in the primary limited entry fixed gear sablefish fishing opportunity north of 36°N Latitude (the US-Vancouver, Columbia, Eureka, and Monterey management areas). The recommended action constitutes Amendment 9 to the groundfish FMP.

Sablefish is one of the most valuable components of the groundfish fisheries off the West Coast. In 1994, $13.6 million of non-tribal sablefish landings accounted for 17 percent of the value of all Pacific Fishery Management Council (Council) managed groundfish landings, both those on shore and at-sea (Council, 1995). Over 93 percent of the non-tribal harvest is taken by the limited entry fleet (trawl, longline and fishpot vessels) and of that, 42 percent is harvested by the limited entry fixed gear vessels (longline and fishpot vessels with permits). The remaining 7 percent of the non-tribal sablefish harvest is taken by open access vessels. Sablefish is the principal groundfish species harvested by limited entry fishpot vessels and most of the limited entry longline fleet.

Fixed gear sablefish fishers had a nearly year-round fishery as recently as 1985. Soon thereafter, allowable harvests began to decline and the annual harvest was allocated between trawl and nontrawl gears. The nontrawl sablefish harvest is dominated by vessels using fixed gear. The fishing year for fixed gear sablefish vessels has been divided into an "open" or "derby" season, with no limits on per vessel total catch, and a period of more restrictive trip limits. The open season constitutes the primary fixed gear sablefish harvesting opportunity. Each year, the open season has been shortened to keep harvest within the annual allocation. Most of the reduction has occurred between 1988, when there was almost an eight-month open season, and 1992, when the open season was reduced to a fishing derby of less than three weeks. For 1995, the target harvest for the derby fishery was 70 percent of the total limited entry fixed gear harvest guideline and the derby season length was fixed at seven days. For 1996, the derby season has been set to last 5 days. For both 1995 and 1996, the derby was (may be) followed by a single period cumulative limit fishery which harvested the remainder of the fish available for the primary sablefish fishery.

In 1991, the Council completed its work on a groundfish license limitation program which covered most of the groundfish fishery, including the longline and fishpot sablefish fishery. However, even as it finished work on this program, the Council recognized that license limitation would only slow growth in capacity. Further work would be required to prevent the deterioration of the limited entry fixed gear sablefish fishery into a dangerous and unmanageable derby fishery lasting only days or hours rather than weeks.

From 1991-1994, the Council considered substantial changes to its management of the limited entry fixed gear sablefish fishery. The primary focus during this period was design and evaluation of an individual quota (IQ) program. Cumulative trip limit options were also developed and analyzed as alternatives to IQs.

At its October 1994 meeting, the Council set aside consideration of a sablefish IQ program. This action was in part a response to controversy about the program and in part a response to a congressional request that the Council defer action while important policy decisions were made at the national level. These policy decisions are expected in 1996 as part of the reauthorization of the Magnuson Fishery Conservation and Management Act (MFCMA). At this time, because of: (a) controversy surrounding an IQ program; (b) a moratorium on new IQ programs, and (c) a pressing need to resolve problems in the derby fishery, the Council is:

1. recommending that the Secretary further limit participation in the fixed gear sablefish fishery, and
2. reconsidering use of cumulative limits to replace the derby fishery.

This document covers the Council's recommendation that the Secretary adopt a sablefish endorsement. The Council's reconsideration of the use of cumulative limits is continuing under a separate process.

1.2 Purpose of Document

The purpose of this document is to (1) analyze the alternatives considered by the Council in developing its recommendation to create a limited entry fixed gear sablefish endorsement by amending the groundfish FMP, and (2) provide the background and assessment necessary for the Council and Secretary to determine if the management measures recommended are consistent with the MFCMA, other applicable law and the groundfish FMP. Specific statutory and administrative requirements fulfilled by this document include those of the National Environmental Policy Act, Regulatory Flexibility Act, Executive Order 12866, Coastal Zone Management Act, Endangered Species Act and Marine Mammal Protection Act.

Specifically, this document is Amendment 9 to the Pacific Coast Groundfish FMP including a Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis and Fishery Impact Statement.

1.3 Purpose and Need for Regulatory Action

What follows is a list of problems commonly attributed to the current derby fishery and some which are anticipated. If past trends continue, the derby fishery will continue to shorten in length and many of the problems listed below will become worse, particularly problems related to safety, product value, and abandoned gear.

Safety

- Unsafe conditions are present during intense derby fisheries due to fatigue and fisher choices to take risks because of the limited amount of time to harvest during the derby. When weather is bad, fishers must choose between loss of income and a dangerous fishing trip.
- A single coastwide derby opening cannot be timed for the best average weather conditions for all parts of the coast. Average fishing weather is best on different parts of the coast at different times of the year. Better conditions "on average" do not guarantee that the conditions in a specific year will be safe.

Value of Harvest

- Harvest is not timed with higher market prices and prices may be depressed during a derby opening.
- Harvest is not timed with best availability of best sized fish.
- Catch is not handled in an optimal manner.
- Harvested fish may not be processed into the highest value product form.
- Vessels lose fishing opportunity when the sablefish season conflicts with other fisheries.
- Operation costs are usually higher when fishing in a derby mode, as compared to optimal harvest rates. Gear conflicts and competition between fixed gear vessels increase costs.
- The fishery may continue to overcapitalize, reducing the net benefits by increasing the fishery's capital costs.

Resource Conservation

- A portion of bycatch (for example, rockfish) is not utilized. (Discarded catch which dies is not available for harvest by others.)
- As the fishery length decreases, instances of abandoned gear may increase resulting in unharvested/undocumented mortality.
- As the fishery length decreases, managers must be more conservative in controlling the derby harvest so as not to exceed allowable catches.

Social Conflict

- As more participants enter the fishery, those in the fishery have less to catch. This spawns allocational battles and generally divides fishers between recent entrants and long time participants and between large and small producers.

1.4 Direct Limit on Participation in the Fixed Gear Sablefish Fishery

1.4.1 Issue

The above problems may be addressed by (1) directly controlling excess capacity in the fishery and/or (2) changing the means used for controlling total harvest. The current method of harvest control (derby management) leads to many of the problems outlined in this section. When time is the limiting factor on catch, the amount of time allowed for harvest is very restricted, and opportunities in alternative fisheries limited, there is great financial pressure on individual fishers to maximize their catch during any opening. This creates a race for fish. The derby situation encourages investment in capacity (investment in increasing the individual's rate of harvest for a given period of time) and new entrants within the limits of the groundfish license program, so long as there is sufficient profit incentive.

While the license limitation program has limited the number of vessels which may participate in the groundfish fishery, there is still substantial opportunity for more vessels to move into the fixed gear sablefish segment of the fixed gear groundfish fishery. In response to increased relative profit opportunity in the fixed gear sablefish fishery, vessels with fixed gear groundfish permits operating in nonsablefish segments of the groundfish fishery may shift into the sablefish segment of the fishery and those vessels without permits may enter by purchasing or leasing permits. This purchase and lease activity increases capacity in the fishery when permits are acquired from fixed gear groundfish vessels which do not participate in or are less suited for the fixed gear sablefish portion of the groundfish fishery.[1/]

Many of the problems associated with the current derby fishery could be alleviated by cumulative limits. However, to the degree that there is some fishing opportunity available for every participant and new entry to the sablefish segment of the fishery by limited entry vessels can occur, the number of vessels participating in the sablefish fishery (and hence capacity, inefficiency and allocational conflict) could expand even under cumulative limit management.[2/3/] Therefore a sablefish endorsement has been considered and is being recommended here to further restrict the potential for increasing the participation and capacity in the fishery. The Council is continuing its development of new alternatives (cumulative limits) to control total harvest under a separate process not covered in this document.

1/ Under separate actions the Council is also considering provisions to restrict short term leases.

2/ If the vessel cumulative limits were determined completely on the basis of catch history, there would be no opportunity for new entry (entry by someone without catch history), except by acquisition of a permit with catch history from an existing participant. In this situation, a sablefish endorsement would serve no purpose if such a program is implemented. Similarly, once the initial allocation is completed for an IQ program (even if the allocation is **not** based on catch history), there would be no opportunity for new entrants to expand fishing effort. Again, a sablefish endorsement would serve no useful purpose if such a program is implemented. However, in the interim, stopping an influx of new entrants helps stabilize the fishery while other measures are considered and developed.

3/ One of the problems identified in Section 1.3 is social conflict. The more vessels there are in the fishery, the less any given vessel is able to catch. The reallocation effects of new entrants are particularly strong when the management regime in place tends to equalize the catch among vessels. There has been a tendency for equalization (decreased concentration) of catch as the sablefish derby season has shortened. Additionally, the cumulative limit options the Council has been considering would substantially equalize harvest among participants.

1.4.2 Recommendation

The recommended action is to establish a sablefish endorsement for longline and fishpot limited entry permits. The endorsement qualifying criteria would be at least **16,000** pounds in one year from 1984 to **1994**.

The catch history used to qualify would be the catch history of the permit. This includes the catch history of the vessel that initially qualified for the permit and the catch history of any other vessels with which the permit rights were associated during the time the rights were associated with the vessel (if the current permit is the result of the combination of multiple permits, then for the combined permit to qualify for an endorsement, at least one of the permits which were combined must have had sufficient sablefish history to qualify for an endorsement; or the permit must qualify based on catch occurring after it was combined, but within the qualifying period). The catch history of a permit also includes the catch of any interim permit held by the current owner of the permit during the pendency of an appeal on a permit denied under the groundfish limited entry program, but only if (1) the appeal on which the interim permit was based was lost and (2) the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery. All sablefish catch history referenced in the options is catch of sablefish managed by the Council that is taken with longline or fishpot gear. Harvest taken in tribal sablefish set asides is not included.

The sablefish endorsement would be required for fixed gear limited entry vessels to take sablefish against the limited entry allocation in the area north of 36° North latitude (the Monterey, Eureka, Columbia and Vancouver management areas) during periods of time specified in the regulations (to be recommended by the Council). The general intent is that an endorsement be required to take part in the major limited entry fixed gear sablefish harvest opportunities, but no endorsement be required when management measures are intended to allow only small or incidental sablefish harvests. (Under the current management system, the endorsement would be required except during the small daily trip limit fishery. No sablefish endorsement would be needed for a vessel to take limited entry fixed gear sablefish when the derby and/or cumulative limit fisheries are closed.)

In reaching this recommendation the Council compared the proposed sablefish endorsement to a status quo under which participation in the limited entry fixed gear sablefish fishery would continue to be limited only by the limit on the number of longline and fishpot groundfish limited entry permits. Alternative qualifying requirements and scopes were considered in developing the recommended sablefish endorsement are enumerated at the start of Chapter 3.

1.5 History of the Groundfish FMP and this Amendment (Amendment 9)

The domestic and foreign groundfish fisheries in the exclusive economic zone of the U.S. (3 to 200 miles offshore) in the Pacific Ocean off the coasts of California, Washington and Oregon are managed under the Pacific Coast Groundfish Fishery Management Plan. Sablefish is one of the groundfish species managed under this plan. The FMP was developed by the Council under the MFCMA. It was approved by the National Oceanic and Atmospheric Association Assistant Administrator for Fisheries on January 4, 1982 and became effective on September 30, 1982. Implementing regulations were published in the Federal Register on October 5, 1982 (at 47 FR 43964) and appear at 50 CFR 660 and Subpart G. Seven amendments to the FMP have been implemented including, most recently, an amendment to create a license limitation program for groundfish trawl longline and fishpot gear (Amendment 6) and an amendment to allow the Council to manage the groundfish fishery to protect non-groundfish species (Amendment 7). An amendment which would have created a fixed gear sablefish IQ program (Amendment 8) was developed but tabled in the fall of 1994.

The proposal for a sablefish endorsement (Amendment 9) arose from a fixed gear scoping session held by the Council in June 1995. During that scoping session, industry members on various sides of the issue

of how best to manage the fixed gear sablefish fishery were able to agree on one point: the need for a sablefish endorsement to prevent a continued influx of new participants into the fishery. During subsequent Council meetings the proposal was developed further along with a proposal to switch from derby to cumulative limit management of the primary limited entry fixed gear sablefish fishery. At its April 1996 meeting, the Council approved, for public review, a plan amendment covering the sablefish endorsement and three options for future control of the fixed gear sablefish fishery harvest: (1) status quo derby fishery management; (2) a series of monthly cumulative limits, and (3) a single period cumulative limit followed by a mop–up cumulative limit. In late April, Congress passed fiscal year (FY) 1996 appropriations for the Department of Commerce. This legislation included a provision prohibiting the expenditure of FY 1996 funds on the development or implementation of new IQ programs. On May 13, 1996, the Council received notification from National Marine Fisheries Service (NMFS) director Rolland Schmitten and additional interpretation from National Oceanic and Atmospheric Administration General Council which stated that the Council's single period cumulative limit proposal would be considered an IQ program to which the prohibition applies. The Council staff therefore discontinued work on the single period cumulative limit option. At its June meeting the Council dropped the remaining cumulative limit option from the package for public review because Council members were concerned that it did not provide the flexibility needed to achieve an end to the derby fishery without extreme reallocational effects. The Council continued with its plans to send the sablefish endorsement out for public hearing. These hearings were held July 22–24, 1996 in Los Angeles, San Francisco, Eureka, Coos Bay, Astoria and Seattle. On August 21, 1996, after hearing additional public comment and comment from its advisory bodies, the Council voted to recommend the Secretary implement the sablefish endorsement described here for the limited entry fixed gear sablefish fishery.

2.0 Affected Environment

2.1 Marine Biological Environment--Description of the Sablefish Resource

Sablefish (*Anoplopoma fimbria*) occur from Baja, California, to the Asiatic coast of the Bering Sea. Along the West Coast of the United States, they occur over a wide range of depths. Adults are found on the outer shelf and continental slope, especially within and near submarine canyons and gullies. The oldest and largest individuals may be found at abyssal depths. Juvenile sablefish are primarily demersal and typically found on the continental shelf in water depths less than 200 meters. Sablefish are fast growing as juveniles, reaching a length of 38 centimeters by age 1.5 years. Female sablefish mature at a length of approximately 57 centimeters (age 5). Mature adults grow little and exhibit great variation in size-at-age. Sablefish may attain ages of 50+ years and reach sizes of over 100 centimeters. Sablefish spawn from November to April, with peak spawning activity occurring in January and February. Tagging studies indicate that many sablefish exhibit little movement along the coast, but some may move thousands of miles.

The sablefish stock in the Monterey through U.S.-Vancouver management areas was assessed in 1994 through application of the synthesis model to fishery size and age composition data from 1986-1993 and trawl and pot survey data. Pot surveys conducted during 1979-1991 indicate a substantial decline in sablefish abundance, especially for medium and large fish in the 225 to 450 fathom depth zone. No pot surveys have been conducted since 1991. A biomass of 61,409 mt was measured in 1990-1993 slope trawl surveys of the 100 to 700 fathom depth zone between Point Conception and the U.S.-Canada border. This biomass represents approximately the age-2+ biomass with a reduced availability for the larger females. Survey biomass in the Monterey through Vancouver areas is estimated to be about 51,000 mt. The triennial shelf trawl survey in 1992 measured a record high 55,021 mt of young sablefish in the 30 to 200 fathom depth zone of the Monterey through Vancouver management areas.

The synthesis model was configured to explore tradeoffs in fitting the biomass levels measured in the slope trawl surveys, the trend in numbers of sablefish in the pot survey, and the trend in recruitments from the shelf trawl surveys. No conventional model scenario could be found that fit all well. The slope trawl surveys indicate about 30 percent of the biomass is in waters deeper than 500 fathoms, and all sources of information indicate that sablefish in these deep waters are old. This pattern has been explained through a preliminary model with an emigration rate from the <500 fathom depth zone to the >500 fathom depth zone of about 3 percent per year, beginning at about age 4. When this emigration rate is incorporated as an extra amount of natural mortality in a model of only the <500 fathom portion of the stock, the model achieves a reasonable fit to the decline in the pot survey while estimating that the catchability coefficient (Q) for the slope trawl survey is near 1.0 for 50-centimeter sablefish (medium and large sablefish would have a Q that is only 30 percent of this level). This result substantially narrows the range of plausible model results. Previously, values of slope Q near 2.0 were necessary to fit the trend in the pot survey.

An optimistic model scenario indicates that the slope trawl survey has a Q of 0.53 (relative to the Monterey through Vancouver biomass of 51,000 mt), fits trends in the shelf trawl surveys and the fishery size and age composition data well, but provides a degraded fit to the trend in the pot survey, even in the shallow zone model with enhanced mortality. This scenario indicates that fishing mortality over the past eight years has been close to the target level of $F_{35\%}$ (7.5 percent exploitation rate on the age-2+ biomass) and that the female spawning biomass recently increased to slightly above its long-term target level. Under this scenario, the annual catch plus discard could be 11,107 mt during 1995-1998, and maximum sustainable yield (MSY) may be 8,535 mt. A pessimistic model scenario has a slope survey Q of 0.94 and provides a reasonable fit to the trend of the pot survey if migration to deep water is taken into account. This scenario indicates that harvests during 1986-1992 were nearly at the overfishing level, the spawning biomass during 1990-1993 was nearly stable at a level below the target, the annual catch plus discard at $F_{35\%}$ should decline to 6,281 mt during 1995-1998, and MSY may be 7,216 mt. Under an intermediate scenario (Q=0.68), the annual catch plus discard could be 8,689 mt during 1995-1998, and MSY may be

7,831 mt. The Monterey through US-Vancouver acceptable biological catch (ABC) for 1996 was set at 8,700 mt. The harvest guideline for landed catch in the Monterey through US-Vancouver areas is 7,800 mt. This was derived by reducing the ABC by 900 mt to account for trawl vessel discard. For 1996, the coast wide ABC, including the Conception area, is 9,100 mt.

A recently conducted national review of the methods used for the Council's stock assessment documents found significant problems with the slope survey and urged that the slope surveys be disregarded. At the same time, reviewers expressed more confidence in the pot survey. As noted above, the pot survey trends would tend to indicate that the ABC should be lower than that adopted for 1995.

2.2 The Fishery

Sablefish are managed together with other groundfish species under the Pacific Coast Groundfish fishery management plan (FMP). In the groundfish fishery, groundfish trawl gear may only be used by vessels with limited entry permits. Longline and fishpot gear may be used in the limited entry fishery by vessels with permits and in the open access fishery by vessels without permits. The allowable harvests for participants in the limited entry fishery are much greater than for the open access fishery. All other gears are "exempted gears" and participate in the open access fishery. Thus, the open access gears are longline and fishpot gears used by vessels without permits and exempted gears.

The trawl sablefish harvest is taken as part of a multispecies harvest strategy. Sablefish is typically taken as part of the DTS groundfish complex (Dover Sole/Thornyhead/Sablefish complex); in a near shore mixed groundfish species strategy; and when targeting on slope rockfish. In the longline and fishpot fishery, sablefish is taken as a directed catch. Longline vessels harvest some other groundfish species but for pot vessels, sablefish comprises the vessels' only significant commercial groundfish species harvest.

With the exception of fixed gear sablefish and Pacific whiting, the open access and limited entry fisheries are managed to provide year-round groundfish harvest opportunities. Trip limits and cumulative limits have been the primary tools used to slow the pace of the fishery and provide year-round fishing. The trawl whiting fishery and the fixed gear limited entry sablefish fishery have been managed primarily as seasonal derby fisheries.

2.2.1 Sablefish Harvest and Management Regulations

Historic Catch Allocation and Distribution

During the period 1956-1970, the mean annual catch in the Columbia and Vancouver management areas was 1,190 mt by longline and 470 mt by trawl; the mean annual catch in the Eureka, Monterey and Conception management areas was 430 mt by longline and 750 mt by trawl for the same period. The recent sablefish harvest guidelines have been at a level almost 50 percent below the mid-1980 harvest guidelines (Table 2-1). The 7,800 mt sablefish harvest guideline set for 1996 is divided between a Pacific coast treaty Indian tribal allocation (tribal fishery) of 10 percent of the harvest guideline (780 mt) and a non-tribal allocation of 90 percent of the harvest guideline (7,020 mt). The 7,020 mt non-tribal harvest guideline is divided 6.6 percent to the open access fishery (463 mt), and 93.4 percent to the limited entry fishery (6,557 mt). The limited entry allocation is further divided 58 percent to the trawl segment (3,803 mt) and 42 percent to the fixed gear segment (2,754 mt). There is not a significant recreational sablefish fishery.

Trawl vessels have taken an increasing share of the sablefish resource due to Council allocational decisions. The trawl/nontrawl allocation actions for 1986-1996 were as follows:

August 22, 1986	Emergency regulation establishes 55 percent trawl/45 percent nontrawl gear split of remaining quota (OY = 13,600 mt).
1987	52 percent trawl/48 percent nontrawl gear split of the sablefish quota (OY = 12,000 mt).

1988	52 percent trawl/48 percent nontrawl gear split of the sablefish quota (OY = 10,000 mt).
1989	52 percent trawl/48 percent nontrawl gear split of the sablefish quota (OY = 10,378 mt).
April 26, 1989	Revised quotas establish what was effectively a 58 percent trawl/42 percent nontrawl gear split of the 1989 sablefish OY.
1990–1992	58 percent trawl/42 percent nontrawl gear split of the sablefish quota (OY/Harvest Guideline = 8,900 mt; 8,600 after deducting tribal allocation).
1993	58 percent trawl/42 percent nontrawl gear split of the sablefish quota (Harvest Guideline = 7,000 mt; 6,700 after deducting tribal allocation).
1994	58 percent trawl/42 percent nontrawl gear split of the sablefish quota (Harvest Guideline = 7,000 mt; 6,070 after deducting tribal allocation).
1995	58 percent trawl/42 percent nontrawl gear split of the sablefish quota (Harvest Guideline = 7,800 mt; 5,900 after deducting tribal and open access allocation).
1996	58 percent trawl/42 percent nontrawl gear split of the sablefish quota (Harvest Guideline = 7,800 mt; 6,557 after deducting tribal and open access allocation).

Of the fixed gear share of harvest, pot vessels took a greater share of the harvest in 1984 and 1985 but their landings were surpassed by the more numerous longline vessels beginning in 1986 (Table 2-1 and 2-2).

Comparing landings for the three West Coast states, in recent years, the greatest amounts of pot and trawl caught sablefish have been landed in Oregon, while the greatest amounts of longline caught sablefish have generally been landed in Washington (Table 2-3). However, California's longline sablefish landings have increased substantially over the last three years, surpassing both Oregon and Washington in volume and surpassing Oregon in value, in 1995. The value of Oregon's fixed gear sablefish landings comprise a greater percentage of the value of Oregon's total shoreside landings of all species than for any other state.

Nontrawl Gear Sablefish Harvest Regulations

Regulations governing the nontrawl fishery have become increasingly restrictive. The nontrawl gear regulations for 1982–1996 were as follows (limits on the take of small sablefish are not included in the summary):

October 13, 1982	3,000 pound trip limit.
December 6, 1985	Closed (all gears).
October 23, 1986	Closed.
October 14, 1987	Closed.
August 26, 1988	Closed.
July 17, 1989	100 pound trip limit.
October 4, 1989	Trip limit of the lesser of 2,000 pounds or 20 percent of total weight on board (no percentage restriction if less than 100 pounds of sablefish on board).
January 1, 1990	Trip limit of the lesser of 2,000 pounds or 20 percent of total weight on board (no percentage restriction if less than 100 pounds of sablefish on board).
January 30, 1990	All trip limits removed (except small fish limits) after the Secretary of Commerce's disapproval.
June 24, 1990	500 pound trip limit.
July 25, 1990	200 pound trip limit.
October 3, 1990	2,000 pound trip limit.

January 1, 1991	1,500 pound trip limit.
April 1, 1991	No limit (except limits on small fish).
May 24, 1991	500 pound trip limit.
July 1, 1991	Closed.
September 30, 1991	300 pound trip limit.
January 1, 1992	500 pound trip (daily) limit.
March 1, 1992	1,500 pound trip (daily) limit (unless it appears over 440 mt will be harvested, in which case the trip limit will revert back to 500 pounds).
March 21, 1992	500 pound trip (daily) limit.
April 17, 1992	250 pound trip (daily) limit.
May 12, 1992	No limit (except limit on small fish).
May 27, 1992	250 pound trip (daily) limit.
January 1, 1993	250 pound trip (daily) limit.
May 8, 1993	Fishery closed.
May 12, 1993	No limit (except limit on small fish).
June 2, 1993	Fishery closed.
June 5, 1993	250 pound trip (daily) limit.
January 1, 1994	250 pound trip (daily) limit coastwide except Conception Area, 350 pound trip (daily) limit in Conception Area.
May 12, 1994	Fishery closed.
May 15, 1994	No limit (except small fish).
June 4, 1994	Fishery closed
June 7, 1994	250 pound trip (daily) limit coastwide except Conception Area, 350 pound trip (daily) limit in Conception Area.
January 1, 1995	300 pound trip (daily) limit coastwide except Conception Area, 350 pound trip (daily) limit in Conception Area.
August 3, 1995	Fishery closed.
August 6, 1995	No limit (except small fish).
August 13, 1995	300 pound trip (daily) limit coastwide except Conception Area, 350 pound trip (daily) limit in Conception Area.
January 1, 1996	300 pound trip (daily) limit coastwide except Conception Area, 350 pound trip (daily) limit in Conception Area.
August 29, 1996	Fishery closed.
September 1, 1996	No limit (except small fish). The derby season length will be set in advance and is expected to be fewer than 7 days.

2.2.3 Harvesting Firms/Vessels

There are 33 limited entry fishpot permits and 207 limited entry longline permits for the West Coast limited entry groundfish fishery. Permits for pot vessels tend to be for larger vessels than permits for longline vessels (Figure 2-1). Of the 240 fixed gear permits, only 160 longline permits and 26 fishpot permits are currently associated with vessels which were active in the fixed gear sablefish fishery in either 1994 or 1995 (the two years since implementation of the limited entry program). The number of longline permits active in any single year was 134 in 1994 and 147 in 1995 (Table 2-2). The permits which have been inactive

in the sablefish fishery tend to be for smaller vessels than those that which were active in the last two years (compare Figure 2-1 with Figure 2-2).

The number of pot permits issued is comparable to the number of vessels active in the fleet in the mid 1980s (Table 2-2). There are reports of a number of displaced salmon trollers using pot gear in the open access small daily trip limit sablefish fishery in 1995. This is probably the source of the large increase in the number of pot vessels in the fishery comparing 1995 to 1994. Because the open access fishery is limited to 6.6 percent of the sablefish harvest guideline and because fishing is allowed only under small (300-350 pounds) daily trip limits, new entrants to the open access fishery will be unable to substantially increase the size of their operations. Open access vessels wishing to become larger producers must acquire a limited entry permit from a vessel in the limited entry fishery.

For longline vessels, data problems related to gear categorization on fish tickets make comparisons of historic number of longline vessels to the number of longline permits more difficult. Treating the longline vessel data in Table 2-2 as an index, in general, it can be seen that the number of sablefish longline vessels was on an upward trend through 1992. Because there is substantial movement by longline vessels in and out of the sablefish fishery, the number of vessels active in any one year substantially under states the number of longline vessels in the fleet (Council, 1992). The Council took final action to recommend a license limitation program in the fall of 1991 and NMFS adopted the program in the fall of 1992. In 1993 and 1994, the number of participants in the sablefish fishery declined prior to a 1995 jump to above 1993 levels. Among the factors affecting the number of longline participants in the last several years are: a peaking of prices in 1992 and 1995 (Table 2-4), increased severity of restrictions in the salmon fishery beginning in about 1992 (Council, 1996), and a possible decrease in investment in new entry or re-entry in anticipation of the license limitation program adopted in 1991.

Most of the vessels participating in the fixed gear sablefish fishery harvest other groundfish species with longline or fishpot gear. Vessels which held licenses during the 1995 derby used longline or fishpot gear to harvest 1.3 million dollars worth of other groundfish species in both 1994 and 1995 (Table 2-5). Most of this revenue (between 1.0 and 1.1 million) was earned by 36 to 41 vessels which each landed over $10,000 worth of nonsablefish groundfish caught with fixed gear (Table 2-5). These vessels averaged between $29,000 and $30,000 of nonsablefish groundfish revenue with longline and fishpot gear.

Of the 169 vessels which participated in the 1995 sablefish fishery, 75 percent earned more than $20,000 of exvessel revenue from all sources of fishing income. Most of these relied on sablefish for between 33 and 95 percent of their fishing income (Table 3-7). The nonsablefish fisheries with the greatest number of sablefish vessels participating and the greatest percentage of dependence on the other species were "other groundfish", crab, and tuna (Table 2-6 and Figure 2-3). The halibut landings that show up in Figure 2-3 and 2-4, and in Table 3-6, are primarily Alaska catch landed at West Coast ports. The calendar year for fixed gear sablefish vessels begins and ends with the crab fishery (Figure 2-4). A portion of the fleet targets on other groundfish between the crab fishery and the sablefish derby (which occurred: May, 1994; August, 1995; and September 1996), a small West Coast Pacific halibut fishery in the summer, the nearly year round Alaska Pacific halibut and sablefish individual fishing quota (IFQ) fishery, and tuna fishing in the late summer. Due to recent restrictive seasons, salmon has comprised a very small portion of the revenues for these vessels.

2.2.4 Processors

There are approximately 347 fish processing plants in Washington, Oregon and California with seasonal employment of approximately 12,000 persons and an annual average of about 11,000 workers (Fisheries Statistic Division, 1995). An examination of processor identification numbers on fish tickets showed that 115 processor licenses were associated with fixed gear sablefish landings in 1995. For licenses associated with large volumes of product, generally between 5 and 66 percent of their total expenditures for West Coast fish products were for sablefish (Table 2-7). Most of the processing licenses were associated with total values of sablefish landings of less than $10,000. Five processor licenses were associated with sablefish revenue in excess of $500,000 (Table 2-8).

2.2.5 Crew

In 1988, a survey of longline and fishpot vessels catching sablefish off California, Oregon and Washington in 1987 was conducted by National Marine Fisheries Service (NMFS) (contract with Robert Proctor and Associates). A random sample of 30 vessels stratified by principal sablefish gear, vessel size and state was interviewed to determine alternative fishing strategies (modes), number of trips in 1987 by mode, costs by mode and crew size by mode. These 30 vessels reported making an average of 10.6 sablefish trips in 1987 in waters subject to the Pacific Coast Groundfish FMP.

The average crew size for these trips was reported as 4.94 (including the skipper). Average crew size was 5.43 for trips when the sablefish was dressed at sea and was 4.08 when fish were landed round. However, all of the vessels either landed round fish exclusively or dressed fish at sea exclusively, so that the difference in crew size confounds differences in vessels with the different requirements of landing dressed fish (if there is any difference). A higher percentage of California and Oregon landings by both gear types were not dressed at sea.

2.2.6 Social and Socioeconomic Characteristics of Fish Harvesters

Specific studies of the social characteristics of the West Coast sablefish and groundfish fisheries have not been conducted. The descriptive information provided in this section is drawn largely from a general review of the cultures of fishing people conducted by McGoodwin (1990) and studies of other West Coast and U.S. fisheries which may have relevance to the West Coast sablefish fishery.

In evaluating the applicability of information from other West Coast fisheries, it should be kept in mind that there are very few sablefish vessels that do not derive a substantial portion of their income from other fisheries. For example, in 1995, about 80 percent of the fixed gear vessels participating in the sablefish fishery derived one third or more of their income from other fisheries (Table 3-7). It follows, therefore, that individuals who own and work on these vessels are some segment of a broader fishing community and that studies of these broader communities may have some relevance in describing those who participate in the fixed gear sablefish fishery.

Characteristics of Fishers

Wilen et al. (1991) surveyed commercial license holders for all California marine fisheries. This survey included participants in salmon, crab, albacore, shrimp, herring, sea urchin, mackerel, squid and groundfish fisheries. Vessel owner-operators tend to be about 10 years older than crew members and non-owner operators. They have comparable years of education (Table 2-9).

Fishers are generally characterized as physically hardy individuals who enjoy outdoor work and take pride in their occupation (McGoodwin, 1990). While Gatewood and McCay (1990) stress that there is a great deal of diversity in the characteristics and attitudes of fishers, McGoodwin (1990) points out that there appear to be certain commonalities which apply across most of those in the fishing profession. Fishers have been found to have strong feelings of pride and satisfaction in nearly all studies, irrespective of culture and region. This pride in being identified as a fisher is held even by those who spend only a small percentage of time in the fishery. Though fishers may be proud of their occupation, they may often be held in low esteem by nonfishing neighbors (McGoodwin, 1990).

Fishers often manifest some attributes similar to those of gamblers: a predilection for economic and personal risks, emphasis on individualism and autonomy, desire to be socially unconventional and a need for excitement. "Few land based occupations present individuals with the risk of losing all of their productive capital--as well as their lives--every time they go to work" (McGoodwin, 1990).

Fishing is a dangerous activity. A study of fisheries in Britain showed a fatal incident rate 20 times greater than workers in manufacturing industries (Thompson et al., 1983). In the U.S., it is more dangerous in terms of loss of life, than coal mining (Poggie, 1980). The danger in the occupation may lend a heroic cast. For some, this excitement makes fishing more desirable than other higher income jobs which may provide a greater degree of safety. (McGoodwin, 1990). Mortality rates for young crew members are substantially higher than for older fishers, a trend counter to that in most occupations. This higher than normal rate of

young person mortality is not apparent for vessel owners and operators (Neutel, 1990). While the U.S. Coast Guard attributes many vessel accidents to equipment problems, fishers reviewing those same problems will often attribute accidents to the individuals involved (Van Noy, 1993).

Fishing Families

Of California fishers responding to a survey, 78 percent were married and 36 percent had children (Table 2-9). Owner operators were more likely to be married (84 percent) than crew (65 percent).

The physical remoteness of fishing activities has a strong influence on fishing families, particularly for those where the fisher is gone for extended periods of times. Division of labor by sex is reinforced. Fisher's wives may be more independent and accorded more respect within the community (McGoodwin, 1990). Fishers who participate in long trips may become estranged from their families. On return to their families after prolonged absence, their presence is often disrupting to the established, ongoing social order. (McGoodwin, 1990).

Kinship ties are often a strong factor underlying fisher recruitment to the fishery "because of the need for highly coordinated teamwork at sea and the ever present problems of low incomes" (McGoodwin, 1990). However, a thesis by Van Noy (1993) hypothesizes that with the rapid expansion of fisheries in the 1970s and 1980s, many of those who have become involved in the fishery no longer have the training and experience which comes from taking part in family fishing operations. Van Noy posits the lack of this experience and source of training as a significant factor contributing to fishing accident rates.

Patterns of Work and Social Relations

Cooperative behavior is an important aspect of the fisher's work environment and may be more significant than in most other work situations. Such behavior is encouraged by the share system (under which most fishers are paid) and safety and survival considerations. The share system makes earnings less certain than for hourly workers (McGoodwin, 1990). At the same time, the share system "enhances each individual's perception of himself as being a participant in a common endeavor." (Pollnac, 1988, p. 30). Gatewood and McCay (1990) identify a positive relationship between the degree to which a fisher is involved in the strategic aspects of fishing and has control over the means of production and the degree of job satisfaction.

Household Income

The average household incomes for owner/operators, hired operators and crew members responding to a survey of California fishers were $55,700, $43,200 and $27,100, respectively (Wilen et al., 1991). About 40 percent of fisher spouses work. Those working earn about $20,000 and worked 43 weeks a year. Fishing income was about half of the total reported household income. Total (and weekly) fishing incomes for owner/operators, hired operators and crew members were $33,225 ($1,393 per week), $32,807 ($1,131 per week) and $14,067 ($730 per week), respectively. Less than $10,000 was earned from fishing activities by 55 percent of crew respondents and 30 percent of owner/operators and nonowner/operators. It should be noted that there may be response bias in the survey on which these numbers are based.

Alternative Employment Opportunities

"Compared with those who do not fish for a living, fishers are usually more mobile, especially geographically, and sometimes economically as well." (McGoodwin, 1990).

In a survey of California fishers, a significant portion specified as their alternative trade jobs in the building (21 percent) and logging industries or other fisheries (Table 2-10). The realistic availability of the first two of these alternatives depends heavily on building and business cycles in the general economy. Fishers' income in their next best line of employment was expected to be substantially lower than their 1988 fishery income. Weekly earnings in alternative employment for owner/operators and crew members were expected to be $627 and $470, respectively. (Wilen et al., 1991).

2.3 Local Communities

To evaluate "community" dependence redefined Pacific Coast Fishery Information Network database port codes were used to examine total fixed gear sablefish landings associated with various port areas and the percentage of their revenues attributed to the fixed gear sablefish fishery. This information is displayed in Figure 2-5.

2.4. Markets and Consumers

In the past, most sablefish landings have been destined for the tables of overseas consumers. In 1995, U.S. fish consumers averaged 15.2 pounds of fish per year, 10.4 pounds of which was composed of fresh and frozen finfish. The West Coast sablefish supply is a very small portion of the fish eaten by U.S. consumers.

A survey was conducted of 8 processors who handled about one third of the total 1991 fixed gear sablefish catch. These 8 processors reported that between 85 and 99 percent of the fixed gear sablefish they handled was exported to foreign markets. This information indicates that a substantial portion of the West Coast sablefish product is exported. Some fleets exist by catering to local markets. The primary example is the Newport Beach dory fleet. Fresh sablefish sales by this fleet comprise 10 percent of the total revenue for the fleet and go entirely to local consumers.

2.5 Fisheries Enforcement

Fisheries enforcement for NMFS is carried out by the NMFS Office of Enforcement. For the State of Oregon, fish and wildlife enforcement is carried out by a division of the Oregon State Police. For Washington and California, fish and wildlife enforcement is carried out by agents employed by the state fish and wildlife management agencies. State fisheries enforcement is important for meeting state conservation goals and the collection of landings taxes.

The Council's Enforcement Consultant Committee provides a forum for enforcement agencies to come together and share resources in the effort to jointly enforce compatible state and federal regulations. The Council's Enforcement Consultant Committee is composed of representatives from each of the enforcement agencies with responsibility for enforcing regulations governing Council-managed fisheries. The group is generally chaired by a state agency representative and has representatives from NMFS, the U.S.Coast Guard, and Oregon, Washington and California enforcement bodies.

A cooperative enforcement system is in place which involves cross deputation of agents between the states and NMFS. State and federal agents work in cooperation with each other as necessary. Under the Magnuson Fishery Conservation and Management Act, NMFS may and does enter into agreements with state agencies or the US Coast Guard regarding the enforcement of the MFCMA and reimburses such agencies for their expenses in enforcing Federal fisheries law.

The following are the primary field elements of fisheries enforcement activities.

At-sea — Coast Guard aerial observers note where vessels are and whether they have gear in the water.

The Coast Guard provides a platform for multijurisdictional boarding parties which may include NMFS and state enforcement officers along with Coast Guard personnel. During a boarding, gear is checked, amounts and species of fish are noted, log books are examined and the vessel is checked for proper documentation and permits.

Dockside — Enforcement officers may meet a vessel in order to determine whether the vessel has complied with trip limits.

Fish Plant

Information on specific landings made by a vessel is obtained from log books and weighout sheets during at-sea and dockside enforcement activities. Enforcement visits to plants may be made to cross check this information against fish plant records and landing tickets. Underreporting on fish tickets may be detected during these visits.

Plants may also be audited to determine whether records for product coming into the plant match with records for product leaving the plant. All shipments leaving the plant must be properly marked and be accompanied by shipping documents which indicate where the shipment came from, the species being shipped, amount shipped, dealer, date and time. Audits of plant inventories, along with receiving, shipping and financial records are one of the most important means by which enforcement officers can detect whether all fish are being reported. The current plant inventory and records provide evidence of the history of activity for the plant and a number of vessels for a period of time. When product is trucked directly from a vessel to market, an "audit" of the truck yields information on only a single or few landings.

Product in Transit

Product in transit (for domestic or export markets) may be checked for proper documentation. If documents are present on all shipments from a plant and illegal or excessive quantities of fish have been received by the plant, some shipments of fish will either be (1) undocumented, (2) sent with documentation which incorrectly identifies the amount of the fish in the shipment or (3) sent with documents not matching shipment records at the plant. The only way to check the latter is with follow-up checks at the plant. When fish have been moved directly from a vessel to a truck, there must be similar consistencies between documents on the vessel and those with the truck.

2.6 Others Affected Groups

Other groups which may be affected by this program include anyone involved in sablefish market channels, including wholesalers, retailers, restaurants and those with an interest in the value of fishing assets (for example, banks).

TABLE 2-1. Sablefish ABCs, OYs, nontrawl gear harvests and exvessel values.

Year	ABC (mt) thousands	OY/Harvest Guideline (mt) thousands	Hook-and-Line Catch (mt)[a/] thousands	Fishpot Catch (mt)[a/] thousands	Exvessel Value of Hook-and-Line and Fishpot Catch (dollars) millions
1984	13.4	17.4	1.0	3.8	3.2
1985	12.3	13.3	2.8	3.6	6.4
1986	10.6	13.6	3.6	2.1	9.3
1987	12.0	12.0	4.2	2.1	8.7
1988	10.0	9.21-10.8	3.2	2.0	8.0
1989	9.0	10.4-11.0	2.6	2.0	6.1
1990	8.9	8.9	2.2	1.5	5.2
1991	8.9	8.9	3.4	1.1	9.7
1992	8.9	8.9	3.1	0.8	7.7
1993	5.0-7.0	7.0	2.3	0.8	5.4
1994	7.0	7.0	2.3	1.3	7.8
1995	9.1	7.8	3.1	1.1	13.8
1996	9.1	7.8	-	-	-

Source: PacFIN data.

a/ Includes open access, Tribal, and harvest from all Council managed areas (including Conception).

TABLE 2-2. Number of fixed gear vessels and limited entry permits landing sablefish, 1981-1995.

	Number of Vessels[a/]				Numbers of Limited Entry Permits			
	With Some Sablefish Landings		With 1,000 Pounds Of Sablefish Landings[b/]		With Some Sablefish Landings		With 1,000 Pounds Of Sablefish Landings	
Year	Pot	Longline[c/]	Pot	Longline	Pot	Longline	Pot	Longline
1981	28	84	26	45	-	-	-	-
1982	36	91	32	47	-	-	-	-
1983	30	84	29	59	-	-	-	-
1984	26	77	25	50	-	-	-	-
1985	33	144	33	92	-	-	-	-
1986	38	208	31	134	-	-	-	-
1987	36	215	29	140	-	-	-	-
1988	36	234	26	134	-	-	-	-
1989	35	232	28	127	-	-	-	-
1990	24	253	21	147	-	-	-	-
1991	28	320	22	215	-	-	-	-
1992	57	486	38	302	-	-	-	-
1993	34	343	27	179	-	-	-	-
1994	42	303	34	149	26	134	26	122
1995	76	356	64	237	25	147	25	142

Source: PacFIN vessel summary file.

a/ The fleet was divided into a limited entry component and an open access component beginning in 1994. These columns include both components.

b/ A 1,000 pound sablefish screen was applied to decrease the probability that vessels will be counted as sablefish vessels where (1) a landing may have been miscoded as pot or longline, or (2) a California sablefish landing was made by a non-longline hook and line gear vessel.

c/ Because of fish ticket coding problems in California, sablefish longline vessels include vessels with sablefish landings made in California and coded as "POL" in PacFIN through the 1980s.

TABLE 2-3. West Coast sablefish landings by state, gear, usergroup, and area of landing, together with total landings.

	Council Area Sablefish					Sablefish from Non-Council Areas	Total Sablefish	Total All Species (Includes out of area catch e.g. Alaska)
	Longline[a/]	Pot[b/]	Trawl	Other Gear	Indian Sablefish			
				Revenue ($ thousands)				
Washington								
1993	1,850	0	490	46	667	1,232	4,285	100,530
1994	1,563	28	786	37	633	2,218	5,264	134,328
1995	2,744	182	997	61	3,398	1,854	9,236	129,609
Oregon								
1993	1,100	1,005	2,319	44	0	274	4,743	60,751
1994	1,757	2,465	3,114	33	0	388	7,756	65,607
1995	2,055	2,083	4,940	53	0	133	9,263	77,423
California								
1993	357	166	1,646	271	0	0	2,439	129,947
1994	1,065	260	1,804	218	0	0	3,348	148,616
1995	2,354	842	3,818	201	0	0	7,215	160,008
West Coast								
1993	3,307	1,171	4,456	361	667	1,506	11,467	291,228
1994	4,386	2,753	5,704	288	633	2,605	16,369	348,552
1995	7,153	3,106	9,755	315	3,398	1,987	25,714	367,040
				Round Weight (lbs thousands)				
Washington								
1993	1,939	0	941	187	709	1,015	4,791	165,263
1994	1,435	28	856	61	682	1,180	4,243	155,596
1995	1,675	108	754	64	1,889	933	5,423	140,368
Oregon								
1993	1,462	1,432	5,382	143	0	205	8,624	210,034
1994	1,857	2,559	4,364	48	0	209	9,037	245,506
1995	1,396	1,412	4,058	40	0	69	6,976	238,544
California								
1993	639	438	4,234	377	0	0	5,687	319,434
1994	1,120	351	3,041	301	0	0	4,812	332,780
1995	1,818	654	3,510	176	0	0	6,158	427,102
West Coast								
1993	4,040	1,870	10,557	708	709	1,219	19,102	694,731
1994	4,413	2,938	8,261	410	682	1,389	18,092	733,882
1995	4,890	2,174	8,322	280	1,889	1,002	18,557	806,014

Source: PacFIN vessel summary file.

a/ Includes limited entry and open access longline sablefish catch.
b/ Includes limited entry and open access fishpot sablefish catch.

TABLE 2-4. Annual average exvessel price by gear, 1984-1995.

	Average Sablefish Prices	
	Nominal[a/]	Real[b/]
	Average Price ($/LB)	
	Pot	
1984	0.27	0.38
1985	0.39	0.54
1986	0.46	0.62
1987	0.52	0.67
1988	0.58	0.72
1989	0.50	0.60
1990	0.49	0.56
1991	0.71	0.78
1992	0.71	0.76
1993	0.63	0.66
1994	0.94	0.97
1995	1.47	1.47
1984-1992 Average	0.51	0.63
1984-1994 Average	0.56	0.66
	Hook and Line	
1984	0.41	0.58
1985	0.55	0.76
1986	0.53	0.71
1987	0.69	0.90
1988	0.78	0.97
1989	0.68	0.81
1990	0.75	0.86
1991	1.08	1.19
1992	0.96	1.03
1993	0.83	0.87
1994	0.98	1.01
1995	1.54	1.54
1984-1992 Average	0.68	0.85
1984-1994 Average	0.75	0.88

a/ PacFIN data.
b/ Prices adjusted using the gross domestic product implicit price deflator.

TABLE 2-5. Exvessel revenue from sablefish and nonsablefish groundfish taken with limited entry longline and fishpot gear in 1994 and 1995 by vessels with permits during the 1995 derby fishery.

		Exvessel Revenue ($ Millions)	
	Number of Vessels	Other Groundfish	Sablefish
All Vessels			
1994	127	$1.3	$6.8
1995	162	$1.3	$8.7
Vessels with Over $10,000 from Non-sablefish Groundfish			
1994	41	$1.2	$1.3
1995	36	$1.1	$1.6

Source: PacFIN data.

TABLE 2-6. Vessel dependence on sablefish and alternative species in the 1994 fishery (excluding landings in Alaska).

Alternative Species	Proportion of Income From Sablefish	Proportion of Income From Alternative Species					Total Number of Vessels
		<.05	.05-.33	.33-.66	.66-.95	>.95	
Tuna	<.05	2	3	1	1	-	68
	.05-.33	8	17	2	-	-	
	.33-.66	15	13	3	-	-	
	.66-.95	2	1	-	-	-	
	>.95	-	-	-	-	-	
Other Groundfish (Nonwhiting)	<.05	5	4	1	1	3	146
	.05-.33	20	9	4	4	-	
	.33-.66	27	14	16	-	-	
	.66-.95	15	15	-	-	-	
	>.95	8	-	-	-	-	
Crab	<.05	2	1	3	2	1	88
	.05-.33	-	4	20	10	-	
	.33-.66	2	11	25	-	-	
	.66-.95	2	4	-	-	-	
	>.95	1	-	-	-	-	
Halibut (Pacific & California)	<.05	3	-	-	1	2	48
	.05-.33	10	2	1	1	-	
	.33-.66	12	3	1	-	-	
	.66-.95	10	2	-	-	-	
	>.95	-	-	-	-	-	
Other Sablefish (Non-Council)	<.05	1	-	-	-	-	21
	.05-.33	7	1	-	-	-	
	.33-.66	5	2	-	-	-	
	.66-.95	4	-	-	-	-	
	>.95	1	-	-	-	-	
Salmon	<.05	-	1	4	-	-	16
	.05-.33	2	1	1	-	-	
	.33-.66	5	1	1	-	-	
	.66-.95	-	-	-	-	-	
	>.95	-	-	-	-	-	
Shrimp	<.05	-	1	4	-	-	7
	.05-.33	-	-	2	-	-	
	.33-.66	-	-	-	-	-	
	.66-.95	-	-	-	-	-	
	>.95	-	-	-	-	-	
Other Species	<.05	3	13	22	10	2	59
	.05-.33	1	-	3	1	-	
	.33-.66	-	1	-	-	-	
	.66-.95	-	2	-	-	-	
	>.95	1	-	-	-	-	

Source: PacFIN data.

TABLE 2-7. Fish receivers and expenditures on nontrawl sablefish as a percentage of all species of West Coast catch received in 1995.

Total Expenditure on Landings ($1,000s)	Percent Expended on Nontrawl Sablefish Landings				
	<5	5-33	33-66	66-95	>95
	Number of Processor Permits				
<20	16	9	6	3	6
20-100	14	6	9	5	-
100-500	6	8	9	3	1
500-1,000	-	1	4	1	2
1,000-2,000	-	2	4	-	-
>2,000	-	-	-	-	-
Totals	36	26	32	12	9

Source: PacFIN data.

TABLE 2-8. Number of processor permits by dollars expended on nontrawl sablefish purchases in 1995.

Dollars Expended on Nontrawl Sablefish	Number of Processor Permits
<1,000	40
1,000-10,000	22
10,000-20,000	6
20,000-100,000	24
100,000-500,000	18
>500,000	5
Total	115

Source: PacFIN data.

TABLE 2-9. Fishing household socioeconomic characteristics, California.[a/]

	Total Sample	Owner Operators	Non-Owner Operators	Crew
Fishermen's Characteristics				
Age	45	48	40	38
Years of Education	14	14	13	14
Years of Fishing Experience	13	15	13	8
Years of Non-Fishing Experience	16	17	10	13
Health (scale from 1 to 5)	4.15	4.11	4.02	4.39
Percentage with Spouse	78%	84%	67%	65%
Spouse's Characteristics				
Age	44	45	37	41
Years of Education	13	13	13	13
Employment Experience	16	17	8	15
Health (scale from 1 to 5)	4.12	4.13	3.97	4.19
Percentage with Children	36%	35%	48%	35%
Under 3	11	10	22	12
Between 4 and 6	9	9	15	7
Between 7 and 12	13	13	20	13
Between 13 and 18	15	17	13	12

a/ From: Wilen, James E., Tzy-Ning Chen, Frances Homaus. 1991. "Fishermen and Labor Markets: Participation, Earnings, and Alternatives in Pacific Coast Fisheries." Department of Agriculture Economics, University of California, Davis. Davis, California. Prepared for the National Marine Fisheries Service, Southwest Fisheries Center, Contract No. 50-ABNF-6-0016.

TABLE 2-10. Non-fishing employment alternatives reported by California fishers.[a/b/]

Professional	Service	Skilled Labor	Labor
Accountant	Auto Salesman	Carpenter (7)	Laborer (10)
Aerospace	Apartment Manager	Boat Repair (12)	
Analyst	Barber	Electrician (4)	
Consultant (2)	Bartender	Dry Wall	
Engineer (6)	Bookkeeper (8)	Landscape (4)	
Teacher (9)	Fish Sales	Farmer (3)	
Dentist	Food Sales	Welder (7)	
	Health (2)	Logger (3)	
	Jeweler	Machinist	
	Law Enforcement (2)	Plumber (5)	
	Life Insurance	Waiter (4)	
	Mariculture	Mechanic (14)	
	Post Office	Millworker (2)	
	Printer	Painter (5)	
	Real Estate (6)	Roofer (2)	
	Retail	Service Station	
	Salesman (11)	Trucking (7)	
	Security	Assembly	
	Storage	Woodworker (2)	
	Museum		
	Technician (9)		
	Theater		
	Child Care		
	Finance		

a/ From: Wilen, James E., Tzy-Ning Chen, Frances Homaus. 1991. "Fishermen and Labor Markets: Participation, Earnings, and Alternatives in Pacific Coast Fisheries." Department of Agriculture Economics, University of California, Davis. Davis, California. Prepared for the National Marine Fisheries Service, Southwest Fisheries Center, Contract No. 50-ABNF-6-0016.

b/ Responses are from 308 of 584 participants in a survey. The number of individuals specifying a category of employment alternatives is one unless otherwise specified by a number following the category.

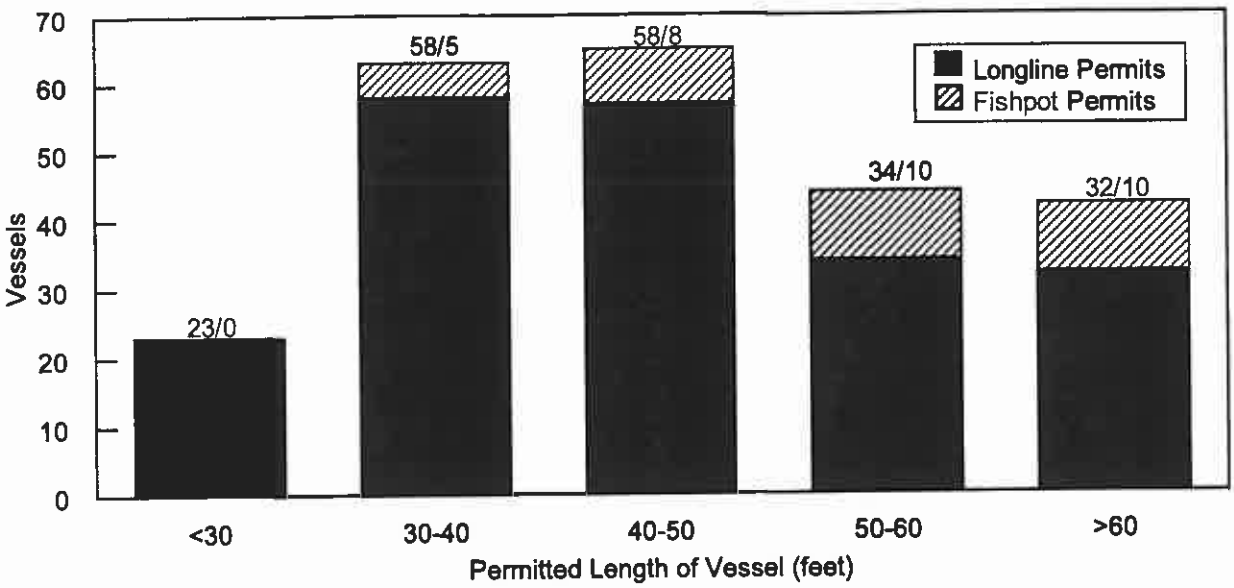


FIGURE 2-1. Number of current "A" permits by length authorized by the permit. Number of longline/fishpot permits are above each bar. Fishpot permits include permits with both fishpot and longline endorsements.

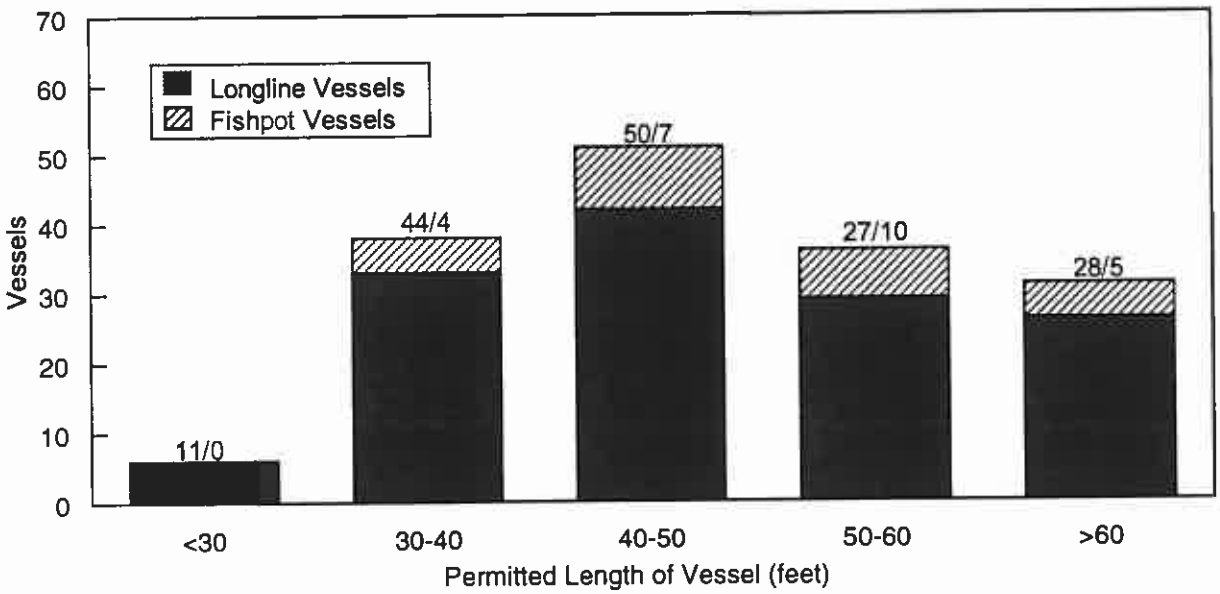


FIGURE 2-2. Number of "A" permit vessels active in the fixed gear sablefish fishery from 1994-1995 by length authorized by the permit. Number of longline/fishpot vessels are above each bar. Fishpot vessels include vessels with permits endorsed for both fishpot and longline gear.

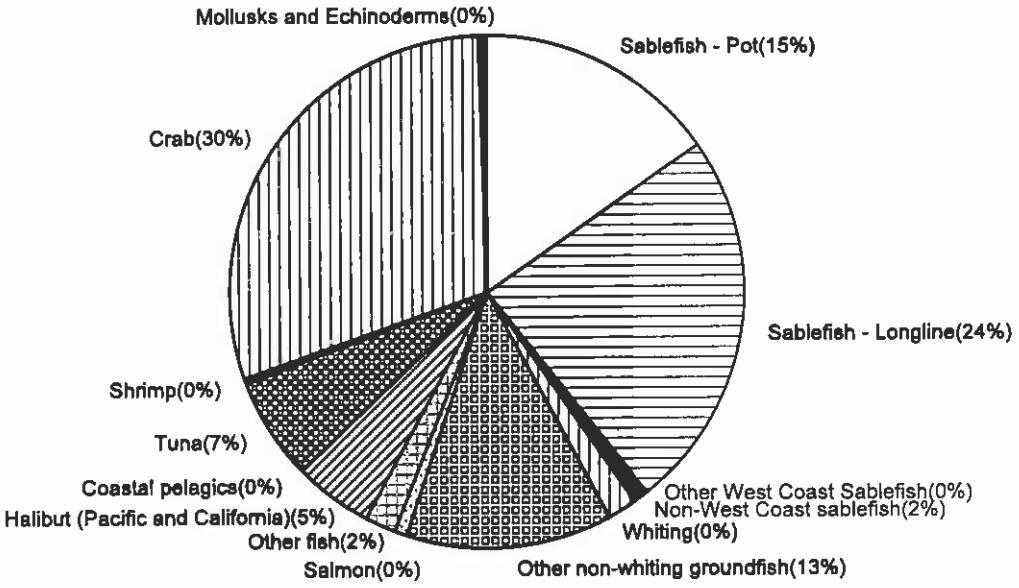


FIGURE 2-3. Distribution of landings revenue by species for 1994 by vessels participating in the 1994 sablefish derby fishery. (0% = rounded to zero).

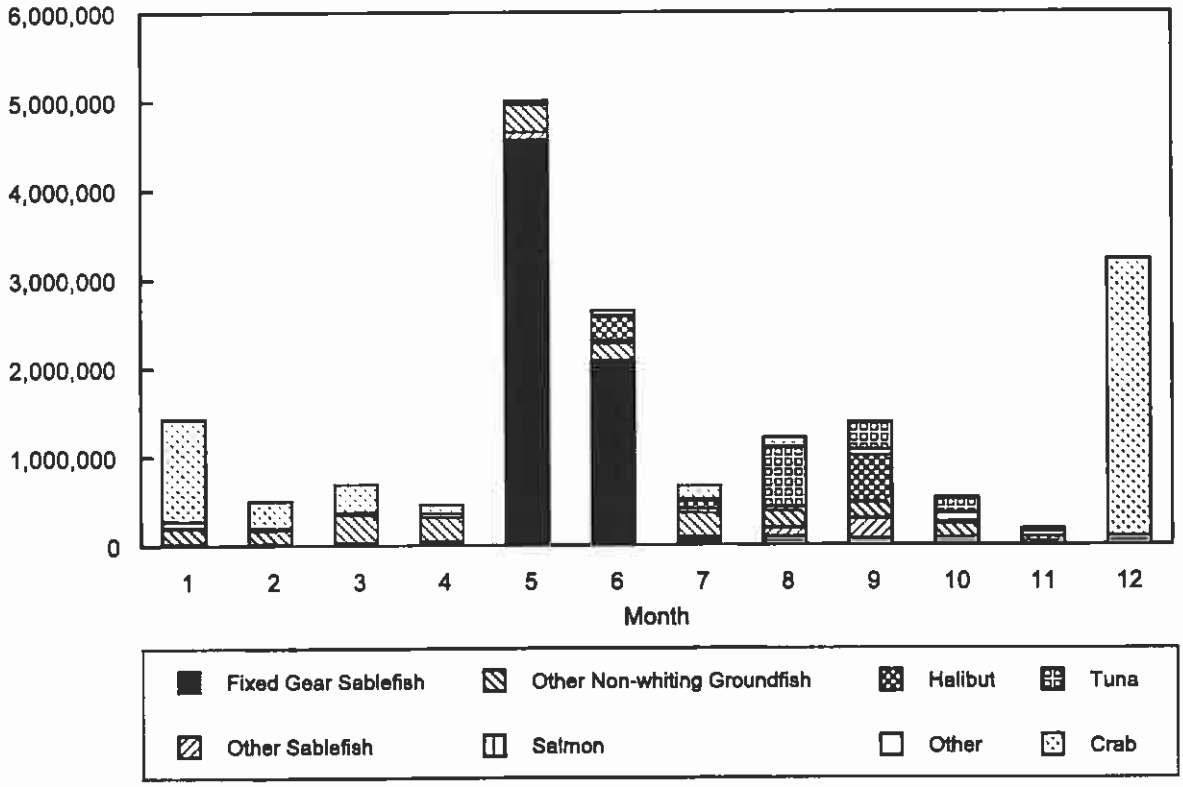
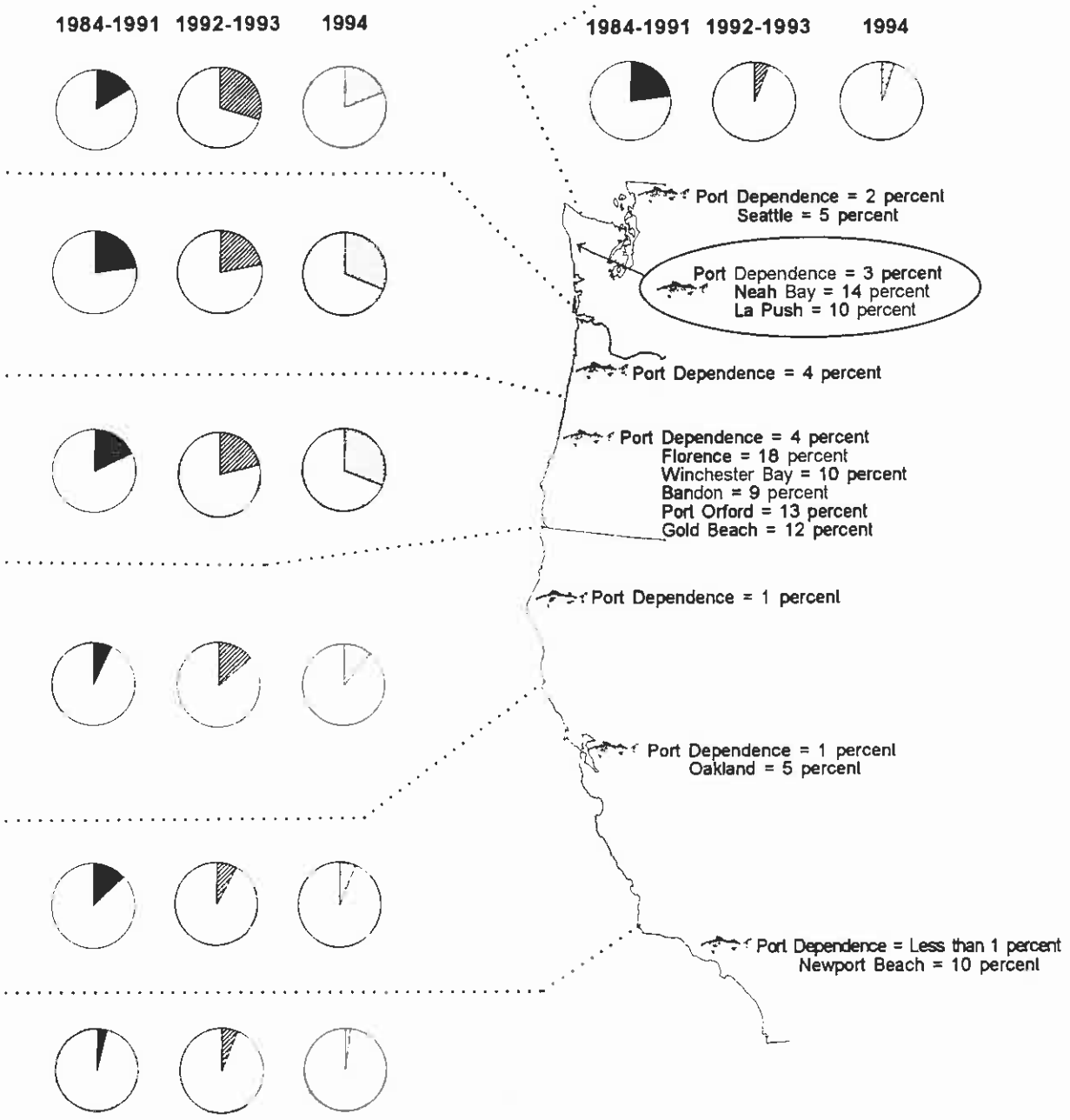


FIGURE 2-4. Revenue by month and species for all 1994 West Coast landings by sablefish derby vessels. (Includes catch from Alaska and other non-Council areas).



The dependence percentages are based on total shoreside landings of marine and anadromous fish and do not take into account fish transported to the area which were reported as being landed in other areas, e.g., Alaska landings transported to Seattle.

Similarly shaded areas indicate the relative shares of total pounds of West Coast ocean non-Indian fishpot and line gear sablefish harvest landed in each area for the indicated time period.

Port Dependence = non-Indian fishpot and line gear sablefish exvessel revenue as a percentage of the exvessel revenue of all fish landed in all fishpot and line gear sablefish ports in the area (1984-1993 average). Individual ports for which this value is greater than 5 percent are listed separately.

FIGURE 2-5. Fishpot and line gear sablefish landings by geographic distribution and port dependence.

3.0 Rationale and Analysis of Provisions of the Sablefish Endorsement

The purpose of this chapter is to examine and analyze alternative provisions considered for the sablefish endorsement and provide the rationale for the provisions included in the Council's recommendation to the Secretary.

Qualifying Requirements

The qualifying option adopted by the Council is "at least **16,000** pounds of sablefish in one year from 1984 to **1994**." The Council considered a number of alternative qualifying requirements:

(a) at least **25,500** pounds in one year from 1984 to **1992**
(b) at least **3,000** pounds in one year from 1984 to **1992**
(c) at least **3,000** pounds in one year from 1984 to **1994**
(d) at least **16,000** pounds in one year from 1984 to **1994**

Closely related to the qualifying requirements are two other issues which the Council had to consider: (1) the catch history used to qualify (personal history or permit history), and (2) how to treat combined permits when considering whether or not a sablefish endorsement should be issued. With respect to catch history, the Council recommended that catch history be based on catch history of the permit. With respect to the combination of permits, for a combined permit to qualify, at least one of the permits which has been combined must have qualified. For future combinations of permits, both permits must have fixed gear sablefish endorsements in order for the combined permit to qualify for an endorsement. Additional detail on catch history and treatment of the combination of permits is provided in Section 3.1.4.

Fishery Scope

The fishery scope of the adopted endorsement is the primary fixed gear sablefish fishery (Fishery Scope (a)). The Council also considered requiring an endorsement for fixed gear limited entry vessels to take sablefish against the limited entry fixed gear allocation:

> (b) at any time during the year (both in the primary and secondary limited entry fixed gear sablefish fisheries). (This includes any harvest of sablefish which would be taken with open access gears while the limited entry fishery is open.)
>
> OR
>
> (c) at any time during the year; but allow fixed gear limited entry vessels without a sablefish endorsement to fish against the open access sablefish allocation under open access trip limits and with open access gear (or with their open access gear and their limited entry gear).[1/]
>
> (Table 3-1 provides a quick comparison of the fishery scope adopted and other options considered).

1/ A sablefish endorsement would be required to take sablefish against the limited entry quota but 50 CFR Sec 660.332(c) would be modified to allow limited entry fixed gear vessels without sablefish endorsements to catch against the open access quota with (a) open access gear or (b) open access and their limited entry gear, even when the fixed gear limited entry sablefish fishery is still open. Such harvest would be subject to open access trip limits. This would effectively move these vessels into the open access fishery, but only where sablefish is the species of concern.

Geographic Scope

The geographic scope of the adopted option is limited to north of 36°N latitude. The Council also considered applying the sablefish endorsement to its entire management area (both north and south of 36°N latitude).

3.1 Qualification Requirement

3.1.1 Qualification Period

Two qualifying periods were considered for the sablefish limited entry endorsements: 1984–1992, and 1984–1994. The following are key dates related to determination of the sablefish endorsement qualifying period:

License limitation qualifying period:	July 11, 1984 to August 1, 1988 (53 FR 29337–29338)
Individual quota (IQ) control date:	November 13, 1991 (57 FR 4394–4395)
Sablefish endorsement cut–off date:	June 29, 1995 (60 FR 39144–39145)

A 1984–1992 qualifying period was viewed as consistent with the license limitation program and relies on notice provided by the IQ control date to justify the 1992 end date for the period. It was viewed as consistent with the license limitation program because it incorporates the qualifying period used in the license program.[2/] The end date is between the IQ control date and the sablefish endorsement cut–off date. The IQ control date effectively put permit holders and purchasers on notice that any catch history after November 13, 1991 would not be counted in determination of a catch history based initial allocation of IQ shares, if such a system were implemented. New entrants to the fishery were effectively on notice that if access to the fishery were further limited through an IQ program they might not receive an initial allocation. Thus, if a sablefish endorsement were implemented using a November 13, 1991 cut–off date for the end of the qualifying period, those who entered after that date would be no worse off than if an IQ program had been implemented which relied on the November 13, 1991 control date. However, because the 1991 control date emphasized IQs[3/] the Council chose to publish a 1995 notice announcing its intent to consider a fixed gear sablefish endorsement. The 1992 end date used in Option (a) and (b) recognizes that over four years have passed since announcement of the 1991 IQ control date and that a later ending date may better take into account some more recent entrants. At the same time, it was (and is) maintained that the IQ control date provided adequate notice that there was uncertainty about continued participation by new entrants and that, therefore, the endorsement qualifying period does not need to be extended to the sablefish endorsement control date.

A 1984–1994 qualifying period (the Council recommended qualifying period) was also viewed as consistent with the license limitation program but relies more on the 1995 cut–off date and less on the 1991 control

---

2/ The sablefish endorsement qualifying period starts with January 1, 1984 rather than July 11, 1984, the start date for the license limitation qualifying period. Consideration of January 1 rather than July 11 as the beginning date started during development of the IQ program. Under the IQ program, the initial allocation formula would have allowed vessels to select five out of their eight best years for determining an IQ allocation. Since a substantial portion of the catch for 1984 was to be considered for the IQ program it was felt that consideration of the full year of catch should be allowed. The January 1, 1984 start was maintained for the proposed endorsement program because of its previous use and acceptance for the IQ program.

3/ The summary of the action announcing the November 12, 1991 control date mentions only IQs but states that "The intended effect of announcing this control date is to discourage speculative entry into these fisheries while discussion on access control continue." The supplementary information section states that ". . . the Council adopted November 13, 1991 as a control date to be used in establishing priorities for issuance and shares in a potential IQ–based limited access system *or other access controls* for Pacific coast groundfish fisheries and the Area 2A Pacific halibut fishery." [emphasis added]

date, hence increasing the emphasis on recent participation. Because the 1995 control date occurred before the 1995 derby fishery, the amount of sablefish landed in 1995 would be small.[4/]

Possible justifications for other periods were discussed in the analysis provided with the draft plan amendment which was sent out for public review:

A. 1988–1992. This is the period which was to be used as the recent participation requirement under the IQ program[5/] plus one year to incorporate the currently agreed upon end date for one of the sablefish endorsement qualifying periods. Under the IQ program, vessels which had not participated in the fishery during the recent participation period would not receive any IQ. The recent participation requirement was developed through consensus by the industry committee which designed the IQ program.

B. 1991–1994. This period might be justified on the basis of its increased emphasis on recent years, reliance on the sablefish endorsement control date, and use of a four year qualifying period--the length of the qualifying period used for the license limitation program. For the license limitation program it was reasoned that any vessel which had not taken part in the fishery for a four year period was not an active participant in the fishery and therefore, no permit should be issued. Four years was also the agreed upon length to demonstrate recent participation for the IQ program. Increasing the emphasis on recent participation reduces disruption in transitioning to a new restriction on entry.

Qualifying periods which encompass fewer years allow the same fleet sizes to be achieved with lower poundage qualifying requirement. For example, a 1984–1992 qualifying period with a 3,000 pound single year landing requirement would be expected to result in a fleet of 168 vessels (Table 3–2). The poundage requirements resulting in the same fleet size but encompassing two more years in the qualifying period (1993 and 1994) would be 16,000 pounds. On the other hand, 1991–1994 and 1988–1992 qualifying periods would achieve the same fleet size with 2,000 pound and 700 pound landing requirements, respectively.

3.1.2 Landing Poundage Requirement

There were two landing requirements considered as alternatives to the 16,000 pound requirement adopted (Option (d)). These were a 25,500 pound requirement (qualifying requirement Option (a)) and a 3,000 pound requirement (qualifying requirement Options (b) and (c)). These landing requirements are the amount of West Coast sablefish caught with longline or pot gear that would have to be landed in at least one year of the qualifying period for a permit to qualify for a sablefish endorsement. The adoption of the 16,000 pound requirement was the result of a compromise which occurred when the Council decided to use a qualifying period that extended through 1994 (see following section on the rationale for the Council's decision).

The 3,000 pound landing requirement was based on a consensus among industry members attending the August 1995 Council meeting that the 3,000 pound requirement was a fair one. It was derived by taking the two elements of the license limitation qualifying requirement for longline gear (6 trips over 500 pounds) and multiplying them together to get a poundage requirement.

4/ Under the fishery scope specified for the endorsement, an endorsement would not be required for continued participation in the small daily trip limit fishery which was in place in the first months of 1995 and will be in place in future years, pending a change to the current derby fishery management. However, it must be noted that if the primary fishery is lengthened the opportunity to harvest in the daily trip limit fishery will be reduced for vessels without sablefish endorsements.

5/ The recent participation period for the IQ program was August 1, 1988 (the end of the license limitation qualifying period) through November 11, 1991 (the control date for the IQ program).

The 25,500 pound landing requirement option was specified as a level that represented a significant level of income dependence. It was argued that those with fewer pounds of landings were not dependent enough on the resource to warrant being included in the initial endorsement issuance. Families dependent on vessels with fewer pounds of sablefish would have either other sources of fishing income or other nonfishing income to survive. Elevating the landing requirement involves an evaluation of the trade-off between improved economic health of the vessels which remain in the fishery and the effects of the lost opportunity to fish on those who do not receive an endorsement under the initial allocation. Those not receiving an endorsement are able to buy into the fishery through the purchase of a permit with an endorsement. The amount of 25,500 pounds was the highest value in the range of data provided at the April 1996 Council meeting. From 1984-1992, the inflation adjusted exvessel value represented by 25,500 pounds of pot landings averaged $16,000 and ranged from $9,800 to $20,000 and that represented by 25,500 pounds of hook and line gear landings averaged $21,600 and ranged from $14,900 to $30,400 (Table 3-3).

As with the qualifying period, there were other landing requirements which may also have been justified. For example, the Council could have proceeded as it did with the license limitation amendment and determine that a landing criteria should be specified that would result in the issuance of a number of endorsements no greater than the number of vessels which participated in a recent year. The number of licensed vessels participating in 1994 was 153. The qualification period/poundage combinations which would be expected to result in 153 sablefish endorsements are

1984-1992	12,000 pounds in one year
1984-1994	26,200 pounds in one year
1988-1992	2,850 pounds in one year
1991-1994	9,500 pounds in one year

(Table 3-2).

3.1.3 Rationale for Council Recommended Qualifying Requirement

While a consensus among industry members attending the August 1994 Council meeting had been reached on the poundage requirement for a sablefish endorsement (3,000 pounds), there was division between whether the qualifying period should be 1984-1992 or 1984-1994 (the justifications for these periods are provided in Section 3.1.1). Given the number of recent participants in the derby fishery there was reason to keep the number of sablefish endorsements to a level at which some effect might be expected. A requirement of 3,000 pounds for one year from 1984-1992 would have been expected to qualify 168 vessels while 189 vessels would have been expected to qualify with a 1988-1994 qualifying period (compared to the 150-160 vessel participating in the derby fishery in recent years). On the other hand, given the time that had elapsed since 1992, the permit transfers, and changes in investment in the fishery which had occurred, a period which included more recent years was desired. Therefore, the Council chose to extend the qualifying period to 1994 but increase the poundage requirement to 16,000 pounds in order to achieve the number of qualifiers which would have been expected with a 3,000 pound and 1984-1992 qualifying requirement. An increase in the poundage requirement had come into favor by some of those who supported the 1984-1992 qualifying period at the time of the August 1995 consensus but had since began advocating a 25,500 pound 1984-1992 qualifying requirement. The compromise set by the Council allowed more recent participants to qualify but increased the level of dependence required. The level of dependence required to be a recipient of an endorsement at initial allocation was considered to be fair and equitable and result in a reasonable balance between the objectives of creating and preserving a viable fishery, taking into account recent participation, and providing for those dependent on the fishery. Households with amounts of net income less than that represented by the 16,000 pound qualifying requirement are more likely to have greater reliance on the sources of income, or nonfishing income, than those with greater amounts of sablefish income. Vessels excluded from the initial allocation by the higher poundage requirement will be able to continue to harvest small amounts of sablefish in a daily trip limit fishery. Vessels making two trips per week over a six month period could land close to 16,000 pounds and thereby suffer no reduction in gross revenue. However, while some vessels are able to generate net

positive revenues from the daily trip limit fishery, larger vessels located at greater distances from the fishing grounds may not find the daily trip limit fishery profitable. The daily trip limit opportunity may also conflict with other fishing opportunities for some vessels. Maintaining a qualifying requirement which includes years from the mid and late 1980s prevents the disenfranchisement of vessels which were forced to choose between Alaska and West Coast fisheries during the recent years in which the Council chose to set the West Coast opening to coincide with the Alaska opening.

3.1.4 The Qualifying History and Combining Permits

The catch history used to qualify for a sablefish endorsement would be the catch history of the permit. During its consideration of a sablefish IQ program, the Council considered several options for identifying the catch history that would count towards the initial IQ allocation. There were two primary alternatives: (1) assign all of the credit for a vessel's landings to the permit or permit rights associated with the vessel and hence the current owner of the permit, and (2) give credit for each landing to the vessel owner making the landing. The Council chose the former of these two alternatives when it began development of the sablefish endorsement. Consideration of catch history is complicated by the fact that many members of the fleet have bought or sold vessels and permits, over the past several years. When catch history is assigned to the permit, a long time sablefish fishery participant who sold a vessel and permit with substantial catch history and purchased a replacement vessel and permit which happened to have little or no West Coast sablefish catch history (for example, a vessel that qualified for a limited entry permit through construction criteria) could end up without a sablefish endorsement. When catch history is assigned to the person, a recent entrant who paid a premium to enter the West Coast sablefish fishery through the purchase of a vessel with limited entry permit could end up losing access to sablefish because of the lack of personal history. (However, even with permit history, a new entrant that purchases a permit without adequate sablefish history will be excluded from the fishery.) For many vessels, particularly pot vessels, sablefish is nearly the exclusive groundfish species landed. Thus, these vessels may be very dependant on anticipated sablefish revenue to recover expenditures made on the permit. An advantage of considering catch history to be attached to the permit is that it takes into account present participation in the fishery by allowing entry and exit while a new program is being designed. Use of personal history for initial allocations would make it difficult for new entrants to secure any investment in the fishery and difficult for existing participants to leave the fishery by selling their assets, during the period of time the new program is being developed. The numbers of owners and vessels involved in permit transactions are discussed in "Disruption and Dislocation" in Section 3.1.5. Reliance on permit history is consistent with the license limitation program (Amendment 6) which imbued in the permit (and the consequent market prices for the permit) the expectation of an ability to participate in the fishery.[6/]

In some limited circumstances, the catch history of an interim permit which expired without becoming a full limited entry permit may be considered as part of the catch history of another permit which is not directly related to the interim permit. In a situation in which a person appealed a denied groundfish limited entry permit application, an interim permit may have been issued during the appeal process. Holding an interim

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6/ This is also the reason vessel history was not considered an appropriate basis to issue sablefish endorsement. The portion of the fishing vessel price which, previous to the license system, reflected the value of the vessel's use in the groundfish fishery was transferred to the permit with the imposition of the groundfish license limitation program. The choice between vessel or permit history only makes a difference where permits and vessels have been separated. If a permit is separated from a vessel and qualification is based on vessel history (1) there will be vessels with qualifying histories but no limited entry permits for which to issue an endorsement; and (2) there will be a greater number of individuals who invested in groundfish permits only to find that the permit did not make them eligible to continue participation in the primary fishery for which they intended its use. Under the adopted option, 50 qualifying permits have been transferred to new vessels (Table 3-6). Of these 50 permits, 20 were transferred to vessels which would not qualify for an endorsement based on vessel history. On the other hand, there are only four vessels which would qualify on the basis of vessel history but do not hold a permit with a qualifying permit history.

permit and having an appeal underway, the person would have had no reason to seek another permit for the fishery. The person may have fished intensely enough under the interim permit to qualify for a sablefish endorsement. When the appeal was eventually denied the person may have gone out and immediately acquired a limited entry permit to secure his or her investment in the fishery. However, because the permit which was acquired did not directly result from the interim permit, the person's fishing history under the limited entry quota with an interim permit would be lost. Because a person in this situation would have made a good faith effort to enter the limited entry fishery under the rules which applied, the Council addressed this type of situation by adding the following provision to the definition of catch history.

> The catch history of a permit also includes the catch of any interim permit held by the current owner of the permit during the pendency of an appeal on a permit denied under the groundfish limited entry program, but only if (1) the appeal on which the interim permit was based was lost and (2) the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery.

The catch history of an interim permit where the full A permit was ultimately granted would also be considered part of the catch history of the "A" permit.

At the time sablefish endorsements are issued, if permits have been combined for the purpose of generating a single permit with a larger length endorsement, in order to qualify for a sablefish endorsement, at least one of the permits that have been combined must have met the landing requirement or the combined permit must have met the landing requirement since the time of the combination. The identified alternative to the recommended provision would be to add the history of the permits which have been combined together to determine the history of the combined permit. However, for the purpose of the sablefish endorsement it is reasoned that if the permits individually were not sufficiently dependent on fixed gear sablefish harvest to warrant the issuance of a sablefish endorsement then the permit resulting from the combination of the permits should not warrant such an endorsement.

After the sablefish endorsement is issued, if permits are combined for the purpose of generating a single permit with a larger length endorsement, the resulting permit will receive a sablefish endorsement only if both of the combined permits have endorsements. In developing this provision the Council also considered requiring that only one of the permits have a sablefish endorsement in order for the resulting combined permit to receive an endorsement. If the primary sablefish fishery is managed with cumulative limits in the future, combining an endorsed with a nonendorsed permit would allow an increase in a vessel's capacity but not its cumulative limit. Therefore effective sablefish capacity would not increase, unless the vessel associated with the sablefish endorsed permit previously had too little capacity to take the full sablefish limit. Allowing a permit not endorsed for sablefish to be combined with a sablefish endorsed permit might take harvest capacity away from other groundfish species without necessarily increasing the effective sablefish capacity. This would occur if the vessel which combines the permits does not take part in the other groundfish fisheries, or takes part to a lesser degree than the vessel from which the permit is acquired. Additionally, allowing such combinations would be consistent with the sablefish endorsement initial issuance qualifying requirements that allow a permit which has resulted from the combination of permits prior to initial issuance to qualify for a sablefish endorsement so long as at least one of the combined permits would have qualified for an endorsement. On the other hand, if the fishery continues to be managed as a derby fishery, future combination of nonsablefish endorsed permits with sablefish endorsed permits would allow nonsablefish permits to bring more capacity into the sablefish fishery and hence exacerbate the pressures of the derby. Additionally, requiring sablefish endorsements on both permits is consistent with the manner in which gear endorsements are treated. While the Council intends to end the derby fishery, it has not resolved policy questions to achieve this objective. The Council chose to require that both permits hold a sablefish endorsement when permits are combined, helping to reduce the opportunity for an increase in capacity so long as the derby fishery continues.

3.1.5 Impacts

Biological

The biological impacts from altering the number of vessels within the range under consideration here are not significant.

Efficiency

The effect of adoption of a sablefish endorsement on efficiency will be discussed in Chapter 4. This section discusses the effects of specific provisions of the sablefish endorsement on efficiency. The two aspects of the design of the sablefish endorsement which relate most to efficiency are the number of vessels allowed to enter the fishery and the amount of disruption (reallocation) entailed in the determination of the initial recipients of endorsements.

The Option (b) and (c) qualification criteria which were considered and the Council adopted option (Option (d)), would create enough endorsements to allow an increase in the number of vessels fishing in the sablefish derby fishery above recent levels, if every vessel with a sablefish endorsed permit participates. The sablefish derby fishery is the portion of the fixed gear sablefish fishery for which a sablefish endorsement would be required under the adopted fishery scope. Therefore, under these options, the primary effect on capacity would be to cap or slow growth in capacity in this fishery rather than reduce capacity or completely stop its growth. Future deterioration of efficiency of sablefish harvest would be limited. Because of the high degree of transience in the fishery and the tendency for a number of permit holders to not participate in any given year, it is expected that issuance of a number of endorsements in excess of the number of recent participants may still provide an immediately effective cap on participation in the derby fishery. For example, in 1994, 14 currently licensed vessels did **not** participate in the sablefish fishery which did participate in 1995 and 1993; and in 1995, 16 currently licensed vessels did **not** participate which did participate in 1994. Option (a) would have reduced the sablefish fleet to below current levels and may have thereby increased efficiency of the sablefish harvest. In 1995, about 150 licensed fixed gear vessels participated in the sablefish derby fishery. The license limitation program has already set a maximum of 240 longline and pot vessels which may enter the groundfish fishery, and hence the fixed gear sablefish derby fishery. The qualifying criteria for the recommended sablefish endorsement (Option (d)) is expected to reduce the number of eligible participants from 240 to 168. The qualifying criteria for other options considered would have reduced the number of eligible participants to: Option (a) 132 vessels, Option (b) 168 vessels, or Option (c) 189 vessels.

The costs of disruption and dislocation of capital and labor must be considered when evaluating the efficiency of a particular action. Where transferable permits are created and given to current participants, market prices for existing assets and the permits will cause the permits to be transferred to more efficient producers at the time which leads to the most efficient result. For example, a harvester with a less efficient operation may consume its existing capital assets and then, at the proper time, be induced by market prices for the permit to sell the permit to a more efficient producer rather than invest in replacing the capital. Disruptive costs can be reduced and the same end level of efficiency achieved by allocating harvest to recent producers and allowing markets to work out the reallocation of harvest over time. This should lead to a more efficient result than a direct governmental reallocation, unless it can be ensured that such a reallocation will move the harvest to more efficient producers.[7/] In the current situation, information on

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7/ Depending on the degree of gain in efficiency, the transaction cost savings resulting from the direct reallocation, and the opportunity costs of the dislocated capital and labor (e.g. there may be a close to zero opportunity cost for a displaced asset with some remaining productive life), even allocating to more efficient producers could be a less efficient action than allocating to existing producers and allowing the market place to work out the rate of reallocation.

specific vessel operations which might allow a determination of whether a particular allocation will go to more efficient producers is not available.

One indicator of disruption is the poundage caught in recent years by those vessels not expected to receive endorsements. Qualification periods which incorporate more recent years will tend to reduce the reallocation of catch from recent harvesters to those who receive endorsements. The 1991-1995 harvests of vessels which would be disqualified using a qualifying period which includes 1993 and 1994 are lower than the catch of vessels disqualified using qualifying periods which do not include these two more recent years (Table 3-4). By incorporating 1993 and 1994 into the qualifying period but maintaining the same level of total qualifiers as in Option (b), the Council was able to achieve a similar long term efficiency result as Option (b) but with a lower initial disruption cost (see Table 3-4 poundages caught by disqualified vessels for 1991-1995). Disruption is discussed further in the section below entitled "Disruption and Dislocation".

Distributional and Social Issues

Geographic Distribution

In general, southern areas of the coast (central and southern California) would experience greater proportional reductions in the number of vessels qualified to participate in the primary fixed gear sablefish fishery than northern areas under the adopted sablefish endorsement qualifying requirement options (Figure 3-1). However, vessels will not be required to hold endorsements to harvest limited entry sablefish in the southern California area (see Section 3.3 on geographic scope). Landing requirement options which emphasize more recent years tend to result in more permits being issued in southern areas at the expense of those vessels not assigned to an area (by definition not having participated in several recent years).

In general, the 1994 average sablefish catches per vessel associated with sablefish permits eliminated under the adopted option tends to be similar between areas with the exception of a single vessel operating in northern Oregon (Figure 3-2a). Vessels which would have been eliminated under the other options considered exhibited more between area variability in average 1994 catch than vessels eliminated under the adopted option. The variability and harvest of vessels eliminated under the adopted option is substantially higher when 1995 landings by these vessels are considered. In particular, vessels with permits eliminated by the adopted option from the central California, northern Oregon, and Puget Sound areas tended to have had higher average 1995 catches than vessels eliminated from other areas of the coast. Comparison of the average landings of nonqualifying vessels in 1994 with those of nonqualifying vessels in 1995 shows an increasing level of sablefish fishing activity among nonqualifying vessels (Figure 3-2a compared to Figure 3-2b).

Between Gear Distribution and Geographic Distribution by Gear

The number of longline permits would be down substantially under all qualifying criteria considered (Figure 3-3). The reductions would have been most evenly distributed geographically under the 1991-1994 qualifying criteria and Option (c) (Table 3-5). Option (a) would have resulted in the greatest geographic disparity in the percentage change in longline fleet by area, with a reduction of the combined central and southern California share of the longline fleet from 28 to 7 percent and an increase in the combined Puget Sound and Washington coast share of the longline fleet from 34 to 53 percent. The disparity is somewhat less under the adopted option, with Puget Sound and Washington coast share increasing to only 46 percent and the combined central and southern California share declining to only 13 percent. The Council decided to exclude vessels fishing south of 36°N latitude from needing a sablefish endorsement (see Section 3.3). If the southern California share is not considered and central and northern California are grouped, the share for the California area changes from 24 percent under the current distribution of permits to 20 percent under the adopted qualifying requirement.

The number of pot permits would have declined under qualifying criteria with high poundage requirements (Option (a)) or criteria which increase emphasis on more recent years (1988-1992, or 1991-1994). The

vessels with pot permits which would have been eliminated under the Option (a) criteria made a plurality of their landings on the central Oregon coast. The vessels with pot permits which would have been eliminated under the 1991–1994 criteria would have come almost entirely from the unassigned geographic area category (one eliminated vessel made a plurality of its landings in Westport). Most of those not qualifying under the 1988–1992 criteria made a plurality of landings in Astoria. All pot permits will qualify for an endorsement under the adopted qualifying requirements. A review of the distribution of the pot fleet shows that 75 percent of the pot vessels were distributed in the Oregon and northern California areas (Astoria to Crescent City), 9 percent were located primarily in the central California area (Monterey to Avila Beach), 6 percent along coastal Washington, and the remainder were not assigned to a geographic area because of lack of recent landings.

Disruption and Dislocation

In general, the greater the regulation induced change in the distribution of landings between vessels and areas from one year to the next, the greater the disruption which occurs. Vessels losing fishing opportunities must either find ways to regain that opportunity or find replacement activities. In the current consideration, regaining fishing opportunity means replacing the nonqualifying permit with a qualifying permit. Finding replacement activities means increasing effort in other fisheries to replace lost income. Making no adjustment means unemployed labor and fishing gear. Labor must then respond by making other adjustments into other income earning activities. Shoreside labor and business investments may also suffer disruption and dislocation costs if vessel operations do not adjust to recover lost sources of revenue or adjust in a way that redirects their sales and purchases to other businesses and locations.

Recent Harvests

To a substantial degree, status quo harvest distributions represent status quo investment in capital and labor specialized for the species being considered. However, use of a harvest distribution for a single recent year may not best reflect the distribution of capital and labor. For example, distribution based on one year would miss the investment in operations which experienced unfortuitous circumstances in the year (for example, mechanical or weather) but were otherwise highly invested and active in the fishery both before and after the year considered. These types of situations are likely to occur with greater frequency under the recent derbies during which a single event could cause a vessel to miss the substantial fishing opportunity for the year. Therefore, more than one recent year should be considered when attempting to evaluate disruption and dislocation. Four qualifying periods are evaluated: 1984–1992, 1984–1994, 1991–1994 and 1988–1992. Considering only qualifying period/poundage requirements that result in the same number of vessels qualifying and not qualifying, vessels eliminated by qualifying periods which include 1993 and 1994 had fewer pounds of landings in recent years (1991–1995) than vessels eliminated by criteria which do not include these years (Table 3–4). Therefore, use of qualifying requirements which include these periods may be less disruptive. The qualifying requirements recommended by the Council (Option (d)) are anticipated to result in less disruption than any of the other qualifying requirements considered which result in a similar number of vessels qualifying (Table 3–4).

Historic Participation

In 1991, the Council began to set the West Coast sablefish season to conflict with the Alaska season. This forced vessels with economic, social and cultural ties to the West Coast to choose between the West Coast and Alaska fisheries. By including years prior to 1991 in the adopted sablefish endorsement qualifying requirements, vessels which pioneered the sablefish fishery and qualified for a limited entry permit[8/] but chose to participate in the Alaska sablefish fishery in recent years are allowed to qualify for a sablefish endorsement. The social and cultural ties with the West Coast may well have been maintained and strengthened during the time the vessels chose the Alaska fishery, particularly where the vessels were home ported along the West Coast. A qualification system which allows these vessels to qualify may

8/ The license limitation system had a 1984–1988 qualifying period.

reduce social and cultural disruption for these vessels and associated communities. On the other hand, by taking into account catch history from the mid-1980s some permits which entered the fishery in recent years but had landings under 16,000 pounds a year are being eliminated from the fishery in order to allow in permits associated with vessels which have not participated in recent years. The relative emphasis placed on historic participation, recent participation and degree of involvement in the fishery (size of the poundage requirement) is, to a significant degree, a fairness and equity balance determined by the Council.

Permit Buyers

One group particularly susceptible to the disruptive effects of the creation of a sablefish endorsement are those who have recently purchased permits. The majority of the landings made in recent years by vessels with permits which will not qualify for endorsements were made by vessels to which a permit had transferred (Table 3-4). There have been a total of 75 such transfers. Of these transfers, 31 also involved the transfer of ownership of the permit. Of those 31 permits, between 6 and 17 would not qualify for sablefish endorsements, depending on the endorsement qualifying requirements (Table 3-6). An additional 16 permits have been transferred to new owners together with the vessels for which they are registered. Of these between 4 and 8 would not qualify for an endorsement. The total number of nonqualifying permits transferred to a new owner is between 10 and 25 depending on the qualifying requirement. For the adopted qualifying requirement the number of nonqualifying permits transferred to new owners is 15 (lower than for any other option with a similar number of permits qualifying). Any debt loads incurred as a result of the recent investment made by these owners may make them financially vulnerable to the sudden loss of access to sablefish harvest (a source of revenue for paying off the debt). A 30 to 40 foot permit is currently selling for about $20,000 (June 1996).

Construction/Conversion Vessels

Owners of vessels which qualified for their limited entry permits via the construction or conversion provisions may have had less opportunity to meet the sablefish endorsement landing requirements than vessels which qualified by meeting the 1984-1988 minimum landing requirements for a limited entry permit. There were 17 fixed gear permits issued on the basis of construction or conversion criteria. The vast majority of these vessels (15-17) would qualify for a sablefish endorsement under any of the requirements except Option (a), including qualifying criteria based on 1991-1994 and 1988-1992 qualifying periods. Under the adopted option (Option (d)), 15 permits would qualify, fewer than for any of the other qualifying criteria considered here.

Effects on Other Fisheries and Multifishery Vessels

Most vessels are multifishery vessels. The other fisheries in which vessels participate are an indicator of the fisheries to which they may turn to recover lost sablefish income if their permits do not qualify for a sablefish endorsement. Conditions in these other fisheries also indicate the degree to which some of the eliminated vessels may have other viable options. For example, under Option (a), sablefish vessels which also took part in the 1995 salmon troll fishery would have their permits eliminated from the fixed gear sablefish fishery at a greater rate than other multifishery vessels (Table 3-7). Opportunities in the salmon and halibut fisheries are very limited. Harvest of sablefish outside of the West Coast is contingent on the acquisition of IQs for the Alaska program. Options (b), (c), and (d) tend to be more even in their effects across different classes of multifishery vessels, with the primary exception of vessels taking part in the halibut fishery (Option 2(b)). Under all qualifying options, vessels which take part in the shrimp fishery tend to have their permits eliminated from the fixed gear sablefish fishery at a much lower rate than other classes of multifishery vessels. Large differences in the number of tuna vessels between 1994 and 1995 may reflect the shift in the sablefish derby season opening date from May 1994 to August 1995, a time which conflicted with the tuna fishery in 1995. Based on 1995 landings and revenue, vessels with permits which do not qualify for a sablefish endorsement (displaced vessels) may be seeking to make up in other fisheries about $750,000 of lost sablefish revenue (based on PacFIN data). Because most vessels are underemployed, it is unlikely that vessels which gain additional sablefish fishing opportunity from the

displaced vessels will be releasing similar amounts of opportunity in other fisheries which would then be available for the displaced vessels.

Recent Utilization/Dependence

The sablefish endorsement qualifying requirements establish that most permit owners with a substantial historic dependence on the fishery will qualify for a sablefish endorsement (the primary exceptions relate to situations in which permits have been transferred). However, even with the announcement of control dates and cut-off dates for future access to sablefish, new effort has been made in the fishery. Between 60 and 70 percent of the vessels which would not receive endorsements under qualifying requirements Options (a), (b), and (d) earned over one third of their total 1995 fishing income from sablefish (Table 3-8). Under Option (c), 54 percent of the vessels with nonqualifying permits earned over one third of their total 1995 fishing income from groundfish. Between 75 and 80 percent of the vessels with permits which would receive sablefish endorsements earned over one third of their 1995 income from sablefish under all options considered.

Nonqualifying vessels which earned more than 5 percent of their 1995 income from sablefish would comprise 33, 18, 5, and 14 percent of the fleet which participated in 1995 under Options (a), (b), (c), and (d), respectively. Option 2(a) might be considered to have a significant impact for the purpose of the Regulatory Flexibility Act (a greater than 5 percent reduction in gross revenue for 20 percent or more of those engaged in the fishery). There were about 170 vessels which participated in the sablefish fishery in 1995. If the fleet of affected vessels is considered to be all 240 permitted fixed gear vessels or all 222 current operations with some sablefish catch history (permit or vessel), then based on 1995 landings less than 20 percent of the fleet would be affected by the Option (a) qualifying requirements.

3.2 Fishery Scope

3.2.1 Alternatives and Rationale

The fishery scope of the sablefish endorsement specifies the fishing activities for which an endorsement will be required. The recommended fishery scope (Fishery Scope (a)) is as follows:

> The sablefish endorsement would be required for fixed gear limited entry vessels to take sablefish against the limited entry quota during periods of time specified in the regulations (to be recommended by the Council). The general intent is that an endorsement be required to take part in the major limited entry fixed gear sablefish harvest opportunities, but no endorsement be required when management measures are intended to allow only small and incidental sablefish harvests. (Under the current management system, the endorsement would be required except during the small daily trip limit fishery. No sablefish endorsement would be needed for a vessel to take limited entry fixed gear sablefish when the derby and/or cumulative limit fisheries are closed.)

This scope has been selected because it covers the derby and cumulative limit segments of the limited entry fixed gear sablefish fishery. The problems leading to the need for action are generated from these segments of the fishery. Outside the scope of the program would be limited entry sablefish landings made in what is currently a small daily trip limit fishery. Table 3-1 shows the sablefish fishing opportunities which would be present for vessels with and without sablefish endorsements using fixed gear and open access gear for the currently specified scope and two alternative scopes. The alternative fishery scopes discussed here are:

> An endorsement would be required for fixed gear limited entry vessels to take sablefish against the limited entry quota
>
> > (b) at any time during the year. (This includes any harvest of sablefish which would be taken with open access gears while the limited entry fishery is open.)

OR

(c) at any time; but allow fixed gear limited entry vessels without a sablefish endorsement to fish against the open access quota under open access trip limits and with open access gear; or with their open access gear and their limited entry gear.[9/]

The recommended scope would create a situation in which vessels not receiving an endorsement would continue to have an opportunity to harvest sablefish against the limited entry quota, thus setting up another allocation decision for the Council. The longer the season set for the fishery covered by the endorsement the shorter the amount of time and smaller the catch allotted to the portion of the limited entry sablefish fishery for which no endorsement is required. Conversely, the longer the period of time available for harvesting limited entry sablefish without an endorsement, the fewer sablefish available for the endorsement fishery. In 1995, harvest in the small trip limit fishery outside the derby fishery began to increase substantially. This pattern appears to be continuing for 1996. In 1995, the number of vessels with limited entry permits harvesting sablefish under the small daily trip limit fishery that would not be expected to receive sablefish endorsements ranged from 11-43, depending on the qualifying criteria (Table 3-9). Under the adopted qualifying criteria there would be 19 vessels with nonqualifying permits which participated in the daily trip limit fishery in 1995. With 168 vessels expected to qualifying for endorsements, there would be about another 60 vessels without sablefish endorsements which could potentially enter the small daily trip limit portion of the limited entry sablefish fishery if an endorsement is required only for the cumulative limit or derby fishery. The 19 limited entry vessels which are not expected to receive endorsements but participated in the 1995 daily trip limit fishery harvested 108,000 pounds of sablefish in that fishery (Table 3-10).

Other fishery scopes were also considered. Fishery Scope (b), described above, would have required a sablefish endorsement for the landing of any sablefish by a limited entry vessel, including harvest taken with open access gears while the limited entry fishery is open. This eliminates the allocation of sablefish between limited entry vessels harvesting sablefish with and without sablefish endorsements. It also creates a situation in which for some fixed gear limited entry vessels, the open access limit for sablefish would be less restrictive than the limited entry limit. The primary groundfish target species left for the vessels without sablefish endorsements would be rockfish (the sebastes complex). Since most rockfish trip limits in the open access fisheries are liberal and comparable to the limited entry fisheries, vessel owners may be induced to remove the limited entry permits from their vessels and participate fully in the open access fishery. This would also allow them to retain some sablefish. Even under the scope as it is currently specified, there may be some tendency for these vessels to remove their permits if the length of the season for which a sablefish endorsement is required prevents participation in the small sablefish trip limit fishery for a substantial portion of the year. Over time, as more vessels enter the open access fishery, the opportunities in the open access fishery may become more restricted relative to the limited entry fishery, once again increasing the desirability of holding a limited entry permit.

The other fishery scope considered, Fishery Scope (c) would allow limited entry vessels to fish against the open access sablefish quota without having to divest themselves of their permits. This scope would not create a new allocation problem within the limited entry fixed gear vessels but may be met by resistance among vessels currently taking sablefish as part of the open access fishery. The advantage to the open access vessels would be that the limited entry vessels would be more likely to retain their permits, thereby keeping harvest of other groundfish species in the limited entry fishery rather than competing with the open access vessels.

9/ A sablefish endorsement would be required to take sablefish against the limited entry quota but 50 CFR Sec 660.332(c) would be modified to allow limited entry fixed gear vessels without sablefish endorsements to catch against the open access quota with (a) open access gear or (b) open access and their limited entry gear, even when the fixed gear limited entry sablefish fishery is still open. Such harvest would be subject to open access trip limits. This effectively moves these vessels into the open access fishery, but only where sablefish is the species of concern.

3.2.2 Impacts

Biological

The biological impacts of altering the scope are not significant. If the scope were expanded to include what is currently the small trip limit fishery, an additional one third of one percent of the caught and landed sablefish may be discarded by vessels which do not receive endorsements. A substantial portion of the discards would be expected to survive.

If any multispecies landing that is less than 50 percent sablefish is considered a sablefish "bycatch" landing, then 19 vessels not qualifying for sablefish endorsements under the adopted qualifying criteria landed a total of about 17,000 pounds of sablefish as bycatch during the small trip limit fishery in 1995 (Table 3-11). The amount of landed bycatch by nonqualifying vessels is small relative to the total harvest, about one half of one percent of the limited entry fixed gear allocation. There is little information available to indicate how much of the catch is "targeted bycatch" and might not be caught if there were no opportunity for vessels without endorsements to retain sablefish. The higher sablefish bycatch level during the cumulative limit fishery may be a targeted catch taken on a trip with multiple target species and may reflect the types of landing composition which may be more common under cumulative limits (Table 3-11). The amounts displayed in Table 3-11 would increase if the 60 vessels with nonqualifying permits which did not take part in the 1995 small trip limit fishery began doing so. If the scope of the endorsement were expanded to include all sablefish caught against the fixed gear limited entry quota or if the season covered by the current scope is extended through the eventual adoption of a cumulative limit fishery to replace the derby, any unavoidable portion of the bycatch would have to be discarded. However large the small amount of sablefish expected to be discarded, discard rates for sablefish caught by longline and fishpot gear are believed to be low, further reducing any concern over the biological impacts of forced discards.

Efficiency

To the degree that the sablefish taken under the small trip limit fishery is bycatch which would be discarded if not landed, there may be some efficiency in allowing retention of this bycatch by vessels not receiving endorsements. However, the amount of bycatch at issue is probably small.

The creation of a new class of vessels, fixed gear limited entry vessels without sablefish endorsements harvesting limited entry sablefish (the adopted Fishery Scope (a)) or fixed gear limited entry vessels without sablefish endorsements harvesting open access sablefish (Fishery Scope (c)) both increase the complexity of the regulations. More complex regulations add to the cost of the management system, and thereby reduce overall efficiency. Alternative Fishery Scope (b), discussed above, also creates a second class of vessels: limited entry vessels without sablefish endorsements unable to harvest sablefish while the limited entry fishery is open. However, Fishery Scope (b) resolves allocation issues between this group of vessels and the remainder of the limited entry fleet by predetermining that these vessels are not entitled to land sablefish.

Distributional and Social Issues

Based on 1995 landings, the amount of sablefish taken in the small daily trip limit fishery by the 19 vessels not expected to receive endorsements under the adopted qualifying requirement is about 2 percent of the total poundage landed by the limited entry fixed gear vessels (Table 3-9 and 3-10). Under the current scope, these vessels may be able to continue to harvest under the small daily trip limit fishery, depending on whether or not a series of monthly cumulative limits are implemented for the primary sablefish fishing opportunity and the duration of the fishing season under those limits. There are 60 permits which did not participate in the 1995 sablefish small daily trip limit fishery that, given sufficient incentive, may be able to enter the daily trip limit fishery under the adopted scope. If more vessels enter the fishery there will be less fish available for vessels participating in the derby/cumulative limit portion of the fishery. If the scope covered all sablefish caught against the fixed gear limited entry quota the catch by nonqualifying vessels in the small trip limit fishery would be redistributed to vessels with sablefish endorsements.

3.3 Geographic Scope

3.3.1 Alternatives and Rationale

The geographic scope of the adopted option is limited to north of 36°N latitude. Vessels will be able to qualify for a sablefish endorsement regardless of the area in which they have traditionally participated, however, the endorsement will not be required to participate in sablefish fishing opportunities south of 36°N latitude. The northern area is managed under a harvest guideline which is allocated between a tribal set aside, limited entry trawl, limited entry fixed gear, and open access fisheries. Catch taken in the southern area counts against a southern area (Conception Area) acceptable biological catch (ABC). However, because the ABC is not reached by vessels operating in the area, there has been no harvest guideline established and no between group allocations. The fishery in the southern area has operated under harvest management regulations similar to the northern area except that the daily trip limit in the southern area is generally larger than for the northern area (350 pounds compared to 300 pounds). Because of the under exploitation of the available harvest, relatively recent development of catch history by some vessels in the area, and the disproportionate impact of the sablefish endorsement on permits in the southern area (Figure 3-1), the Council chose to exempt vessels fishing in the area from being required to hold a sablefish endorsement to participate in the primary limited entry fixed gear sablefish fishery. In order to reduce any shift of non-sablefish endorsed permits into the area, while at the same time providing vessels in the area with an opportunity to participate at their recent levels, the management options the Council is considering for the area in 1997 do not include a sablefish derby (Council, 1996c).

The Council also considered applying the sablefish endorsement to its entire management area (both north and south of 36°N latitude). This alternative would have been less complex and would have covered the entire scope of the Council's responsibilities for managing the limited entry fixed gear sablefish fishery. It would also have eliminated permits in the southern area from participation in the sablefish fishery at a rate disproportionate to northern areas.

3.3.2 Impacts

Biological

There are no direct biological impacts from the decision not to require a sablefish endorsement to participate in the area south of 36° N latitude.

Efficiency

If a derby fishery is provided south of 36°N latitude, additional effort and investment may be encouraged by the opportunity to fish in this area without an endorsement. If such a fishery is not provided, there will likely be little short term effect on fishing efficiency as compared to status quo. Over time, permits without sablefish endorsements may be transferred into the area, depending on the relative profit opportunities for all longline caught groundfish in the area as compared to northern areas. If this trend occurs, given the restrictiveness of sablefish opportunities in the area, the amount of additional investment encouraged in the West Coast fishing fleet is likely to be small.

The provision creating a limited entry management regime in the northern area different from the southern area adds some complexity to the regulations. This increases the costs associated with explanation of the regulations and costs associated with consideration of changes to associated management regulations. For example, analysis and consideration of the effects of sablefish management options for 1997 is more complex because the sablefish endorsement regime does not cover the full geographic area.

Distributional Effects

Effect on Southern Area Derby Participants

Concurrent with its specification of an exemption from the sablefish endorsement requirement for the southern area, the Council has moved to eliminate derby fishing opportunities for the area under a separate process. In 1995, only one vessel associated with the southern area[10/] made derby fishery landings. This vessel operated in one of the northern most ports of the area (Monterey). The permit held by this vessel is not expected to qualify for a sablefish endorsement.

Effect on Non-Derby Participants

Assuming the Council discontinues the derby fishery for the southern area, there should be little impact on non-derby sablefish fishery participants. However, if the Council should allow a derby fishery in the area, the lack of a requirement for a sablefish endorsement could attract enough vessels to rapidly harvest a substantial portion of the 425 mt ABC, resulting in a need to establish a harvest guideline and allocations, and to further restrict the daily trip limit fishery.

Dory Fleet

One route for qualifying for a limited entry permit was to attain status as a local limited entry fleet of unique cultural and social importance. The only fleet to do so was the Newport Beach Dory Fleet. This fleet is located south of 36° N latitude. Nine members of this fleet qualified for limited entry permits. Of these, the number which would qualify for a sablefish endorsement under qualifying criteria Options (a), (b), (c) and (d) are 1, 3, 5, and 4, respectively. Because the vessels in this fleet only began to file state fish tickets in 1990, past fish ticket records are not a good indicator of their past involvement in the fishery. Additionally, the tradition in the fleet has been to transfer participation through the transfer of lockers at their market rather than through the transfer of vessels. Therefore, while a vessel may have been issued a permit based on membership in the fleet in 1993 (the time of application) the vessel may have been purchased by a locker owner just prior to its qualification. Thus the permit history, which includes the history of the vessel which initially qualified for the permit, would not properly reflect the history of the fishing operation which the Council intended to grandfather in to the fishery. The exemption for the south of 36°N latitude addresses this situation by eliminating the need for these vessels to hold a sablefish endorsement. Because the dory fleet does not participate in the derby fishery it is not affected by the elimination of the derby.

10/ Port was assigned based on port of plurality of landings.

TABLE 3-1. Opportunities to fish sablefish under alternatives to the adopted fishery scope for the fixed gear sablefish endorsement (shaded area denotes no fishing opportunity, open area denotes an opportunity to fish against either the open access quota or the limited entry quota, as indicated).

		Sablefish Fishing Opportunities by Alternative Fishery Scope and Status (Open or Closed) of the Limited Entry Fixed Gear Sablefish Fishery								
		Adopted Fishery Scope (a) (Endorsement required to take limited entry sablefish with endorsed gear except outside the primary fishery).			Alternative Fishery Scope (b) (Endorsement required to take limited entry sablefish with endorsed gear at all times.)			Alternative Fishery Scope (c) (Endorsement required to take limited entry sablefish with endorsed gear at all times but vessel without an endorsement may fish in the open access fishery with (i) open access gear or (ii) their endorsed gear & open access gear.)		
Permit Has Sablefish Endorsement	Gear Used	Derby or Cum Limit (Primary Fishery) Open	Small Daily Trip Lim Open	Fishery Closed	Derby or Cum Limit (Primary Fishery) Open	Small Daily Trip Lim Open	Fishery Closed	Derby or Cum Limit (Primary Fishery) Open	Small Daily Trip Lim Open	Fishery Closed
Yes	Endorsed Gear	Fish Against Limited Entry Quota	Fish Against Limited Entry Quota	None	Same as (a)			Same as (a)		
	Open Access Gear	Fish Against Limited Entry Quota	Fish Against Limited Entry Quota	Fish Against Open Access Quota	Same as (a)			Same as (a)		
No	Endorsed Gear	None	Fish Against Limited Entry Quota	None	None	None	None	(i): None (ii): Fish Against Open Access Quota and Trip Limits	Same as primary Same as primary	Same as primary Same as primary
	Open Access Gear	None	Fish Against Limited Entry Quota	Fish Against Open Access Quota	None	None	Against Open Access Quota	(i) or (ii): Fish Against Open Access Quota and Trip Limits	Same as primary	Same as primary

TABLE 3-2. Number of permits receiving sablefish endorsements for alternative qualifying periods and landing requirements.

Qualifying Period	Landing Requirement (minimum round pounds landed in at least one year)													
	>0	>10	>250	>700	>1,000	>2,000	>3,000	>5,000	>8,000	>12,000	>16,000	>21,000	>25,500	>42,000
	Number of Permits													
'84-'92	205	202	**189**	183	182	173	168	164	161	*153	144	137	132	119
'84-'94	215	212	201	200	200	195	189	187	182	178	***168***	160	*156[a/]	**132**
'88-'92	192	**189**	175	**168**	165	156	*152[b/]	144	140	**132**	125	118	109	91
'91-'94	**185**	185	176	172	170	**168**	165	159	*154[c/]	150	145	**133**	124	95

Notes:
- *Italics* indicates the adopted qualifying requirement.
- Shading indicates a qualifying requirement specified in one of the options sent out for public review.
- **Bold** indicates combinations of qualifying periods and poundages which would result in a number of vessels qualifying similar to that which would qualify under one of the options sent out for public review)
- "*" indicates the qualifying requirement which would result in a number of endorsements similar to the number of permits which participated in the primary limited entry fixed gear sablefish fishery (the derby fishery) in 1994 (153).

a/ 153 permits would qualify with a poundage requirement of 26,200 pounds.
b/ 153 permits would qualify with a poundage requirement of 2,850 pounds.
c/ 153 permits would qualify with a poundage requirement of 9,500 pounds.

TABLE 3-3. Exvessel values for alternative qualifying poundages based on annual average exvessel price by gear.

	Example Alternative Qualifying Poundages				
	25,500[a/]	16,000[b/]	3,000[c/]	2,000	700
	Real Value of Qualifying Poundage ($ thousands)				
			Fishpot		
1984	9.8	6.2	1.2	0.8	0.3
1985	13.7	8.6	1.6	1.1	0.4
1986	15.7	9.9	1.8	1.2	0.4
1987	17.2	10.8	2.0	1.3	0.5
1988	18.5	11.6	2.2	1.4	0.5
1989	15.2	9.6	1.8	1.2	0.4
1990	14.3	9.0	1.7	1.1	0.4
1991	20.0	12.5	2.4	1.6	0.5
1992	19.4	12.2	2.3	1.5	0.5
1993	16.9	10.6	2.0	1.3	0.5
1994	24.7	15.5	2.9	1.9	0.7
1995	37.5	23.5	4.4	2.9	1.0
1984-1992 Average	16.0	10.0	1.9	1.3	0.4
1984-1994 Average	16.9	10.6	2.0	1.3	0.5
			Hook and Line		
1984	14.9	9.4	1.8	1.2	0.4
1985	19.3	12.1	2.3	1.5	0.5
1986	18.1	11.4	2.1	1.4	0.5
1987	22.8	14.3	2.7	1.8	0.6
1988	24.8	15.6	2.9	1.9	0.7
1989	20.7	13.0	2.4	1.6	0.6
1990	21.9	13.7	2.6	1.7	0.6
1991	30.4	19.1	3.6	2.4	0.8
1992	26.3	16.5	3.1	2.1	0.7
1993	22.2	14.0	2.6	1.7	0.6
1994	25.7	16.1	3.0	2.0	0.7
1995	39.3	24.6	4.6	3.1	1.1
1984-1992 Average	21.6	13.6	2.5	1.7	0.6
1984-1994 Average	22.5	14.1	2.6	1.8	0.6

a/ Qualifying requirement Option (a), sent out for public review.
b/ Adopted qualifying requirement--Option (d).
c/ Qualifying requirement Options (b) & (c), sent out for public review.

TABLE 3-4. Pounds of sablefish caught by vessels with limited entry permits which would **not** qualify for a sablefish endorsement under the qualifying criteria options considered and two other options provided for comparison purposes.

	Endorsement Qualifying Criteria					
	Option (a) 1984-1992	Option (b) 1984-1992	Option (c) 1984-1994	ADOPTED Option (d) 1984-1994	1991-1994	1988-1992
	25,500 lbs	3,000 lbs	3,000 lbs	16,000 lbs	2,000 lbs	700 lbs
			NUMBER OF PERMITS			
Total Qualifying Permits	132	168	189	168	168	168
Qualifying Permits Registered to Vessels	128	164	185	164	166	163
Non-Qualifying Permits Registered to Vessels	105	69	48	69	67	70
Non-Qualifying Permits Transferred to a New Vessel	38	30	19	25	32	33
			POUNDS LANDED (Thousands of Round Pounds)			
			By Vessels with Nonqualifying Permits			
1995	1,535	908	300	516	619	1,345
1994	1,139	553	42	167	207	1,412
1993	693	258	75	146	289	369
1992	721	318	118	238	315	424
1991	334	215	78	117	307	323
			By Vessels With Nonqualifying Permits Transferred to a New Vessel			
1995	808	576	298	432	541	1,020
1994	463	265	38	105	206	1,016
1993	318	188	72	119	287	309
1992	445	310	113	154	312	423
1991	227	206	72	72	304	321

TABLE 3-5. Share of West Coast **longline** permits and **longline** permits expected to receive sablefish endorsements by geographic area and qualifying criteria.

		Qualifying Criteria					
	Current Permits	Option (a) 1984-1992 (25,500 lbs)	Option (b) 1984-1992 (3,000 lbs)	Option (c) 1984-1994 (3,000 lbs)	ADOPTED Option (d) 1984-1994 (16,000 lbs)	1991-1994 (2,000 lbs)	1988-1992 (700 lbs)
				Percent of Total			
Unassigned	0.08	0.07	0.07	0.06	0.05	0.04	0.06
Puget Sound	0.11	0.21	0.16	0.14	0.16	0.14	0.15
Washington Coast	0.23	0.32	0.30	0.28	0.30	0.29	0.30
Northern Oregon	0.03	0.02	0.03	0.04	0.03	0.03	0.01
Central Oregon	0.12	0.13	0.14	0.13	0.14	0.13	0.13
Southern Oregon	0.06	0.07	0.07	0.08	0.08	0.09	0.06
Northern California	0.10	0.12	0.12	0.12	0.11	0.11	0.12
Central California	0.14	0.05	0.07	0.11	0.09	0.11	0.08
Southern California	0.14	0.02	0.04	0.04	0.04	0.06	0.08
				Number of Longline Permits			
Total	207	101	135	156	135	140	139

TABLE 3-6. Number of permit and permit right transfers for vessels with limited entry permits since inception of the limited entry program (as of May 24, 1996) by whether or not the vessel would qualify for a sablefish endorsement under the Council's qualifying criteria options and three other options provided for comparison purposes.

	Endorsement Qualifying Criteria					
	Option (a) 1984-1992	Option (b) 1984-1992	Option (c) 1984-1994	ADOPTED Option (d) 1984-1994	1991-1994	1988-1992
	25,500 lbs	3,000 lbs	3,000 lbs	16,000 lbs	2,000 lbs	700 lbs
	Numbers of Qualifying Permits					
Total	132	168	189	168	168	168
Permits transferred	45	57	68	60	54	54
to a new vessel and owner	14	18	25	22	18	17
with the vessel to a new owner	8	12	12	10	11	12
to a new vessel under the same owner	23	27	31	28	25	25
	Numbers of Non-qualifying Permits					
Total	108	72	51	72	72	72
Permits transferred	46	34	23	31	37	37
to a new vessel and owner	17	13	6	9	13	14
with the vessel to a new owner	8	4	4	6	5	4
to a new vessel under the same owner	21	17	13	16	19	19

TABLE 3-7. Proportion of sablefish fleet qualifying and not qualifying by sablefish endorsement qualifying options and participation in other fisheries.

Other Fisheries In Which the Sablefish Vessels Participate		Option (a)		Option (b)		Option (c)		Option (d) ADOPTED	
		Qualifying	Non-qualifying	Qualifying	Non-qualifying	Qualifying	Non-qualifying	Qualifying	Non-qualifying
	Vessels	Proportion							
1995									
Tuna	26	0.58	0.42	0.77	0.23	0.85	0.15	0.77	0.23
Other Groundfish (Except Whiting)	163	0.63	0.37	0.79	0.21	0.92	0.08	0.83	0.17
Crab	85	0.64	0.36	0.84	0.16	0.94	0.06	0.87	0.13
Halibut (Pacific and California)	37	0.51	0.49	0.70	0.30	0.84	0.16	0.76	0.24
Other Sablefish	32	0.53	0.47	0.78	0.22	0.91	0.09	0.78	0.22
Salmon	29	0.34	0.66	0.72	0.28	0.93	0.07	0.83	0.17
Shrimp and Prawns	11	0.82	0.18	0.91	0.09	1.00	0.00	1.00	0.00
Other Fish	61	0.61	0.39	0.75	0.25	0.92	0.08	0.77	0.23
Total Participating in Other Fisheries	168	0.63	0.37	0.80	0.20	0.92	0.08	0.84	0.16
1994									
Tuna	68	0.56	0.44	0.78	0.22	0.90	0.10	0.82	0.18
Other Groundfish (Except Whiting)	146	0.58	0.42	0.80	0.20	0.91	0.09	0.82	0.18
Crab	89	0.60	0.40	0.81	0.19	0.91	0.09	0.83	0.17
Halibut (Pacific and California)	48	0.58	0.42	0.83	0.17	0.88	0.13	0.81	0.19
Other Sablefish	21	0.48	0.52	0.71	0.29	0.90	0.10	0.81	0.19
Salmon	17	0.24	0.76	0.59	0.41	0.71	0.29	0.53	0.47
Shrimp and Prawns	7	1.00	0.00	1.00	0.00	1.00	0.00	1.00	0.00
Other Fish	58	0.50	0.50	0.72	0.28	0.88	0.12	0.74	0.26
Total Participating in Other Fisheries	159	0.58	0.42	0.79	0.21	0.90	0.10	0.82	0.18

TABLE 3-8. Vessel dependence (1995) on sablefish by income level for qualifying and nonqualifying vessels under different sablefish endosement qualification requirement options. Page 1 of 2

Total 1995 Fishing Income	Percent of 1995 Income from Sablefish						
	<5	5-33	33-66	66-95	>95	Totals	Share of Total
				Number of Vessels			
All 1995 Sablefish Vessels							
<$10,000	1	0	1	1	4	7	0.04
$10,000-$20,000	0	0	2	2	3	7	0.04
$20,000-$40,000	0	5	3	10	11	29	0.17
$40,000-$80,000	3	5	20	12	10	50	0.30
>$80,000	5	23	32	8	8	76	0.45
Total	9	33	58	33	36	169	
Share in Column	0.05	0.20	0.34	0.20	0.21		
Option (a) Qualifiers							
<$10,000	0	0	0	1	2	3	0.03
$10,000-$20,000	0	0	1	0	2	3	0.03
$20,000-$40,000	0	3	2	5	10	20	0.19
$40,000-$80,000	1	2	11	9	10	33	0.31
>$80,000	1	14	25	1	7	48	0.45
Total	2	19	39	16	31	107	
Share of Total in Column	0.02	0.18	0.36	0.15	0.29		
Option (a) Non-qualifiers							
<$10,000	1	0	1	0	2	4	0.06
$10,000-$20,000	0	0	1	2	1	4	0.06
$20,000-$40,000	0	2	1	5	1	9	0.15
$40,000-$80,000	2	3	9	3	0	17	0.27
>$80,000	4	9	7	7	1	28	0.45
Total	7	14	19	17	5	62	
Share of Total in Column	0.11	0.23	0.31	0.27	0.08		
Option (b) Qualifiers							
<$10,000	0	0	0	1	4	5	0.04
$10,000-$20,000	0	0	2	1	3	6	0.04
$20,000-$40,000	0	4	2	5	10	21	0.16
$40,000-$80,000	1	3	16	12	10	42	0.31
>$80,000	4	18	29	3	7	61	0.45
Total	5	25	49	22	34	135	
Share of Total in Column	0.04	0.19	0.36	0.16	0.25		
Option (b) Non-qualifiers							
<$10,000	1	0	1	0	0	2	0.06
$10,000-$20,000	0	0	0	1	0	1	0.03
$20,000-$40,000	0	1	1	5	1	8	0.24
$40,000-$80,000	2	2	4	0	0	8	0.24
>$80,000	1	5	3	5	1	15	0.44
Total	4	8	9	11	2	34	
Share of Total in Column	0.12	0.24	0.26	0.32	0.06		
Option (c) Qualifiers							
<$10,000	0	0	1	1	4	6	0.04
$10,000-$20,000	0	0	2	1	3	6	0.04
$20,000-$40,000	0	5	3	9	11	28	0.18
$40,000-$80,000	1	5	18	12	10	46	0.29
>$80,000	4	21	31	7	7	70	0.45
Total	5	31	55	30	35	156	
Share of Total in Column	0.03	0.20	0.35	0.19	0.22		

TABLE 3-8. Vessel dependence (1995) on sablefish by income level for qualifying and nonqualifying vessels under different sablefish endosement qualification requirement options. Page 2 of 2

Total 1995 Fishing Income	Percent of 1995 Income from Sablefish						
	<5	5-33	33-66	66-95	>95	Totals	Share of Total
				Number of Vessels			
Option (c) Non-qualifiers							
<$10,000	1	0	0	0	0	1	0.08
$10,000-$20,000	0	0	0	1	0	1	0.08
$20,000-$40,000	0	0	0	1	0	1	0.08
$40,000-$80,000	2	0	2	0	0	4	0.31
>$80,000	1	2	1	1	1	6	0.46
Total	4	2	3	3	1	13	
Share of Total in Column	0.31	0.15	0.23	0.23	0.08		
ADOPTED OPTION							
Option (d) Qualifiers							
<$10,000	0	0	1	1	2	4	0.03
$10,000-$20,000	0	0	1	0	3	4	0.03
$20,000-$40,000	0	3	2	8	10	23	0.16
$40,000-$80,000	1	4	17	11	10	43	0.30
>$80,000	4	20	31	6	7	68	0.48
Total	5	27	52	26	32	142	
Share of Total in Column	0.04	0.19	0.37	0.18	0.23		
Option (d) Non-qualifiers							
<$10,000	1	0	0	0	2	3	0.11
$10,000-$20,000	0	0	1	2	0	3	0.11
$20,000-$40,000	0	2	1	2	1	6	0.22
$40,000-$80,000	2	1	3	1	0	7	0.26
>$80,000	1	3	1	2	1	8	0.30
Total	4	6	6	7	4	27	
Share of Total in Column	0.15	0.22	0.22	0.26	0.15		

TABLE 3-9. Number of limited entry fixed gear vessels making sablefish landings in 1995 by sablefish fishery, grouped by whether or not the vessel's permit would receive a sablefish endorsement (categorizations based on catch of vessels holding the permits during the 1995 derby fishery).

	Sablefish Endorsement Qualifying Requirements			
	Option (a) 1984-1992 25,500 lbs	Option (b) 1984-1992 3,000 lbs	Option (c) 1984-1994 3,000 lbs	ADOPTED Option (d) 1984-1994 16,000 lbs
	Numbers of Vessels			
Qualifying for Endorsements				
Fixed Gear Derby	98	122	141	129
Cumulative Limit Fishery	80	104	119	107
Small Trip Limit, Limited Entry, Fixed Gear	66	86	98	90
Pot or Longline Open Access Gear Landings by Limited Entry Fixed Gear Vessels	14	17	17	17
Open Access Gear Landings by Limited Entry Fixed Gear Vessels (not pot or longline gear)	10	17	20	16
Limited Entry Trawl Gear Landings by Limited Entry Fixed Gear Vessels	5	8	9	9
Not qualifying for Endorsements				
Fixed Gear Derby	52	28	9	21
Cumulative Limit Fishery	48	24	9	21
Small Trip Limit, Limited Entry, Fixed Gear	43	23	11	19
Pot or Longline Open Access Gear Landings by Limited Entry Fixed Gear Vessels	4	1	1	1
Open Access Gear Landings by Limited Entry Fixed Gear Vessels (not pot or longline gear)	13	6	3	7
Limited Entry Trawl Gear Landings by Limited Entry Fixed Gear Vessels	4	1	0	0

TABLE 3-10. Pounds of sablefish landed by limited entry fixed gear vessels in 1995 grouped by whether or not the vessel's permit would receive a sablefish endorsement (categorizations based on catch of vessels holding the permits during the 1995 derby fishery).

	Sablefish Endorsement Qualifying Requirements			
	Option (a) 1984-1992 25,500 Lbs	Option (b) 1984-1992 3,000 Lbs	Option (c) 1984-1994 3,000 Lbs	ADOPTED Option (d) 1984-1994 16,000 Lbs
	Pounds (Thousands)			
Qualifying for Endorsements				
Fixed Gear Derby	3,219	3,648	4,059	3,931
Cumulative Limit Fishery	418	523	638	592
Small Trip Limit, Limited Entry, Fixed Gear	300	384	460	421
Pot or Longline Open Access Gear Landings by Limited Entry Fixed Gear Vessels	121	121	121	121
Open Access Gear Landings by Limited Entry Fixed Gear Vessels (not pot or longline gear)	22	31	35	33
Limited Entry Trawl Gear Landings by Limited Entry Fixed Gear Vessels	58	98	98	98
Not qualifying for Endorsements				
Fixed Gear Derby	1,034	605	194	322
Cumulative Limit Fishery	255	150	34	81
Small Trip Limit, Limited Entry, Fixed Gear	230	146	70	108
Pot or Longline Open Access Gear Landings by Limited Entry Fixed Gear Vessels	6	6	6	6
Open Access Gear Landings by Limited Entry Fixed Gear Vessels (not pot or longline gear)	15	6	2	4
Limited Entry Trawl Gear Landings by Limited Entry Fixed Gear Vessels	40	a/	0	0

a/ Less than 500 pounds.

TABLE 3-11. Sablefish catch for multispecies trips in 1995, weight and sablefish landed "bycatch" rates[a/] by sablefish fishery, gear, and whether or not the vessels would qualify for a sablefish endorsement under the recommended qualifying requirement option (Option (d)), where a multispecies trip is one with less than 50 percent sablefish by round weight.[b/]

	Sablefish Fishery	Gear	Number of Landings	Sablefish Landed (pounds)	Other Species Landed (pounds)	Sablefish as Percent of Total Landings
Qualify For Endorsements	Derby	Fixed	2	334	939	0.26
		Longline	2	334	939	0.26
		Pot	-	-	-	-
	Cumulative	Fixed	44	54,589	197,177	0.22
		Longline	44	54,589	197,177	0.22
		Pot	-	-	-	-
	Trip Limit	Fixed	372	86,118	1,049,651	0.08
		Longline	366	84,980	1,047,586	0.08
		Pot	6	1,138	2,065	0.36
Do Not Qualify For Endorsements	Derby	Fixed	1	d/	d/	0.10
		Longline	1	d/	d/	0.10
		Pot	-	-	-	-
	Cumulative	Fixed	11	3,349	6,845	0.33
		Longline	11	3,349	6,845	0.33
		Pot	-	-	-	-
	Trip Limit	Fixed	91	16,618	67,851	0.20
		Longline	90	16,503	67,851	0.20
		Pot[c/]	1	d/	d/	0.18

a/ This definition likely included trips in which a vessel targeted on multiple species, including sablefish.
b/ Includes all pot and longline landing by vessels with pot or longline limited entry permits.
c/ Landings by a vessel with a longline permit using pots as an open access gear.
d/ Less than 500 pounds.

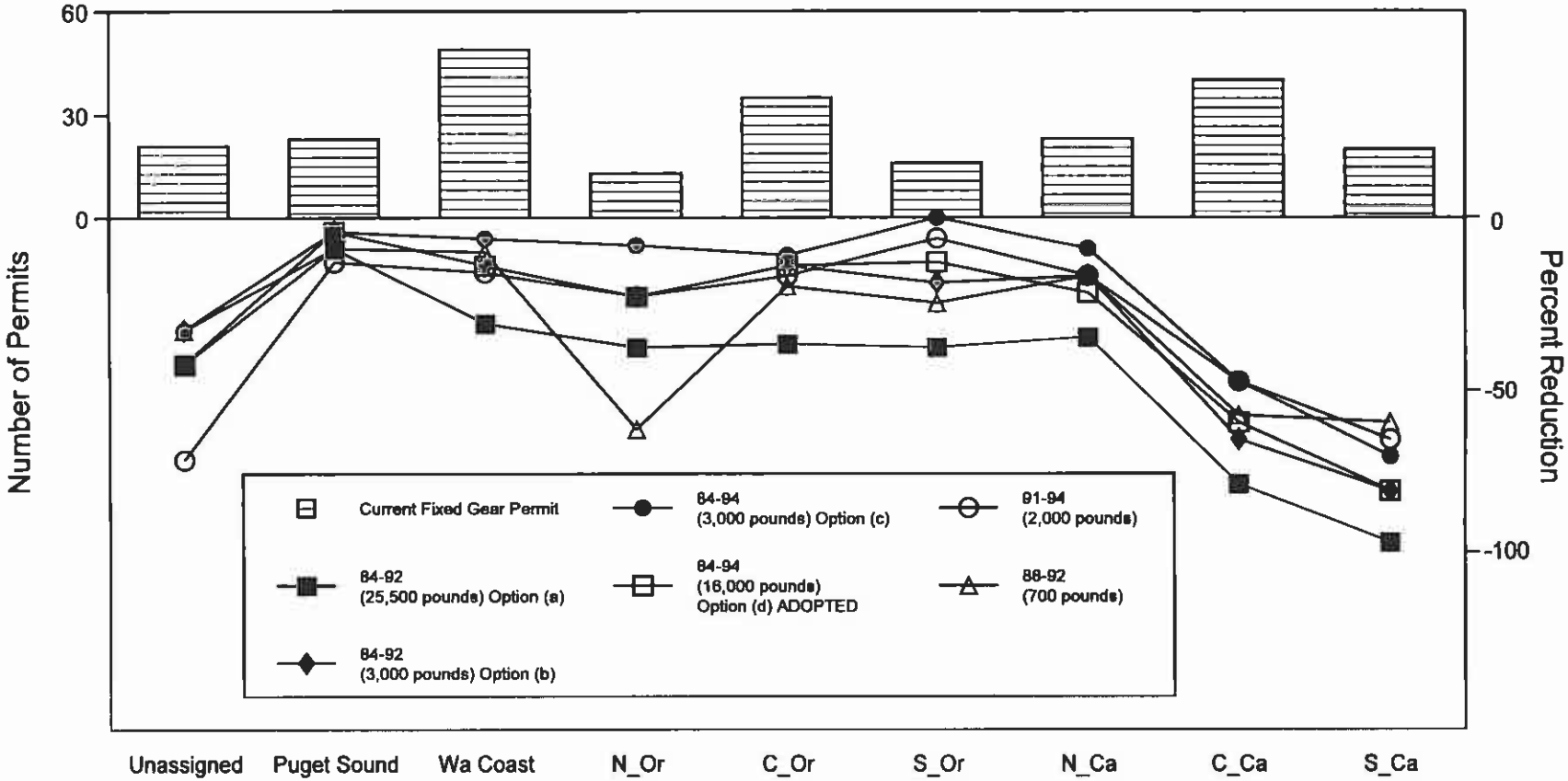

FIGURE 3-1. Geographic distribution of permits by landing area (bars) and percent reduction in number able to participate in the sablefish fishery as a result of the implementation of a sablefish endorsement (lines), by different sablefish endorsement qualifying requirements.

Notes: Area assignments based on pluralities of landings for vessels currently (August 1995) registered with the permit. Landings used to determine plurality were 1995, or 1992-1994 average.

Unassigned = not able to assign a port because vessels were inactive from 1992-1995; Puget Sound = Puget Sound and Straits of Juan de Fuca; Wa Coast = Neah Bay to Ilwaco; N_Or = Astoria to Tillamook; C_Or = Depot Bay to Coos Bay; S_Or = Port Orford south; N_Ca = Crescent City to Fort Bragg; C_Ca = Bodega Bay to Santa Cruz; S_Ca = Morro Bay south.

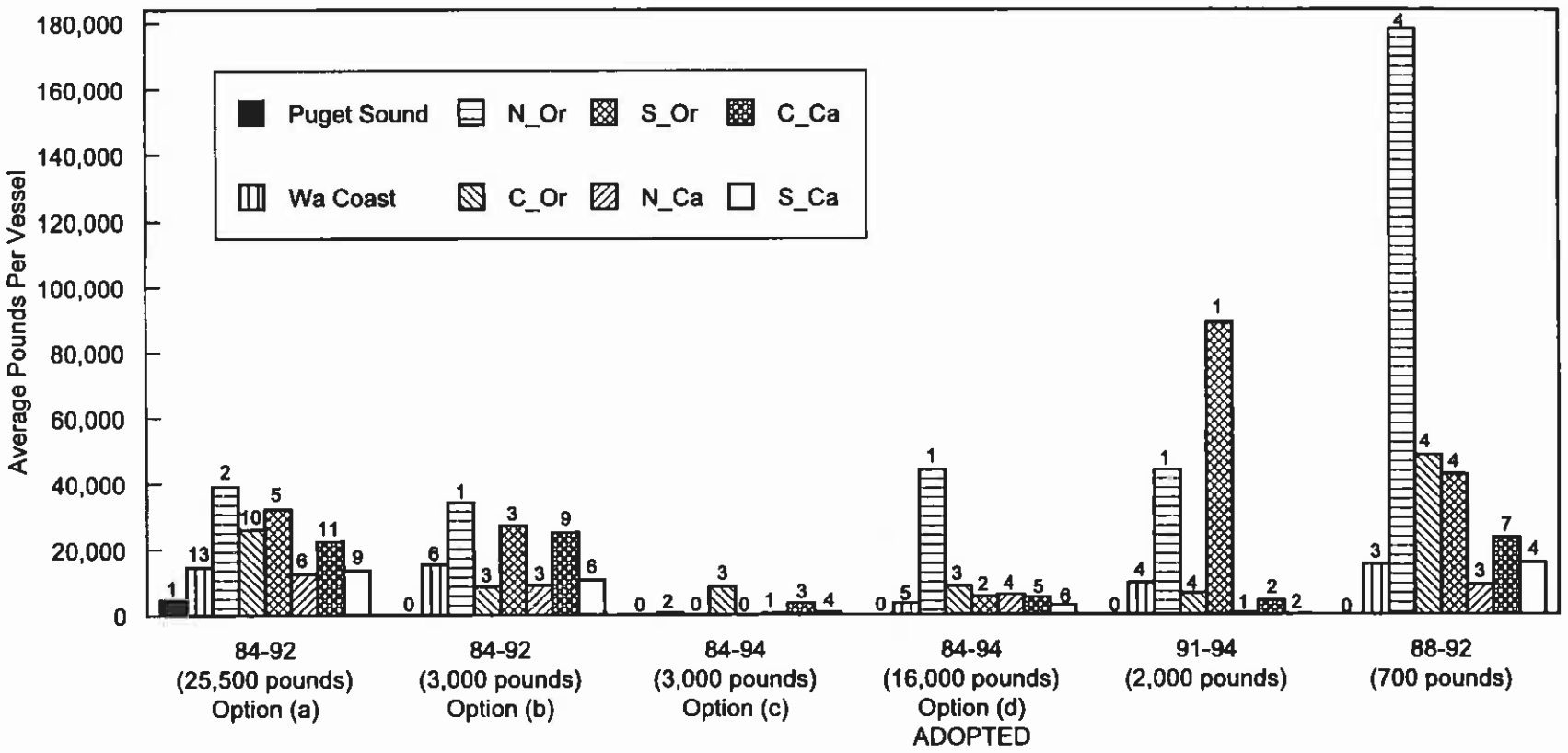

FIGURE 3-2a. Average landings for vessels fishing in 1994 which currently (August 1995) hold permits that would not qualify for a sablefish endorsement, by area, for each of the Council's sablefish endorsement qualifying options and three other options provided for comparison.

Notes: For each geographic area and criteria, the number of vessels with nonqualifying permits participating in 1994 is above the bar.

Unassigned = not able to assign to a port because vessels were inactive from 1992-1995; Puget Sound = Puget Sound and Straits of Juan de Fuca; Washington Coast = Neah Bay to Ilwaoc; Northern Oregon = Astoria to Tillamook; Central Oregon = Depot Bay to Coos Bay; Southern Oregon = Port Orford south; Northern California = Crescent City to Fort Bragg; Central California = Bodega Bay to Santa Cruz; Southern California = Morro Bay south.

Vessels not assigned to geographic areas are excluded from this figure. None of these vessels had landings in 1994.

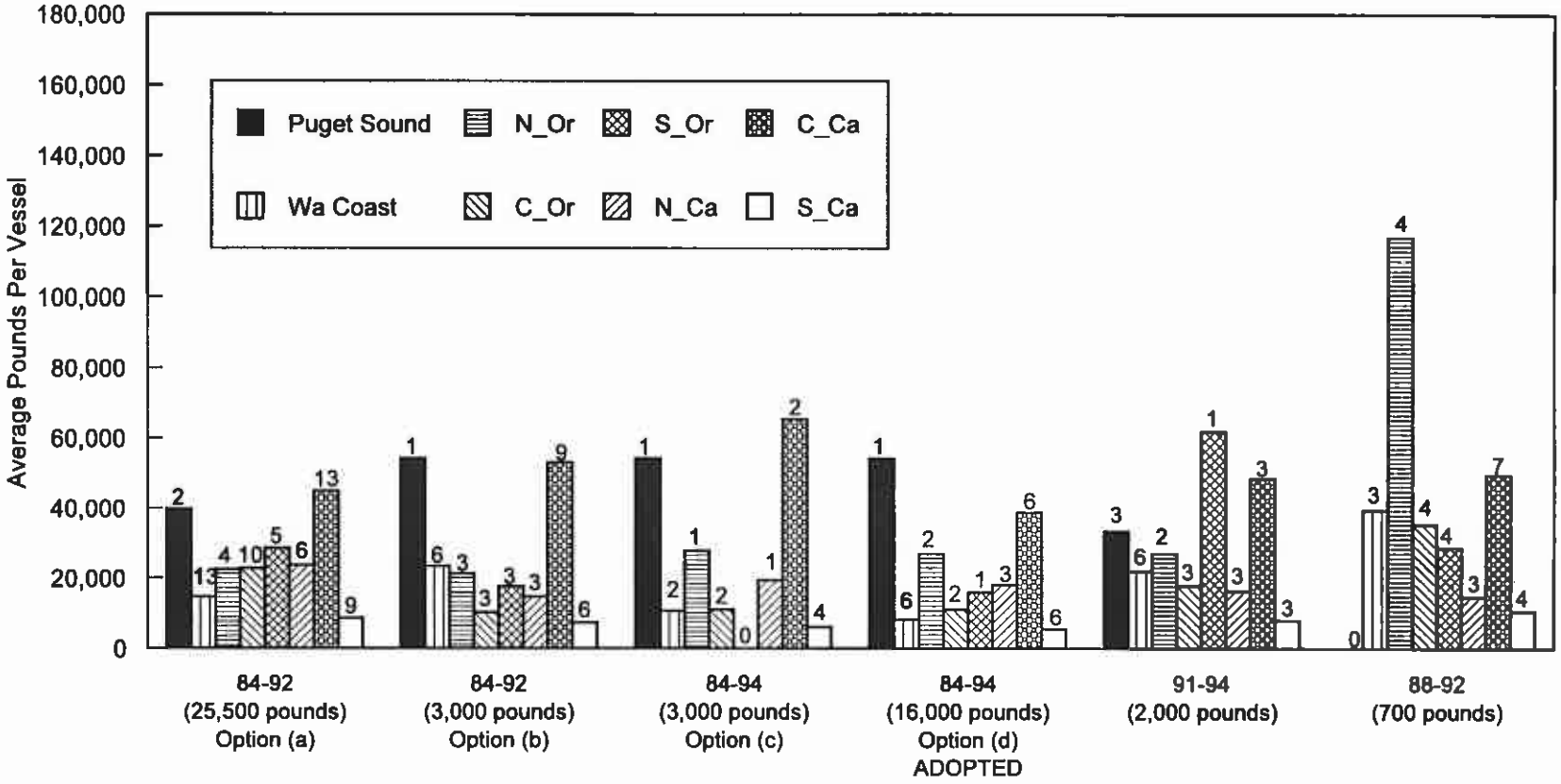

FIGURE 3-2b. Average landings for vessels fishing in 1995 which currently (August 1995) hold permits that would not qualify for a sablefish endorsement, by area, for each of the Council's sablefish endorsement qualifying options and three other options provided for comparison.

Notes: For each geographic area and criteria, the number of vessels with nonqualifying permits participating in 1995 is above the bar.

Unassigned = not able to assign to a port because vessels were inactive from 1992-1995; Puget Sound = Puget Sound and Straits of Juan de Fuca; Washington Coast = Neah Bay to Ilwaco; Northern Oregon = Astoria to Tillamook; Central Oregon = Depot Bay to Coos Bay; Southern Oregon = Port Orford south; Northern California = Crescent City to Fort Bragg; Central California = Bodega Bay to Santa Cruz; Southern California = Morro Bay south.

Vessels not assigned to geographic areas are excluded from this figure. None of these vessels had landings in 1995.

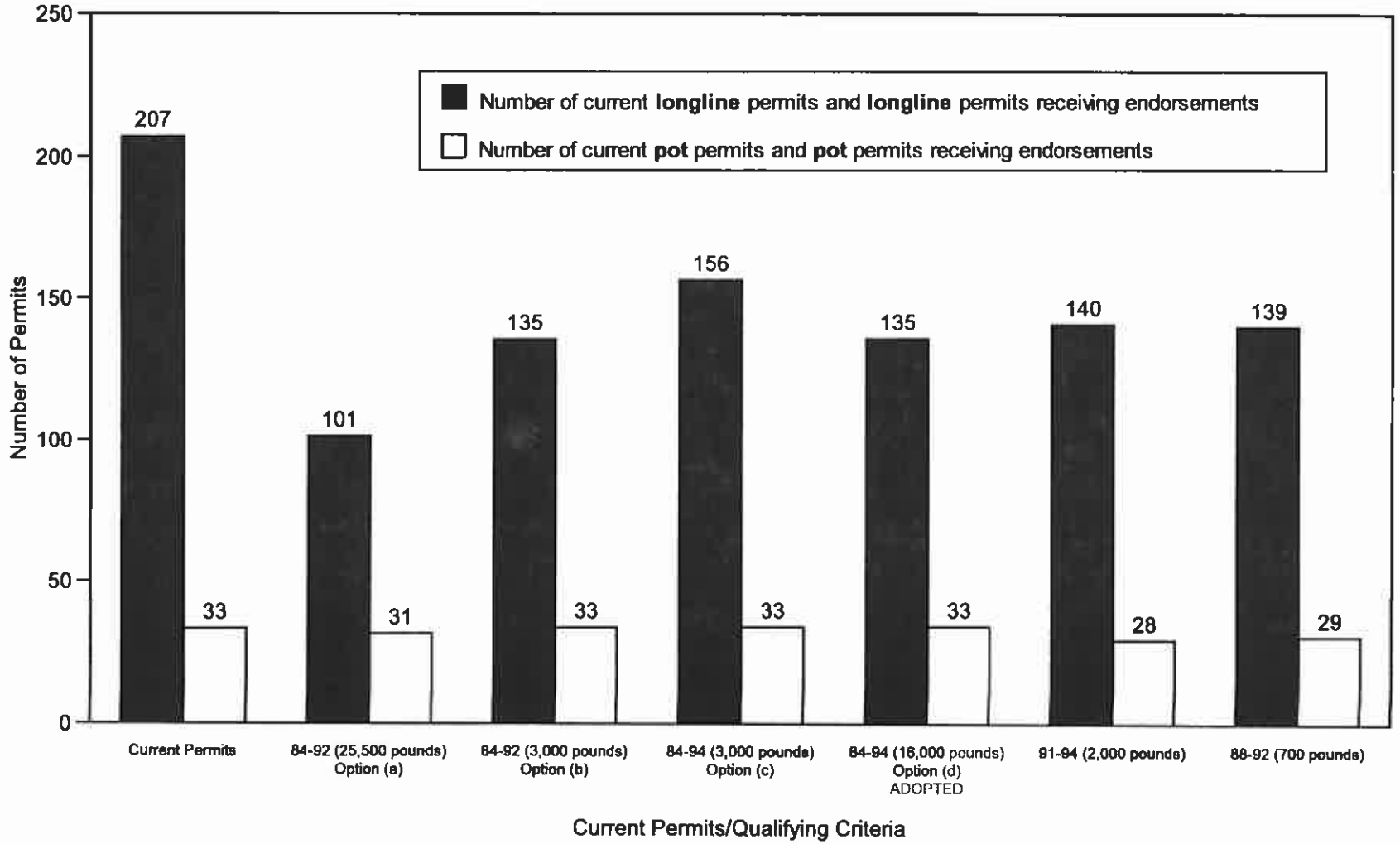

FIGURE 3-3. Number of current permits and permits receiving endorsements by qualifying criteria and gear (permits with longline and pot endorsement are counted as pot permits).

4.0 Impact Evaluation

4.1 Physical and Biological

No significant physical or biological impacts are expected from adoption of a sablefish endorsement.

4.2 Economic Cost Benefit Analysis

Adoption of a sablefish endorsement may change the total value of goods and services produced and consumed by the U.S. economy. The degree of change will depend on the magnitude of the effect on the economic surplus created in consumption and production of sablefish, compared to the sum of incremental administrative, legal, industry compliance, and enforcement costs of the program.

4.2.1 Producer Surplus

Producer surplus in the sablefish fixed gear fishery is the difference between the amount of value received by producers from consumers for processed sablefish and the value of the inputs used in the production process. An increase or decrease in consumer surplus would be counted as a benefit or cost, respectively, in the cost benefit analysis. Three sources of potential increases or decreases in producer surplus are described here:

- Changes in revenue from the resource
- Changes in the variable cost of fishing
- Changes in the fixed cost of fishing

The following discussion is primarily qualitative in nature and is summarized in Table 4-1.

Changes in Revenue

Changes in the Total Catch

- Over the short run, sablefish harvest will not change.

- There may be some redistribution of the catch of other groundfish and nongroundfish species but an increase over the long term is not likely.

Vessels displaced from the sablefish fishery may seek to increase their harvest of other species. Restricting the number of vessels in the limited entry fixed gear sablefish fishery through the use of sablefish endorsements will not change the total amount of sablefish harvested but will redistribute harvest away from vessels recently entering the fishery but with nonqualifying permits (Table 3-4). Those vessels losing sablefish harvest opportunity may seek to increase effort in other fisheries. Since the species landed by longline and pot vessels (even when fishing other gear) are generally fully utilized, substantial increases in the total landings of these other species over the long-run are unlikely, although a small increase for some species may be sustainable. Over the long-run, a decline in the total number of fishing vessels would be expected, reducing the effects of any initial net increase in harvest.

Changes in Price

Adoption of a sablefish endorsement will have no effect on sablefish prices or the per pound value of the harvest.

Changes in Fishing Cost

The changes in the economic cost of fishing can be divided into short-run effects and long-run effects on variable and fixed costs. The recommended sablefish endorsement would affect fishing costs primarily through long-run effects. In the long-run, the sablefish endorsement would limit future expansion of the fleet and associated increases in variable and capital costs. Given the long-run trend for an expansion in the number of participants (Table 2-2), recent price increases for sablefish (Table 2-4) and declining opportunities in other fisheries (for example, salmon and other groundfish, Council 1996a and Council 1996b), it is the Council's expectation that absent a sablefish endorsement the limited entry fixed gear sablefish fleet size is likely to increase causing the number of vessels participating to increase.

Long-Run Savings from Fleet Reduction

Changes in Fixed Capital Cost

The adopted sablefish endorsement is not likely to reduce fixed capital costs but may prevent future increases which would otherwise have occurred. The effect on fixed capital cost would occur through the increased cost of acquiring rights to enter the fixed gear sablefish fishery. The price of sablefish endorsed permits is likely to go up while the price of non-sablefish endorsed permits will go down. The value of the stock of all fixed gear groundfish permits may increase because of some increase in the perceived stability of future opportunity to take part in the sablefish harvest. At the margin, increased permit costs would be likely to reduce investment in new West Coast vessels and increase retirement of existing vessels. As a result, the stock of West Coast fishing vessels (i.e., the fleet), would be lower than it would have been absent the increased restriction on entry to the sablefish fishery.

Changes in Variable Cost

Over the long-run, sablefish endorsements would be expected to limit increases in the size of the West Coast sablefish fleet. At a higher fleet size, there would be higher variable costs related to congestion and the restrictiveness or regulations to limit the catch. Additionally, for some vessels fixed trip costs could be spread over a larger catch per vessel reducing the average per pound variable cost of the harvest.

4.2.2 Consumer Benefits

No impact is expected on product quality or prices.

4.2.3 Administrative and Legal Costs

- New administrative and legal costs for the sablefish endorsement are estimated at $113,700 in the first year, $12,300 in the second year and no costs after initial issuance is completed.

Administrative costs are enumerated in Appendix B. Not included in the quantified administrative cost estimate are state costs. The primary state costs would be for the time of state personnel involved with the development of implementation plans and with responding to inquiries regarding catch histories. These costs would be considered start-up costs.

4.2.4 Industry Compliance Costs

The materials, services, and time costs of applying for an endorsement would be the primary industry compliance costs associated with the sablefish endorsement. The fee charged for applying for a sablefish endorsement would not be included as a compliance cost for the purpose of the cost benefit analysis. The fee is a recovery of the costs included in the administrative cost estimates. As such it represents a transfer of cost from the government (general tax payer) to private industry rather than an additional cost of the program.

For those who do not initially qualify for a sablefish endorsement but wish to participate in the fishery, there will be an additional cost associated with acquiring (purchasing) a permit from a holder of a sablefish endorsed permit. However, the permit price does not reflect a real cost to society but rather is a transfer of assets between the buyer and seller. Thus the permit price is not included in the cost benefit analysis.

4.2.5 Enforcement Costs

No effect on enforcement costs is expected.

4.2.6 Other Costs and Benefits

Under Executive Order 12866 the following should be included as benefits when conducting cost benefit analyses: "potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity." Distributive, equity, and disruptive effects are discussed in Chapter 3, Section 4.3 and Chapter 5 of this document. No statements are made in this document as to what constitutes "greater value" with regard to distribution and equity questions. Safety is discussed in Section 4.3.4.

4.2.7 Cost Benefit Conclusion

For the sablefish endorsement program, the present value of the program costs are projected at $125,000 (Table 4-1). The size of the annual benefit required to break even against the quantified costs for the sablefish endorsement is $11,000 or one tenth of one percent of the total harvest value. The benefits to compensate for these costs are expected to arise from limiting increases in long-run variable and fixed costs and a possible minor improvement in safety. These benefits will occur only if the number of participants and future capacity involved in the fishery would have been greater if no sablefish endorsement had been adopted. The sablefish endorsement is not expected to reduce the number of vessels participating below 1995 levels. Unquantified costs which must also be considered are the state agency costs related to initial implementation, cost to industry of applying for the endorsement and initial disruption and dislocational costs.

4.3 Socioeconomic and Social

4.3.1 Distribution of Harvest Opportunity

A sablefish endorsement may result in some substantial redistribution of harvest. There are some vessels which have become larger producers in recent years that would not receive endorsements (Table 3-3 and Figure 3-2). In general, the greater the regulation induced change in the distribution of landings between vessels and areas from one year to the next, the greater the disruption which occurs. Disruption effects are discussed in Section 3.1.5.

4.3.2 Effects on Geographic Distribution of Fishery Impacts

The effects of the initial distribution of sablefish endorsements under different qualifying criteria are discussed in Section 3.1. In general, a greater proportion of longline vessels in California will not qualify for endorsements than in Washington or Oregon. However, many of the nonqualifying California vessels came from an area in which a sablefish endorsement will not be required. All pot vessels would qualify under the Council recommended sablefish endorsement qualifying criteria.

Regardless of the effects of the program on geographic distribution of landings, all of the benefits from the fishery do not necessarily follow the geographic distribution of landings. A substantial portion of the income flows to the home ports and residence communities of the vessel, vessel owner and crew, regardless of where the landings are made.

4.3.3 Effects on Processors and Relative Bargaining Strength

- Sablefish endorsements will give more bargaining strength to those who receive endorsements.

- The bargaining strength provided by sablefish endorsements will increase if the derby is replaced by a trip limit based fishery.

Processor access to vessels with sablefish should not be substantially impeded. The total amount of sablefish harvested will not change and the geographic redistribution of the fleet with harvest privileges in the area north of 36° N latitude will not be substantial enough to leave any area lacking for harvesting vessels. However, those who acquire sablefish endorsements will have more bargaining strength than before implementation of the program. Sablefish buyers will be more limited in their options for turning to other harvesters if they are unable to reach agreement with one of their normal suppliers. Under the time pressures of the derby fishery this effect may not be very large, however, the Council is in the process of considering a change from the derby to trip limit based management. This may allow vessels more time to market their harvest.

4.3.4 Effects on Vessel Safety

- The effects of a sablefish endorsement in improving safety will likely be minor and may not be noticeable.

A National Research Council study noted that commercial fishing has one of the highest mortality rates of any occupation and that safety has largely gone unregulated. While attributing a large portion of the safety issues to the actual vessel (for example, its structure, equipment and crew), the authors did consider fishery management practices to be one of three major external influences on vessel safety (National Research Council, 1991). They assert that the current fishery management council structure has not been effective in resolving allocation conflicts and that has "resulted in a highly competitive operating environment in which fishers may take unnecessary risks to maintain their livelihood." The extremely short and inflexible halibut and salmon openings off the West Coast and Alaska were specifically mentioned as examples of management practices that had forced fishers to work under "extremely adverse environmental conditions or not at all." However, due to a lack of reliable data and methodological problems, it is hard to provide quantitative estimates on the linkages between vessel safety and other factors, such as management practices.

The length of the Council's unrestricted sablefish fishery has been reduced to one week in recent years, significantly increasing the probability that fishers will be tempted to engage in unsafe practices in order not to lose fishing opportunities.

The current West Coast derby season is sufficiently short that the further shortening of the season through participation of additional vessels is not likely to significantly increase unsafe practices in comparison to those already in existence. Therefore a sablefish endorsement which restricts the growth of the derby fleet is not likely to contribute substantially to improved safety, but may have a small effect in preventing the further deterioration of safety. Additionally, the endorsement is complementary to other future management measures which will improve safety and will not impede these future measures.

4.3.5 Equity

National Standard 4 dictates that allocations be made in a fair and equitable manner. Because of the wide-ranging views in our society about what constitutes equitable allocation, there are not generally accepted standards against which an objective analysis can conclude that one allocation decision is more fair and equitable than another. There are no widely accepted measuring sticks for equity similar to those for evaluating such factors as efficiency. Therefore, analysis is limited to pointing out the major decision which would likely affect the perceived fairness and equity of a limited entry system and the rationale for

those decisions. A discussion of the rationale for the provisions of the options is provided in Chapter 3. The rationale for the Council's recommendation to adopt a sablefish endorsement is provided in Section 5.13. It will be up to each individual involved in the process to evaluate for him or herself whether the recommended sablefish endorsement is, or would be, evaluated by the general public to be, on the whole, fair and equitable. The Council, based on the record before it, concluded the sablefish endorsement was fair and equitable.

4.3.6 Windfall and Permit Values

When, as a result of some shift in the economy or property rights, one group of citizens acquires unanticipated profits at the expense of others there is often concern over the windfall profits created. The creation of a sablefish endorsement would increase permit prices, thus, create a windfall for those receiving endorsements. Windfall profits for permit holders are a common effect of achieving the ultimate goal of a more stable and rational fishery for those with substantial dependence on the fishery. Those not receiving an endorsement will likely experience a decrease in the value of their permit.

4.3.7 Effect on Fishermen Job Satisfaction and Lifestyle

Adoption of a sablefish endorsement is not expected to change the nature of the fishery with respect to job satisfaction and lifestyle characteristics (see Section 2.2.6). It is believed that the sablefish endorsement will further stabilize the fishery, helping to preserve opportunities for those who remain or choose to enter the fishery to experience those lifestyle and job characteristics which are unique to the fishing industry.

4.3.8 Dependence

Dependence with respect to the fixed gear sablefish endorsement is discussed in Sections 3.1 and 3.2. In general, the vessels with the greater single year dependence on the resource from 1984 through 1994 qualify for an endorsement (vessels with 16,000 pounds in at least one year). Vessels not qualifying for an endorsement will have some opportunity to continue to harvest sablefish outside the primary limited entry fixed gear sablefish fishery (the current daily trip limit fishery). If such a mode of fishing is profitable for nonqualifying vessels, these vessels could potentially harvest up to the amount of the qualifying requirement (16,000 pounds) by averaging two 300 pound trips a week over a six month period. Thus if vessels that harvest less than 16,000 pounds have some level of dependence on the resource there may be some opportunity to maintain some of their sablefish revenue. However, profitable fishing under such daily harvest constraints may only be realistic for smaller vessels located in ports close to sablefish fishing grounds. Depending on ex-vessel prices and fishing costs, the per pound profits may be lower than would be the case if the vessels could take the amount in a few trips during the derby fishery.

TABLE 4-1. Present value of costs and benefits for 25-year period discounted using an OMB approved 7 percent discount rate–all dollar values in thousands.

		Sablefish Endorsement
	Estimated Costs	
Administrative and Legal Costs		$125
Enforcement Costs		None
Total Estimated Costs		$125
	Other Costs Not Estimated	
Administrative Costs		State personnel time responding to inquiries during implementation
Industry Compliance		cost of applying
Disruption and Dislocational Effects		disruption to recent entrants and permit purchasers
	Benefits Assessment	
Annual benefit needed to break even (excluding unmeasured costs)[a/]		$11
Estimated pounds to be landed (millions)		5.5
Estimated ex-vessel value of landings based on 1995		$8,030
Annual benefit needed to break even as a percent of ex-vessel value		0.14
Benefit Categories		
Safety		possible minor improvement
Value of Product Landed		no effect
Short Run Variable & Fixed Costs		no effect
Long Run Variable & Fixed Costs	changes in fleet variable costs associated with number vessels	constrains increases
	changes in capital costs	constrains increases

a/ Use of a lower interest rates would decrease the size of the break even annual benefit.

5.0 Performance (Progress Toward Goals and Objectives) and Rationale for Council Decision

This chapter relates impacts discussed in Chapters 3 and 4 to management goals and objectives. The following is a list of categories to which goals and objectives from the Magnuson Fishery Conservation and Management Act (MFCMA), the groundfish fishery management plan (FMP), Executive Order (EO) 12866 (Regulatory Planning and Review), National Environmental Policy Act (NEPA), and Regulatory Flexibility Act (RFA) have been assigned:

Conservation
National Efficiency
Efficiency and Benefits for Fishery Participants
Government Cost Reduction
Enforceability
Stability
Safety
Equity
Social/Allocational Conflict
Production and Value of Product for Domestic Use
Other Social Goals

Appendix A contains the text from the policy documents expressing these goals and objectives.

Each section in this chapter begins with a summary of related goals and objectives followed by an analysis of impacts which have been identified as relevant to the goals and objectives. For purposes of brevity and clarity, similar goals and objectives have been combined. Some objectives appear more than once because they are related to more than one goal.

5.1 Conservation

Goals

- Maintain optimum sustainable yields (appropriate harvest levels)
- Prevent overfishing
- Manage a stock throughout its range
- Manage interrelated stocks together
- Prevent net loss of habitat

Objectives--Information Requirements

- Maintain information flows necessary to manage appropriately
- Maintain data collection and means for verification
- Preserve integrity of catch data by ensuring that catch information is properly recorded

Objectives--Management Actions

- Adopt appropriate management measures for each species/species group managed
- Respond to changes in information on the status of a stock
- If necessary, develop plans to rebuild stocks which are below maximum sustainable yield (MSY) level
- Minimize discard mortality

National Standards

The specific MFCMA national standards included in the above summary are:

National Standard 1. *Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.*

National Standard 2. *Conservation and management measures shall be based upon the best scientific information available.*

National Standard 3. *To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.*

National Standard 4. *. . . . If it becomes necessary to allocate or assign fishing privileges among various United States fishers, such allocations shall be . . . (2) reasonably calculated to promote conservation; . . .*

Effects of Options on Management Goals and Objectives

The MFCMA invests the Council with discretion to establish a system for limiting access to a fishery in order to achieve optimum yield (OY). OY is defined as the amount of fish which will provide the greatest overall benefit to the nation including MSY as modified by any relevant economic, social or ecological factors [see 54 CFR Section 602.11(f)(1)].

Preventing overfishing is of paramount importance to the Council and an important goal under all management systems. This amendment does not change estimates of MSY, acceptable biological catch (ABC) or harvest guidelines. It will also not significantly affect the ability to monitor status of the stock through scientific surveys and to adjust allowable catches in response to changes.

The options analyzed here maintain the status quo sablefish management unit. While the amendment would focus solely on fixed gear sablefish harvest, the Council recognizes that the sablefish caught by fixed gear, and all gears, are interrelated.

National Standard 4 requires that allocations be reasonably calculated to promote conservation. Fishery conservation can, and is, being achieved with the current management structure. The creation of a sablefish endorsement is proposed [to modify current impacts of conservation measures] to better achieve other management goals and objectives in the MFCMA, groundfish FMP and other policy directives, without threatening or diminishing the achievement of conservation goals and objectives. The problems and issues to be addressed are discussed in Section 1.3 and 1.4.

5.2 National Efficiency

Goal

The following general efficiency goal has been derived from language in the MFCMA, EO 12866 and the groundfish FMP.

> Where some regulation is required for reasons other than economic allocation, promote efficiency within limits of conservation needs.

Objectives

The following are identified objectives which relate to efficiency. **Not all of these objectives necessarily promote efficiency in every situation. A full cost benefit evaluation of the particular policy is needed to determine whether or not efficiency is promoted by pursuit of some of these objectives.**

- While still achieving regulatory objectives
  - maximize net benefits within the available regulatory alternatives[1/]
  - minimize costs and burden on society of needed regulations
  - decrease frequency of management changes
  - reduce the need for and eliminate some regulations
  - avoid duplicative regulations
- Maximize the value[2/] of the groundfish resource as a whole
- Increase efficiency of vessel operations
- Seek consistency, compatibility and predictability in regulations
- Specify performance objectives in regulations rather than mandating specific behaviors or actions
- Fit regulatory and informational requirements to the scale of the regulated entity
- Maintain fleet and vessel flexibility and ability to adapt to change (including opportunity for entry and exit)
- Reduce costs by reducing fishing capacity where excess capacity exists

National efficiency is evaluated through cost-benefit analysis. The following have been identified as factors which should be considered as part of a cost benefit analysis, though no specific statements were identified which indicate what objective should be pursued to achieve greater efficiency in regard to these factors.

- The environment
- Public health and safety
- Distribution of effects
- Equity
- Innovation
- Flexibility, consistency, and predictability

National Standards

The specific MFCMA national standards included in the above summary are:

National Standard 5. *Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.*

National Standard 7. *Conservation and management measures shall, where practical, minimize costs and avoid unnecessary duplication.*

Effects of Options on Management Goals and Objectives

Efficiency is to be promoted except that economic allocation is not to be the sole purpose of any management measure. Current measures used to conserve the sablefish resource have allocation implications or require allocational decisions. For example, to set the derby fishery, decisions must be

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1/ The "no regulation" option needs to be considered when evaluating costs and benefits of proposed actions.

2/ This is interpreted as an efficiency goal where "value" is in the context of net economic value in the national economy.

made on the amount of fish to allocate for the derby and the amount to allocate to the small daily trip limit fishery. As another example, the time of year that the derby fishery is opened has indirect allocational implications. The sablefish endorsement program would change the allocation implications of the tools used to conserve the resource. Thus, while economic allocation would be a central effect of the sablefish endorsement program, it is not the sole purpose of the proposal (see Sections 1.3 and 1.4).

The following is a discussion of those efficiency related goals and objectives on which the sablefish endorsement may have some significant effect.

Efficiency

National efficiency effects are reflected by the results of the cost benefit analysis. These results are summarized in Section 4.2 and Table 4-1. Because of gaps in the information, a definitive estimate of the efficiency effects is not possible. However, the best available quantitative and qualitative information is provided to allow the reader to make an informed judgement as to the relative probability of greater efficiency results under status quo as opposed to the alternatives. A sablefish endorsement appears likely to prevent the deterioration of efficiency, but not improve it. The number of permits expected to receive sablefish endorsements (168) will be above the number which have participated in recent derby fisheries (150-160) by about the number of vessels which are absent from the fishery each year (14 vessels which participated in 1993 and 1995 did not participate in 1994, 16 vessels which participated in 1994 did not participate in 1995.

Objectives Which May Promote Efficiency

Maximize Net Benefits Within The Available Regulatory Alternatives

Net benefits of the sablefish endorsement could have been increased by further reducing the number of sablefish endorsements issued. However, these changes may hamper the achievement of some objectives (e.g. equity and fairness) unrelated or indirectly related to efficiency. Some options for controlling capacity which might result in greater net benefits are unavailable because of current restrictions on development and implementation of individual quota (IQ) programs.

Minimize Costs and Burden on Society of Needed Regulations

Given a determination that the regulatory approach reflected in the recommended sablefish endorsement is the best approach to limiting the size of the sablefish fleet, the endorsement would be implemented in a manner which minimizes governmental costs.

There are two alternative approaches to reducing latent capacity which are not considered here in detail: (1) an IQ program and (2) a permit buyback program. Development of an IQ program was set aside first in response to a congressional request directed to the Council and second in response to specific legislation prohibiting the development of such a program. A permit buyback program requires enabling legislation. The likely source of funds for such programs would be the regulated industry. Authorizing legislation is needed to allow the collection and set aside of such funds in an account dedicated to the buyback program. In terms of administrative costs, the direct elimination of a segment of the permits through a sablefish endorsement minimizes direct governmental costs. However, in minimizing such costs, it places an uncompensated burden on those who do not qualify for a sablefish endorsement. This circumstance could be avoided with a buyback or IQ program.

Increase Efficiency of Vessel Operations

See "Increase Fishing Efficiency" in Section 5.3.

Seek Consistency, Compatibility, and Predictability of Regulations

By establishing qualification requirements based on permit catch history, the proposed sablefish endorsement is consistent and compatible with license limitation. Consistency and compatibility in this regard promotes predictability. To promote predictability the Council has provided notice of its intent to modify the Amendment 6 license limitation program.

In its adoption of the license limitation program, the Council provided notice that the license limitation program was only a starting point for capacity reduction (Amendment 6, Section 14.1.3) and that the access conferred by the license might be subject to change (Amendment 6, Section 14.1.4). Additionally, the Council published a notice in the *Federal Register* in February, 1992 announcing its intent to, modify the license limitation program (announcement of November 13, 1991 control date) and again in August, 1995 (announcement of June 29, 1995 control date). Council newsletters kept the public apprised of the progress and directions of development of the Council's programs.

On the other hand, fishers which have a license, but did not qualify for an endorsement may have had expectations that they would participate in all groundfish fisheries, including sablefish, regardless of notices provided about possible future changes.

Specify Performance Objectives

Management through performance objectives rather than mandated behavior can increase efficiency by providing the regulated entities with more options (more flexibility) on how to go about achieving the objective. Absent an ability to develop performance related programs such as IQs (currently prohibited by Congressional action) the Council is relying on a more traditional management tool. The sablefish endorsement is essentially an additional license requirement for the fishery.

Maintain Flexibility

Greater flexibility provides firms with the ability to maintain efficient operations in response to changes in the physical and economic environment. This objective is discussed in Section 5.7.

Reduce Cost by Reducing Capacity

The sablefish endorsement would limit the growth in capacity targeting on sablefish in terms of numbers of vessels. However, the capacity of individual operations will continue to increase so long as a derby fishery is maintained. Over the long run, options that lead to lower capacity in the fishery will lead to a smaller West Coast fishing fleet than would otherwise have occurred and lower fixed and variable harvesting costs (see "Changes in Fishing Cost" in Section 4.2).

5.3 Efficiency and Benefits for Fishery Participants

Goals and objectives identified in this section may benefit the industry or segments of the industry without necessarily resulting in increased benefits for the nation as a whole.

Goal

Maximize the value of the resource for participants in the fishery

Objectives

- Maximize the value of the groundfish resource as a whole[3/]
- Attempt to maintain year-round fisheries for those sectors of the groundfish fishery which benefit from such a policy
- Use gear restrictions to minimize the necessity for other management measures, whenever practicable[4/]
- Increase fishing efficiency
- Improve economic viability of the industry
- Scale regulatory burdens to the size of the entity being regulated
- Draft regulations to be simple and easy to understand to minimize the potential for uncertainty and litigation arising from such uncertainty

Effects of Options on Management Goals and Objectives

The following is a discussion of those fishery participant efficiency related goals and objectives on which the options under consideration have some significant effect.

Increase Fishing Efficiency

By limiting the expansion of effort, a sablefish endorsement may prevent deterioration in the efficiency of vessels remaining in the fleet. If the issuance of sablefish endorsements results in an increase in prices for those permits receiving endorsements, the level of efficiency and intensity of use of permits by individuals who purchase the permits will likely increase. Intensity of permit use (effective vessel capacity) will only increase as long as the derby fishery is maintained. In separate considerations, the Council is considering ending the derby fishery in a manner by which the incentive for many individual vessels to increase their capacity would decline substantially (through the imposition of cumulative limits). If this change is made and the sablefish endorsement is in place, the primary means to increase revenues will be by increasing fishing efficiency, rather than fishing volume.

Improve Economic Viability

A sablefish endorsement will improve the economic viability of those who initially receive the endorsement by further stabilizing the number of participants in the fishery and increasing the value of their permits. However, those who must buy sablefish endorsed permits to enter the fishery will pay in advance for the increased probability of a given level of profits and therefore may or may not experience an improvement in their financial viability (Copes, 1986). As discussed in the previous paragraph, this may lead to pressure to increase the capacity of the individual operation (utilize latent capacity) until such time as other actions by the Council and National Marine Fisheries Service (NMFS) bring an end to the derby fishery.

5.4 Government Cost Reduction

Goal

Reduce government costs

3/ This is interpreted as industry efficiency where value is the net value to industry rather than the nation as a whole.

4/ This objective appears to reflect a judgement that gear restrictions are less intrusive on the optimal operation of a fishing vessel than other types of restrictions. Less intrusion on optimal operations would generally imply greater efficiency for the firm, however, it is not clear that this would always be the case.

Objectives

- Use cost effective regulations (minimize costs while still achieving goals)
- Reduce the need for changes to regulations
- Increase clarity of regulations to reduce grounds for lawsuits

In designing cost effective regulations, the costs of enforcement and compliance (to the government, regulated entities, and the public) should be considered.

National Standard

The specific MFCMA national standard included in the above summary are:

National Standard 7. Conservation and management measures shall, where practical, minimize costs and avoid unnecessary duplication.

Effects of Options on Management Goals and Objectives

The following is a discussion of those government cost reduction goals and objectives on which the options under consideration have some significant effect.

Cost Reduction

Overall, the sablefish endorsement will increase government costs above status quo levels.

Cost Effectiveness of Regulations

A cost effective regulation is one that achieves the identified performance objectives at minimum cost. Evaluation of cost effectiveness requires a clear specification of objectives and criteria for minimum acceptable performance. The current objectives are numerous and performance criteria generally unspecified, making an evaluation of the cost effectiveness of the regulations difficult. This is often the situation in fishery management where the effects of government intervention on business practices are much farther reaching and thus, entail more considerations than many other types of regulations.

Changes to Regulations

The sablefish endorsement would tend to stabilize regulations (reduce the number of changes) by reducing the amount of latent capacity which may be activated in the fishery (the number of permits which are not fully utilized), thus stabilizing effort and reducing the need for regulatory response to increasing effort.

Clarity of Regulations

Simple regulations are the easiest to clearly describe and explain. They reduce government costs by reducing conflict and litigation costs. The sablefish endorsement adds an additional level of complexity to the regulations by creating new classes of limited entry permits which must be treated and explained separately. As an example, vessels with limited entry fixed gear permits can currently retain some sablefish at any time of year when using open access or limited entry gear. With the implementation of the proposed sablefish endorsement, vessels with limited entry fixed gear permits not endorsed for sablefish would not be allowed to retain sablefish taken as bycatch in the open access fisheries or while fishing for other groundfish during the time the sablefish cumulative limit or derby fishery is in progress. However, vessels with such permits endorsed for sablefish would be able to retain such sablefish bycatch. Additionally, the creation of an area in which the sablefish endorsement will not be required has lead immediately to consideration of regulating harvest in the area differently from the area in which the sablefish endorsement is required (Council, 1996c).

The No Regulation Alternative

Consideration of the no regulation alternative can be construed in one of two ways (1) elimination of current regulations, (2) making no change to the current regulations. The need for control over the fishery in order to prevent overfishing and conserve the resource is clearly established by the MFCMA and numerous Council documents. The alternative of making no change to the current regulations is included as an option in this document.

5.5 Production and Value of Product for Domestic Use

Goal

Achieve the maximum biological yield of the overall groundfish fishery, promote year-round availability of quality seafood to the consumer, and promote recreational fishing opportunities.

Objectives

Volume

- Encourage full utilization (harvesting and processing) by domestic fisheries
- Provide for foreign participation, consistent with the other goals, when surplus fish are identified
- Enable the quota, harvest guideline, or allocation to be achieved
- Increase sustainable landings
- Maintain or improve the recreational fishery

Value

- Provide stable supply of groundfish to the public
- Increase value of catch through better timing of catch, better quality of catch and elimination of discards
- Increase consumer satisfaction from the consumption of groundfish at higher qualities and/or lower prices
- Extend domestic fishing and marketing opportunities as long as practicable during the fishing year, for those sectors for which the Council has established this policy

Effects of Options on Management Goals and Objectives

The sablefish endorsement is not expected to have any direct effect on these goals and objectives. However, the endorsement is complementary and expected to support other future management measures which will contribute to this goal and the associated objectives.

5.6 Enforceability

Goal

Provide for enforceable fishery regulations.

Objectives

- Promote cost-effective enforcement by reducing need for frequent changes and restrictive trip limits
- Promote logistically viable enforcement by minimizing need to use regulations such as trip limits or subarea closures which are more difficult to enforce
- Minimize measures requiring enforcement

Effects of Options on Management Goals and Objectives

In general, sablefish endorsements would not have a substantial effect on needed enforcement levels.

5.7 Stability

Goal

- Promote long-term stability of the fishing industry

Objectives

- Take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches
- Choose the management measures that best accomplish objectives with the least disruption
- Pursue consistency and predictability in regulations
- Stabilize management regimes by reducing need for frequent regulatory changes and, in particular, inseason changes
- Promote flexibility and adaptability of the fleet size and individual vessels[5/]

National Standards

The relevant MFCMA national standard (included in the above summary) is:

National Standard 6. Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources and catches.

Effects of Options on Management Goals and Objectives

Over the long-term, stability in the essential elements of the fishery management and harvesting system requires an ability to respond to changing conditions of the resource and economy. Stability requires flexibility and adaptability of a nature which provides resilience and appropriate responses to changing conditions. The following is a discussion of those stability goals and objectives on which the options under consideration have some significant effect.

Least Disruption

The sablefish endorsement would be most disruptive for vessel owners who have recently acquired permits for the purpose of fishing in the sablefish fishery, but did not purchase a permit which qualifies for a sablefish endorsement. As of May 1996, 15 permits which would not qualify for sablefish endorsements had been transferred to new owners since implementation of the license limitation program.

Pursue Consistency and Predictability in the Regulations

Consistency and predictability are discussed in Section 5.2 along with the topic of compatibility.

Flexibility and Adaptability

In the long run, West Coast fishing vessels must maintain flexibility to be efficient and able to deliver their product at prices competitive in the global market. Ability to respond to changing economic conditions and

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5/ One of the policy documents from which this objective is derived places particular emphasis on combination vessels (vessels that participate in a variety of fisheries).

fishing opportunities is important to maintaining a viable, stable, and competitive U.S. fishing industry. Creation of a sablefish endorsement limits the flexibility of vessel operations as the primary means of achieving its purpose--preventing an increase in the number of vessels in the fixed gear sablefish fishery and maintaining the viability of the fishery. By maintaining a more economically viable sablefish fishery, the endorsement requirement is intended to preserve flexibility for those vessels which gain access to the fishery by acquiring an endorsed permit. The transferable permit maintains the flexibility for vessels to move in and out of a viable fishery and encourages more efficient producers to replace less efficient producers.

5.8 Safety

Goal

Provide opportunity to participate in the fishery without risk to health and safety

Objectives

- When appropriate, provide compensating fishing opportunities for fishing forgone because of bad ocean or weather conditions (reducing the pressure to fish in bad weather conditions)
- Limit or reduce effort competition for the same resource

Effects of Options on Management Goals and Objectives

The sablefish endorsement may have a minor effect in improving safety by limiting the number of new vessels which may enter the fishery. Those who purchase permits to enter the fishery may increase their effort to capture more of the resource in order to pay for the permit.

5.9 Equity

Goals

- Allocation of fishing privileges, where necessary, shall be fair and equitable to all fishers of the United States
- When conservation actions are necessary to protect a stock or stock assemblage, attempt to develop management measures that will affect users equitably

Factors

There appears to be a tendency in policy documents to generate lists of "considerations" and factors to "take into account" rather than specific normative objectives when it comes to dealing with issues of equity. Three reasons for this may be: (1) equity considerations involve trade-offs between many different factors; (2) the importance of equity factors relative to one another may vary depending on a particular situation; (3) individuals weigh the factors differently. In the extreme, some people evaluating a policy may place a positive weight on a particular effect while others place a negative weight on the same effect. The following are factors policy documents indicate may affect the degree to which a fishery regulation is perceived as fair and equitable.

- **Discrimination:** Discrimination among residence of different states.
- **Concentration:** Presence of excessive concentration of harvest opportunity.
- **Recent Participation:** Accommodation of current/recent participation and investment (human and capital).
- **Historic Participation and Practices:** Accommodation of historic participants and investment (human and capital).

- **Dependence:** Degree of dependence on the fishery by those affected and opportunity to recoup any losses by increasing activities related to other fisheries.
- **Impacts on Other Fisheries:** Impacts of management actions on those in other fisheries.
- **Certainty/Uncertainty:** Consistency, predictability and comprehensibility of regulatory actions.
- **Appropriate Burden:** Degree of regulatory burden compared to that needed to achieve goals and size of regulated entity relative to the burden.

National Standards

The relevant MFCMA national standard included in the above summary is:

National Standard 4. Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishers, such allocations shall be (1) fair and equitable to all such fishers; . . . and (3) carried out in such a manner that no particular individual, corporation or other entity acquires an excessive share of such privileges.

Effects of Options on Equity Related Factors

The following is a discussion of those equity related factors on which the options under consideration have some significant effect.

Recent Participation

Two measures in the proposed sablefish endorsement program take present participation into account: (1) the qualifying period includes years up through 1994; and (2) consideration of permit catch history for the purpose of making an initial allocation. Creation of an effective limited entry program generally involves use of control dates published when consideration of the program begins. Such control dates are necessary to prevent a flood of new entrants from exacerbating problems and making any effort to control capacity through a license program ineffective. The Council does not include catch history from periods after the announced control date because that expands participation and dilutes the value of the fishery for those who had participated prior to announcement of the advent of limited entry. The Council views this as a fair outcome in part because the new participant had been on notice of the coming restrictions. Commercial fishing is a business, and participants need to remain aware of the applicable regulatory climate. However, reliance on permit catch history for the sablefish endorsement, rather than personal catch history, allows the program to take into account changes in the persons "currently participating" which occur between the control date and implementation (See Section 3.1.1). Considering catch history of the person rather than the permit, would limit fishers' ability to enter or leave the fishery between the time development of the program begins and a final decision is made on whether or not to implement the program.

Historic Participation and Practices

For the sablefish endorsement, extending the qualifying period back through 1984 takes into account historic participation of the fishery operation. Historic participation considerations are important for operators who may not have chosen to participate on the West Coast in recent years. These decisions may have been forced by a Council decision to time West Coast derby openings to coincide with Alaska openings. These issues are discussed in more detail in "Disruption in Dislocation" in Section 3.1.5.

Dependence

As substantiated by fish tickets, past landing history is, in the Council's opinion, a barometer of participation in the fishery, historical fishing practices and dependence on the fishery. The qualifying requirements for the sablefish endorsement are intended to take dependency and involvement in the fishery into account.

At initial issuance, those who are or have been within the past 10 years, most involved in the fishery, and therefore likely to be most dependent, are grandfathered in, with the exception of those who acquired nonqualifying permits recently. Those not granted a permit at initial issuance must gain entrance by acquiring a permit from one of the initial recipients, usually through purchase.

Based on 1995 landings, vessels with nonqualifying permits tend to have a slightly lower dependence on the fishery and slightly more involvement in other fisheries than vessels which qualify for permits (see Section 3.1).

Certainty/Uncertainty

These issues are discussed in Section 5.7

5.10 Social/Allocational Conflict

Goal

Reduce conflict between user groups

Objectives

- Minimize gear conflicts among competing resource users
- Prevent harvests from exceeding allocations
- Limit or reduce effort competition for the same resource
- Reduce present and future needs for actions which are directly or indirectly allocative in nature
- Encourage consensus harvest sharing agreements or negotiated settlements between the affected participants in the fishery
- Minimize conflict between domestic fisheries and foreign fisheries harvesting underutilized species

Effects of Options on Management Goals and Objectives

All current sablefish allocation issues affected by the proposed actions would be between domestic non-tribal commercial harvesters. The proposed actions will have no effect on tribal allocations of sablefish. There is not presently a substantial recreational sablefish harvest, nor is there a commercial/recreational sablefish allocation. There is no foreign harvesting or processing of sablefish in the U.S. exclusive economic zone.

The following is a discussion of those social and allocational conflict related goals and objectives on which the options under consideration have some significant effect.

Effort Competition

The sablefish endorsement may limit the growth of effort competition by limiting an expansion of the number of vessels participating. Intensity of effort by individual vessels is not affected by the endorsement.

Need for Allocative Actions

By limiting the number of vessels in the fishery, the fishery will be somewhat more viable over the long run and allocational battles somewhat less intense than might otherwise occur.

The sablefish endorsement creates another group able to take the fixed gear sablefish harvest guideline for which allocational considerations may arise: vessels without sablefish endorsements harvesting sablefish outside the primary sablefish fishing opportunities. The decision on the length of the primary sablefish season would indirectly allocate between vessels with and without endorsements (see Section 3.1.2).

The creation of a separate management regime in the Conception management area may increase the need for allocative actions. There may be a shift of permits without sablefish endorsements into the area creating the need for a harvest guideline and an allocation between limited entry and open access gears.

Encourage Consensus

The Council has encouraged meetings of interested parties to resolve the fixed gear sablefish management issue. However, meetings between the parties have not lead to a consensus agreement, except with respect to the need for a sablefish endorsement--see Section 3.1.3.

5.11 Other Social Goals

- Preserve important historic, cultural, and natural aspects of our national heritage
- Maintain desirable status quo aspects of the cultural and social framework of the fishery
- Attain the widest range of beneficial uses of the environment without other undesirable and unintended consequences
- Support a diversity and variety of choice.

Preserve National Heritage

There was a potential for the Newport Beach Dory fleet (a historic landmark) to be adversely affected by the adoption of the sablefish endorsement. However, elimination of the requirement that an endorsement be held for the Conception management area eliminated any direct impacts on that fleet.

Cultural and Social Framework

The current cultural and social framework for the limited entry fixed gear fishery is based upon a large number of vessels (approximately 200) which engage in the sablefish fishery at different levels of intensity and within different mixes of fishing strategies (Tables 3-7). There is substantial transience in the fishery such that while about 180 to 190 vessels have harvested sablefish in recent years, only 150 to 160 vessels have participated in the limited entry derby fishery in any given year. The fleet is spread along the coast geographically (Table 3-5 and Figure 3-1). These are some of the characteristics of the fleet around which the cultural and social lives of the fishers and fishing communities have developed. Since the fishery is already managed under a limited license system, the proposed sablefish endorsement does not substantially change the nature of the cultural and social characteristics of sablefish fishing activities within the limited entry fleet. The sablefish endorsement may create some geographic shift in the distribution of sablefish harvesters. Longline sablefish harvesters in central California will decline from 14 percent to 9 percent of the total West Coast fleet (Figure 3-1). There would have been a larger decrease in southern California, except that the area was exempted from the requirement that a sablefish endorsement be held. The sablefish endorsement will also reduce the ease (increase the cost) with which vessels move in and out of the fishery.

Choice

One of the focuses of NEPA is the maintenance of a diversity and variety of choices. The proposed sablefish endorsement is intended to preserve the availability of a choice to enter a viable fixed gear sablefish fishery. It eliminates the choice for nonqualifying permit holders and potential new participants who cannot afford to purchase a qualifying permit.

5.12 Other Considerations

5.12.1 Best Data

National Standard 2. Conservation and management measures shall be based upon the best scientific information available.

National Standard 2 was discussed in Section 5.1 in the context of the effects of the options considered on ability to maintain good information for conservation and management measures. Here the concern is the use of that information in the current document.

In developing this proposed amendment, state, NMFS Limited Entry Office and PacFIN data bases were accessed in order to obtain the most up to date information available for analysis of the options.

5.12.2 Impacts on Other Fisheries and Adjacent Council Areas

It is important in assessing achievement of many of the above goals and objectives that the impacts on other fisheries be considered in order to completely evaluate the effects of the proposed program. Effects of social concern are likely to occur through the shifting of effort or capital into or away from some other fishery as a result of an action taken to manage the fishery of immediate concern. The analysis of net economic value has directly addressed the effects of capital shifting into other fisheries and the effects of the sablefish endorsement on non-sablefish species. The following paragraphs indicate the amount of effort shifting to other fisheries which may be expected.

The most likely place for vessels which lose sablefish fishing opportunity to attempt to make up lost revenues is in the other fisheries in which they participate. Based on 1995 revenues, vessels not receiving sablefish endorsements will be seeking to makeup revenues of about $750,000. Sablefish from outside Pacific Council areas, salmon, halibut, and tuna are some of the species on which nonqualifying vessels tend to target (Table 3-7). Of vessels with West Coast limited entry permits known to participate in the Alaska sablefish fishery[6/], 22 of 23 will qualify for a West Coast sablefish endorsement. Because of the small size of the West Coast fishery relative to Alaska's fishery, and the management of the Alaska sablefish fishery under an IQ system, little effect on Alaska fisheries is expected. On the other hand, vessels remaining in the fishery will have a similar amount of new revenue available to them. This could slightly reduce the intensity of effort by these vessels in other fisheries. Over the long term, the sablefish endorsement may result in a smaller West Coast fishing fleet than would otherwise have occurred, benefitting both the fixed gear sablefish fishery and the other fisheries in which these vessels participate.

The analyses in Chapter 3 and 4 provide additional information on the other fisheries in which sablefish vessels participate, their degree of participation and dependence, the adjustments which may occur in the limited entry fleet and the effect of these adjustments on other fisheries.

5.13 Rationale for Council Decision

The rationale for specific provisions of the recommended sablefish endorsement are provided in Chapter 3. In this section the rationale for choosing the sablefish endorsement over continued status quo management is presented.

The decision to recommend a sablefish endorsement is made in the context of a policy environment which does not allow other capacity control measures to be developed: IQ and vessel buyback programs.

The Council believes there is a reasonable probability that the fixed gear sablefish fleet will expand based on (1) past trends in the number of participants, (2) increasing sablefish prices, (3) constraints in other

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6/ Based on landings at West Coast ports.

fisheries, and (4) new entry in anticipation of future access limitation including IQs. The Council expects a sablefish endorsement-imposed cap on the number of vessels participating to be effective in limiting an expansion of the fleet size. While the initial cap will be slightly above recent fleet sizes, the cap may be immediately effective because in any given year there has been a tendency for some vessels to drop out of the fishery temporarily.

Given that the endorsement is effective in capping the number of participating vessels, future savings in variable and fixed capital costs are expected to generate efficiency benefits and prevent further deterioration in the fishery of the kind which has led to many of the problems listed in Section 1.3.

Like the Amendment 6 license limitation program, the sablefish endorsement is another step toward reducing capacity in the fishery. It is not inconsistent with, and the Council anticipates it will assist in, future management changes. The Council has stated its intent to end the derby fishery and is currently considering cumulative limits as the tool for achieving this goal. Imposition of cumulative limits on the primary sablefish fishery will limit the incentive for individual vessels to expand capacity (limit "capital stuffing"). With tighter control on the number of vessels and their volume of production, fishery managers will be in a better position to reduce capacity effectively through such means as a buy-back program (when legislative changes allow); through the consolidation of fishing privileges by means of IQ (when legislative changes allow); or by associating cumulative limits with permits and allowing more than one permit to be registered with a vessel.

6.0 Applicable Law

6.1 Regulatory Impact Review (RIR) and Regulatory Flexibility Act (RFA) Determination

In compliance with Executive Order 12866 and the RFA, National Marine Fisheries Service (NMFS) requires the preparation of an RIR and analysis of impacts under the RFA for all regulatory actions or for significant policy changes that are of public interest.

6.1.1 Executive Order 12866

Executive Order 12866, Regulatory Planning and Review, was signed on September 30, 1993 and established guidelines for promulgating new regulations and reviewing existing regulations. While the executive order covers a variety of regulatory policy considerations, the benefits and costs of regulatory actions are a prominent concern. Section 1 of the order deals with the regulatory philosophy and principles that are to guide agency development of regulations. The regulatory philosophy stresses that, in deciding whether and how to regulate, agencies should assess all costs and benefits of all regulatory alternatives. In choosing among regulatory approaches, the philosophy is to choose those approaches that maximize net benefits to society.

The regulatory principles in Executive Order 12866 emphasize careful identification of the problem to be addressed. The agency is to identify and assess alternatives to direct regulation, including economic incentives, such as user fees or marketable permits, to encourage the desired behavior. When an agency determines that a regulation is the best available method of achieving the regulatory objective, it is to design its regulations in the most cost-effective manner to achieve the regulatory objective. Each agency is to assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. Each agency is to base its decisions on the best reasonably obtainable scientific, technical, economic and other information concerning the need for and consequences of the intended regulation.

NMFS requires the preparation of an RIR for all regulatory actions that either implement a new fishery management plan (FMP) or significantly amend an existing FMP. The RIR is part of the process of preparing and reviewing FMPs and provides a comprehensive review of the changes in net economic benefits to society associated with proposed regulatory actions. The analysis also provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problems. The purpose of the analysis is to ensure that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. The RIR addresses many of the items in the regulatory philosophy and principles of Executive Order 12866.

Executive Order 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant." A "significant regulatory action" is one that is likely to

1. have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or state, local, or tribal governments or communities;

2. create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

4. raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this executive order.

A regulatory program is "economically significant" if it is likely to result in the effects described in Item 1 above. The RIR is designed to provide information to determine whether the proposed regulation is likely to be "economically significant."

The options for a sablefish endorsement for the fixed gear sablefish fishery are not projected to have effects in excess of $100 million. Cost benefit analysis results are provided in Chapter 4. The total gross value of the limited entry fixed gear sablefish harvest has been between $4 and $11 million annually over the last three years (Table 2-3). The projected government expenditures to implement the recommended sablefish endorsement are $126,000. No long term governmental costs for the sablefish endorsement have been identified.

6.1.2 Regulatory Flexibility Act (RFA)

The RIR is also designed to determine whether the proposed rule has a "significant economic impact on a substantial number of small entities" under the RFA. The purpose of the RFA is to relieve small businesses, small organizations and small governmental entities from burdensome regulations and record-keeping requirements. If the proposed action meets both the "significant" and "substantial" criteria, preparation of an initial regulatory flexibility analysis (IRFA) is required.

The category of small businesses likely to be affected by the proposed regulation is that of commercial business currently engaged in the fixed gear sablefish fishery. The following discussion of impacts focuses specifically on the consequences of the proposed action on the mentioned business entities. An IRFA is conducted to make a preliminary determination as to whether the proposed action would have a "significant economic impact on a substantial number of small entities." In addition, the IRFA provides an estimate of the number of small businesses affected, a description of the small businesses affected, and a discussion of the nature and size of the impacts.

The Small Business Administration defines a small business in commercial fishing as a firm with receipts of up to $2 million annually. All fishing vessels which would be affected by the alternatives to status quo have annual West Coast revenues of less than $2 million. For analysis it is assumed that the West Coast fishing vessel revenue represents the entire revenue of the business entity. However, it is not known whether or not some of the vessels are owned by entities with other sources of revenue which, taken together with that of the vessel, would be in excess of $2 million. Additionally, it is known that a number of the vessels participate in Alaska fisheries. However, while the Alaska fish ticket system is maintained with Federal funds, Alaska state confidentiality laws prohibit the use of the fish ticket information for the management of other than Alaska fisheries. Therefore, it is not possible to assess whether vessels that participate in Alaska would be considered small businesses if Alaska landings are taken into account. Based on the lack of any vessel with West Coast landings valued in excess of $2 million, it is assumed that all entities affected are small businesses.

In general, NMFS has indicated a "substantial number" of small entities to be more than 20 percent of those small entities engaged in the fishery. Economic impacts on small business entities are considered to be "significant" if the proposed action would result in any of the following: (a) reduction in annual gross revenues by more than 5 percent; (b) increase in total costs of production by more than 5 percent as a result of an increase in compliance costs; (c) compliance costs as a percent of sales for small entities are at least 10 percent higher than compliance costs as a percent of sales for large entities; (d) capital costs of compliance represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities; or (e) as a rule of thumb, 2 percent of small business entities being forced to cease business operations.

IRFA Summary

The following analysis indicates the possibility that the sablefish endorsement option may be considered significant under the RFA. The analysis also outlines the size and nature of the impacts. Further description of the businesses affected is provided in Chapter 2 and additional information on the nature and size of impacts is provided in the sections on impacts in Chapters 3 and 4.

If the recommended sablefish endorsement is implemented, any vessel not receiving an endorsement will have to purchase a permit with an endorsement to continue in the fishery. In 1995, 170 vessels of 240 with "A" permits for fixed gear, harvested some sablefish (this includes vessels which participated in the small trip limit fishery). Under the Council recommended qualifying requirements, 23 vessels with nonqualifying permits had more than 5 percent of their West Coast fishing income from sablefish in 1995 (Table 3-7). Therefore there would not be a significant effect on a substantial number of small businesses, using the reduction of gross revenue criteria (over 20 percent of the fleet experiencing a greater than 5 percent reduction in gross revenues).

Compliance costs for those qualifying for an endorsement will not be substantial. The primary compliance cost would consist of a one time application fee of between $200 to $400 plus the time required to apply. For those who do not qualify for a sablefish endorsement, or who do not own a groundfish permit--those seeking to enter through the acquisition of a permit--compliance costs will be substantial. The current price for a 30-40 foot fixed gear limited entry permit is about $20,000. The price for a permit with a sablefish endorsement will likely increase while the price for nonendorsed permits will likely decline. If all those with a fixed gear permit are considered to be "engaged in the fishery", the number of vessels that will lose the opportunity to harvest sablefish and would have to purchase a permit with a sablefish endorsement to continue is projected to be at or above 20 percent. However, as indicated in the previous paragraph, fewer than 20 percent would suffer a greater than 5 percent reduction in gross revenues if they chose not to acquire a permit with a sablefish endorsement.

No business entities will be forced to cease business if sablefish endorsements are adopted. All business entities will have the option of continuing in non-sablefish fisheries and/or re-entering the fishery through the purchase of a transferable permit. A nontransferable permit would have the effect of preventing nonqualifiers from participating in the fishery.

6.2 Magnuson Fishery Conservation and Management Act (MFCMA) Requirements

6.2.1 Vessel Safety Considerations--Sec. 303(a)(6)

Section 303(a)(6) of the MFCMA requires that an FMP or amendment consider, and may provide for, temporary adjustments (after consultations with the U.S. Coast Guard and persons utilizing the fishery) regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safety of vessels. The creation of a sablefish endorsement may prevent or slow further deterioration of the derby fishery and hence prevent or slow the deterioration of safety.

6.2.2 Fishery Impact Statement--Sec. 303(a)(9)

Section 303(a)(9) of the MFCMA requires that any plan or amendment submitted by a council to the Secretary include a description of the potential impact of the plan or amendment on the participants in the fisheries and on participants in other fisheries managed by adjacent regional councils. This document describes the potential effects on West Coast fishery participants of requiring a sablefish endorsement to participate in the limited entry fixed gear sablefish fishery and switching from current derby management to management based on a series of cumulative limits. Section 5.12.2 of this document reviews consideration of the effect of the options on other fisheries. It is not expected that this action would significantly affect fisheries managed by other regional councils.

6.2.3 Required Limited Entry Considerations--Sec. 303(b)(6)

Section 303(b)(6) requires the Council and Secretary of Commerce (Secretary) to take into account the following factors when developing a limited access system: (a) present participation in the fishery; (b) historical fishing practices in, and dependence on, the fishery; (c) the economics of the fishery; (d) the capability of fishing vessels used in the fishery to engage in other fisheries; (e) the cultural and social framework relevant to the fishery; and (f) any other relevant considerations. The sablefish endorsement would be considered a new limited entry program.

Present Participation

Consideration of present participation is reviewed in "Recent Participation" in Section 5.9.

Historic Fishing Practices

The development of what has become the limited entry fixed gear fishery, the nature of the fishery, and annual cycles in the fishery are described in Chapter 2. Historic fishing practices are also discussed in "Distribution and Social Issues" in Section 3.1.5. The option for a sablefish endorsement is intended to accommodate and preserve historic fishing practices and opportunities for the limited entry fixed gear fleet. It will not directly affect historic fishing practices outside the limited entry fleet. Section 3.2 covers some possible indirect impacts on the open access fleet.

Dependence On The Fishery

Dependence on the fishery is discussed in "Dependency" in Section 5.9. as well as Sections 3.1.5 and 3.2.

Economics Of The Fishery

Economics of the fishery are discussed in sections on economic impacts in Chapters 3 and 4 as well as Section 5.2 and 5.3

Ability to Engage in Other Fisheries

Ability of nonqualifying vessels to engage in other fisheries is discussed in Section 3.5.

Cultural and Social Framework

Cultural and social issues are specifically addressed in the description of impacts in Section 3.1.5 and Chapter 4, as well as Section 5.11.

Other Relevant Considerations

Numerous other issues are covered in the descriptions of impacts in Chapters 3 and Chapter 4.

6.3 Coastal Zone Consistency

Section 307(c)(1) of the Federal Coastal Zone Management Act (CZMA) of 1972 requires that all federal activities which directly affect the coastal zone be consistent with approved State coastal zone management programs to the maximum extent practicable. The relationship of the groundfish FMP with the CZMA is discussed in Section 11.6.1 of the groundfish FMP. The alternatives in this document are consistent to the maximum extent practicable with the coastal zone management programs of Washington, Oregon and California, within the meaning of Section 307(c)(1) of the CZMA and its implementing regulations. This determination has been submitted to the responsible state agencies for their review.

6.4 Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA)

The purposes of the ESA are to provide a means whereby the ecosystems upon which threatened and endangered species depend may be conserved, to provide a program for the conservation of such threatened and endangered species, and to take such steps as may be appropriate to achieve the objectives of the treaties and conventions created for these purposes. Section 7 of the ESA requires all federal agencies to ensure that any action authorized, funded or carried out by such an agency is not likely to jeopardize the continued existence of any threatened or endangered species.

The adoption of a sablefish endorsements is not anticipated to jeopardize survival of endangered/threatened species or have any adverse effects with regard to marine mammal populations. Total catch or effort is not expected to change. Re-initiation of a Section 7 consultation under the ESA is not necessary because the activities covered are within the scope of activities covered in previous Section 7 consultations that apply to the groundfish fishery. Consultation opinions have been issued on the following dates: July 5, 1989, August 10, 1990, May 28, 1993, and May 14, 1996. These consultations found no jeopardy to threatened or endangered species from the groundfish fishery.

6.5 Paperwork Reduction Act (PRA)

The major purposes of the PRA of 1980 are to (1) minimize the federal paperwork burden for individuals, small businesses, state and local governments; (2) minimize the cost to the federal government of collecting, maintaining, using and disseminating information; and (3) ensure the collection, maintenance, use and dissemination of information by the federal government is consistent with applicable laws relating to confidentiality. A PRA analysis and Office of Management and Budget authorization will be required for the sablefish endorsement application forms. The number of individuals affected (a maximum of 240), the amount of information required, and length of the application form will be substantially less than what was required for the groundfish license limitation program.

6.6 Federalism

No federalism issues have been identified relative to the options in this document. The affected states have been closely involved in developing the options considered and the principle state officials responsible for fisheries management in their respective states have not expressed federalism related opposition to the options. Preparation of a federalism assessment under Executive Order 12612 is not warranted.

6.7 National Environmental Policy Act (NEPA)

The discussion of the need for action, alternatives, and their environmental impacts are contained in Chapters 1, 3 and 4 of this document. A description of the affected environment is contained in Chapter 2.

The recommended sablefish endorsement would not be a major action having significant impact on the quality of the marine or human environment of the West Coast.

Mitigating measures related to recommended sablefish endorsement are unnecessary. No unavoidable adverse impacts on protected species, wetlands, or the marine environment would be expected to result from the recommended action.

Finding of No Significant Environmental Impact

The recommended action would alter the present groundfish fishery management plan by creating a sablefish endorsement which would be required for fixed gear limited entry vessels to take part in the primary limited entry fixed gear sablefish fishery. The recommended action is described in detail in Section 1.4.

Section 1508.27 of the CEQ Regulations list 10 points to be considered in determining whether or not impacts are significant. The analyses presented below are based on the detailed information contained in Chapter 3 and 4 of this document.

Beneficial and Adverse Impacts

There would be beneficial and adverse impacts from recommended alternative to status quo. The impacts of the adopted option and options considered are described in Chapters 3 and 4 and summarized with respect to goals and objectives in Chapter 5. The goals and objectives in Chapter 5 are derived from the goals and objectives of the MFCMA, the groundfish FMP, Executive Order 12866, NEPA, and the RFA (see Appendix A for a complete list of the goals and objectives from each of these policy directives). The beneficial and adverse impacts, as analyzed, are not significant.

Public Health or Safety

The recommended action would not be expected to have any significant adverse impact on public health or safety. There may be some improvement in vessel safety (see Section 6.2.1).

Unique Characteristics

The recommended action would not be expected to have any significant adverse impact on unique characteristics of the area such as historic or cultural resources, park lands, wetlands, or ecologically critical areas.

Controversial Effects

The recommended action is not expected to involve significant controversial issues for the broader public. Among participants in the fleet, the issue is expected to be controversial as some participants will lose their present access to the primary fixed gear sablefish harvest opportunity.

Uncertainty or Unique/Unknown Risks

The options would not be expected to have any significant effects on the human environment that are highly uncertain or involve unique or unknown risks.

Precedent/Principle Setting

The options considered would not be expected to have any significant effects in establishing a precedent and do not include actions which would represent a decision in principle about a future consideration. Section 14.1.4 of the license limitation program will continue to apply. This section states:

> Groundfish LE permits and endorsements confer a right to participate in the West Coast groundfish fishery with a limited entry gear in accordance with the limited entry system established under the groundfish FMP as modified by this chapter of the FMP (created under Amendment 6) or any future amendment which may modify or even abolish the limited entry system. The permits and endorsements are also subject to sanctions including revocation, as provided by the MFCMA, 16 USC at 1858(g) and 15 CFR Part 904, Subpart D.

Relationship/Cumulative Impact

The options would not be expected to have any significant cumulative impacts that could have a substantial adverse effect on the sablefish resource or any related resource (see Section 4.1).

Historical/Cultural Impacts

The options would not be expected to have any significant effects on historical sites listed in the National Register of Historic Places and will not result in any significant impacts on significant scientific, cultural, or historic resources. A geographic scope which was considered but rejected would have covered the Newport Beach Dory fleet (registered as a historical landmark). Since the geographic scope was altered to exclude the area in which this fleet operates, no direct effect is expected.

Endangered/Threatened Impacts

The options would not be expected to adversely affect any endangered or threatened species or marine mammal population (see Section 6.6).

Interaction with Existing Laws for Habitat Protection

The options would not be expected to have any significant interaction which might threaten a violations of Federal, state, or local law or requirements imposed for the protection of the environment.

7.0 List of Preparers and Coordination With Others

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- Dr. Richard Methot, National Marine Fisheries Service, Northwest Fisheries Science Center
- Mr. Will Daspit, Mr. Ed Heyman, and Mr. Brad Stenberg, Pacific States Marine Fisheries Commission PacFIN Office
- Members of the Council's Enforcement Consultants Committee

The preparers of the environmental assessment also consulted with members of the Council's Groundfish Management Team (GMT) and NOAA General Counsel. The GMT includes members from California Department of Fish and Game, Oregon Department of Fish and Wildlife, Washington Department of Fish and Wildlife and National Marine Fisheries Service.

8.0 List of Agencies Organizations and Persons Receiving the Environmental Assessment

California Department of Fish and Game
Environmental Protection Agency
North Pacific Fishery Management Council
Northwest Indian Fisheries Commission
Oregon Department of Fish and Wildlife
Pacific States Marine Fisheries Commission
U.S. Army Corp of Engineers
U.S. Coast Guard
U.S. Department of Interior
U.S. Department of State
U.S. Fish and Wildlife Service
Washington Department of Fish and Wildlife

This document was sent to approximately 500 persons on the Council mailing lists including conservation organizations, fisher and processor organizations, all longline and fishpot gear "A" permit holders, fishery management agencies, state clearinghouses, and other organizations and individuals.

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Appendix A
Goals and Objectives for Council Action

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Appendix A
Goals and Objectives for Council Action

The following are goals and objectives contained in Federal legislation and Council policy which relate to policy issues under consideration in this document.

MFCMA

National Standards

National Standard 1. Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

National Standard 2. Conservation and management measures shall be based upon the best scientific information available.

National Standard 3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

National Standard 4. Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and, (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

National Standard 5. Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

National Standard 6. Conservation and management measures shall take into account and allow for variations among, and contingencies in fisheries, fishery resources, and catches.

National Standard 7. Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

Other Relevant Objectives and Criteria Stated or Implied in the Magnuson Act

Sec 303 (a) Required Provisions. Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall

(1) contain management measures . . . which are (A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing, and to protect, restore, and promote the longterm health and stability of the fishery [emphasis added].

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--[US capacity and foreign opportunities]

(6) consider and provide for temporary adjustments after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or disseminate amount participants in the affected fisher;

(9) include a fishery impact statement for the plan or amendment (. . .) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants.

Sec 303 (b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act.

(6) establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such a system, the Council and the Secretary take into account--

(A) present participation in the fishery,
(B) historical fishing practices in, and dependence on, the fishery
(C) the economics of the fishery
(D) the capability of fishing vessels used in the fishery to engage in other fisheries,
(E) the cultural and social framework relevant to the fishery, and
(F) any other relevant considerations;

(b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(6) establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such a system, the Council and the Secretary take into account--

(A) present participation in the fishery,
(B) historical fishing practices in, and dependence on, the fishery
(C) the economics of the fishery
(D) the capability of fishing vessels used in the fishery to engage in other fisheries,
(E) the cultural and social framework relevant to the fishery, and
(F) any other relevant considerations;

GROUNDFISH FMP

Management Goals and Objectives

Goals

Goal 1 - Conservation. Prevent overfishing by managing for appropriate harvest levels, and prevent any net loss of the habitat of living marine resources.

Goal 2 - Economics. Maximize the value of the groundfish resource as a whole.

Goal 3 - Utilization. Achieve the maximum biological yield of the overall groundfish fishery, promote year round availability of quality seafood to the consumer, and promote recreational fishing opportunities.

Objectives

To accomplish these management goals, a number of objectives will be considered and followed as closely as practicable:

Conservation

Objective 1. Maintain an information flow on the status of the fishery and the fishery resource which allows for informed management decisions as the fishery occurs.

Objective 2. Adopt harvest specifications and management measures consistent with resource stewardship responsibilities, for each groundfish species or species group.

Objective 3. For species or species groups which are below the level necessary to produce MSY, consider rebuilding the stock to the MSY level and, if necessary, develop a plan to rebuild the stock.

Economics

Objective 4. Attempt to achieve the greatest possible net economic benefit to the nation from the managed fisheries.

Objective 5. Identify those sectors of the groundfish fishery for which it is beneficial to promote year round marketing opportunities and establish management policies that extend those sectors fishing and marketing opportunities as long as practicable during the fishing year.

Objective 6. Gear restrictions to minimize the necessity for other management measures will be used whenever practicable.

Utilization

Objective 7. Develop management measures and policies that foster and encourage full utilization (harvesting and processing) of the Pacific coast groundfish resources by domestic fisheries.

Objective 8. Recognizing the multispecies nature of the fishery, establish a concept of managing by species and gear, or by groups of interrelated species.

Objective 9. Strive to reduce the economic incentives and regulatory measures that lead to wastage of fish.

Objective 10. Provide for foreign participation in the fishery, consistent with the other goals to take that portion of the OY not utilized by domestic fisheries while minimizing conflict with domestic fisheries.

Social Factors

Objective 11. When conservation actions are necessary to protect a stock or stock assemblage, attempt to develop management measures that will affect users equitably.

Objective 12. Minimize gear conflicts among resource users.

Objective 13. When considering alternative management measures to resolve an issue, choose the measure that best accomplishes the change with the least disruption of current domestic fishing practices, marketing procedures and environment.

Groundfish FMP Framework Socioeconomic Criteria

Direct allocation of the resource between different segments of the fishery is, in most cases, not the preferred response to a resource conservation issue. Council recommendations to directly allocate the resource will be developed according to the criteria and process described in Section 6.2.3, the socio-economic framework.

If the Council concludes that a management action is necessary to address a social or economic issue, it will prepare a report containing the rationale in support of its conclusion. The report will include . . . an analysis that addresses the following criteria: . . . how the action is expected to accomplish at least one of the following:

1. enable a quota, harvest guideline, or allocation to be achieved;
2. avoid exceeding a quota, harvest guideline, or allocation;
3. extend domestic fishing and marketing opportunities as long as practicable during the fishing year, for those sectors for which the Council has established this policy;
4. maintain stability in the fishery by continuing management measures for species that previously were managed under the points of concern mechanism;
5. maintain or improve product volume and flow to the consumer;
6. increase economic yield;
7. improve product quality;
8. reduce anticipated discards;
9. reduce gear conflicts, or conflicts between competing user groups;
10. develop fisheries for underutilized species with minimal impacts on existing domestic fisheries;
11. increase sustainable landings;
12. increase fishing efficiency;
13. maintain data collection and means for verification;
14. maintain or improve the recreational fishery; or,
15. any other measurable benefit to the fishery.

Groundfish FMP Direct Allocation Considerations

In addition to the requirements described . . . [in the above section] . . . the Council will consider the following factors when intending to recommend direct allocation of the resource.

a. present participation in and dependence on the fishery, including alternative fisheries;
b. historical fishing practices in, and historical dependence on, the fishery;
c. the economics of the fishery;
d. any consensus harvest sharing agreement or negotiated settlement between the affected participants in the fishery;
e. potential biological yield of any species or species complex affected by the allocation;
f. consistency with the MFCMA national standards;
g. consistency with the goals and objectives of this FMP.

License Limitation Goals and Objectives

Goals

The goals for the West Coast groundfish fishery limited entry program are to improve stability and economic viability of the industry while recognizing historic participation, meet groundfish management objectives and provide for enforceable laws.

Primary Objective

The primary objective of a limited entry program will be to limit or reduce harvest capacity in the West Coast groundfish fishery.

Secondary Objectives

In pursuit of the primary objective, the following secondary objectives will be addressed:

Economic

- Promote long-term economic stability
- Increase net returns from the fishery
- Allow flexibility for combination vessels

Management

- Stabilize management regimes by reducing need for frequent inseason changes
- Reduce the cost of management
- Reduce by-catch and waste
- Encourage effort in underutilized species fisheries

Enforcement

- Promote cost-effective enforcement by reducing need for frequent changes and tight trip limits
- Promote logistically viable enforcement by minimizing need to use regulations such as trip limits or subarea closures which are more difficult to enforce

Social

- Recognize and accommodate historical participation of those investing their life and resources in the fishery
- Maintain a mechanism for fishery entrance/exit and flexibility for change in the fleet
- Reduce conflicts between user groups by limiting or reducing effort competition for the same resource
- Provide stable supply of groundfish to the public at a reasonable price

Draft Sablefish Individual Quota Program Goals and Objectives

The following goals and objectives were first adopted by the IQ Industry Committee at their August 1992 meeting and were presented to the Council for initial review in November 1992. The goals were further refined before the committee included them in their final report (March 1993). The Council tentatively adopted the goals and objectives at their April 1993 meeting. However, consideration of whether or not to adopt the program has been put on hold.

Goals

Conservation

Reduced discards and increased reliability of catch estimates.

Economic

Reduced total cost of catching groundfish, increased price through increased quality and minimized management costs and increased consumer satisfaction.

Objectives

Conservation.

a. Minimize discard mortality; and

b. Preserve integrity of catch data by ensuring that catch information is properly recorded.

Economic.

a. Reduce fishing costs through reduction of investment in harvest capacity, increase efficiency of vessel operations, increase adaptability of fleet size and operations to changing conditions, technology and markets, and increase efficiency of individual vessel operations;

b. promote economic stability of fisheries;

c. increase value of catch through better timing of catch, better quality of catch and elimination of discards;

d. minimize management and enforcement costs through decreased frequency of management changes and elimination of some management measures currently used;

e. reduce present and future needs for actions which are directly or indirectly allocative in nature;

f. increase consumer satisfaction from the consumption of groundfish at higher qualities and/or lower prices;

g. increase the value of processed fish through better timing of fish delivery; and

h. decrease processing costs through reduced peak capacity requirements.

Social.

a. Recognize and accommodate historical participation of those investing their life and resources in the fishery;

b. increase safety;

c. maintain a mechanism for fishery entrance/exit and flexibility for change in the fleet.

EXECUTIVE ORDER 12866

The following are excerpts from EO 12866.

Statement of Philosophy and Principles.

(a) agencies should assess all costs and benefits of available regulatory alternatives including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

(b) The Principles of Regulation. To ensure that the agencies' regulatory programs are consistent with the philosophy set forth above, agencies should adhere to the following principles, to the extent permitted by law and where applicable: . . .

(3) Each agency shall identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. . . .

(5) When an agency determines that a regulation is the best available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. In doing so, each agency shall consider incentives for innovation, consistency, predictability, the costs of enforcement and compliance (to the government, regulated entities, and the public), flexibility, distributive impacts, and equity.

(6) Each agency shall assess both the costs and the benefits of the intended regulation and recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulations justify its costs.

(8) Each agency shall identify and assess alternative forms of regulation and shall, to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt.

(10) Each agency shall avoid regulations that are inconsistent, incompatible, or duplicative with its other regulations or those of other Federal agencies.

(11) Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of differing sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

(12) Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.

NEPA

The following are excerpts from NEPA

Sec. 2. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation . . . .

Sec 101(a) . . . it is the continuing policy of the Federal Government . . . to use all practicable means and measures . . . in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic and other requirements of present and future generations of Americans.
(b) In order to carry out the policy set fort in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may
(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations
(2) assure . . . safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences.

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible an environment which supports diversity and variety of individual choice.
(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.
(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

REGULATORY FLEXIBILITY ACT

The following are excerpts from the RFA:

Sec 2.(a) The Congress finds and declares that -- (1) when adopting regulations to protect the health, safety and economic welfare of the Nation, Federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public;

Sec. 2(b) It is the purpose of this Act to establish as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.

Appendix B
Administrative And Industry Compliance Costs

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APPENDIX B
ADMINISTRATIVE AND INDUSTRY COMPLIANCE COSTS

ADMINISTRATIVE COSTS

Initial Issuance and Implementation

Initial issuance and implementation includes development and review of implementing regulations, database development and computer system support, and processing applications. Costs for processing appeals and defending lawsuits are estimated separately below.

For the purposes of this analysis it will be assumed that every vessel with some sablefish history applies for an endorsement. There are approximately 240 vessels with "A" permits endorsed for longline or fishpot gear. Of these, 222 have some history of catching sablefish from 1984–1994.

Applicants would be required to submit evidence of their qualification for an endorsement or request the National Marine Fisheries Service (NMFS) to determine whether or not they qualify for the endorsement.[1/] The process for processing permit applications would include: mailing out applications forms; reviewing applications for completeness; phone calls to verify or obtain information; returning incomplete applications with guidance letters; retrieving and reviewing files for assessing permit history; retrieving and reviewing PacFIN data; determining vessel qualifications; recording the application and the received information; and printing, reviewing and mailing the permit with a sablefish endorsement or drafting and sending explanation of denial. The total first year cost for initial issuance and implementation (excluding appeals and legal costs) are estimated at $63,800 (Table C–1).

Appeals

If all of those with some sablefish history between 1984 and 1994 applied for an endorsement, approximately 50 would be expected to be denied based on a lack of landings history (about 170 vessels are expected to qualify under the adopted qualifying requirement option). For purposes of this estimate, it is projected that 7 appeals are generated relating to sablefish endorsements, based on experiences with implementation of the license limitation program. This may be an overestimate because the grounds for an appeal would be much more limited under the sablefish endorsement program than under the license limitation program. In the license limitation program, there were a number of specified exceptions to the landing requirement through which an applicant might qualify for an endorsement. For the sablefish endorsement, the only basis for qualification is pounds of landings. The costs of each appeal would be substantially lower than for the license limitation program since there are no plans for an industry appeals board. The estimated cost per appeal is $4,100, and the estimated total cost for the seven projected appeals is $28,700. Under qualifying requirement Option (a), approximately 90 applicants would have been denied permits (assuming 222 applicants). Therefore, the projected number of appeals and cost of appeals might have been expected to approximately double the estimate for the adopted option.

Legal Costs

Legal costs involve primarily time developing and reviewing regulations, advising NMFS Northwest Region and Limited Entry Office on procedures, and defending law suits. Total legal costs for the sablefish endorsement are estimated by National Oceanic and Atmospheric Administration General Counsel at $33,500.

[1/] The burden of proof that a fixed gear license holder qualifies for a sablefish endorsement would be on the license holder. However, NMFS may follow a procedure under which it would notify permit holders with sablefish history of whether or not the permit holder qualifies for a sablefish endorsement based on state fish ticket data readily available to NMFS.

INDUSTRY COMPLIANCE COSTS

There would be a one time industry compliance cost associated with the time necessary to collect the needed information and fill out forms to apply for the sablefish endorsement. Because applications should be simpler for the sablefish endorsement than they were for the license limitation program, the per applicant time and costs associated with applying for a sablefish endorsement is expected to be lower than for the license limitation system.

The costs of acquiring an endorsement may be higher if a person decides to independently verify the state fish ticket information acquired by NMFS. In this case, the applicant may have to acquire releases on landings information from individuals who owned or leased the applicant's vessel/permit during the qualification period (1984-1994). Persons who decide that records acquired by NMFS do not reflect all their landings or are uncertain as to whether or not all their landings have been properly included might choose to appeal. Such appeals will require additional time and expense on the part of the applicant to develop and submit paper work.

There may also be an application fee based on the federal costs of issuing a permit. If about 220 applicants are anticipated, cost per application may run between $200 and $400. These fees have already been counted under administrative costs, thus, do not add to the costs in the cost benefit analysis.

For those who do not initially qualify for a sablefish endorsement but wish to participate in the fishery, there will be an additional cost associated with acquiring (purchasing) a permit from a holder of a sablefish endorsed permit. However, the permit price does not reflect a real cost to society but rather is a transfer of assets between the buyer and seller. Thus the permit price is not included in the cost benefit analysis.

TABLE B-1. Estimated administrative costs for a sablefish endorsement program and additional costs to implement single period cumulative limits based on historic catch.[a/]

	Sablefish Endorsement
First Year Initial Issuance Costs	
Total estimated time per permit:	4.79 hours
Total estimated time for 222 permits	1,063 hours
Fishery Management Division (FMD) personnel salaries	$55,800
Performance Awards	$1,000
Computer Hardware	$6,000
Miscellaneous supplies	$1,000
Cost for appeals[b/]	$16,400
General Counsel personnel salaries	$33,500
Estimated first year costs:	113,700
Second Year Costs	
Cost for appeals	$12,300
Estimated second year costs:	$12,300
Ongoing Costs	
	None

a/ The basis for these cost estimates was provided by the National Marine Fisheries Service Limited Entry Office (Seattle, Washington).

b/ Under sablefish endorsement qualifying Option (a), appeal related costs would have been about $28,700 above the estimates provided here.

Appendix C
Proposed Modifications to the Groundfish Fishery Management Plan (FMP)

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Appendix C
Proposed Modifications to the Groundfish Fishery Management Plan (FMP)

This appendix contains the changes to the language of the groundfish FMP which will be made to implement the sablefish endorsement recommended in this document. New text is underlined and deleted text is struck through. Options considered by the Council, but rejected, are underlined and struck through.

14.2 Management, Allocation and General Rules on the Issuance and Use of Groundfish LE Permits, Gear Endorsements, ~~and~~ Size Endorsements, and Fixed Gear Sablefish Endorsements

. . . .

14.2.5 Gear Endorsements

. . . .

4. A gear endorsement for a particular gear authorizes the catch of all Council-managed groundfish species with that gear, except in the case of the designated species "B" gear endorsements and for fishing for which a fixed gear sablefish endorsement is required (see Section 14.2.6). Designated species "B" gear endorsements authorize catch of only the designated species specified in the endorsement and bycatch as specified for the joint venture fishery for that species. Limited entry vessels using longline and fishpot gear to catch sablefish against the limited entry quota north of 36°N latitude are required to hold fixed gear sablefish endorsements during periods specified in the regulations, in addition to the required gear endorsement.

. . . .

14.2.6 Fixed Gear Sablefish Endorsements

1. The permit and gear endorsement requirements of the license limitation program limit the number of vessels which may participate in the groundfish fishery. however, there is still substantial opportunity for vessels to shift between segments of the groundfish fishery. One of the segments of the limited entry fishery subject to an increase in the number of vessels participating is the limited entry fixed gear sablefish fishery. To prevent the movement of vessels from nonsablefish segments of the limited entry fixed gear groundfish fishery to the sablefish segment of the fishery, a fixed gear sablefish endorsement for limited entry permits is required for longline and fishpot gear limited entry vessels to take sablefish against the fixed gear limited entry allocation during periods of time specified in the regulations. The general intent is to require an endorsement to take part in the major limited entry fixed gear sablefish harvest opportunities north of 36°N latitude, but not when management measures are intended to allow only small or incidental sablefish harvests.

2. The fixed gear sablefish endorsement will be affixed to the permit.

3. The fixed gear sablefish endorsement will remain valid when the permit is transferred.

4. Fixed gear sablefish endorsements are not separable from the LE permit and therefore may not be transferred separately from the LE permit.

5. Limitations which apply to the fixed gear sablefish endorsement and fishing thereunder shall not restrict the use of any trawl gear endorsement on the same LE permit, unless these restrictions are specific in their application to trawl gear.

6. Rules on the issuance of fixed gear sablefish endorsements and other characteristics of the endorsements are specified in Section 14.4.

(renumber all subsequent sections)

. . . .

14.2.~~7~~8 An LE Permit and Necessary Gear and Sablefish Fixed Gear Endorsements Will Be Held by the Owner of Record of the Vessel

. . . .

2. The vessel owner is responsible for acquiring and holding an LE permit with the longline or fishpot endorsement(s), and fixed gear sablefish endorsement(s), for each vessel that is required to have such endorsements to catch Council-managed **sablefish** under the limited entry system (vessels fishing longline and fishpot gear against the LE fixed gear sablefish allocation and under LE fixed gear sablefish regulations during fishing periods specified in the regulations and north of 36°N latitude).

(renumber all subsequent paragraphs)

. . . .

6. A vessel owner may not use a vessel, or allow a vessel to be used, to catch any Council-managed sablefish with longline or fishpot gear against the LE fixed gear sablefish allocation and under LE fixed gear sablefish regulations during fishing periods specified in the regulations and north of 36°N latitude, unless the vessel owner holds an LE permit with a longline or fishpot gear endorsement and a fixed gear sablefish endorsement, and the LE permit has been registered with National Marine Fisheries Service (NMFS) for use with that vessel.

14.2.~~10~~11 Combining LE Permits

. . . .

3. When LE permits are combined, "A" endorsements identical on both LE permits will remain valid. Provisional "A", "B" and designated species "B" gear endorsements will generally become invalid because they are not separable from the vessel for which they are initially issued. ~~Option A: Fixed~~ gear sablefish endorsements will remain valid only if all the longline or fishpot permits being combined have fixed gear sablefish endorsements. ~~Option B: Fixed gear sablefish endorsements will remain valid even when combined with longline or fishpot permits for which no such endorsement is held.~~

. . . .

14.3.1 "A" Gear Endorsement

14.3.1.1 Overview of the "A" Endorsement

. . . . The "A" endorsement allows the catch of all Council-managed groundfish species with the specified gear, remains valid when the LE permit is transferred and is valid for an unlimited period of time (subject to Section 14.1.4), except as noted.

14.3.1.2 Description, Use and Transferability of the "A" Endorsement

. . . .

2. The vessel for which the LE permit is registered will be allowed to catch all Council-managed groundfish with the gear specified in the "A" endorsement, except for fixed gear sablefish as specified in Section 14.2.6.

. . . .

14.3.2 Provisional "A" Gear Endorsement

14.3.2.1 Overview of the Provisional "A" Endorsement

. . . . The provisional "A" endorsement allows the catch of all Council-managed groundfish species with the specified gear, except as noted; . . . .

14.3.2.2 Description, Use and Transferability of the Provisional "A" Endorsement

. . . .

2. The vessel identified in the provisional "A" endorsement will be allowed to catch all Council-managed groundfish with the gear specified in the provisional "A" endorsement, except for sablefish harvested north of 36°N latitude during times and with gears for which a fixed gear sablefish endorsement is required.

. . . .

14.4 Fixed Gear Sablefish Endorsement

The fixed gear sablefish endorsement is intended for operations participating in the fixed gear sablefish fishery which were significantly active and dependent on the fishery prior to the end of the qualifying period specified in paragraph 3.

1. A fixed gear sablefish endorsement will be affixed to any LE permit which meets the fixed gear sablefish endorsement qualifying criteria.

2. The catch history used to determine whether a permit meets the fixed gear sablefish endorsement qualifying criteria is the permit catch history. Permit catch history includes the catch history of the vessel(s) that initially qualified for the permit and the catch of any other vessels with which the permit rights were associated during the time the rights were associated with the vessel (if the current permit is the result of the combination of multiple permits, then for the combined permit to qualify for an endorsement, at least one of the permits which were combined must have sufficient sablefish history to qualify for an endorsement on its own; or the permit must qualify based on catch occurring after it has combined but within the qualifying period). Permit catch history also includes the catch of any interim permit held by the current owner of the permit during the pendancy of an appeal on a permit denied under the groundfish limited entry program, but only if (1) the appeal on which the interim permit was based was lost and (2) the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery.

3. The fixed gear sablefish endorsement qualifying criteria are

~~Options (ONE TO BE SELECTED AT TIME OF FINAL COUNCIL ACTION)~~

~~(a) at least 3,000 pounds round weight of sablefish caught with longline or fishpot gear in one year from 1984 to 1992~~

~~(b) at least 25,500 pounds round weight of sablefish caught with longline or fishpot gear in one year from 1984 to 1992~~

~~(c) at least 3,000 pounds round weight of sablefish caught with longline or fishpot gear in one year from 1984 to 1994~~

(d) at least 16,000 pounds round weight of sablefish caught with longline or fishpot gear in one year from 1984 to 1994

All catch must be non-Indian harvest from Council managed areas. Harvest taken in tribal set aside fisheries does not qualify.

4. The NMFS issuing authority will have broad authority to examine information other than codes on landing tickets in determining whether the qualifying criteria is or is not met.

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14.45 LE Permit Issuance Review Board

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14.5.8 Review of Sablefish Endorsement Appeals

The Council and Council's limited entry permit review board will not take part in the review of appeals of denied sablefish endorsements.

14.56 Implementation, Application and Appeals Process

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7. NMFS will establish a reasonable application period for the fixed gear sablefish endorsement. Untimely applications will be rejected and no sablefish endorsement will be issued thereon. If an application is denied the applicant may appeal to the NMFS regional director. NMFS will set and publish in the *Federal Register* a date after which requirements for fixed gear sablefish endorsements will be in effect.