

GROUND FISH MANAGEMENT TEAM REPORT ON EXTENDING THE 2020 PRIMARY SABLEFISH TIER SEASON

Under Agenda Item B.1. Open Public Comment, the Pacific Fishery Management Council (Council) requested additional feedback on the use of an emergency rule to extend the primary sablefish tier season from October 31, 2020 until December 31, 2020 under this agenda item. Below the Groundfish Management Team (GMT) provides information on potential pathways for the Council to address the low attainment in this fishery and provide additional opportunities to harvest the allocation.

Sablefish Management

Allocations for sablefish north of 36° N. lat. were established through Amendment 14¹ to the Groundfish Fishery Management Plan (FMP) and are allocated to the sectors of the fishery as shown below in Appendix 1 on page 5 of this report.

Vessels with a sablefish endorsed permit may fish in the tier fishery from April 1 through October 31, with privileges assigned to tier permits (1, 2, 3). Three permits may be stacked on a vessel at one time providing for a cumulative limit for that vessel. Vessels with fixed gear endorsed permits may fish in either the tier or Limited Entry (LE) Daily-Trip-Limit (DTL) fishery.

As described in [Agenda Item D.1. Attachment 1](#), after the trawl and non-trawl allocations were established in 1987, industry representatives at the time requested the non-trawl fisheries be managed on a seasonal basis as opposed to a year-round opportunity as done in other sectors. After the allocations were formalized under [Amendment 6](#) in 1992, the primary fishery season lasted between two to three weeks until 1994, and then lasted less than a week. In 1997, sablefish endorsements were established based on permit history and allocated privileges to fish the tier allocation rather than the DTL allocation. However, even with the endorsements, the season was expected to last just days, and therefore equal cumulative limits were implemented as well. The Council was limited in their ability to lengthen the season due to the moratorium on IFQs by the Sustainable Fisheries Act of 1996. In other words, the Council could not create a fishery where a closed class of vessels would be given “ample time” to harvest their allocation. This resulted in the “modified derby” of a maximum length of ten days. In 1998, the Council took action to reallocate the equal cumulative limits into the three tier system; however, while slightly more equitable than the equal limits, it still required the fishery to operate under a derby system. When the IFQ moratorium was extended in October 2000 for an additional two years, there was an exception included for the primary tier program, which could have allowed a season up to a full year (in addition to allowing the stacking of permits and other flexibilities offered with catch shares programs). While the exact reason is unclear in the records examined by the GMT to date, it appears as though the seven month season was recommended based on concerns about enforcement and potential biological impacts. Derby fisheries were noted to be the “simplest fisheries to regulate” and that many enforcement problems associated with the status quo season would simply be extended over the longer season. However, it was noted that the burdens of setting preseason and postseason closures as well as at-sea processing closures would no longer

¹ <https://www.pcouncil.org/documents/2001/03/amendment-14-to-the-groundfish-fishery-management-plan.pdf/>

be needed. The Environmental Assessment (EA) for [Amendment 14](#) determined that slightly negative biological impacts could occur due to the increase in the possibility of high grading and taking of other non-sablefish limits with the longer season.

Twenty years later, the fishery landscape has changed. The fishery now operates under electronic fish tickets, vessel monitoring system requirements, and has increased observer coverage, averaging 25 percent from 2002 to 2014 and 44 percent from 2015 to 2019. In 2020, these coverage rates will likely be on the lower end as the Northwest Fishery Science Center (NWFSC) Observer Program continues to minimize risk of COVID-19 spread to observers and fishers while maintaining data collection essential to fishery management. The GMT is unsure of the degree to which the NWFSC Observer Program would be able to continue coverage of this fishery if the season were extended, given the cost and logistics. The GMT suggests that the potential level of observer coverage be explored and used to inform the feasibility of extending the season while ensuring the needed data are collected for fishery management. The GMT would look to the Enforcement Consultants to comment on any potential concerns associated with extending the season to December 31 if the Council chooses to move forward with this action. Further, we would like to remind the Council that if the sablefish fishery season is extended, Pacific halibut retention north of Point Chehalis will only continue through noon local time November 15 to comply with IPHC regulations (or until the quota is caught; whichever is sooner).

Current Situation

The primary sablefish fishery averaged 93.4 percent attainment with 65 percent of the landed share taken through September 13 from 2011-2019. In comparison, the fishery to date in 2020 has only landed 519.66 mt out of the 1,578 mt landed share (32.9 percent attainment). As shown in Figure 15 of the [May 2019 SaMTAAC report](#), the primary tier fishery is typically characterized by steady landings throughout the year. Typically, between 55.2 percent of vessels land over 99 percent of their limits (Table 2) and an average of 84 vessels participate in a year. To date, only 53 vessels have made landings against their tiers with 18 vessels already reaching 99 percent of their current limits. Historically, between 66 and 74 vessels have participated to date (Table 1) compared to the 53 vessels that have participated to date (Table 2). If the Council moves forward with adding this agenda item, the GMT may be able to provide more details on the attainment of tiers to date, depending on the turnaround time.

Table 1. Annual total primary sablefish fishery mortality and percent attainment, and through September 13 of each year, 2011-2020.

Year	Total			Through September 13			
	Mortality	Allocation	Percent	Landings	Landed Catch Share	Percent Attainment	Vessels
2011	1,571.06	1,598	98.3	1,142.17	1,547	73.8	92
2012	1,405.64	1,549	90.7	931.41	1,500	62.1	88
2013	1,057.99	1,156	91.5	631.68	1,119	56.5	77
2014	1,100.46	1,254	87.8	742.57	1,214	61.2	69
2015	1,366.53	1,385	98.7	920.10	1,339	68.7	74
2016	1,470.68	1,515	97.1	991.76	1,466	67.6	72
2017	1,470.04	1,518	96.8	1,059.10	1,463	72.4	74
2018	1,463.71	1,583	92.5	963.28	1,526	63.1	68
2019	1,414.19	1,620	87.3	838.27	1,545	54.3	66
2020				519.66	1,578	32.9	53

Table 2. Number of vessels by percent attainment 2017-2020. Note, 2020 is only through September 14, all other years are complete years.

Percent Attainment	Number of vessels			
	2017	2018	2019	2020*
99-100	46	52	41	18
90-98	9	5	7	4
80-89	4	4	6	
70-79		5	6	4
60-69	3	5		
50-59	14	6	12	3
<50	10	6	11	24
Number of vessels	86	83	83	53

*2020 data through 9/14/2020 from PacFIN

Emergency Action

Regarding the Council’s consideration of moving forward on an emergency action to extend the tier season from October 31 to December 31, the GMT points to section 305(c) of the Magnuson Stevens Act, which provides justification for taking emergency action with regard to any fishery, but does not define the circumstances that would justify such emergency action. In 1997, the National Marine Fisheries Service (NMFS) published the following guidelines for the Councils to use in determining whether an emergency exists:

For the purpose of section 305(c) of the Magnuson-Stevens Act, the phrase “an emergency exists involving any fishery” is defined as a situation that: (1) Results from recent,

unforeseen events or recently discovered circumstances; (2) Presents serious conservation or management problems in the fishery; and (3) Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

Workload Considerations

If the Council suggests an emergency action to extend the sablefish primary fishery season, the GMT would be required to prioritize this action. As provided in NMFS guidance ([62 FR 44421, August 21, 1997](#)), emergency rules take precedence and may delay the review of non-emergency items. The GMT would need to devote resources over the next few weeks to support NMFS' implementation and **delay progress on all other actions and items**.

The Council must consider the workload associated with this action compared to other actions currently proposed in the coming month(s), including work on the SaMTAAC and any prioritized new management measure (e.g., mothership utilization) for November and any inseason rulemakings that would be recommended from this meeting.

Inseason Pathway

If the Council chooses to not move forward with an emergency action, the GMT has been exploring other mechanisms to provide additional opportunity to these vessels within the LE DTL allocation. The GMT understands that this opportunity would not be the same as extending the season in that it would not allow tier vessels to utilize their limited entry privileges. For example, a vessel who has three tier one stacked permits would be able to harvest up to ~146,000 lbs. over the seven month season. Based on trip limit options developed under the Inseason Agenda Item (Agenda Item D.5.a, Supplemental GMT Report 1), the maximum that could be taken on a bi-monthly basis in the DTL sector (while projected to be within the DTL allocation) would be 9,000 lbs. Again, we recognize that this is only a small amount of opportunity compared to potential losses if the season were not extended. However, an inseason action would be more likely to move through to regulation (in addition to the other proposed inseason changes on incidental halibut and open access sablefish) and allow for continued work on another Council prioritized action (e.g. mothership utilization).

PFMC
09/14/20

Appendix 1. Fixed intersector allocations of sablefish north of 36° N. lat.

