



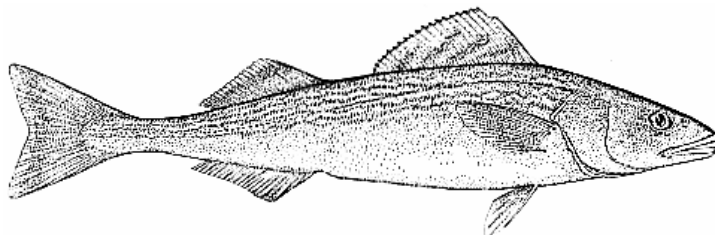
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Northwest Region
Attn: Federal Permits Office
7600 Sand Point Way NE
Seattle, WA 98115
www.nwr.noaa.gov

SMALL ENTITY COMPLIANCE GUIDE

PACIFIC COAST GROUND FISH FISHERY SABLEFISH PERMIT STACKING PROGRAM

This guide is designed for fishermen participating in the limited entry fixed gear sablefish fishery during the primary season. It provides useful information that will assist fishermen in understanding regulations implementing additional requirements for the sablefish permit stacking program in waters off Washington, Oregon, and California from Amendment 14 to the Pacific Coast Groundfish Fishery Management Plan.

March 31, 2006



CONTENTS

WHO SHOULD READ THIS GUIDE?	1
INTRODUCTION	1
PROVISION 1: DECLARATION OF PERMIT OWNERSHIP INTEREST	3
PROVISION 2: ADDITION OF A SPOUSE AS CO-OWNER ON A PERMIT	6
PROVISION 3: OWNER-ON-BOARD REQUIREMENT	7
PROVISION 4: CERTIFICATION FOR MID-SEASON TRANSFERS	10
PROVISION 5: PROHIBITION ON AT-SEA PROCESSING OF SABLEFISH	12
PROVISION 6: DESIGNATION OF A BASE PERMIT	14
NEED HELP?	15
ATTACHMENT A:	
GLOSSARY	16
ATTACHMENT B:	
SUMMARY SHEET OF PROVISIONS AND EFFECTIVE DATES	17

This guide was prepared pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104-121. The statements in this document are intended solely as guidance. This document is intended to provide a plain-language summary of how small businesses can comply with the regulations further implementing the sablefish permit stacking program (71 FR 10614, March 2, 2006).

WHO SHOULD READ THIS GUIDE?

If you currently own a limited entry permit with a sablefish endorsement, are interested in purchasing or leasing a limited entry permit with a sablefish endorsement, and/or own or operate a vessel that participates in the limited entry, primary sablefish fishery – you should read this guide.

INTRODUCTION

Amendment 14 to the Pacific Coast Groundfish Fishery Management Plan (FMP) introduced a permit stacking program to the limited entry, fixed gear primary sablefish fishery off Washington, Oregon, and California. Under this permit stacking program, a vessel owner may register up to 3 sablefish-endorsed permits for use with their vessel to harvest each of the primary season sablefish cumulative limits associated with the stacked permits. Amendment 14 also provided for a fishing season up to 7 months long, from April 1 - October 31, which allows time for vessels to pursue their primary season limits.

Portions of Amendment 14 were implemented for the 2001 primary sablefish season. The extended sablefish season was fully implemented in 2002. In 2006, NMFS is implementing additional regulations for Amendment 14. In the future, NMFS will implement a permit stacking program fee system as required by the Magnuson-Stevens Fishery Conservation and Management Act.

Stages of Implementation

- Beginning in 2001, NMFS implemented the initial permit stacking provisions ([66 FR 41152, August 7, 2001](#)). The following provisions were put in place in 2001:
 - (1) up to 3 sablefish-endorsed permits may be registered for use with a single vessel;
 - (2) the limited entry, primary sablefish season is from August 15 - October 31, 2001;
 - (3) a vessel may fish for sablefish during the primary season with any of the gears specified on at least one of the limited entry sablefish-endorsed permits registered for use with that vessel;
 - (4) no person may own or hold¹ more than 3 sablefish-endorsed limited entry permits unless that person owned more than 3 permits as of November 1, 2000;
 - (5) no partnership or corporation may own a sablefish-endorsed limited entry permit unless that partnership or corporation owned a permit as of November 1, 2000;
 - (6) cumulative limits for species other than sablefish and for the sablefish daily trip limit fishery remain per vessel limits and are not affected by permit stacking; and
 - (7) the limited entry daily trip limit fishery for sablefish is open during the primary season for vessels not participating in the primary season.

- Beginning in 2002, NMFS extended the fishing season to April 1 - October 31 as part of the Pacific Coast groundfish final specifications and management measures ([67 FR 10490; March 7, 2002](#)).

- Beginning in 2006, NMFS is implementing further permit stacking regulations that include the following provisions ([71 FR 10614, March 2, 2006](#)):
 - (1) permit owners and permit holders are required to document their ownership interests in their permits to ensure that no person holds or has ownership interest in more than 3 permits;

¹ The permit holder is the vessel owner.

- (2) an owner-on-board requirement for permit owners who did not own sablefish-endorsed permits as of November 1, 2000;
- (3) an opportunity for permit owners to add a spouse as co-owner;
- (4) vessels that do not meet minimum frozen sablefish historic landing requirements are not allowed to process sablefish at sea;
- (5) permit transferors are required to certify sablefish landings during mid-season transfers; and,
- (6) a definition of the term “base permit.”

This guide pertains to those provisions implemented beginning in 2006. Information on these provisions and compliance timelines are included under the chapters describing each provision.

Why is the date November 1, 2000, in the new regulations?

Throughout this compliance guide, you'll notice reference to the date November 1, 2000. This date, also called the control date, was established to distinguish permit owners who participated in the sablefish fishery before that date from those that are newer to the fishery. The participants before that date are also referred to as “grandfathered” or “first generation” permit owners. Grandfathered or first generation limited entry sablefish-endorsed permit owners are those permit owners who owned a sablefish-endorsed limited entry permit prior to November 1, 2000. These first generation permit owners are exempt from certain requirements of the sablefish permit stacking program, such as the owner-on-board requirement. NMFS announced this November 1, 2000, control date in an Advance Notice of Proposed Rulemaking on April 3, 2001 ([66 FR 17681](#)).

1

DECLARATION OF PERMIT OWNERSHIP INTEREST

Background: Amendment 14 restricts the number of permits each person can have ownership interest in or hold to 3 permits, unless the person is grandfathered. This provision allows NMFS to track the number of permits owned and held by individuals.

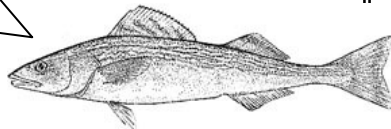
Who must submit ownership interest information? All corporations or partnerships that currently own a sablefish-endorsed permit.

What are the ownership interest requirements?

- No partnership or corporation may own a sablefish-endorsed limited entry permit unless they owned a sablefish-endorsed permit as of November 1, 2000 (Partnerships or corporations that owned permits on or before that date, may continue to have ownership interest in those same permits and may purchase or hold additional permits up to the 3-permit limit; however, partnerships or corporations that owned a permit before November 1, 2000, and subsequently sell all of their sablefish-endorsed permits, will lose the privilege of continuing to own

sablefish-endorsed permits if they do not buy another permit within one year).

Permit owners and permit holders are required to document their ownership interests in their permits to ensure that no person holds or has ownership interest in more than 3 permits.



- Any permit sold after November 1, 2000, may only be sold to an individual person or to partnerships or corporations that had ownership interest in a sablefish-endorsed permit before that date.

COMPLIANCE TIMELINE

Effective: **April 3, 2006**

Application Process:

- **In April 2006**, forms will be sent to corporations and partnerships that currently own or hold sablefish-endorsed permits. **The form will ask for a list of all shareholders or partners as of November 1, 2000, and a second listing of that same information as of the current date in 2006.** NMFS may require a copy of the USCG Abstract of Title as proof of vessel ownership for permit holders and/or owners and may require articles of incorporation or other documentation deemed necessary for proof of corporate or partnership ownership.
- **By July 1, 2006**, corporations or partnerships must return the completed form to NMFS.
- NMFS will send a second written notice to those entities who have not responded.
- **By August 1, 2006**, the completed form must be returned to NMFS. Otherwise, NMFS will void your existing permit(s) and reissue the permit(s) with a vessel registration given as "unidentified" until such time that the completed form is provided to NMFS.
- To track future changes, NMFS will send the form to corporations and partnerships as part of the annual permit renewal process and whenever a change in permit owner, permit holder, and/or vessel registration occurs.

- No individual person, partnership, or corporation in combination may own or hold more than 3 permits with sablefish endorsements either simultaneously or cumulatively over the primary season. The only exception to this requirement is if the person, partnership, or corporation had an ownership interest in more than 3 permits before November 1, 2000. An individual person, partnership, or corporation that had ownership interest in 3 or more permits with sablefish endorsements as of November 1, 2000, may not acquire additional permits beyond those particular permits owned on November 1, 2000. The term “cumulatively” means that an individual, corporation, or partnership may only be associated with up to 3 permits during the entire primary season.
- If, at some future time, an individual person, partnership, or corporation that owned more than 3 permits as of November 1, 2000, sells or otherwise permanently transfers (not holding through a lease arrangement) some of its originally owned permits, such that they then own fewer than 3 permits, they may acquire additional permits, but may not have ownership interest in or hold more than 3 permits.
- A partnership or corporation will lose their exemptions (the ability to own a sablefish permit and/or own more than 3 permits) when any “change” in the ownership of a corporation or partnership from that which existed on November 1, 2000, takes place. A “change” means the addition of any person (including family member) with an ownership interest in the corporation or partnership since November 1, 2000. A “change” is not considered to have occurred if an existing member of a corporation or partnership dies; becomes legally incapacitated; the ownership of shares among existing members changes; or a member leaves the corporation or partnership. Changes in the partnership or corporation must be reported to NMFS’ Sustainable Fisheries Division (SFD) within 15 calendar days of the addition of a new partner or shareholder.

What is the process to provide ownership interest information?

The process for declaring a permit’s ownership interest is described in the “compliance timeline” box on the previous page.

What will NMFS do with the ownership information?

- **Determine whether a partnership or corporation has changed.** If any of the corporations or partnerships have added one or more individuals as shareholder or partners since November 1, 2000, the corporation or partnership will no longer be able to own a permit. NMFS will void their existing permit, and reissue their permit in “unidentified” status, meaning that it cannot be fished. In order for the permit to be fished, the corporation or partnership will be required to permanently transfer the permit to another qualified individual, corporation, or partnership.
- **Recalculate the number of permits owned and/or held by each individual.** Those individuals who own or hold more than the allowable number of permits will be notified in writing. All permits owned or held by the individual will be registered as “unidentified” until such time that the individual divests themselves of the excess permits.

EXAMPLE:

Do you own/hold more than 3 permits?

If a person is found to have ownership interest in 5 permits, 3 of which were owned as of November 1, 2000, NMFS will issue all 5 permits, including any permits shared with other individuals, partnerships, or corporations, into “unidentified” status until that person sells at least 2 of their permits so that they own or hold no more than 3 permits. If a person had ownership interest in 5 permits as of November 1, 2000, and still has ownership interest in those 5 permits and does not own or hold additional permits, none of the permits would be moved into the “unidentified” status.

How will the permit count be calculated?

NMFS counts as owning or holding a permit those individuals who are:

- listed as owner of a permit,
- listed as holder of a permit,
- listed as having an ownership interest in a permit as part of a corporation or partnership.

Each individual who is identified as owning or holding a permit as part of a corporation or partnership will be credited with owning one permit. If a person owns or holds other sablefish permits as an individual, those permits will also be figured in as part of the total count.

Is this a one-time collection of the information?

No. NMFS will require corporations or partnerships to complete this form:

- prior to July 1, 2006 (detailing the individuals with an ownership interest as of November 1, 2000 and as of the current date);
- as part of the annual renewal of their limited entry permit (starting in the Fall, 2006);
- everytime a partnership or corporation is part of a transfer request.

2

ADDITION OF A SPOUSE AS CO-OWNER ON A PERMIT

Background: Permit owners may not have predicted the implications of not listing their spouse under the detailed provisions of the permit stacking program. For example, if a couple was married as of November 1, 2000, but only one spouse was listed as the permit owner at that time, their spouse would not be exempt from the owner-on-board requirement should they inherit the permit (see Provision 3 below). However, for this one-time application, permit owners may add a not-listed spouse as a co-owner without losing their grandfathered status.

Who is eligible to make this change?

This provision applies only to permit owners who:

- 1) owned a sablefish-endorsed permit before November 1, 2000, and

- 2) who were married to their current spouse before November 1, 2000.

Existing partnerships and corporations may not add a spouse as co-owner.

What is the requirement? Permit owners who were married as of November 1, 2000, and who owned a sablefish-endorsed permit as of that date, may wish to add their spouse as co-owner on their permit(s) and retroactively in NMFS' permit ownership records.

If I add my spouse as co-owner, will both of us be exempt from the owner-on-board requirement as individuals?

No. If you add your spouse as co-owner, your grandfathered status will be as a partnership, not as individuals. An individual within the married couple will not be able to retain their exemption from the owner-on-board requirement if they choose to buy another permit as an individual and did not own a permit as an individual as of November 1, 2000, in NMFS "corrected" records (i.e., NMFS records after allowing a not-listed spouse to be added as co-owner). The only way either person can have grandfathered status as an individual is if they continue to own a sablefish permit as an individual since November 1, 2000.

How will the permit count be calculated?

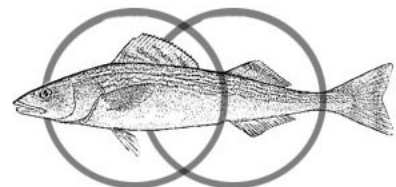
When a couple, married as of November 1, 2000, is listed as co-owners of the same permit, both individuals will be counted as owning one permit each.

Why you might want to do this-

To exempt your spouse from owner-on-board

Why you might NOT want to do this-

To maximize the permit count between you and your spouse



COMPLIANCE TIMELINE

Effective: **April 3, 2006**

Application Process:

- ✎ **In April 2006**, forms will be sent to permit owners with one individual listed as of November 1, 2000, to allow them to add their spouse on their permit. Applicants will be required to submit a copy of their marriage certificate as evidence of marriage.
- ✎ **By July 1, 2006**, the form must be returned to NMFS or the permit name on record with NMFS as of November 1, 2000, will remain on the permit.
- ✎ NMFS will not accept any declarations to add a spouse as co-owner after the deadline.

3

OWNER-ON-BOARD REQUIREMENT

Background: The sablefish permit stacking program is considered an individual fishing quota (IFQ) program. A concern about IFQ programs is that if fishing privileges are for sale, individuals or business entities who do not fish could buy those privileges. To encourage only fishers to buy into the sablefish fleet, Amendment 14 includes an "owner-on-board" provision.

Who is subject to the requirement?

An individual person who owns sablefish-endorsed permits currently but who did not have an ownership interest in a sablefish-endorsed permit as an individual as of November 1, 2000, will be required to be on board the vessel registered for use with that permit while that vessel is fishing for that permit's primary sablefish season limits. Persons subject to owner-on-board must carry government issued photo identification while onboard the vessel.

Who is exempt from the owner-on-board requirement?

A person, partnership, or corporation that had ownership interest in a limited entry permit with a sablefish endorsement prior to November 1, 2000, and continues to own a sablefish permit is considered grandfathered (or a first generation permit owner) and is exempt from the owner-on-board requirement. (See Examples on next page.)

There is also an emergency exemption that permit owners subject to the owner-on-board requirement may request in cases of death, illness, or injury of the permit owner.

Please contact NMFS for details on how to apply for an emergency exemption.

Can an individual, corporation, or partnership lose their exemption?

Yes. A grandfathered entity will lose their exemption if:

- A corporation or partnership "changes" (adds a partner or individual since November 1, 2000), or
- An individual, corporation, or partnership that owned a permit(s) as of November 1, 2000, sells all of their sablefish permits and does not purchase another permit within one year.

COMPLIANCE TIMELINE

Effective: **January 1, 2007**

Application Process:

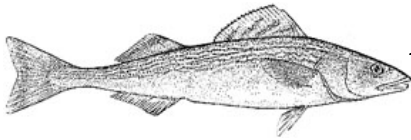
- All permit owners who are subject to the owner-on-board requirement will be notified in a letter from NMFS in 2006 and as part of the permit renewal process prior to the start of the primary sablefish season on April 1, 2007.
- Permits issued for the 2007 fishing season will designate which permits are subject to or exempt from the owner-on-board requirement.
- **In April 2006**, all individuals, partnerships or corporations who owned a permit as of November 1, 2000, and who no longer own a permit, will be notified in a letter from NMFS that they would qualify as a grandfathered permit owner if they choose to buy a permit by **March 2, 2007**.

Is a permit holder subject to the owner-on-board requirement?

No. An individual person, partnership, or corporation may continue to hold sablefish-endorsed permits (e.g., through a lease arrangement) from any permit owner (exempt from owner-on-board or not) and remain exempt from the owner-on-board requirements, even if their membership has changed or they did not hold a sablefish-endorsed permit as of November 1, 2000. However, if you hold a sablefish-endorsed permit from a permit owner who is subject to the owner-on-board requirement, they must be onboard your vessel while that permit is being fished during the primary sablefish season.

Do I have to record my permit number on fish tickets?

Yes. Because only non-exempt permits owners are required to be onboard while their permit is being fished, enforcement agents must be able to determine which permits are being fished and which owner should be onboard. In order to aid enforcement of the owner-on-board provision, NMFS and the states are requiring the groundfish Federal limited entry sablefish-endorsed permit number to be written on state fish landing receipts (i.e., fish tickets) beginning in 2007.



An individual person, or partnerships or corporations who continue to own at least one sablefish-endorsed permit that was owned as of November 1, 2000, would be exempt from owner-on-board

EXAMPLES:

Grandfathered and selling all your permits?

If a person, partnership, or corporation that is exempt from the owner-on-board requirement no longer owns at least 1 sablefish-endorsed permit for a period greater than one year, that permit owner would no longer be exempt from the owner-on-board requirement. However, a person, partnership, or corporation that is exempt from the owner-on-board requirement could sell all of its permits, buy another sablefish-endorsed permit within one year of the date the last permit was approved for transfer, and retain its exemption from the owner-on-board requirements. In order to be allowed to obtain a permit during the one year grace period, the partnership or corporation could not have added or changed individuals, excluding individuals that have left the partnership or corporation or who have died.

Grandfathered in a corporation/partnership and buying another permit as an individual?

A person who has ownership interest in a partnership or corporation that owned a sablefish-endorsed permit as of November 1, 2000, but who did not individually own a sablefish-endorsed limited entry permit as of that date, is not exempt from the owner-on-board requirement when he/she leaves the partnership or corporation and purchases another permit individually.

Last remaining member of a grandfathered corporation/partnership?

A person who is part of a grandfathered partnership or corporation and did not own a permit as an individual before November 1, 2000 could buy additional permits as an individual, up to the limit of 3 per individual, but the individual would not be exempt from the owner-on-board requirements with the new permit. However, if the individual was part of a grandfathered partnership or corporation in which they were the only remaining individual (for example, all other individuals with ownership interest had left the partnership or corporation), this individual would still be considered as a grandfathered partnership or corporation in NMFS records. Thus, permits owned under the partnership or corporation now controlled by a single individual would be exempt from the owner-on-board requirements. This individually controlled partnership or corporation could also buy additional permits under the partnership or corporation name, up to the limit of 3 per individual, and would remain exempt from the owner-on-board requirements with the additional permits.

MORE EXAMPLES:

Do you qualify to be grandfathered but no longer own a permit?

A person, partnership, or corporation that qualified for the owner-on-board exemption, but later divested their interest in a permit or permits, may retain rights to an owner-on-board exemption as long as that person, partnership, or corporation purchases another permit by March 2, 2007. A partnership or corporation could only purchase a permit if it has not added or changed individuals since November 1, 2000, excluding individuals that have left the partnership or corporation or who have died.

Have you added members to your corporation/partnership since November 1, 2000?

If the individuals who have an ownership interest in the corporation or partnership change from those owning the partnership or corporation as of November 1, 2000, by adding another individual(s), that partnership or corporation will lose its exemption from both the owner-on-board requirement and from the provision that allows only an individual person to own a sablefish-endorsed permit.

Example A, a husband and wife who own a permit could not add a sibling or child to the permit without losing their first generation status and losing their exemption from the provision that only allows an individual person to own permits.

Example B, a fisherman who wants to take on a new partner because an existing partner is retiring could not add that new partner without losing his first generation status and his exemption from the provision that only allows an individual to own permits.

Example C, in the case of a grandfathered corporation such as "Smith, Inc. and Jones, Inc.," viewed as one corporation in NMFS records, Jones, Inc. could not add a new member without causing "Smith, Inc. and Jones, Inc." to lose its grandfathered status.

Are you a married, grandfathered individual who would like to protect your spouse from owner-on-board?

If a couple was married as of November 1, 2000, but only one spouse was listed as the permit owner at that time, the spouse of the listed permit owner would not be exempt from the owner-on-board requirement if they inherit the permit. NMFS will allow an opportunity for those grandfathered permit owners who wish to add their spouses as co-owners on their permits to correct NMFS' permit ownership records as of November 1, 2000 (See Provision 2).

4 CERTIFICATION FOR MID-SEASON TRANSFERS

Background: With the longer sablefish primary season, there are more opportunities for permit owners to transfer their permits mid-season. Currently, when a sablefish permit is transferred mid-season, there is no indication by the transferor of how much sablefish has been landed against the tier amount for a particular permit. The mid-season certification is required for enforcement purposes as a way to associate specific amounts of landings to date with a total amount reported on fish tickets for a particular permit. The existing transfer form has been amended to include a section to provide this information.

Under already existing regulations, the transferee is required to retain onboard the vessel any fish tickets associated with landings made against that transferred permit, including any landings made previously on the permit during the primary sablefish season. Primary sablefish season fish tickets continue to be required onboard the vessel from April 1 – October 31 and for 15 days thereafter.

Who is subject to this provision? This provision *only* applies to permit owners transferring their permits between vessels or between permit owners during the April-October primary season.

What is the requirement?

If a permit owner wishes to transfer a sablefish-endorsed permit mid-season, he/she will have to certify the cumulative amount of sablefish taken to date with that permit on a NMFS permit transfer form. In addition, the individual either leasing or buying the permit (the transferee) must acknowledge the cumulative amount of sablefish landed to date by signing the transfer form and maintaining the permit onboard the vessel. This certified amount should match the total amount of primary season sablefish landings reported on state fish tickets.

Does this certification occur with any type of transfer?

Yes, for transfers involving sablefish-endorsed permits during the primary season. Regardless of whether there is a change in the vessel registered to the permit and the permit owner/holder or just a change in the permit owner/holder, any of these actions will require a certification from the permit owner of the amount of sablefish landings to date.

COMPLIANCE TIMELINE

Effective: **January 1, 2007**

Application Process:

- **Beginning January 1, 2007**, if a permit owner transfers a sablefish-endorsed permit mid-season, he/she will have to certify the cumulative amount of sablefish taken to date with that permit on a permit transfer form.
- The individual either leasing or buying the permit (the transferee) must acknowledge the cumulative amount of sablefish landed to date by signing the transfer form and maintaining the permit onboard the vessel.

How will enforcement use the information reported on a transfer form?

If during a post-season audit of landings associated with a sablefish-endorsed permit, the landings exceed the amount available to be landed on the permit, enforcement measures may be taken against any party that had ownership interest in the permit during the calendar year. The vessel owner or operator may also be held liable. It is a violation of both state and Federal law to give false or incomplete information on fish tickets.

Does the certification of sablefish landings impact other transfer requirements?

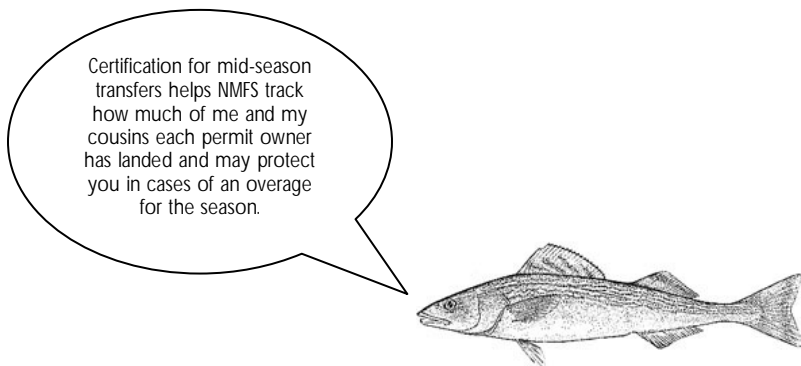
No. Permit transfers will still be constrained by limited entry program regulations, which allow a permit to be transferred between vessels only once per calendar year, and which make all permit transfers effective on the first day of a major cumulative limit period. Major cumulative limit periods will continue to begin on January 1, March 1, May 1, July 1, September 1 and November 1. While permits may only be transferred between vessels once per calendar year, changes in the permit owner or holder may occur at any time during the calendar year and as often as necessary.

How will NMFS be able to track the amount of sablefish on a permit?

In order to aid enforcement of mid-season transfers, NMFS and the states are requiring the groundfish Federal limited entry sablefish-endorsed permit number to be written on state fish landing receipts (i.e., fish tickets) beginning in 2007.

Why is the permit sale price and lease price requested?

In addition to the certification of sablefish landings to date, a space will be provided on the landings certification portion of the permit transfer form that requests the sale or lease price of the permit. Providing this sale or lease price to NMFS is optional. This information is being requested so that NMFS may build a database on permit sale prices. This database will be useful in analyzing economic trends and the value of the sablefish fishery.



5 PROHIBITION ON AT-SEA PROCESSING OF SABLEFISH

Background: The at-sea processing prohibition is to ensure that shoreside processing plants continue to have access to sablefish from the primary sablefish season. To acknowledge the investment that some vessels owners may have made in on-board freezing and processing equipment, the regulations allow a one-time opportunity to apply for an exemption from the prohibition on at-sea processing.

Who is eligible to apply for the exemption?

Any vessel owner that currently owns a sablefish-endorsed permit and whose vessel processed frozen sablefish in any one year from 1998 to 2000.

What is the general requirement?

Beginning January 1, 2007, vessels will be prohibited from processing sablefish at sea that were caught in the primary season, unless the vessel has an exemption from this prohibition.

What is the definition of processing?

“Processing” is defined as, “the preparation or packaging of groundfish to render it suitable for human consumption, retail sale, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless additional preparation is done.”

What are the qualifying criteria for an exemption?

The vessel must have:

- processed at least 2,000 pounds (round weight) of frozen sablefish in any one year during 1998, 1999 or 2000. Processing in 2000 would have to have occurred before November 1, 2000.
- The vessel must currently have a sablefish-endorsed permit.
- The vessel owner must have had a valid sablefish-endorsed permit at the time the qualifying fish were landed.

COMPLIANCE TIMELINE

Effective: **January 1, 2007**

Application Process:

- ✎ **In April 2006**, applications for an exemption to the prohibition on at-sea processing will be sent to sablefish-endorsed permit owners and/or fixed gear vessel owners.
- ✎ **By July 1, 2006**, permit and/or vessel owners must submit an application and supporting evidence to NMFS.
- ✎ NMFS has 30 days to review the application and make a decision.
- ✎ Those who qualify will be issued a letter from NMFS to carry onboard their vessel.
- ✎ There is an appeals process if you disagree with NMFS determination. For more details on the appeals process, please contact NMFS.

- The sablefish must have been caught during the primary season in waters 0-200 miles off Washington, Oregon and California.

Do I need to prove that the vessel actually processed sablefish?

Yes. An applicant must provide documentation (i.e., sales agreements, bills of lading) that demonstrates the amount of frozen sablefish produced during the qualifying years. The best evidence of a vessel having made frozen sablefish landings are state fish tickets for landed sablefish accompanied by receipts for frozen sablefish from fish buyers or exporters. Evidence of having purchased freezing equipment will not in itself serve to support an application.

How will I know if my application is approved?

NMFS will send a letter to the vessel owner indicating whether your application was approved or disapproved. NMFS will also publish a list of vessels that qualified for the exemption in the Federal Register.

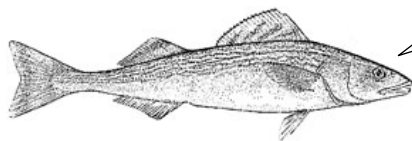
Is the exemption part of the sablefish permit?

No. The exemption, if approved, will be granted through a letter from NMFS and must be carried on the vessel during the primary season. This exemption would apply only to the vessel while the vessel is registered for use with a sablefish-endorsed limited entry permit. The exemption would not be associated with any of the permits registered for use with the vessel and would not be transferable to any other vessel, including other vessels belonging to that same permit and/or vessel owner.

Is the at-sea processing vessel exemption transferable? No.

When does the exemption expire?

When the vessel is totally lost or the vessel is sold or is otherwise transferred to another owner.



Sablefish at-sea processing exemptions are associated with the vessel and not with the limited entry permit and may not be transferred at all.

6

DESIGNATION OF A BASE PERMIT

The base permit is the limited entry permit registered for use with a vessel that meets the permit length (size) endorsement requirements appropriate to that vessel. A limited entry permit endorsed for pot or longline gear (i.e., any gear other than trawl gear) may be registered for use with a vessel up to 5 ft longer than, the same length as, or any length shorter than, the size endorsed on the existing permit without requiring a combination of permits or a change in the size endorsement. The Groundfish FMP describes a base permit in a permit stacking program as the initial permit needed to participate in the limited entry fishery, and subject to all of the requirements for limited entry permit ownership qualifications, and permit gear and length endorsements.

The permit registered for use with a vessel that is appropriate to that vessel's length is considered the base permit. The process for designating the base permit is described in the "compliance timeline" box at right. Each vessel must be registered for use with at least one permit with a length endorsement appropriate to that vessel. Any additional stacked sablefish-endorsed permits do not need to match the vessel's length.

Outside of the primary season, the vessel would operate under the per vessel cumulative limit restrictions appropriate to the gear of the base permit.

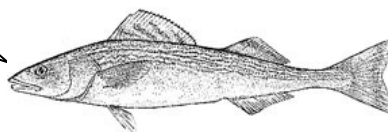
COMPLIANCE TIMELINE

Effective: **January 1, 2007**

Application Process:

- **Fall 2006**, with the limited entry permit renewal process, if more than one permit registered for use with a vessel has an appropriate length endorsement for that vessel, NMFS will designate a base permit by selecting the permit that has been registered to the vessel for the longest time. This designation will appear on the renewed permit.
- If the permit owner objects to NMFS's selection of the base permit, the permit owner may send a letter to NMFS requesting the change and the reasons for the request. If the permit requested to be changed to the base permit is appropriate for the length of the vessel, NMFS will reissue the permit with the new base permit.

The base permit matches the length of the vessel & determines the gear used outside of the primary sablefish season.



NEED HELP?

Websites

National Marine Fisheries Service, Northwest Region,
Pacific Coast Groundfish Management
www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/index.cfm

Forms/Applications available online at the Federal Permits Office website:
www.nwr.noaa.gov/Groundfish-Halibut/Fisheries-Permits/index.cfm

Addresses & Phone Numbers

Permit questions or mailings? Contact the Fisheries Permit Office

National Marine Fisheries Service
Northwest Region, Sustainable Fisheries Division
Attn: Fisheries Permit Office
7600 Sand Point Way NE, Bldg. #1
Seattle, WA 98115-0070

Phone: 206-526-4353
Fax: 206-526-6736

Regulation questions? Contact the Groundfish Policy and Regulations Branch

Phone: 206-526-6140
Fax: 206-526-6736

ATTACHMENT A: GLOSSARY

Base permit, with respect to a limited entry permit stacking program, means a limited entry permit registered for use with a vessel that meets the permit length endorsement requirements appropriate to that vessel.

Change in partnership or corporation means the addition of a new shareholder or partner to the corporate or partnership membership. This definition of a “change” will apply to any person added to the corporate or partnership membership since November 1, 2000, including any family member of an existing shareholder or partner. A change in membership is not considered to have occurred if a member dies or becomes legally incapacitated and a trustee is appointed to act on his behalf, nor if the ownership of shares among existing members changes, nor if a member leaves the corporation or partnership and is not replaced. Changes in the ownership of publicly held stock will not be deemed changes in ownership of the corporation.

Corporation is a legal, business entity, including incorporated (INC) and limited liability corporations (LLC).

Grandfathered or first generation, when referring to a limited entry sablefish-endorsed permit owner, means those permit owners who owned a sablefish-endorsed limited entry permit prior to 11/1/ 2000, and are, therefore, exempt from certain requirements of the sablefish permit stacking program within the parameters of the regulations.

Hold, with respect to a permit holder, means a vessel owner as identified on the United States Coast Guard (USCG) form 1270 or state motor vehicle licensing document.

Partnership is two or more individuals, partnerships, or corporations, or combinations thereof, who have ownership interest in a permit, including married couples and legally recognized trusts and partnerships, such as limited partnerships (LP), general partnerships (GP), and limited liability partnerships (LLP).

Permit holder means a vessel owner as identified on the United States Coast Guard (USCG) form 1270 or state motor vehicle licensing document.

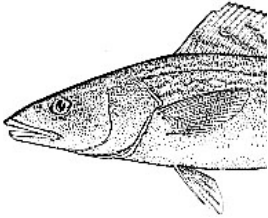
Regional Administrator means the Director, Northwest Region, NMFS.

Sustainable Fisheries Division (SFD) means the Chief, Sustainable Fisheries Division, Northwest Regional Office, NMFS, or a designee.

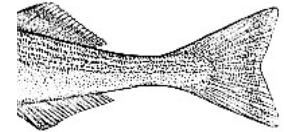
Spouse means a person who is legally married to another person as recognized by state law (i.e., one’s wife or husband).

Stacking is the practice of registering more than one limited entry permit for use with a single vessel.

ATTACHMENT B: SUMMARY SHEET OF PROVISIONS AND EFFECTIVE DATES



ATTENTION: Primary Season Sablefish Fishermen *Additional Sablefish Permit Stacking Regulations (aka: Amendment 14b)*



The final rule implementing additional provisions for the sablefish permit stacking program published in the *Federal Register* on March 2, 2006 ([71 FR 10614](#)), and will be effective beginning April 3, 2006. Below is a list of provisions implemented through this rulemaking, along with general effective dates.

Provisions implemented through Amendment 14b

1. declaration of permit ownership interest
2. addition of a spouse as co-owner on a permit
3. owner-on-board (OOB) requirement
4. certification for mid-season transfers
5. prohibition on at-sea processing of sablefish
6. designation of a base permit

Effective April 2006:

- ❑ Ownership interest form must be filled out for all permit transfers
- ❑ NMFS will send a compliance guide to the fleet about these provisions.
- ❑ NMFS will also send letters, forms, & applications to the fleet on:
 - addition of a spouse as co-owner on a permit
 - ownership interest in permit as of 11/1/2000 and as of the current date
 - exemption from the at-sea processing prohibition
 - notification for those permit owners who will be subject to OOB

Effective January 2007:

- ❑ Permit owners must be onboard the vessel when that vessel is fishing for sablefish in the primary season against that permit's tier, unless the permit owner is grandfathered (i.e., exempt from OOB).
- ❑ During mid-season transfers, the transferor must certify the quantity of sablefish landed on the permit and the transferee must acknowledge the amount of landings to date.
- ❑ At-sea processing of sablefish will be prohibited, unless the vessel and permit owner have previously qualified for an exemption.
- ❑ A base permit will be designated among the stacked permits with the permit renewal process in the fall of 2006.
- ❑ WA, OR and CA will require the sablefish-endorsed permit number to be written on the fish ticket.

Effective April 2007:

- ❑ Previously grandfathered permit owners (i.e., exempt from OOB) who no longer qualified as grandfathered upon publication of the final rule and have not gotten back to their original grandfathered configuration, will no longer be exempt from OOB.

