

3.5 Alternatives to Control Capacity

There is a concern that excess fishing capacity in the groundfish industry will slow rebuilding efforts and prevent the economic success of those vessels in the fishery. More DAS and permits are available than are active in the fishery, yet at 2001 used DAS levels – a fraction of the allocated effort – fishing mortality is too high. The proposed action addresses these concerns. See section 9.4.2.5 for additional background on capacity concerns.

3.5.1 Policy on Cooperative Research

The proposed action limits the use of DAS allocated to a permit based on the history of DAS use. The Council's policy is that a vessel will not lose DAS because of documented participation in a research project or experimental fishery. These instances will have to be evaluated by the Regional Administrator on a case-by-case basis. If a permit holder believes that allocation of DAS under Amendment 13 has been limited by the vessel's participation in a research project or experimental fishery, the permit holder should provide NMFS documented proof of the time spent participating in the research project that was not considered for its Amendment 13 DAS authorization. NMFS will review the information and consider adjusting the DAS allocation.

3.5.2 Days-At-Sea Transfer

This alternative allows multispecies limited access permit holders to permanently transfer DAS to other multispecies limited access permit holders, with some restrictions. The objectives of this alternative are to provide greater economic opportunity and flexibility in all fisheries, while maintaining the character of the existing fleet and to achieve some long-term reduction in fishing effort by removing active and inactive DAS from the groundfish fishery.

Rationale: This measure provides a limited opportunity for some consolidation in the groundfish fishery. Transfers are constrained by vessel upgrading restrictions in order to prevent increases in fishing effort from occurring rapidly and to help maintain the character of the fishery. By applying a conservation tax on the transfer of DAS, the proposal will reduce not just the number of vessels in the fishery but will reduce allocated DAS. Vessels transferring their groundfish DAS must leave all federal and state fisheries in order to prevent this program from merely transferring excess harvesting capacity into other fisheries.

3.5.2.1 Measures

All transfers of DAS are limited to multispecies limited access vessels. The LOA or gross registered tonnage of the purchasing vessel may not be more than 10% greater and its horsepower may not be more than 20% greater than the baseline of the selling vessel. The selling vessel is required to retire from all state and federal commercial fisheries. Consistent with the DAS leasing proposal, a history permit cannot transfer its DAS to another vessel.

Rationale: Fishing effort may increase if transfers of DAS take place between vessels of disparate size. This restriction reduces those concerns. Requiring the vessel to leave all state and federal fisheries removes the possibility that reducing effort in this fishery will result in a transfer of that effort into other fisheries.

3.5.2.2 Restrictions

Only those vessels with a history of landing groundfish or another species during the period used to define effective effort (fishing years 1996 through 2001, as defined below) may transfer DAS with a reduction in fishing privileges for the recipient. Transferred active DAS (Category A or B DAS) will be reduced by 40% and inactive (Category C) DAS will be reduced by 90%.

Rationale: By limiting transfers of DAS to vessels that have a history of fishing, the possibility that this proposal will result in a re-activation of latent effort is reduced.

3.5.2.3 Reactivation of DAS – (DAS Use by Permit Buyer)

All DAS acquired by a vessel under this alternative may be used immediately following the transaction.

Rationale: The Council considered phasing in the use of these DAS over time in order to reduce the possibility that unused effort would rapidly enter the fishery under this measure. This provision, however, would make this measure unattractive to fishermen and would hinder its use. The combination of the effective effort baseline (see below) and the limit of these transfers to vessels that were actively fishing reduces the possibility that this action will rapidly introduce unused effort into the fishery.,

3.5.3 Days-At-Sea Reserve

3.5.3.1 Measures

DAS allocated to each permit are divided into three categories. First the number of effective DAS (documented DAS that were used during a baseline period, see section 3.5.3.5.-Defining Effective Effort) is defined for each permit. DAS not defined as effective are called Category C DAS. The effective DAS are divided into Category A and Category B DAS.

Category A DAS: The number of effective DAS that are available for use upon implementation of Amendment 13.

Category B DAS: The number of effective DAS that cannot be used at the implementation of Amendment 13 in order to achieve mortality objectives. These DAS will be further subdivided into "B regular" and "B reserve" DAS, with different restrictions on the use of those DAS.

Category C DAS: Latent days that are equal to the difference between a vessel's documented effective DAS and the Amendment 7 allocated DAS.

Example-- Consider a fleet allocation vessel with 88 DAS in fishing year 2000 and assume that this vessel can document a total of 60 DAS in the call-in system during the baseline period. If the rebuilding program required a 30% reduction in effective DAS the total number of DAS in each category for this vessel would be 42 DAS in Category A, 18 DAS in Category B, and 28 DAS in Category C.

3.5.3.2 Reserve DAS

All Category B and C DAS will be placed in a reserve account for each vessel. DAS in the reserve will be frozen at a fixed amount. Upon implementation of Amendment 13, Category A DAS may be used to fish for any stock of groundfish. Category "B regular" DAS can be used to target healthy stocks, subject to conditions defined through Council action, and Category "B reserve" DAS can only be used in an approved Special Access Program. As rebuilding occurs, Category B DAS may be re-activated from the reserve account first, followed by Category C DAS. All Category B DAS will be restored before any Category C DAS may be released from the reserve. Vessels that have documented activity in the groundfish fishery will restore their DAS before vessels that did not fish during the baseline period.

Rationale: The excess number of DAS available to groundfish complicates management efforts. In recent years, as stocks have started to rebuild, these unused DAS have re-entered the fishery, keeping fishing mortality rates higher than desired. Attempts to reduce overall DAS are complicated by these unused DAS as well, since an across the board reduction penalizes active fishermen more than those who are not currently using their DAS. Understandably, however, many fishermen oppose permanently taking DAS away from any permits, since the permit is not as valuable if it cannot be fished. This program reduces the number of DAS that can be fished on any stock (Category A DAS), while keeping the total number of DAS

assigned to a permit at a fixed level. Many of those DAS, however, cannot be used until stocks rebuild, slowing their entry back into the fishery.

3.5.3.3 Conservation Tax on Category C DAS

A conservation tax will be applied to reactivated Category C DAS. The tax rate will depend on resource conditions at the time at which Category C days are withdrawn from the reserve.

3.5.3.4 Reactivation of Category B or C DAS

Whether Category B or C DAS are used in the future and the rate at which they return to use depend on the response of stocks to the management program. The Council may decide in the future to allow the initial reactivation of a portion of Category B and the subsequent reactivation of Category C DAS during the FMP annual adjustment process. Reactivation rates will be determined by the following formula:

Number of Category B or C DAS a permit holder may reactivate =

$(\text{No. of B or C DAS Held}) * (\text{Cat. B DAS Allowed to Re-enter} / \text{Total No. B or C DAS that exist})$

Example: For a permit holder with 20 Category B DAS where 5,000 Category B are allowed back into the fishery and 50,000 B DAS exist,

$(20) * (5,000 / 50,000) = 2$ Category B DAS allowed to reenter the fishery.

3.5.3.5 Defining Effective Effort

Effective effort is defined as the maximum DAS used in any single fishing year from FY 1996 through FY 2001. Qualifying years are only those in which a vessel landed 5,000 pounds or more of regulated groundfish (landings must be documented in the NMFS reporting system).

Example (1): A fleet permit used fifty DAS every year from FY 1995 through 2001, but never landed 5,000 pounds of regulated groundfish in any single year.

Effective effort: 0 DAS

Category C DAS: 88

Example (2): A fleet permit used 88 DAS in FY 1996 to land less than 5,000 pounds of regulated groundfish, and used 50 DAS in FY 2001 to land more than 5,000 pounds of regulated groundfish.

Effective effort: 50 DAS

Category C DAS: 38 DAS