Environmental Assessment and Regulatory Impact Review

Revise Groundfish Regulations on: the Definition of Limited Entry Permit Transfers, Revising the Interval for Limited Entry Permit Transfers, and to Clarifying Permit Regulations

Pacific Coast Groundfish Fishery Management Plan

Environmental Assessment/Regulatory Impact Review to Revise Groundfish Regulations on: the Definition of Limited Entry Permit Transfers, Revising the Interval for Limited Entry Permit Transfers, and to Clarifying Permit Regulations

Prepared by
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1.0 PURPOSE AND NEED FOR ACTION

Vessel participation in West Coast groundfish fisheries is constrained in part by a limited entry permit program, initially implemented in 1994. This program was intended to separate groundfish fleet participants into those with a historical dependence on and participation in directed groundfish fisheries from those making groundfish landings incidentally to their primary fishing activities. Limited entry permits were issued to vessels meeting minimum groundfish landings requirements with trawl, longline, or pot gear during a 1984 through 1988 window period. Each permit received a length endorsement as well, indicating the length of the vessel that could be associated with the permit.

Since the implementation of the limited entry program, the Council has made several program changes to further constrain effort in the fleet, including permit combination requirements for larger vessels participating in the fishery and further access limitation for fixed gear vessels targeting sablefish. For 1998, the Council introduced another measure designed to restrict the broad use of permits, a limitation on the frequency of permit transfers to once every 12 months. The Council additionally recommended restricting permit transfers to the first day of a cumulative limit period, to prevent more than one vessel from using that permit during a single period.

Groundfish cumulative limits are linked to the vessel making the landings. Council rationale for restricting permit transfers to once every 12 months was to prevent more than one vessel per year from using a permit to make groundfish landings. Restricting the transfer of permits to the first day of a cumulative limit period was intended to prevent more than one vessel from using a permit to achieve groundfish cumulative limits during a single cumulative limit period. Prior to these restrictions, permit holders could transfer their permits at any time. Council recommendations for the restriction on transfers to once per year rule provided for hardship exemptions in the case of death of the permit holder or total loss of the permitted vessel.

At its September 2000 meeting, the Council began reconsidering the “one transfer” rule and the need to make other revision in order to clarify existing permit regulations. Overall permit regulations have been in place for a number of years and certain provisions may need modification. In general, the Council continues to support the restriction on the frequency of permit transfers. However, the Council has indicated its interest in changing permit regulations to increase flexibility for permit holders without losing the limitations on the number of vessels that may be attached to a permit in any one year or cumulative limit period. Council interest in refining the “one transfer” rule also offers an opportunity for a review and update of the regulations on basic permit registration activities. Permit holder and NMFS experience with the permit regulations over the past six years has revealed several areas where permit regulations could be clarified for users. Revisions to the “one transfer” rule and outlining the process for submitting an application to change vessel registration will eliminate unnecessary restrictions, provide greater flexibility for permit owners, and help NMFS provide timely approvals of requests for changes in vessel registration.

Since the initial implementation of the “one transfer” rule, there have been instances of adverse effects on some permit-owning corporations and partnerships. In recent years, some entities owning limited entry permits have merged, reorganized, added a partner, or incorporated, but have kept the permit on the same vessel. Such transactions occur in the normal course of business but are counted against the one time transfer rule. A change in permit ownership limits that entity from making additional changes for a period of 12 months, such as adding a new vessel to the permit and/or leasing the permit to another person or entity. This reduces permit owner flexibility in business activities. In an increasingly uncertain and depressed fisheries business environment, permit holders need greater latitude in using their permits.

A 1999-2000 complication arising from the “one transfer” rule involved certain vessels participating in the
primary sablefish fishery. Approximately 20 permit holders with sablefish endorsements, who had transferred their permits effective August 1, 1999, could not request a transfer again until after August 1, 2000. Because of changes in the timing of cumulative limit periods between 1999 and 2000, some vessels were not eligible to fish with the permit until September 1, 2000, which was after the start of the sablefish fishery. At its June 2000 meeting, the Council recommended the addition of a major cumulative limit period starting August 1, 2000, to accommodate these permit owners. This recommendation was subsequently approved and implemented by NMFS through an inseason action. At that time, Council also stated its intention to consider revising the restriction on transfers from once every 12 months to once every calendar year, to provide the flexibility that would eliminate the need for future last-minute changes to cumulative limit period start dates.

Another area in need of clarification is the process for review and approval of a transfer request. Current regulations do not state clearly what documentation is required by NMFS to ensure timely approval of a vessel registration change. Since the initial implementation of the "one transfer" rule, some permit owners have submitted transfer applications either shortly before or just after the beginning date of the cumulative limit period in which they want to participate. NMFS is unable to provide immediate approvals of transfer applications, and must obtain and review all supporting documents before reissuing the transferred permit, often working with permit holders to ensure that they submit all of the documents necessary for a transfer. After all documentation is received and reviewed by NMFS staff for approval on reissuance, the beginning date of the cumulative limit period may have passed. These situations are frustrating for the permit buyer or lessee who may want to begin fishing immediately. Clarifying permit registration regulations would be helpful for both permit holders and NMFS, and would provide more flexibility for permit holders who may not be familiar with the permit transfer process.

### 2.0 SUMMARY OF ALTERNATIVES

#### 2.1 Issue 1 – Definition of the regulatory term, “transfer.” For purposes of the one-transfer rule, should the Council/NMFS modify the regulations to change the definition of the term “transfer”?

**Option 1:** No Action, Status Quo. At present, a transfer is defined as any change in ownership or change in vessel registration to the permit.

**Option 2:** Under the one transfer rule, exempt any change in permit ownership that involves conveyance of the permit to a member of the immediate family (spouse, child, sibling, parent).

**Option 3:** [Proposed Action] As it relates to the one transfer rule, define a transfer as occurring only when there is a change in the vessel registered to the permit, not when there is a change in permit holder/owner status.

#### 2.2 Issue 2 – Change the “one transfer” restriction from limiting permit owners to one transfer every 12 months to one transfer every calendar year. Should the Council/NMFS modify the current restriction limiting permit owners to make one change in vessel registration on a limited entry permit every 12 months to a restriction limiting permit owners to one change in vessel registration during a calendar year?

**Option 1:** No Action, status quo. Presently, permit owners may transfer only once every 12 months.

**Option 2:** [Proposed Action] Restrict a change in vessel registration on a limited entry permit to once every calendar year.

**Option 3:** No restriction on the number of transfers in a 12-month period.
2.3 **Issue 3 – Clarify and streamline existing permit regulations [housekeeping measure]**: This action would update current permit regulations. Also, it would include adding new language that outlines what documents are required in a permit transfer application and clarify when an application must be submitted to assure timely reissuance of the permit.

**Option 1:** No action, status quo. Current regulations do not provide guidance on when to apply for a vessel change to participate in the desired cumulative limit period and what documentation must be provided to NMFS.

**Option 2:** [Proposed Action] Provide in regulation those items required in a complete application for a change in vessel registration and indicate that complete documentation should be submitted at least 5 working days prior to the first day of the cumulative limit period, in which the fisher wishes to participate. At a minimum, a permit owner who desires a transfer to be effective during the next cumulative limit period, would be required to submit a signed transfer application form and their existing permit prior to the first day of the desired cumulative limit period. The owner may subsequently submit the remaining documentation after the start of the cumulative start date. The reissued permit will be effective on the date it is issued.

**Option 3:** Require permit owners to submit all documentation required by NMFS prior to the desired effective date (cumulative limit period).

3.0 **AFFECTED ENVIRONMENT**

3.1 **Physical and Biological Characteristics of the Pacific Coast Groundfish Environment**

The Pacific Coast Groundfish FMP manages 82 species over a large and ecologically diverse area, from the U.S.-Canada border to the U.S.-Mexico border, and extending westward from the coast out to the 200 nautical mile limit of the Exclusive Economic Zone (EEZ). Marine habitat for Pacific coast groundfish includes estuaries, rocky sub-surface pinnacles, sandy plains of the continental shelf, deep ocean canyons, and other habitat types. A thorough description of the habitat used by Pacific coast groundfish is provided in the 1998 Essential Fish Habitat appendix to the FMP (NMFS, 1998.)

In the FMP, the 82 managed species are divided as follows: sharks (3 spp.), skates (3 spp.), ratfish (1 sp.), morid (1 sp.), grenadiers (1 sp.), roundfish (6 spp.), rockfish (55 spp.), and flatfish (12 spp.). Of these, fewer than 20 species have ever had comprehensive stock assessments. Each year, assessments are conducted on 5-10 species, typically as part of a three-year rotation. Most of the available information about life histories and distribution of groundfish species is included or referenced in the 1998 Essential Fish Habitat appendix.

Stock assessments for Pacific Coast groundfish are conducted by staff scientists of the California Department of Fish and Game (CDFG), Oregon Department of Fish and Wildlife (ODFW), Washington Department of Fish and Wildlife (WDFW), Oregon State University (OSU), and the Southwest, Northwest, and Alaska Fisheries Science Centers of NMFS. These stock assessments are published annually as appendices to the Council’s Stock Assessment and Fishery Evaluation (SAFE) document. [Annual SAFE documents and appendices are available from the Council office.]

Eight species are believed to be above their precautionary thresholds of stock size (at least 40% of its unfished biomass level): Dover sole (increasing abundance trend), English sole (trend unknown), Petrale sole (trend unknown), shortbelly rockfish (trend unknown), longspine thornyhead (declining), black rockfish (declining), chilepepper rockfish (declining if recent recruitment is low), and blackgill rockfish...
Species near target biomass levels include Pacific whiting, yellowtail rockfish (39% of unfished level,) and sablefish (37%). There are seven species below their target biomass levels: widow rockfish (29%), shortspine thornyhead (32%), canary rockfish (7% in the south and 20% in the north), cowcod (less than 10%), bocaccio (about 2%), POP (13%), and lingcod (8.8%, north; 7.5%, south.) Darkblotched rockfish is also thought to be below the target biomass level. Of these, POP, bocaccio, lingcod, canary rockfish, and cowcod have been declared overfished. The relative abundance and trends of Pacific cod, other flatfish, other rockfish, and other species categories are unknown; relative abundance of arrowtooth flounder is unknown but believed to be declining (PFMC, December 1999.)

More detailed information on the stock status of each of these species is available in the stock assessments associated with the annual SAFE document process, as well as in the Environmental Assessment and Regulatory Impact Review for the 2000 groundfish ABC and OY specifications and implementing management measures for the Pacific coast groundfish fishery, which are available from the Council office (PFMC, December 1999.) Rebuilding plans for the three species that were designated as overfished in March 1999 (POP, bocaccio, lingcod) are also available from the Council office.

3.2 Characteristics of the Groundfish Industry and Fishery

The Pacific coast commercial groundfish fishery is a year-round, multi-species fishery that takes place off the coasts of Washington, Oregon, and California. Most of the Pacific coast non-tribal, commercial groundfish harvest is taken by the limited entry fleet. The groundfish limited entry program was established in 1994 for trawl, longline, and trap (or pot) gears. There are also several open access fisheries that take groundfish incidentally or in small amounts; participants in those fisheries may use, but are not limited to, longline, vertical hook-and-line, troll, pot, setnet, trawl, California halibut trawl, and sea cucumber trawl. In addition to these non-tribal commercial fisheries, members of the Makah, Quileute, Hoh, and Quinault tribes participate in commercial, and ceremonial and subsistence fisheries for groundfish off the Washington coast. Participants in the tribal commercial fishery use similar gear to non-tribal fishers who operate off Washington, and groundfish caught in the tribal commercial fishery is sold through the same markets as non-tribal commercial groundfish catch. The regulatory proposal addressed in this EA/RIR would affect only the limited entry fishery.

One of the primary goals of the Pacific coast groundfish FMP is to keep the fishery open throughout the entire year for most segments of the fishery (See FMP goals and objectives at section 2.0). It has become increasingly difficult to meet this goal as species have nearned or fallen below their target biomass levels. Harvest rates in the limited entry fishery are now constrained by annual harvest guidelines, two-month or one-month cumulative period landings limits, individual trip limits, size limits, species-to-species ratio restrictions, and other measures, all designed to control effort so that the allowable catch is taken at a slow rate that will stretch the season out as much as possible. Cumulative period catch limits are set by comparing current or previous landings rates with the year's total available catch; they represent targets and not guaranteed catch levels.

There are about 500 vessels with Pacific coast groundfish limited entry permits, of which approximately 55% are trawl vessels, 40% are longline vessels, and 5% are trap vessels. Each permit is endorsed for a particular gear type and that gear endorsement cannot be changed, so the distribution of permits between gear types is fairly stable. The number of total permits will only change if multiple permits are combined to create a new permit with a longer length endorsement, or if a permit is not renewed. Limited entry permits can be sold and leased out by their owners, so the distribution of permits between the three West Coast states often shifts. At the beginning of 2000, roughly 39% of the limited entry permits were assigned to vessels making landings in California, 37% to vessels making landings in Oregon, and 23% to vessels making landings in Washington.

Limited entry fishers who use bottom trawl, longline, and pot gears target on many different species, with
the largest landings by volume (other than Pacific whiting) from these species: Dover sole, sablefish, thornyheads, widow rockfish, and yellowtail rockfish. There are 55 rockfish species managed by the Pacific coast groundfish FMP and, taken as a whole, rockfish landings represent the highest volume of non-whiting landings in the Pacific coast commercial groundfish fishery.

In addition to these mixed-species fisheries, there is a distinct mid-water trawl fishery that targets Pacific whiting (*Merluccius productus*). Pacific whiting landings are significantly higher in volume than any other Pacific coast groundfish species. In 1998, whiting accounted for approximately 66% of all Pacific coast commercial groundfish shoreside landings by weight. The Pacific whiting fleet includes catcher boats that deliver to shore-based processing plants and to at-sea processor ships, as well as catcher-processor ships. Whiting is a high volume species, but it commands a relatively low price per pound, so it accounts for only about 9% of all Pacific coast commercial groundfish shoreside landings by value. [For more specific information on distribution of groundfish catch by volume and by value see the 1999 SAFE (PFMC, October 1999.)]

With the exception of the portion of Pacific whiting catch that is processed at sea, all other Pacific coast groundfish catch is processed in shore-based processing plants along the Pacific coast. By weight, 1998 commercial groundfish landings were distributed among the three states as follows: Washington, 13%; Oregon, 69%; California, 18%. By value, commercial groundfish landings are distributed among the three states as follows: Washington, 15%; Oregon, 43%; California, 41% (PFMC, October 1999.) The discrepancies between the Oregon and California portions of the landings are expected because Oregon processors handle a relatively high percent of the shore-based whiting landings. Conversely, California fishers land more of the low volume, high value species as a proportion of the total state-wide catch than Oregon fishers.

Catcher vessel owners and captains employ a variety of strategies to fill out a year of fishing. Fishers from the northern ports may fish in waters off of Alaska, as well as in the West Coast groundfish fishery. Others may change their operations throughout the year, targeting on salmon, shrimp, crab, or albacore, in addition to various high-value groundfish species, so as to spend more time in waters close to their home communities. Factory trawlers and motherships fishing for or processing Pacific whiting off of the West Coast usually also participate in the Alaska pollock seasons, allowing the vessels and crews to spend a greater percentage of the year at work on the ocean. Commercial fisheries landings for species other than groundfish vary along the length of the coast. Dungeness crab landings are particularly high in Washington state, squid, anchovies, and other coastal pelagics figure heavily in California commercial landings, with salmon, shrimp, and highly migratory species like albacore more widely distributed, and varying from year to year.

Whiting has been processed into surimi, sold in headed and gutted form, filleted, and converted to meal and oil. Other, higher quality fish like Petrale sole are dressed and rushed to fresh, local markets as quickly as possible, while most sablefish is frozen and sent to foreign markets. The quantity of groundfish caught off of the West Coast is just a small percent of the amount of groundfish caught in federal waters off Alaska, so West Coast groundfish moves through many of the same markets as Alaska groundfish, taking prices set by the northern fleet.

4.0 ANALYSIS OF THE ISSUES

4.1. Issue 1 – Definition of the regulatory term, “transfer.” For purposes of the one-transfer rule, should the Council/NMFS modify the regulations to change the definition of the term “transfer”?

4.1.1. Option 1: No Action, Status Quo. At present, a transfer is defined as any change in ownership or change in vessel registration to the permit.

Two separate acts are deemed a “transfer” for purposes of the so called “one-transfer rule.” Under the Federal groundfish regulations at Section 660.333 (f), these two acts are defined as: 1) the conveyance
(sale, assignment, lease, bequest, trade, gift, and other form of conveyance) of the permit from one person to a different person; or 2) registration of a permit with a different vessel under the same ownership. The regulations further stipulate that a permit owner is limited to one "transfer" every 12 months and that permit transfers take effect on the first day of the next cumulative limit period following the date of the transfer.

NMFS receives transfer requests that vary widely in their nature. The transfer regulations do not provide clear guidance on how various transfer requests should be considered in relation to the one transfer rule. NMFS staff have been required to interpret the intent of the regulation in considering transfer requests. Such interpretations of various transfer requests as they apply to the one transfer rule have not always been apparent to the fishing community, and in some instances have created misunderstandings and confusion.

NMFS has consistently treated any request to change vessel registration on a permit as a transfer. Changes in vessel registrations are effective in the next cumulative period and no additional transfer is allowed for the next 12 months. The current definition of a vessel registration transfer in conjunction of the one-transfer rule fulfills the intended conservation purposes initially envisioned by the Council.

A number of transfer requests involve only a change in permit ownership structure or a conveyance of the permit from one person to another without a change in vessel associated with the permit. Changes in ownership can involve the addition of a partner(s), individual owners forming a corporation, existing corporations reorganizing and changing an entity’s name, or permit owners leasing to a corporation that they own. A conveyance can involve a permit and vessel being assigned in divorce or estate settlement. Those individuals who make a change in permit ownership (but no change in vessel registration) exhaust their one transfer, and limit their options for the succeeding 12 month period. Such situations can be particularly onerous for individuals and companies that undertake substantial changes in fishing strategies and ownership structure.

By contrast, a single request may involve multiple conveyances and a change in vessel registration. For example, a limited entry permit may be sold to an individual who in turn, leases it to another individual for use on the lessee’s boat. NMFS has construed such requests as a single transfer for purposes of the one transfer rule. A literal interpretation of the regulations would allow for a single conveyance (sale or lease) or the registration of the vessel, but not all three. For purposes of the one transfer rule, NMFS processes a request that simultaneously adds a lessee and registers a different vessel to the permit as one transfer.

Conversely, a permit owner who requests only the addition of a lessee to the permit, but does not change the vessel registration, exhausts his/her one transfer on the conveyance to the lessee. A request to register a different vessel to the permit some time in the following 12-month period would be considered a second transfer, and would have to be rejected by NMFS.

Another variation occurs when a permit is sold to an individual but the owner does not register a vessel on the permit (vessel is shown as unidentified) at the time of the change in ownership. The change in ownership is not counted as a transfer under the one time rule. However, when the new permit owner later requests adding a vessel to the permit, NMFS then deems the registration of the vessel a transfer for purposes of the one-time rule.

In terms of administrative burden, the number of transfers in a calendar year is relatively small. The restriction of one transfer every 12 months has reduced the number of transfer requests submitted to NMFS. In 1999, NMFS processed about 60 transfer requests. By comparison, in 1996 there were about 100 transfer requests involving the sales and leases of permits. A large percentage of the 1999 requests were submitted prior to either the whiting season or the primary sablefish fishery.

A current permit must be on board the vessel in order for it to participate in the fishery. Agents routinely
request proof of identification from the permit owner or holder (lessee).

4.1.2. Option 2: **Under the one transfer rule, exempt any change in permit ownership that involves conveyance of the permit to a member of the immediate family (spouse, child, sibling, parent).**

Option 2 would allow permits to be conveyed between individuals within the immediate family (spouse, child, parent, sibling) more than once every 12 months or once during a calendar year. Other conveyances of a permit between non-family persons would count as a transfer under the one transfer rule. This option would support family owned operations by providing flexibility in transferring a permit from one family member to a different family member and still preserve the ability to add either a new vessel or a non-family lessee during once during the 12 month period.

The conservation benefit associated with Option 2 would remain the same as that provided by the status quo option. Restrictions on change in vessel registration would be the same as those presented in all options. While a family may choose to add family members as owners of the permit, or sell or lease the permit to a particular family member, any change in vessel would be restricted to one change per 12 months and such change would be effective in the next cumulative period.

Option 2 would not create a significantly greater administrative burden. Conveyances of permits between family members would still require the permit owner to submit changes in the owner name or lessee name to NMFS, so that the permit accurately reflects the family member as owner or lessee. The level of documentation required for such changes would be basically the same. However, NMFS may want to require proof that the individual being added to the permit is in fact an immediate family member. Such documentation could include either a self certification or copies of marriage licenses, birth certificate or other legal documentation. The Council would need to clarify specifically what constitutes an immediate family member to avoid confusion on the part of staff and permit owners.

Under this option, it is anticipated that the number of requests to add a family member as lessee or permit owner would not increase over the current level. Many permit owners have held their permits since the inception of the limited entry program and already include family members as partners. Other permit owners list the owner as a corporation which allows the family the flexibility to add and delete family members without requesting a change in permit ownership.

The enforcement burden would not change under this option.

4.1.3. Option 3: **[Proposed Action]** As it relates to the one transfer rule, define a transfer as occurring only when there is a change in the vessel registered to the permit, not when there is a change in permit holder/owner status.

The proposed action (Option 3) would revise the “one transfer” rule such that only a change in vessel registration restriction could occur once in 12 months. Changes in vessel registrations would continue to be effective at the start of the next cumulative limit period. Conveyances of the permit (sale, lease) and changes in ownership that do not involve a change in vessel would not be limited by regulation. However, in order to keep the information on the permit current, the permit owners would still be required to report such changes to NMFS.

The proposed action would not increase harvest effort in the groundfish fishery. Under the proposed action, any change in vessel registration (adding a different vessel) would continue to be effective only at the beginning of the next cumulative limit period and prevent more than one vessel from using the same permit in a given cumulative limit period. The 12-month restriction limits opportunities to maximize fishing effort. The original restriction was intended to restrict multiple short term leases with various open access vessels during a year. The proposed action would allow the permit to have multiple owners or lessees in a year, however, the permit would be registered for use the same boat for a year at a time.
The proposed action would provide greater flexibility to the permit owners by narrowing what actions that constitute a transfer under the one transfer rule. Permit owners could change ownership structures or lessees multiple times, but the vessel on the permit could change only once in the 12-month period. For example, a permit owner might request the addition of a spouse to the permit. Under the current regulations, this request could be deemed a transfer because the permit is being conveyed to a different person. Under the proposed action, this would not constitute a "transfer" for purposes of the one transfer rule because the vessel remained the same on the permit. The permit owners would have the latitude to register a different vessel on the permit at a later time.

Another example would be if a corporation that owns a permit is sold to a new corporation and the new corporation wants to register the same vessel on the permit, this request would be deemed a transfer under the one transfer rule. The proposed action would not consider such a change as a transfer under the "one transfer" rule because the request involves only a change in the ownership entity. As such, the new permit owners preserve future options to lease the permit to a new vessel or add a new vessel to the permit.

Changes in ownership structure are commonplace in the fishing industry. Various ownership structures reflect different business arrangements or legal considerations employed by their owners. The original intent of the Council was to restrain harvest capacity that is directly tied to the number of vessels participating in the fishery. However, the same result can be achieved without the need to limit changes in ownership structures, conveyances, lease assignments as transfers when there is no change in the vessel registered to the permit.

The proposed action would not likely result in a substantive increase in the administrative or enforcement burden. Under the proposed action, NMFS would continue to require that permit owners notify the Agency of a transfer of a permit from one person to a different person. It is essential that permit owners continue to report ownership changes or the addition of lessees (with no change of vessel) for enforcement and administrative record keeping purposes. The amount of documentation required of permit owners would not change for such transactions and the time required to record such changes is relatively small. However, the proposed change in definition would eliminate current confusion where multiple changes are requested (i.e.; adding a partner, leasing to a new entity, registering the permit to a different vessel) at one time and eliminate the need to treat a simple conveyance or ownership change (with no change in vessel) as a transfer.

Sales and lease arrangements account for most transfers involving the permit. Many sales involve both permit and the registered vessel. NMFS does not anticipate a large increase in the number of sales because many key groundfish stocks are at depressed levels and recovery is expected to take some years. Permit sales typically require certain costs and actions (survey, change in Coast Guard documentation) which may serve as a disincentive to make multiple transactions in a given year. The depressed state of the fishery has limited demand for and reduced the value of permits. However, if there is a relaxation of the Individual Fishing Quota (IFQ) moratorium, there may be an increase in the sales of sablefish endorsed permits.

Any request to change ownership listing on a permit would still require that NMFS Permit staff check for possible permit sanctions and outstanding fines with enforcement and legal staff. Such checks are routine and involve a minimal amount of time. As such, agents will have current ownership/holder information to reference for enforcement purposes. Enforcement agents frequently request NMFS Permit Staff to confirm permit information.

4.2. Issue 2 – Change the “one transfer” restriction from limiting permit owners to one transfer every 12 months to one transfer every calendar year. Should the Council/NMFS modify the current restriction limiting permit owners to make one change in vessel registration on a limited entry permit every 12 months to a restriction limiting permit owners to one change in vessel registration once every
calendar year?

4.2.1 Option 1: No Action, status quo. Presently, permit owners may transfer only once every 12 months. A transfer is effective on the first day of next cumulative limit period.

As discussed previously, in an effort to provide stability to the fishery and curtail opportunities to involve multiple vessels on a single permit, the Council limited transfers to one every 12 months. The 12 month clock starts when a transfer is effective, or the first day of the next cumulative limit period after receipt of the transfer application. NMFS routinely records all transfer effective dates and checks these dates for all transfer requests. The number of transfers requested in recent years have decreased from the level prior to the enactment of this regulation.

However, in 2000, some sablefish endorsed permit owners faced a situation where they would be have been prevented from participating in the fishery due to timing of the prior year’s transfer. In August 1999, about 20 sablefish endorsed limited entry permit holders transferred their permits prior to the primary sablefish fishery. Most of these transfers involved leasing the permit. As a result, these permit owners were prohibited from transferring their permits again until August 1, 2000. The Council changed the length of cumulative limit periods in 2000 such that transfer requests made in July and August would be effective September 1, 2000 or after the August start date for the primary sablefish fishery. The Council, recognizing this problem, recommended adding a cumulative limit period starting August 1, 2000, which allowed these permit holders to make transfers effective August 1, 2000.

4.2.2. Option 2: [Proposed Action] Restrict a change in vessel registration on a limited entry permit to once every calendar year.

The proposed action (Option 2) is not expected to have negative effects on the resource, as long as the Council retains the restriction that allows transfers to be effective only at the start of the cumulative limit period. This proposed action would not change the basic restrictions in place to protect the resource from excessive harvest. Any request for a change in vessel registration would not go into effect until the next cumulative limit period. Once a vessel change had been made in the calendar year, no other vessel could be added to the permit until the next calendar year.

The proposed action would provide permit owners greater flexibility in making business decisions involving their permits. At present, a decision to transfer made in one fishing season limits business options in the succeeding fishing season. A permit owner who decides to lease a permit late in one year cannot make another such change for a number of months in the succeeding calendar year. The fishing business, like many others, is subject to a variety of changes. Some events can be anticipated and are within the control on the permit owner, while others occur spontaneously and are outside their control.

At the beginning of each calendar year, NMFS specifies fishery management measures for the groundfish fishery. Specifications of harvest levels, cumulative limit periods, trip limits, gear, and other factors figure into the considerations of a permit owner and potential buyers and lessees in making key decision regarding their business for the coming year. Currently, individuals transferring a permit in one year do not have the specifications for the coming year’s fishery, and as such decisions made in one year may have adverse impacts in the subsequent year. Under the proposed action, permit owners would have key information about the specifications of the fishing season and would begin the calendar year with the flexibility to choose an optimum time to make a transfer. Clearly, the situation involving the above referenced sablefish endorsed permit owners would be ameliorated by this proposed change.

For example, a permit owner might choose to lease his/her permit for use on a different boat effective August 1, 2000. In developing the specifications for the 2001, the Council may decide change the length of cumulative limit periods from 2 month to 3 month intervals. For many individuals this may impact their business and fishing strategies. Under the proposed action, the permit owner who last leased his/her
permit effective August 1, 2000 would be able to take into the consideration the changes for the upcoming fishing season and choose when a subsequent transfer would be appropriate. The permit owner would still be constrained however, to one change during the calendar year.

From an administrative perspective, both NMFS and the industry would benefit somewhat by the proposed action. The status quo option and proposed action would require that NMFS continue to record the effective date of the transfer and check any transfer request to ensure that the applicant has not transferred more than once during the allotted period. The practical effect of the proposed action is that the permit owner would not need to refer to records or contact NMFS to confirm the effective date of the last transfer in order to calculate the timing of the next transfer request.

4.2.3 Option 3: No restriction on the number of transfers in a 12-month period. A transfer is effective on the first day of next cumulative limit period.

Option 3 would remove the restriction of one transfer every 12 months but would maintain the restriction that a requested transfer would not be effective until the next cumulative limit period. This option would be more liberal than either the status quo option or proposed action. Efforts to conserve the resource would be adversely affected by this option because it would negate most of the effort constraining effects of the Council’s initial action. Multiple vessels could use a single permit during a 12 month period, but only one vessel could use the permit during a single cumulative limit period. The Council intended in its original restriction of permit transfers that minimal number of vessels participate in the fishery in a one year period. The 12-month restriction was specifically targeted to reduce effort when a vessel may have “down time” and to bring some stability to the fishery. It was anticipated that allowing multiple vessels use a single permit would maximize catch effort and contribute to increased discards.

Similarly, this option is contrary to the Council’s Groundfish Strategic Plan. In the Plan, the Council states clearly that reducing overcapacity in the fishery is imperative in order to reduce overfishing, minimizing bycatch and improving economic condition of the groundfish industry. The limited entry program restrictions were a starting point in reducing overcapacity. To eliminate the transfer restriction in a 12 month period would seriously undercut attempts to limit harvest effort.

Further, Option 3 would increase the number of vessel transfers requested and might also increase the administrative burden on NMFS. If cumulative limit periods were at two month intervals, it is possible for six different vessels to operate on a single permit in a year. While it is unlikely that a large number of permit owners would lease or sell a permit in one year, certainly some increase could be anticipated. A repeal of the 12 month restriction would allow open access fishers an opportunity to participate more frequently in the limited entry fishery.

Option 3 would provide a broader latitude to permit owners to benefit from their permit. Prices for certain species may be such that a large number of individuals would seek opportunity to fish in a lease arrangement. Additionally, some individuals who participate in other fisheries, could lease their permit more freely than they are allowed under current regulation and as such, present an opportunity to gain some revenue from the limited entry permit while they fish for other than groundfish species.

From an enforcement perspective there may be some potential complications. If numerous vessels use a single permit during a 12-month, some may be participating in a more transitory basis. Because these participants are involved in the limited entry fishery on short term basis, they may seek to maximize their catch and in doing so exceed catch limits. Enforcement would need to increase efforts to curtail such activities.

4.3 Issue 3 – Clarify and streamline existing permit regulations [housekeeping measure]: This action would update current permit regulations. Also, it would include adding new language that outlines what documents are required in a permit transfer application and clarify when an application must be submitted to assure timely reissuance of the permit.
4.3.1 Option 1: No action, status quo. Current regulations do not provide guidance on when to apply for a vessel change to participate in the desired cumulative limit period and what documentation must be provided to NMFS.

The current permit regulations reflect many of the original qualification requirements for the limited entry program. Since 1994, the program has evolved to a point where certain regulations are no longer relevant. Specifically, permit transfer provisions have been presented in two subsections to address the needs of permit endorsements that no longer exist ("B", Designated "B" and Provisional "A"; removed by Amendment 13). Further, provisions for issuance of sablefish endorsements are given in the regulations even though the deadline date has passed. The present regulations do not provide a current and clear reflection of requirements for both NMFS staff and the public.

Also, the current regulations do not specify when an application for transfer should be submitted to NMFS to ensure timely action or what documents are required in a complete transfer application. In many instances, transfer applications are submitted either just before the desired cumulative limit period. In a few cases, applications were received either on or shortly after the first day of the cumulative limit period. Frequently permit owners are using their permit late into a current cumulative period and then submitting their transfer application a few days prior to the next cumulative limit period. Some permit owners have been under the impression that NMFS can reissue a permit immediately. Late applicants have requested that staff provide verbal approval to fish until such time NMFS staff can reissue the permit, which cannot be done.

Further compounding this problem is that a number of transfer applications received by NMFS are incomplete. In these situations, staff is required to contact the permit owner and obtain a completed form and/or missing documents. In 1999, about 50% of the transfer applications were incomplete. The time required to obtain these documents frequently results in substantive delays in reissuing the permit to the permit owner and causes frustration for both NMFS staff and the applicant. In all of these cases, the permits were issued after the start of the cumulative limit period, and only when complete documentation was received.

NMFS currently provides a transfer application that indicates what additional documents are required to make a transfer. Specifically, for a change in vessel registration, a permit owner must provide a completed transfer form, including the notarized signature of the owner; return of the existing limited entry permit; a copy of the new USCG Form 1270, Certificate of Documentation, indicating proof of vessel ownership; and a marine survey, conducted by a professional surveyor in accordance with USCG regulations indicating the length overall. If the owner is a corporation, a corporate resolution must be submitted indicating that the person signing the document is authorized to request this change on behalf of the corporation.

NMFS requires some minimum time to review and process transfer applications. Staff routinely checks with enforcement and legal personnel for outstanding fines and sanctions associated with either the permit owner and/or vessel listed in each transfer request. The USCG Form 1270 is checked for proof of ownership and to ensure that the limited entry permit and Certificate of Documentation are consistent. If a new vessel will be registered to the permit, staff reviews the length overall (LOA) given on the marine survey to ensure it is consistent with the LOA endorsement provisions. Also, the office workload varies during the year and a particular transfer may not be able to be reviewed on a same day basis. Without clear regulatory policy on transfers, these delays become problematic for permit owners.

4.3.2 Option 2: [Proposed Action] Provide in regulation those items required in a complete application for a change in vessel registration and indicate that complete documentation should be submitted at least 5 working days prior to the first day of the cumulative limit period, in which the fisher wishes to participate. At a minimum, a permit owner who desires a transfer to be effective
during the next cumulative limit period, would be required to submit a signed
transfer application form and their existing permit prior to the first day of the
desired cumulative limit period. The owner may subsequently submit the
remaining documentation after the start of the cumulative start date. The
reissued permit will be effective on the date it is issued.

Two areas the proposed action would address are: what is required in a complete transfer application,
and the timing of such a request. The proposed action would require a permit owner to provide a signed
transfer application and the existing permit prior to the first day of the desired cumulative limit period.
Failure to provide both the signed transfer application and existing permit by this deadline would mean
forgoing fishing in that particular cumulative limit period. Additional documentation needed to complete
the transfer could be submitted after the start date of the cumulative limit period, but the permit transfer
would be effective on the day it is approved.

For example, permit owner A submits both transfer application and existing permit on October 31 in hopes
of having the transfer effective November 1. However, missing from the application are other required
documentation (USCG 1270, etc.). Subsequently, the permit owner provides all additional documentation
on November 10. NMFS reviews and approves the transfer on November 13 and the permit will reflect an
effective date of November 13. Conversely, permit owner B submits a transfer application and existing
permit on November 1 and wants the permit to be effective in the cumulative limit period starting
November 1. In this situation, NMFS would not reissue the permit effective November 1 because the
application and permit were not received by October 31. The transfer would be made effective January 1
or the next cumulative limit period.

This proposed action would have no effect on the conservation of the resource or impact the current
transfer restrictions. Requiring individuals to provide a transfer application and existing permit prior to the
desired cumulative limit period ensures that requesting permit owner cannot continue to fish into next
cumulative limit period and then have another vessel fish on the reissued permit during the same
cumulative limit period. Although the current regulations are clear that transferred permits will be effective
at the start of the next cumulative limit period, they do not specifically reference a deadline for submitting a
transfer application. In some rare instances, we have had applications arrive on or just after the desired
cumulative limit period with a request to make it effective immediately. This proposed language would
more clearly establish the requirement.

The proposed action is intended to reduce the administrative burden for both the fishing public and NMFS
staff. The proposed change would clarify what is required in a complete application to change vessel
registration on a limited entry permit. Although the application package currently outlines what is required
for a transfer, these standards are not set in regulation. NMFS staff encounters a few situations each year
where permit owners ask for either a verbal approval of their transfer application or immediate approval
reissuance of permit. The proposed language would reinforce the requirement for complete
documentation to make a formal change to the permit.

The absence of specific guidelines can create misunderstandings and can require a large amount of staff
time to resolve. Even if the proposed action is implemented, it is acknowledged that a few permit owners
may not familiarize themselves with the requirements prior to making an application. Staff time will be
required to follow up with such applicants to get the missing documents. However, the regulation will
provide a basis to avoid future misunderstandings and provide clear guidance on delinquent submissions.

The proposed action may provide some benefit to enforcement efforts. Current regulations are clear that
a valid permit must be registered to the vessel operating in fishing operations and the original permit must
be on board the vessel. The fisher has a number of reasons to start fishing on the first day of the
cumulative limit period (weather considerations, maximizing number of days at sea, schedule conflicts).
The proposed language will further emphasize the importance that permit owners anticipate the need for
change in vessel registration and submit a vessel registration application in advance of the desired
cumulative limit period.

4.3.3 Option 3: Require permit owners to submit all documentation required by NMFS prior to the desired effective date (cumulative limit period).

Option 3 would require a permit owner seeking to change vessel registration to continue to submit a complete application, including all supporting documents prior to the first day of the desired cumulative limit period. Failure to provide a complete application with all supporting documents would preclude the applicant from participating in the upcoming cumulative limit period. This is the most restrictive of the options presented and would create a hardship for those individuals who are unable to conclude business transactions prior to the cumulative limit period. For a variety of reasons, the details required to conclude the sale or lease of a permit can take more time than expected. In many cases, permit owners and permit buyers/lessees will be motivated to obtain the reissued permit prior to the cumulative limit period to maximize fishing opportunities. With catch limits already severely reduced, this proposed measure would preclude any opportunity to catch fish during some part of the cumulative limit period. The opportunity to realize some catch and revenues in a partial cumulative limit period may be crucial to the viability of some fishing operations.

Option 3 would provide some minor advantages in terms of administrative burden. Some permit owners might respond to the possibility of not participating in a desired cumulative limit period by ensuring their initial application is complete. This would reduce the amount of time required by NMFS staff to follow up with permit owners. Permit owners might submit applications earlier, so if the documentation was incomplete or missing, adequate time would be available to supplement the request.

5.0 GOALS AND OBJECTIVES OF THE FMP

The limited entry program and the restrictions limiting permit transfers supports the Council’s management Goal 1 of the FMP to “prevent overfishing by managing for appropriate harvest levels and prevent any net loss of habitat of living marine resources.” Since the inception of the limited entry permit program, the number of permits has been reduced from approximately 640 to 499 in 2000. Despite these reductions in permits, the fishery is still overcapitalized and in need of further capacity reduction, as acknowledged in the recent Groundfish Strategic Plan.

The proposed actions recommended for each of the three issues does not change the fundamental restriction that requires a permit transfer to be effective on the first day of the next cumulative period. This restriction directs that only one vessel shall fish the permit in a given cumulative period. Additionally, the current restriction limiting transfers to once every 12 months would be altered only slightly under the proposed action to one transfer in a calendar year. The proposed action for this issue continues to provide an interval between transfers to limit harvest capacity, while still introducing new flexibility for permit owners.

Generally, the proposed actions for each of the issues outlined above attempts to provide greater flexibility to the permit owner and serves to make the regulations less onerous for fishers and Agency staff. These actions support two of the social factors, Objective 15: “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” and Objective 16: “Avoid unnecessary adverse impacts on small entities.”

Narrowing the definition of the term “transfer” to mean any change in vessel registration to a different vessel will provide greater flexibility to the permit owner and clarify the use of the term. At present, some individuals may experience adverse impacts on their operations when they change their ownership or lease arrangements on their permit. Such a change exhausts their one transfer and limits their ability to make other changes (i.e.; leasing the permit to another individual for use on the lessee’s vessel; adding a
newly constructed vessel, buying another vessel) in the succeeding 12 months. Given the highly dynamic conditions in the fishery and the wide variation in business relations, there is a need to afford permit owners this flexibility in conducting their operations. Changes in ownership or leasing arrangements that do not involve a change in vessel have little or no impact on the conservation of the resource. While individuals will still need to provide NMFS with ownership/lease changes, it will not preclude a subsequent transfer involving a change in vessel registration.

Similarly, the proposed change from a one transfer every 12 months to once every calendar year provides the permit owner with the flexibility to start each calendar year with the ability to make one transfer request and to plan in a way that best supports his/her operation. This change would eliminate the situation faced by certain sablefish endorsed permit owners in 2000 who had made decisions to lease their permit in one year only to find themselves precluded from making a change in subsequent year’s fishery. The current regulations would continue to pose complications that are potentially disruptive to a portion of the fleet. The proposed action allows for the original intent of the 12 month limitation to be achieved but reduces the impact on business operations of individual fishers.

Revisions to permit regulations attempt to provide greater clarity on the process for requesting a transfer and more generally, update and streamline these provisions. Current permit regulations do not provide specific guidance on submission of transfer requests. The proposed action would add language that details what is required in a complete transfer application and clarify the need to submit applications in a timely manner. These revisions would hopefully reduce instances of reissuing permits after the start of a cumulative limit period and thus allow the permit holder the maximum opportunity to fish during the cumulative limit period.

6.0 POTENTIAL EFFECTS ON OTHER COUNCIL ACTION

This action is strongly linked to several other issues that are currently under Council consideration. At its November 2000 meeting, the Council will consider whether to allow limited entry permit holders with sablefish endorsements to stack multiple permits on a single vessel. This action would give permit holders wishing to stack permits a better opportunity to do so in advance of the 2001 primary sablefish season. Also in November, the Council will consider 2001 management measures. Some of the Council’s options for 2001 call for either closed seasons or for concentrating fishing opportunity for particular species in limited seasons. These more restrictive scenarios are needed to protect overfished and depleted stocks, but this action could provide permit holders flexibility in preparing for their desired fishing seasons.

7.0 SUMMARY OF ENVIRONMENTAL IMPACTS AND OTHER APPLICABLE LAW

An EA is required by the National Environmental Policy Act (NEPA) to determine whether the action considered will result in significant impact on the human environment. If the action is determined not to be significant based on an analysis of relevant considerations, the EA and resulting finding of no significant impact would be the final environmental documents required by NEPA. An environmental impact statement (EIS) need only be prepared for major federal actions significantly affecting the human environment. An EA must include a brief discussion of the need for the proposal, the alternatives considered, a list of document preparers, and the impacts of the alternatives on the human environment. The purpose and need for the proposed action was discussed in section 1.0 of this document, the management alternatives and the potential environmental and socio-economic effects of those alternatives were discussed in section 4.0, and the list of preparers is provided in section 8.0. In addition to testing a proposed action for compatibility with the laws discussed below, determining whether a proposed action will have a significant impact on the human environment requires testing against the following factors:

Table 2: NEPA Tests of Significance
<table>
<thead>
<tr>
<th>&quot;Significant&quot; Impact Factor</th>
<th>Proposed Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beneficial and adverse effects of action</td>
<td>Expected beneficial and adverse effects of the proposed actions are discussed above in section 4.0. In general, this action would provide increased business flexibility for limited entry fleet participants without negatively affecting the environment.</td>
</tr>
<tr>
<td>Degree to which public health or safety is affected?</td>
<td>Proposed actions are not expected to adversely affect public health or safety.</td>
</tr>
<tr>
<td>Effects on unique characteristics of area?</td>
<td>Proposed actions are not expected to adversely affect unique characteristics of the managed area, such as historic or cultural resources, park lands, wetlands, or ecologically critical areas.</td>
</tr>
<tr>
<td>Degree to which effects are likely to be controversial?</td>
<td>This action and its effects are not expected to be controversial.</td>
</tr>
<tr>
<td>Degree to which effects are highly uncertain or involve unknown risks?</td>
<td>This action is not expected to have significant effects on the environment that are highly uncertain or involve unknown risks.</td>
</tr>
<tr>
<td>Establishment of a precedent for future actions?</td>
<td>This action is not expected to establish precedents for future actions, or otherwise constrain future actions.</td>
</tr>
<tr>
<td>Individually insignificant but cumulatively significant impacts of action?</td>
<td>This action is not expected to have cumulatively significant adverse effects on the fishery or other related resource.</td>
</tr>
<tr>
<td>Adverse effects on historic, scientific or cultural resources?</td>
<td>No significant effects on historic, scientific, or cultural resources.</td>
</tr>
<tr>
<td>Degree to which endangered or threatened species or their habitat is affected?</td>
<td>No change in degree to which endangered or threatened species or their habitats are affected. See discussion below under Endangered Species Act.</td>
</tr>
<tr>
<td>Violation of a Federal, State, or local law for environmental protection?</td>
<td>This action is not expected to violate Federal, State, or local laws or requirements imposed for environmental protection.</td>
</tr>
</tbody>
</table>

**Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)**

On the whole, the proposed action is intended to provide business flexibility and regulatory clarity for the limited entry fleet. The proposed action is not expected to have any effect on the environment, so many of the standards of the Magnuson-Stevens Act would not apply to this action. However, the Magnuson-Stevens Act does provide guidance to ensure that fishery regulations are not unnecessarily complex.

National Standard 6 reads, "Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches." This action is intended in part to allow permit holders some flexibility in using their permits, so that they can better plan for their participation in various fisheries throughout the year. West Coast groundfish management is becoming increasingly restrictive to provide better protection for overfished and depleted stocks. Fishers are subject to ever-decreasing landing limits for groundfish and must carefully plan their participation in groundfish and other fisheries to maximize their income opportunities. The proposed action would ensure that permit holders are able to begin each fishing year with an opportunity to move their permits between
vessels, providing them with a better ability to account for variations among and contingencies in the fisheries.

National Standard 7 reads, "Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication." As discussed under National Standard 6, this action will improve the ability of permit holders to maximize their income opportunities without negatively affecting the resource. This increased flexibility is expected to minimize costs for permit holders by allowing them to better plan how to use their permits under an increasingly uncertain management regime.

**Essential Fish Habitat (EFH)** The Magnuson-Stevens Act requires that "each Federal agency shall consult with the Secretary of Commerce with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this Act." EFH is defined as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." EFH for Pacific coast groundfish is further defined in Amendment 11 as "the entire EEZ and marine coastal waters inshore of the EEZ." NMFS guidelines (62 FR 66553, December 19, 1997) state that "adverse effects from fishing may include physical, chemical, or biological alternations of the substrate, and loss of, or injury to, benthic organisms, prey species and their habitat, and other components of the ecosystem. . ." Because the action is not expected to change fishing behavior from the existing circumstances, no adverse effects on EFH are expected.

**Executive Orders 12866 and 13132**

The proposed action would not be a significant action according to E.O. 12866. This action will not have a cumulative effect on the economy of $100 million or more nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises.

None of the proposed changes to the FMP would have federalism implications subject to E.O. 13132.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA) requires government agencies to assess the effects that various regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those effects. A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of $3.0 million. It is the limited entry fleet that would be affected by this action, and almost all limited entry permit holders are considered small businesses under SBA standards. Overall, this is a minor action that increases business flexibility for limited entry permit holders. This action is not expected to have any negative effect, and would positively benefit limited entry permit holders by: allowing them the flexibility to plan permit transfers in accordance with changes in seasonal management; improving the clarity and usability of limited entry permit regulations; and improving their flexibility in making small changes and corrections in permit ownership documentation.

**Paperwork Reduction Act (PRA)**

There is no collection of information requirement subject at the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

**Endangered Species Act**

spring/summer chinook, Central Valley spring chinook, California coastal chinook, Puget Sound chinook, lower Columbia River chinook, upper Willamette River chinook, Upper Columbia River Spring chinook, Hood Canal summer run chum, Columbia River Chum, Central California coastal coho, Oregon coastal coho, Snake River sockeye, Ozette Lake sockeye, southern California steelhead, south-central California steelhead, central California coast steelhead, upper Columbia River steelhead, Snake River Basin steelhead, lower Columbia River steelhead, California Central Valley steelhead, upper Willamette River steelhead, middle Columbia River steelhead, Umpqua river cutthroat trout, and the southwest Washington/Columbia cutthroat trout. The opinions concluded that implementation of the FMP for the Pacific Coast Groundfish Fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. This action would not have no effects that fall outside of the scope of effects considered in these Biological Opinions; therefore, additional consultations on these species are not required for this action.

**Marine Mammal Protection Act (MMPA)**

Section 118 of the MMPA requires that NMFS publish, at least annually, a list of fisheries placing all U.S. commercial fisheries into one of three categories describing the level of incidental serious injury and mortality of marine mammals in each fishery. Definitions of the fishery classification criteria for Categories I, II, and III fisheries are found in the implementing regulations for section 118 of the MMPA (50 CFR part 229.) Pacific Coast groundfish fisheries are considered Category III fisheries, where the annual mortality and serious injury of a stock by the fishery is less than or equal to 1 percent of the PBR level.

Under the MMPA, marine mammals whose abundance falls below the optimum sustainable population level (usually regarded as 60% of carrying capacity or maximum population size) can be listed as "depleted". Populations listed as threatened or endangered under the ESA are automatically depleted under the terms of the MMPA. Currently the Stellar sea lion population off Washington, Oregon, and California is listed as threatened under the ESA and the fur seal population is listed as depleted under the MMPA. Incidental takes of these species in the Pacific coast fisheries are well under their annual Potential Biological Removal (PBR) levels. This action would not affect the incidental mortality levels of species protected under the MMPA.

**Coastal Zone Management Act**

All of the adopted alternatives for each of the issues are consistent to the maximum extent practicable with applicable State coastal zone management programs. NMFS will correspond with the responsible state agencies under Section 307 of the Coastal Zone Management Act to obtain their concurrence in this finding.

**8.0 LIST OF PREPARERS**

This EA/RIR was prepared by or received contribution from the following:

Mr. Kevin Ford National Marine Fisheries Service
Ms. Yvonne deReynier National Marine Fisheries Service

**9.0 FINDING OF NO SIGNIFICANT IMPACT**

This preferred alternatives for action would: 1) modify the regulatory definition of the term “transfer” to include only changes in the vessel registered to the permit under the restriction of a once-per-year transfer; 2) revise the once-per-year transfer restriction to once per calendar year, rather than once every 12 months; and 3) clarify and update regulatory requirements for submitting a request to NMFS to transfer a limited entry permit. The Council has initially determined that the proposed alternative would not
significantly affect the quality of the human environment, and therefore preparation of an environmental impact statement is not required under the National Environmental Policy Act (NEPA) or its implementing regulations.

Based on the information presented in this environmental assessment, National Oceanic and Atmospheric Administration's (NOAA) Assistant Administrator for Fisheries has determined that this action will not have a significant effect on the human environment, in accordance with the Council on Environmental Quality's regulations implementing the NEPA. Therefore, a finding of no significant impact is appropriate.

Penelope Dalton  
Assistant Administrator for Fisheries, NOAA

10.0 REFERENCES

NMFS, 1998 (includes 1999 updates to maps.) "Essential Fish Habitat West Coast Groundfish Appendix."  
http://www.nwr.noaa.gov/1sustfish/efhappendix/page1.html


PFMC, October 1996. "Environmental Assessment/Regulatory Impact Review for a Proposed Amendment to the West Coast Groundfish Regulations to Limit Frequency of Limited Entry Permit Transfers