DRAFT

ANALYSIS OF PERMIT STACKING FOR THE LIMITED ENTRY FIXED GEAR SABLEFISH FISHERY

INCLUDING

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

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1.0 Introduction

The Fishery and Its Management: The proposed action would affect the limited entry fixed gear sablefish fishery, a segment of the Pacific coast groundfish fishery north of 36°N latitude to the U.S.-Canada border (the Monterey through U.S.-Vancouver management areas). The Pacific coast groundfish fisheries in the Exclusive Economic Zone (EEZ) (3 to 200 miles offshore) off Washington, Oregon, and California are management under the Pacific coast groundfish fishery management plan (FMP). The FMP was prepared by the Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Management and Conservation Act and actions to amend the FMP or implement other regulations governing the groundfish fisheries must meet the requirements of Federal laws and regulations.

Action: The Council is considering whether or not to allow fishers to register multiple limited entry fixed gear sablefish permits for use with a single vessel (permit stacking). Each limited entry fixed gear permit endorsed for sablefish has a tier endorsement. There are three tier levels. The permit tier level determines the amount of fish which may be taken during the primary opening of the limited entry fixed gear sablefish fishery. If permit stacking is recommended, fishers would be allowed to take, on a single vessel, the fixed gear sablefish cumulative limits associated with each permit registered with the vessel. The specific provisions of the proposal are provided in Section 1.4.2.

This Document and Applicable Federal Laws and Regulations: Council/NMFS management of the groundfish fishery is authorized under the Magnuson-Stevens Act. This document proposes a 14th amendment to the Pacific Coast groundfish FMP in order to implement permit stacking for the limited entry fixed gear sablefish fishery. Proposed changes to the FMP language are provided in Appendix B. Some provisions of the permit stacking proposal could be implemented by amending the regulations without amending the FMP (see Section 1.6). This document also (1) meets the requirements for an environmental assessment (as required under the National Environmental Policy Act), (2) meets the requirements for a fishery impact statement (as required under the Magnuson-Stevens Act), (3) provides a regulatory impact review to meet the requirements of the President’s Executive Order (EO) 12866, and (4) provides the necessary information on small business impacts for the purpose of meeting the requirements of the Regulatory Flexibility Act. Other public laws addressed in this document include the Endangered Species Act and the Marine Mammal Protection Act.

Council Process: Fixed gear permit stacking has been discussed frequently at past Council meetings and is a policy recommended for consideration in the Groundfish Strategic Plan sent out for public review in June 2000 and adopted by the Council at its September 2000 meeting. At its June 2000 meeting, the Council made consideration of permit stacking a high priority and at its September 2000 meeting approved the draft options and analysis for public review. Final action may be taken at the Council’s October/November 2000 meeting. A public hearing on the issue and analysis will be held during the Council meeting. (Also see Section 1.6 on decision procedures.)

1.1 Background

In the mid 1980s, an allocation of sablefish was established between trawl and nontrawl gears. Industry representatives of vessels participating in the nontrawl sablefish fisheries expressed their desire that the fishery be managed on a seasonal basis (as opposed to the year round policy pursued for most sectors of the groundfish fishery). In the 1990s, as the result of increasing effort and decreasing available harvest the length of the fixed gear sablefish season declined rapidly.

<table>
<thead>
<tr>
<th>Year</th>
<th>Season Length</th>
<th>Management</th>
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<tr>
<td>2000</td>
<td>9 days</td>
<td>Tiered Limits/Modified Derby</td>
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<tr>
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<tr>
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<td>9 days</td>
<td>Equal Limits/Modified Derby</td>
</tr>
<tr>
<td>1996</td>
<td>5 days</td>
<td>Derby</td>
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<tr>
<td>Year</td>
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<td>Management</td>
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<tr>
<td>------------</td>
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<td>------------</td>
</tr>
<tr>
<td>1995</td>
<td>7 days</td>
<td>Derby</td>
</tr>
<tr>
<td>1992-1994</td>
<td>2-3 weeks</td>
<td>Derby</td>
</tr>
</tbody>
</table>

Note: In 1996 there was a substantial but temporary decline in the allowed catch.

The vast majority of the trawl and nontrawl (longline and fishpot) harvest was placed under a license limitation program in 1994. Even before this program went into effect, the Council was considering recommending individual quotas for the limited entry fixed gear sablefish fishery. In the fall of 1994, the Council voted to table its consideration of individual quotas pending guidance that was expected in the Magnuson-Stevens Act reauthorization. When the act was reauthorized, a moratorium was put in place on the implementation of new individual quota programs.

Since that time, the Council has sought to resolve safety and economic problems in the fishery without resorting to drastic and severe reallocations. The major results of this effort were first, the creation of a sablefish endorsement for members of the limited entry fixed gear fleet with a history in the sablefish fishery, and second, the division of the endorsed fleet into tiers based on harvest history. Three tiers were established. In the year prior to implementation of the tier program, equal limits were applied as an interim measure while the tier system was being developed and approved. Establishment of the tiered system appears to have stabilized the season lengths at about 9 days. For many vessels the cumulative limits provided in the tiered system eliminate incentive for continued investment in capacity. Cumulative limits for the vessels in each tier are set based on the following ratio 1:1.75:3.85. Thus, if there is a 10,000 pound cumulative limit for the bottom tier (Tier-3) the cumulative limit for the top tier (Tier 1) is set at 38,500 pounds.

In order to avoid being classified as an individual quota the duration of the fishery had to be set such that not every vessel would be able to take the available cumulative limits. This policy has involved a careful balancing act between cumulative limits and season durations. To avoid the individual quota classification, cumulative limits were set such that if every vessel took its full cumulative limit, the fishery would run 25% over its harvest allocation. Then to avoid the allocation overrun, the season length was reduced to ensure that the fishery take at or below its target. Any harvest allocation left after the main opening of the primary season (during which vessels fish on cumulative limits based on the tiers) is taken in a mop-up fishery under which every vessel has the same cumulative limit.

1.2 Purpose and Need for Action

Overcapacity in the West Coast groundfish fleet is well documented (Council, 2000b). Overcapacity can result in inefficiencies and regulatory constraints that distort rational action. A prime example is the current modified fixed gear sablefish fishery (three-tiered system) which can put pressure on fishers to go out in unsafe conditions. Additionally, the efforts to control harvest through the three-tier system has caused a substantial reallocation of catch from larger producers to smaller producers (Council, 1997). This reallocation from the distribution that existed during the open fishery resulted in a misalignment and dislocation of resources such that capital invested in larger producers goes unused while smaller producers increase their investment in order to take their catch in the short seasons allotted under current management.

Permit stacking for the limited entry fixed gear sablefish fishery is being considered as a measure to reduce capacity and right the fishery by allowing producers to accumulate harvest privileges more in line with their capital investment. This accumulation would occur through the voluntary transfers of permits from those enticed by the prices offered. An additional possible benefit of this consolidation of permits for the purpose of harvesting fixed gear sablefish may be that harvest rights for nonsablefish groundfish species would be consolidated but not fully accumulated when permits are stacked. Therefore, there may be a net reduction in the capacity to target nonsablefish groundfish species.
1.3 Management Objectives to be Addressed

1.3.1 Groundfish Strategic Plan Policies and Recommendations

The following policies and recommendations are from the Council’s groundfish strategic plan (Council, 2000a)

*Strategic Plan Goal for Management Policies:* To adopt understandable, enforceable, and stable regulations that to the greatest extent possible, meet the FMP’s goals and objectives and the requirements of the Magnuson Stevens Act.

Management Policy Recommendations

1. Develop an implementation plan to reduce capacity initially by at least 50% in each sector. However, the capacity reduction goal will not be fully realized until capacity has been reduced to a level that is in balance with the economic value of the resource and those remaining in the fishery are able to operate profitably and flexibly. The implementation plan should take into account the need to implement other Plan recommendations (i.e allocations, nearshore rockfish delegation) prior to or at the same time as capacity reduction. Reducing capacity will relieve the need to adopt management policies that are both inefficient and ineffective at achieving the FMP’s goals and objectives. By better matching fleet capacity to resource availability, the regulatory structure will become more stable, resulting in regulations that are more enforceable.

2. Make the necessary allocation decisions so that fishery participants in each sector can plan on a specific share of future OY’s. Allocations may be outright percentages or a framework with criteria that specify how the allocation changes as resource availability changes.

*Strategic Plan Goal for Capacity Reduction:* To have a level of harvest capacity in the fishery that is appropriate for a sustainable harvest and low discard rates, and which results in a fishery that is divers, stable and profitable. This reduced capacity should lead to more effective management for many other fishery problems. For the short term, adjust harvest capacity to a level consistent with the allowable harvest levels for the 2000 fishing year, under the assumption that stock rebuilding will require reduced harvests for at least the next two decades. Maintaining a year-round fishery may not be a short-term priority.

Capacity Reduction Recommendations

The highest priority for reducing capacity is Recommendation #1 from the Management Policy section. In designing capacity reduction, the Council should consider fleet structure, profile, and diversity, with a goal of maintaining a mix of small and large vessels.

The capacity reduction plan should take into account the need to implement other strategic plan recommendations (i.e allocations, nearshore rockfish delegation) prior to or at the same time as capacity reduction.

These capacity reduction recommendations include both the short and long-term and transitional elements discussed below, such as license-limitation (for the targeted open access fishery), permit stacking, and IFQs either individually or in combination with a vessel buyback program.
Short to Intermediate Term

4. For the limited entry fixed gear fishery, immediately develop and implement a voluntary permit stacking program with the intent of transitioning to an IFQ program to provide for a multiple month season. The Permit Stacking allowance should be implemented prior to the 2001 regular sablefish season. Stacked permits should NOT allow increased access to the daily sablefish trip limit. Simultaneously, develop an IFQ system for fixed-gear sablefish for implementation in 2002. If Congress continues to prohibit IFQ programs, consider making the permit-stacking program mandatory.

7. Pursue a buyback program to remove latent capacity.

Intermediate to Long Term

9. Consider establishing a rockfish endorsement for the limited entry fixed gear fleet and open access (B permit) fleet. Qualifying criteria would be based on historical landings and recent participation.

1.3.2 Key Objectives for Permit Stacking

Permit stacking is expected to help the Council address National Standards 4 (fair and equitable allocation), 5 (consider efficiency), 6 (take into account variations and contingencies), 8 (take communities into account), 9 (minimize bycatch and bycatch mortality), and 10 (promote safety). It is also expected to affect achievement of groundfish FMP Goals 2 (maximize the value of the resource as a whole) and 3 (achieve maximum biological yield) through impacts related to Objectives 4 (achieve greatest net benefit), 9 (reduce wastage), 11 (equitable sharing of conservation burden, minimize bycatch or bycatch mortality), 12 (minimize gear conflicts), and 13 (accomplish changes with minimum disruption). The full text of these standards, goals and objectives that are provided in Appendix C.

Key objectives related to permit stacking are as follows:

- Rationalize the fleet and promote efficiency.

  Capacity reduction is one of the key elements of the strategic plan. The strategic plan generally approaches capacity reduction through a reduction in the number of fishing vessels. Reduction in the number of fishing vessels does not of itself imply the rationalization of the fleet or increased efficiency. It is possible that the most efficient fixed gear sablefish harvest could involve a greater number of vessels taking sablefish as bycatch in other fisheries. However, given the high degree of overcapitalization in the fishery it is believed that a reduction in capacity will generally move the fishery toward greater efficiency, addressing National Standard 5 and FMP Objective 4.

- Maintain or direct benefits toward fishing communities.
  This objective relates to National Standard 8 on fishing communities.

- Prevent excessive concentration of harvest privileges.
  This objective relates to National Standard 4 on allocation.

- Mitigate the reallocational effects of recent policies (3-tier system and equal limits).
  This objective relates to National Standard 4 on allocation and FMP Objectives 11 and 13.
- Promote equity.
  This objective relates to National Standard 4 on allocation and FMP Objective 11.

- Resolve or prevent new allocation issues from arising.
  This objective relates to National Standard 4 on allocation and FMP Objectives 11 and 13.

- Promote safety.
  This objective relates to National Standard 10 on safety.

- Improve product quality and value.
  This objective relates to National Standard 5 and FMP Objective 4.

- Take action without creating substantial new disruptive effects.
  This objective relates to FMP Objectives 13.

- Create a program that will readily transition to a multimonth IQ program.
  This objective relates to capacity reduction recommendations in the strategic plan. Where individual quotas are transferable and divisible they address National Standard 6 by providing the fleet with substantial flexibility to respond to changing conditions in the fishery.

Permit stacking would not be intended to directly address National Standards 1 (prevent over fishing and achieve OY), 2 (use best available information), 3 (manage stocks as a unit and in close coordination with interrelated stocks) and 7 (minimizing costs and avoiding duplication). Permit stacking would be intended to act in concert with other management measures taken to address National Standards 1, 2 and 3 and intended to modify the economic and social impacts of those measures in order to attain a more favorable result with respect to the other national standards. With respect to National Standard 7 (minimize costs and avoid duplication) no duplication is anticipated. Cost minimization must be evaluated in the context of the objectives: “Are the objectives achieved at a minimum cost?”

1.4 Alternatives

The following is a description of the two major alternatives, permit stacking and status quo. The rationale for the provisions of the permit stacking alternative and the general implications are discussed in Section 3.1. Sections 3.2 and 3.3 discuss the biological, economic and social implications in more depth.

1.4.1 Alternative 1: Status Quo

No change other than those that will occur from changes in capitalization, stock size etc., under the current management regime.

1.4.2 Alternative 2: Permit Stacking

The following is the list of provisions being considered by the Council as part of the limited entry fixed gear permit stacking alternative. Where an FMP amendment is required, the related amendment language is provided in Appendix B. For many of the provisions, options have been listed. The Council has expressed a strong preference for lengthening the season (Option 5a). However, this option can be implemented only with and to the Magnuson Stevens Act moratorium on individual quota programs. The current moratorium is scheduled to terminate on October 1, 2000 but may be extended.

Provision 1: Basic Stacking

Participants in the limited entry fixed gear (longline and fishpot) primary sablefish fishery would be allowed to register multiple fixed gear sablefish endorsed permits for a single vessel (allowed to stack permits). A vessel would be allowed to take up to the full fixed gear sablefish cumulative limit associated with each permit registered to the vessel. The primary fixed gear sablefish fishery includes the current directed sablefish fishery and the mop-up fishery.
Provision 2: The Base Permit and Gear Usage

When permits are stacked, one of the permits would be designated by the vessel owner as the base permit. The base permit would be required to have a fixed gear sablefish endorsement and meet the length requirement for that vessel. Permits of different fixed gear types (longline and fishpot) could be stacked together.

Options: 2a. When fishing in the primary fixed gear sablefish fishery, the vessel must fish fixed gear sablefish with the gear endorsed on the designated base permit.

2b. When fishing in the primary fixed gear sablefish fishery, the vessel may fish fixed gear sablefish with the gear endorsed on its base permit or any fixed gear endorsed on any of its stacked permits for which the length endorsement associated with the stacked permit is equal to or greater than that of the base permit. For example, a 45 foot longline permit could be stacked with a 55 foot fishpot permit designated as the base permit and the longline permit tier endorsement would add to the cumulative limit for the 55 foot vessel, but the vessel could only use fishpot gear. On the other hand, if both the base permit and the stacked permit had length endorsements 55 feet or greater then the vessel could use either longline or fishpot gear.

2c. When fishing in the primary fixed gear sablefish fishery, the vessel may fish with any fixed gear endorsed on at least one of its stacked permits.

Additionally, if one of the stacked fixed gear sablefish endorsed permits includes an endorsement for trawl gear and the length endorsement is equal to or greater than that of the base permit, the vessel may continue to use trawl gear, but not in the fixed gear fishery. In such a case if the permit is stacked on a vessel that is more than 5 feet smaller than that specified by the size endorsement for the trawl gear permit, the requirement that the trawl endorsed permit be downsized will be waived (Section 14.2.9 paragraph 3 of the FMP), unless permits are permanently stacked as specified in Options 4b and 4c.

Provision 3: Limits on Stacking and Ownership

Stacking: No more than 3 permits may be stacked on a single vessel. The analysis will include discussion of other permutations such as 2 and 4 permit stacking limits.

Ownership: The Council will consider restricting the number of fixed gear sablefish permits owned by an individual to

Options: (a) 2 permits,
(b) 3 permits,
(c) 4 permits, or
(d) an amount with tier limits that add-up to 5% of the total sablefish allocated to the fixed gear primary season.

Exceptions would be made for individuals currently holding permits in excess of the limit. These individuals would not be allowed to accumulate more permits. An individual’s ownership would be calculated by either

Calculation Option (a): Summing the total permits (or percent harvest represented by a permit) for which an individual held some ownership interest, regardless of how small (as calculated under the Alaska IFQ program to determine the number of blocked shares held by an individual), or

Calculation Option (b) Summing the individual’s percent interest in each permit to determine the number of permits held (or percentage harvest held) (as calculated under the Alaska IFQ program to determine the number of unblocked shares held by an individual).
The Council will need to decide the approach to be taken in calculating ownership, if it recommends an ownership limit.

For the purpose of grandfathering in concentrations in excess of proposed limits, the Council should address a date for determining ownership concentration. This date may be the date the regulations are implemented or some other date recommended by the Council.

Provision 4: Combination of Stacked Permits

Options:

4a. Permits May Be Unstacked. Permits that are stacked would retain their original length, gear, fixed gear sablefish and tier endorsements and could be transferred to other vessels in the future (i.e. stacked permits would not take on the gear and length endorsement of the vessel's designated base permit when unstacked).

4b. Permits May Not Be Unstacked and Tier Endorsements are Not Tradeable. When permits are stacked on a single vessel they would be reissued as a single permit that could not be unstacked (divided) and endorsements remaining on the permit would confer the fishing opportunities specified in Provisions 1 and 2. The length endorsement would be the length endorsement on the permit designated as the base permit.

4c. Permits May Not Be Unstacked and Tier Endorsements are Tradeable Among the Endorsed Fleet. Same as Option 4b except that Tier endorsements could be transferred separate from the permit to another permit with a fixed gear sablefish endorsement. However, at least one tier endorsement must remain with the base permit. Permits would be limited to a maximum number of endorsements as specified in Provision 3.

Provision 5: Fishery Duration

Options:

5a. The fishery would extend over a number of months (the initial recommended season is April 1 thru Oct. 31). For 2001, the fishery could start no earlier than August 1, 2000, in order to provide time for regulations to be put in place. There would be no preseason and postseason closures and vessels would be required to make their final deliveries prior to closure of the season. There would be no mop-up fishery. No stacking deadline would be needed (Provision 12). The Council may wish to consider adding provisions related to the extended season such that when transfers occur midseason, the seller would be responsible for providing copies of all sablefish fish tickets landed for the year, to date; and that the buyer would have to maintain such copies aboard the vessel.

5b. Current Situation: The fishery would continue to be managed as a modified Derby followed by a mop-up. The current preseason and postseason closures would continue to apply and vessels would be required to cease fishing upon closure of the fishery. Permits would have to be stacked before some deadline prior to the start of the seasons in order to provide analysts and the Council sufficient time to assess and recommend appropriate cumulative limits and season durations (Provision 12). The steps would include (1) setting the allocation in November, (2) making a preliminary estimate of season lengths and limits and setting season opening date in March, (3) a deadline for stacking of May 15, and (4) final season duration and limits set in June. (Seasons would continue to be set short enough that many vessels would be unable to fully take the allowed catch. In recent years the season duration has been slightly more than one week. Maintenance of this abbreviated fishery has been necessary to prevent the program from being classified as an individual quota program. Such programs are currently prohibited under the Magnuson-Stevens Act.)

Provision 6: At-Sea Processing

Note that "processing," as defined under the West Coast groundfish FMP includes such activities as freezing but excludes heading and gutting.
Options: 6a. At-sea processing would be prohibited in the fixed gear sablefish fishery except for vessels that can demonstrate the landing of at least 2000 pounds of frozen sablefish in 1998, 1999, or 2000. *(Note: Data in the PacFIN database will not support a landing criteria based on frozen product.)*

6b. Current Situation: At-sea processing would be allowed in the fixed gear sablefish fishery. *(Note: At-sea processing has not played a significant role in the fishery in recent years because of the short seasons in place since 1996.)*

Provision 7: Permit Ownership and Permit-Owner-on-Board Provisions

Options: 7a. Fixed gear sablefish permits could only be transferred to individuals (corporations and partnerships and other such business entities would not be allowed to acquire additional permits unless they already owned permits as of a specific date to be announced). The requirement that the permit be owned by an individual would not restrict other aspects of the business operation from being organized as a partnership, corporation or other type of legal entity (Also see Provision 10).

Grandfathered Corporations and Partnerships. The exemption for a particular corporation or partnership allowing it to own a permit would cease with a change in the identity of that corporation or partnership.

The permit owner would be required to be onboard the vessel during fishing operations, with the exception of those falling under the following grandfather provision.

Grandfathered Absentee Owners: Corporations, partnerships, and individuals who hold sablefish permits when stacking becomes permissible will not be required to be onboard the vessel on which the permit will be used, so long as they also have

(a) 20% ownership interest in the vessel (the amount of ownership required might be at least 20% as in the North Pacific IFQ program), or

(b) 100% ownership interest in the vessel.

(c) Some other value (specify)

The percent ownership required will be decided by the Council at the time it makes its final recommendations. Grandfathered absentee owners may acquire additional permits to stack with the permits they own, subject to accumulation caps, and still maintain their status under this provision. Additionally, this exemption from the permit-owner on board requirement will cease if there is any change in the identity of a corporation or partnership owning the stacked permits as follows:

Emergency Exemption: NMFS may grant exemptions from the permit-owner-on-board provision for medical and personal emergencies beyond the control of the permit owner.

Changes In the Identity of Corporations or Partnerships: A change in the identity of the corporation or partnership will be deemed to occur with a change in the corporate or partner membership, except a change caused by the death of a member providing the death did not result in any new members. Additionally, membership is not deemed to change if a member becomes legally incapacitated and a trustee is appointed to act on his behalf, nor is membership deemed to have changed if the ownership of shares among existing members changes, nor is membership deemed to have changed 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.

7b. Current Situation: The permit owner would not be required to be on board the vessel during fishing operations and any business entity eligible to own a US fishing vessel may own a limited entry permit.

7c. Same as 7a, except that the onboard requirement would apply only when permits are stacked. *(Note: The Council voted to drop this option. The option number (7c) and discussion of the option will be retained in the analytical document in order to speed the release of the document for public review.)*

Provision 8: Nonsablefish Cumulative Limits

Options: 8a. The stacking of permits with sablefish endorsements would not allow vessels to harvest more than one cumulative limit for non-sablefish species.
Provision 9:  Vessels Without Sablefish Endorsements

Options:  9a. Current Situation: The limited entry daily-trip-limit fishery for vessels without sablefish endorsements would be closed during the primary fixed gear sablefish fishery.
         9b. The limited entry daily-trip-limit fishery for vessels without sablefish endorsements would be allowed to run at the same time as the primary fixed gear sablefish fishery.

Provision 10:  U.S. Citizenship Requirement

Options:  10a. Only US Citizens would be allowed to acquire fixed gear sablefish permits.
         10b. Current situation: Anyone eligible to own a US fishing vessel may acquire fixed gear sablefish limited entry permits.

Provision 11:  Advance Notice of Landing Required

Options:  11a. When making landings under stacked permits, fishers would be required to provide 6 hours prior notice.
         11b. Current situation: No advance notice is required.
         11c. All limited entry fixed gear sablefish fishers would be required to provide 6 hours notice when making landings during the primary season.

The Council may wish to consider adding provisions or the flexibility to ask for other information such as haul, weight and location of landing.

Provision 12:  Stacking Deadline

Options:  12a. Fishers would be required to declare their intent to stack by June 30 in the year 2001 and by January 15 in all subsequent years; or
         12b. All permit stacking would have to occur by June 30 in the year 2001 and by May 15 in all subsequent years.
         12c. Current situation: No notice of intent to stack would be required.

Options 12a and 12b are necessary only if a short season is to be maintained (Option 5b). For 2001, the final set of alternative season durations and cumulative limits will not be available until after the June Council meeting. A process will need to be established to allow NMFS to make the final determination of season duration and cumulative limits. This would be similar to the process established for setting the cumulative limits for the mop-up that follows the initial opening of the primary fishery.

1.5 Individual Quota Moratorium

The management system that would be created under Option 5a (a long season) would likely be categorized as an individual quota program. The Magnuson-Stevens Act prohibits the implementation of new individual quota programs until October 1, 2000. Option 5b maintains short, derby-like seasons and avoids the individual quota classification. There are a number of scenarios that may affect the option selected in Provision 5 of the alternative:

Scenario 1: The IQ moratorium expires or an exemption is provided for the West Coast fixed gear sablefish fishery and no new requirements constrain creation of individual quotas. Option 5a or 5b could be selected.

1/ Allowing sablefish cumulative limits to be separable from the permit may also make permit stacking more like an IQ program (Option 4c); however, the maintenance of “overhead” under Option 5b would largely alleviate this concern.
Scenario 1: The IQ moratorium expires or an exemption is provided for the West Coast fixed gear sablefish fishery and no new requirements constrain creation of individual quotas. Option 5a or 5b could be selected.

Scenario 2: The IQ moratorium expires or an exemption is provided for West Coast sablefish, however, Congress requires that an IQ program meet certain criteria (e.g., must be self funding, must be approved by a referendum of the affected fishers). Under this scenario, Option 5a (a long season) might be recommended but a number of additional provisions may have to be added and processes followed before NMFS could take final actions implementing the Council's recommendation with respect to Provision 5.

Scenario 3: The IQ moratorium is continued either under a Magnuson-Stevens Act reauthorization or other congressional action. Prior to the Sustainable Fisheries Act (the act that last reauthorized the Magnuson-Stevens Act) a rider was placed on a budget bill that prohibited the expenditure of Federal funds on development and implementation of IQ programs. A rider similar to that in place prior to Magnuson-Stevens Act reauthorization could require the halt of all work related to development and analysis of Option 5a. A continuation of the moratorium with an exemption for the West Coast would allow the Council to develop Option 5a but prohibit its implementation.

1.6 Decision Procedures

Under the groundfish FMP, the proposal to allow the stacking of permits would likely be considered an allocative measure and would therefore have to meet the requirements of section 6.2.3 of the FMP (the socio-economic framework) and would require that the full rulemaking procedures be followed (section 6.2[D] of the FMP) and/or the procedures for amending an FMP. These procedures require that analytical documents be developed, approved by the Council and released for public review prior to a final decision.

The following table specifies which actions to implement the stacking alternatives would require plan amendments and which would require regulatory amendments. Where a plan amendment is required, specific language is provided in Appendix B.
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<th>Provision</th>
<th>No Action Needed (Provision/Option)</th>
<th>Plan Amendment Required (Provision/Option)</th>
<th>Regulatory Amendment Required Provision/Option</th>
<th>Authorizing Framework Language</th>
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<tr>
<td>1 Basic Stacking</td>
<td></td>
<td>2 and 4a, Waiver of downsizing requirement for trawl vessels (FMP Sec 14.2.7 and 14.2.9 para 3).</td>
<td>1</td>
<td>FMP Sec 14.2.4, para 3</td>
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<td>2 Base Permit and Fixed Gear Usage</td>
<td></td>
<td>2a Gear is that on base permit 2b Gear is that on any stacked permit with sufficient length endorsement. 2c Gear is that on any stacked permit</td>
<td></td>
<td>FMP Sec 14.2.4, para 3</td>
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<tr>
<td>3 Limits on Stacking</td>
<td></td>
<td>3c Permits may not be unstacked but endorsements are tradeable (FMP Sec 14.2.9, para 4)</td>
<td></td>
<td>FMP Sec 14.2.4, para 3</td>
</tr>
<tr>
<td>4 Combination of Stacked Permits</td>
<td></td>
<td>4a Permits may be unstacked 4b Permits may not be unstacked but endorsements are tradeable (FMP Sec 14.2.9, para 4)</td>
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<td>FMP Sec 14.2.4, para 3</td>
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<td>5 Fishery Duration</td>
<td>5b</td>
<td>5a April 1-Oct 31 Fishery</td>
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<td>FMP Sec 6.2.2</td>
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<tr>
<td>6 At-Sea Processing</td>
<td>6b</td>
<td>6a At-sea freezing is prohibited</td>
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<td>FMP Sec 6.2.3</td>
</tr>
<tr>
<td>7 Owner-on-Board</td>
<td>7b</td>
<td>7a Owner-on-board required except for those grandfathered in (FMP Sec 14.2.12). 7a and 7c Grandfather provision (FMP Sec 14.2.4 para 3)</td>
<td></td>
<td>FMP Sec 14.2.4, para 3</td>
</tr>
<tr>
<td>8 Non-sablefish Limits</td>
<td>8a</td>
<td>8b Provide some credit to allow additional nonsablefish species when permits are stacked.</td>
<td></td>
<td>FMP Sec 14.2.4, para 3</td>
</tr>
<tr>
<td>9 Season for Vessels without Sablefish Endorsements</td>
<td>9a</td>
<td>9b (FMP Sec 14.2.6 para 1 and 14.2.6 para 6)</td>
<td></td>
<td>FMP Sec 6.2.2</td>
</tr>
<tr>
<td>10 US Citizenship Requirement</td>
<td>10b</td>
<td>10a Limit permit owners to US citizens (FMP Sec 14.2.4 para 1)</td>
<td></td>
<td>FMP Sec 6.2.2</td>
</tr>
<tr>
<td>11 Advance Landing Notice</td>
<td>11b</td>
<td>11a Advance landings notice required</td>
<td></td>
<td>FMP Sec 6.2.2</td>
</tr>
<tr>
<td>12 Intent to Stack Declaration</td>
<td>12c</td>
<td>12a or 12 b, Notice of intent to stack required</td>
<td></td>
<td>FMP Sec 6.2.2</td>
</tr>
</tbody>
</table>

2.0 Description of the Fishery

Sablefish (Anoplopoma fimbria) occur from Baja, California, to the Asiatic coast of the Bering Sea. Along the West Coast of the United States, they occur over a wide range of depths. This document deals with the fixed gear sablefish fishery north of 36ºN latitude to the U.S.-Canada border (the Monterey through U.S.-Vancouver management areas). This area is also referenced as the area north of the Conception management area. The 1999 optimum yield for the area was 7,919 mt. This optimum yield is based on an acceptable biological catch of 9,692 mt, derived using F35% and applying of the default OY (40-10) policy. The stock is estimated to be at 37% of its unfished level, but there is substantial uncertainty in the biomass
estimate. The landed catch equivalent for this area is the total catch OY reduced by 10% for anticipated discard. Ten percent of the northern harvest guideline is set aside for the treaty tribes; the remainder is divided between the limited entry and open access fisheries. The limited entry portion is allocated 58% to the trawl fishery and 42% to the nontrawl fishery. There is no allocation between open access, limited entry trawl, and limited entry nontrawl gear in the Conception area.

A limited-entry program was implemented for the groundfish fishery beginning in 1994. There are approximately 290 limited entry permits for trawl vessels and 236 permits for fixed gear vessels. Of the 236 fixed gear permits, 32 have fishpot gear endorsements and 208 have longline endorsements (four permits are endorsed for both gears). Of the fixed gear permits, 164 received sablefish endorsements under Amendment 9 to the groundfish FMP, including all 33 permits for which fishpot endorsements are held. In 1998 a tiered system of cumulative limits was established. Vessels were assigned to tiers based on catch history. Cumulative limits for the vessels in each tier are set based on the following ratio 1:1.75:3.85. The lowest tier is Tier-3, for which 94 vessels qualified; the next tier is Tier-2 for which 43 vessels qualified; and the highest tier is Tier-1 for which 27 permits qualified. In 2000, the cumulative limits for the tiers were: Tier-3 211,000 pounds; Tier-2 37,000 pounds; and Tier-1 81,000 pounds.

On average, the port areas with the greatest exvessel revenue from sablefish are south Puget Sound, Neah Bay, Newport, and Brookings followed by Coos Bay and Fort Brag.

Most sablefish endorsed longline vessels are under 50 feet in length while most sablefish endorsed pot vessels are over 50 feet in length. While there is a statistical relationship between size of vessel and amount of sablefish harvest, there are smaller sablefish vessels (under 40 feet) which catch as much and more than larger vessels each year. Over time, as the fishery has shortened in length, distribution of harvest among members of the fleet has evened out.

For its income, the limited entry fixed gear sablefish fleet relies, in order, on sablefish, crab, other groundfish, halibut (West Coast and Alaska), tuna, and other species (based on West Coast landings receipts. landings in Alaska not included). The contribution of tuna to fleet income has depended on the availability of tuna and the timing of the primary opening of the limited entry fixed gear sablefish season.

3.0 Analysis

The biological and economic impacts of the stacking options may vary widely depending primarily on whether or not the season can be extended beyond the six to nine day modified derby season provided in recent years. An extension of the season is possible only with the lifting of the current IFQ moratorium or an exemption from the moratorium for the West Coast fixed gear sablefish fishery. The other major factor influencing the impacts of the provisions is the amount of stacking that would actually occur. The more constraints that are placed on stacking (e.g. owner-on-board provisions, requiring stacked permits to remain permanently stacked, etc), the less stacking is likely to occur. Ultimately, the success of permit stacking as a means to reduce capacity is highly uncertain given the difficulties in predicting the number of permits that are likely to be stacked (Council, 2000b). The first part of the analysis summarizes impacts of the permit stacking provisions, provision by provision (section 3.1), then covers biological (section 3.2) and economic and social impacts (section 3.3).

3.1 General Description and Implication of the Options

Provision 1: Basic Stacking

Participants in the limited entry fixed gear (longline and fishpot) primary sablefish fishery would be allowed to register multiple fixed gear sablefish endorsed permits for a single vessel (allowed to stack permits). A vessel would be allowed to take up to the full fixed gear sablefish cumulative limit associated with each permit registered to the vessel. The primary fixed gear sablefish fishery includes the current directed sablefish fishery and the mop-up fishery.
Permit stacking would facilitate a certain amount of voluntary fleet reduction in the West Coast limited entry fixed gear groundfish fishery. Fishers would arrange among themselves for multiple permits to be assigned to the same vessel. Because there are substantially greater numbers of vessels than required to take the available harvest, it is generally believed that a reduction in the number of vessels in the fishery is likely to increase efficiency. With permit stacking, total utilized sablefish capacity would remain the same and the percent of sablefish capacity utilized for vessels that stacked permits would increase. Because limits for other groundfish species would not accumulate with the stacking of permits (or would not be 100% additive, Option 8b), there may be some reduction in latent capacity available to target on non-sablefish groundfish species. If the sablefish season length is extended (Option 5a), individual permit cumulative limits would decline. Hence, for vessels that do not stack permits, the percent capacity utilized for sablefish would decline. Overall, the sablefish harvest and harvest of other non-sablefish groundfish fishes would be consolidated among fewer vessels with the excess vessels either moving on to other fisheries or tying up at the dock.

Permit stacking would allow businesses able to acquire additional permits to increase their harvest. For operations that lost harvest has a result of the reallocation involved in implementing the three-tier system, there would be an opportunity to move back to previous harvest levels. Operations that had invested in equipment when the three-tier system was created but had not scaled-up their harvest operations on time to qualify for a tier-1 endorsement would also have an opportunity to stack permits in order to more fully utilize their investments.

The more constraints that are put on the stacking option the less stacking will occur. Examples of such constraints include limits on the number of permits which can be stacked and the permit-owner-on-board provision. A substantial amount of stacking may not occur unless the current IQ moratorium is lifted (Section 1.5) so that Option 5a may be adopted (the Council’s preferred option). The stacking program with Option 5b (short seasons) will put the Council in a position to more readily move to an IQ-type program that would reduce capacity, if the moratorium is lifted.

**Provision 2: The Base Permit and Gear Usage**

When permits are stacked, one of the permits would be designated by the vessel owner as the base permit. The base permit would be required to have a fixed gear sablefish endorsement and meet the length requirement for that vessel. Permits of different fixed gear types (longline and fishpot) could be stacked together.

- **Options:**
  1. When fishing in the primary fixed gear sablefish fishery, the vessel must fish fixed gear sablefish with the gear endorsed on the designated base permit.
  2. When fishing in the primary fixed gear sablefish fishery, the vessel may fish fixed gear sablefish with the gear endorsed on its base permit or any fixed gear endorsed on any of its stacked permits for which the length endorsement associated with the stacked permit is equal to or greater than that of the base permit. For example, a 45 foot longline permit could be stacked with a 55 foot fishpot permit designated as the base permit and the longline permit tier endorsement would add to the cumulative limit for the 55 foot vessel, but the vessel could only use fishpot gear. On the other hand, if both the base permit and the stacked permit had length endorsements 55 feet or greater then the vessel could use either longline or fishpot gear.
  3. When fishing in the primary fixed gear sablefish fishery, the vessel may fish with any fixed gear endorsed on at least one of its stacked permits.

Additionally, if one of the stacked fixed gear sablefish endorsed permits includes an endorsement for trawl gear and the length endorsement is equal to or greater than that of the base permit, the vessel may continue to use trawl gear, but not in the fixed gear fishery. In such a case if the permit is stacked on a vessel that is more than 5 feet smaller than that specified by the size endorsement for the trawl gear permit, the requirement that the trawl endorsed permit be downsized will be waived (Section 14.2.9 paragraph 3 of the FMP), unless permits are permanently stacked as specified in Options 4b and 4c.
The main issue this provision deals with is the gears that would be usable on a vessel with stacked permits. The options on this issue revolve closely around the length endorsements. Length has been used as a proxy for capacity in the groundfish fishery. It is assumed that vessels of similar length using the same gear have similar capacity, an admittedly rough assumption (Robinson and Hastie, 1993). Under the current limited entry program, if permits are combined in order to create a permit with a larger length endorsement, any gear endorsements that do not match between the permits being combined are not carried over to the new permit. In this provision, it is proposed that, at a minimum, a vessel be allowed to stack permits with fixed gear endorsements that do not match (fishpot and longline) and take the harvest associated with all sablefish tier limits on stacked permits registered for use with the vessels. This is suggested in part as a matter of equity as there would be relatively little stacking opportunity for the 31 fishpot permit holders as compared to the 132 longline permit holders. Similarly, requiring that all stacked permits have length endorsements that match vessel size would substantially limit the ability of larger vessels to stack permits. Additionally, as discussed for Provision 1, permit stacking will redistribute the utilization of fixed gear sablefish capacity among the vessels in the groundfish fleet while leaving the total amount of sablefish harvest unchanged. With respect to sablefish, it would appear to make little difference as to whether the fish is caught with longline gear or with pot gear, or from a larger or smaller vessel, the same amount of sablefish will be caught. Therefore, in terms of total retained sablefish catch, maintaining the gear distinctions between pot and longline vessels may have little value.

With respect to other groundfish species, maintaining the distinction between pot and longline gear may continue to be important. When two permits are stacked on a single vessel, capacity for other groundfish species may be removed from the limited entry fleet (see Provision 8). For those other species, the question may be, for example, if a 50 foot fishpot vessel stacks a longline permit and is then allowed to use longline gear, does the fishpot vessel using longline gear have greater capacity to land nonsablefish groundfish than the longline vessel from which the permit was removed. Fishpot vessels generally target only sablefish and are said to have little bycatch of other species. If the longline permit is for a much smaller vessel than the fishpot vessel, the addition of the fishpot vessel to the longline fleet could expand the limited entry longline fleet capacity to take non-sablefish groundfish (Option 2c). This expansion could be limited by allowing vessels to use the gear on the stacked permit only if the size endorsement on the stacked permit is adequate for the vessel (Option 2b). However, the size capacity relationship holds only very roughly when the gear is the same. If gear varies, the relationship may be even weaker, i.e. a 50 foot fishpot vessel may not have the same capacity as a 50 foot longline vessel. The potential for expansion could be eliminated by allowing vessels to use only the gear designated on their base permits (Option 2a).

Taking sablefish with fishpot or longline gear may make little difference in the total sablefish harvest. However, other differences between the gear types may be important (e.g., differences in the size distribution of sablefish taken and the mortality rates of discards associated with highgrading sablefish or other species that might be discarded).

An option not given significant consideration here would be to require that a vessel harvest each tier limit with the gear specified on the stacked permit. Thus a vessel might be able to harvest 37,000 pounds with longline gear and 37,000 pounds with pot gear. Such a requirement would be very difficult to track and enforce and would be relatively easy to circumvent by misreporting gear types on the fish ticket.

There are very few permits with endorsements for both trawl and fixed gear. However, should one of these permits be involved in a stacking situation this provision recommends waiving the requirement that trawl permits be downsized when used on a vessel more than 5 feet shorter than specified on the permit. This waiver would be recommended to encourage consolidation in the fishery and would apply only if unstacking of the permits is allowed (Options 4a). Not waiving this requirement would create a disincentive for stacking trawl-fixed gear permits as the permit owner would face a financial loss from the reduction of the size endorsement on the trawl permit.

Provision 3: Limits on Stacking and Ownership

Stacking: No more than 3 permits may be stacked on a single vessel. The analysis will include discussion of other permutations such as 2 and 4 permit stacking limits.
Ownership: The Council will consider restricting the number of fixed gear sablefish permits owned by an individual to

Options: 
(a) 2 permits,
(b) 3 permits,
(c) 4 permits, or
(d) an amount with tier limits that add-up to 5% of the total sablefish allocated to the fixed gear primary season.

Exceptions would be made for individuals currently holding permits in excess of the limit. These individuals would not be allowed to accumulate more permits. An individual's ownership would be calculated by either:

Calculation Option (a). Summing the total permits (or percent harvest represented by a permit) for which an individual held some ownership interest, regardless of how small (as calculated under the Alaska IFQ program to determine the number of blocked shares held by an individual), or

Calculation Option (b). Summing the individual's percent interest in each permit to determine the number of permits held (or percentage harvest held) (as calculated under the Alaska IFQ program to determine the number of unblocked shares held by an individual).

The Council will need to decide the approach to be taken in calculating ownership, if it recommends an ownership limit.

For the purpose of grandfathering in concentrations in excess of proposed limits, the Council should address a date for determining ownership concentration. This date may be the date the regulations are implemented or some other date recommended by the Council.

The amount of stacking that is likely to occur will depend on the season length (Provision 5). If short seasons are to be maintained, then the amount of stacking will be limited by the short time fishers will have to take their full limits. It is estimated that only about 30 vessels would be capable of taking a full additional limit if they were able to stack permits (Hastie, 2000). If the season is extended to six months, absent a stacking limit, it is not inconceivable that the equivalent of 5 or more Tier-1 permits would be stacked on a single vessel (given current allocations to the fixed gear fishery). Five tier-1 permits would represent 7% of the total harvest privileges for fixed gear sablefish (Table 1).

Reduction of the fleet to a relatively few vessels would risk concentration of the sablefish fleet and harvest benefits into a relatively few coastal communities and processors. In a six month season, larger capacity vessels could easily harvest over a half million pounds. Some simple calculations based on year 2000 limits (adjusted downward to account for the elimination of overhead) show that given unlimited stacking, harvest may be consolidated on 10 or fewer vessels. While vessel capacity may limit the degree of concentration of harvest among vessels, unless the Council creates one, there would be no limit on concentration of ownership, other than limitations imposed by antitrust laws.

<table>
<thead>
<tr>
<th></th>
<th>Tier 1</th>
<th>Tier 2</th>
<th>Tier 3</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Endorsements</td>
<td>27</td>
<td>43</td>
<td>94</td>
<td>164</td>
</tr>
<tr>
<td>Year 2000 Limits (Pounds)</td>
<td>81,000</td>
<td>37,000</td>
<td>21,000</td>
<td></td>
</tr>
<tr>
<td>Reduced Limits Under an Extended Season</td>
<td>64,800</td>
<td>29,800</td>
<td>16,800</td>
<td></td>
</tr>
<tr>
<td>Number of permits to be stacked to approximately reach 500,000 pounds</td>
<td>8</td>
<td>17</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>Number of 500,000 pound harvesters that could be supported given unlimited stacking</td>
<td>4</td>
<td>3</td>
<td>3</td>
<td>10</td>
</tr>
</tbody>
</table>
Given this potential for the consolidation of permits under the long season scenario, the Council is considering an option to limit the number of permits stacked on a single vessel to three. For analysis purposes, information is also presented on stacking with limits of 2 and 4 permits. In general, even if three Tier-1 permits were stacked on a vessel, there would be many vessels still unable to harvest at close to their full capacity.

<table>
<thead>
<tr>
<th>Limit on Number of Permits Stacked</th>
<th>2</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Number of Vessels</td>
<td>82</td>
<td>55</td>
<td>41</td>
</tr>
<tr>
<td>(Assuming Maximum Amount of Stacking)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Harvest for a Vessel</td>
<td>129,600</td>
<td>194,400</td>
<td>259,200</td>
</tr>
<tr>
<td>(Based on Stacking 3 Tier 1 Limits of 64,800 pounds)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of Vessels Believed</td>
<td>Most</td>
<td>Most</td>
<td>Most</td>
</tr>
<tr>
<td>Capable of Harvesting the</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Above Specified Maximum</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>During a 6 month Fishery</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Another alternative would be to vary the stacking depending on whether or not a Tier-1 permit was included among the stacked permits:

<table>
<thead>
<tr>
<th>Limit on Number of Permits Stacked</th>
<th>3 if a Tier 1 is included; 4 if no Tier 1 Permit is Stacked</th>
<th>3 if a Tier 1 is included; 5 if no Tier 1 Permit is Stacked</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Number of Vessels</td>
<td>44</td>
<td>38</td>
</tr>
<tr>
<td>(assuming maximum amount of stacking)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

While limits on permit stacking may increase the minimum number of vessels on which harvest will be concentrated, it does not limit concentration of ownership. In particular, absent a restriction otherwise, those who retain the opportunity to harvest without being present on board the vessel (are exempted by Provision 7, grandfathering) may acquire an unlimited number of permits and fish those permits on different vessels as long as they have some share in ownership of those other vessels and don’t violate antitrust laws.

The Council is considering limiting ownership to 2, 3, or 4 permits or 5% of the total harvest rights. Those holding in excess of the limit would be allowed to keep their current harvest rights but would not be allowed to acquire additional permits. Absent an action such as this the only limit that would exist on the concentration of ownership are antitrust laws (as is the case with the current permit system). Currently, only one owner holds in excess of 5% of all harvest privileges, 2 owners hold in excess of 3 permits, and 5 owners hold in excess of 2 permits and 19 owners hold two or more permits (Table Ownership). These estimates of ownership are based on the registered addresses for the permit owners. The numbers may be high, if multiple permit owners use the same address or low if one permit owner uses more than one address. The estimates of current ownership concentration do not reflect the degree of ownership that may be held. For example, a single individual may hold minority interests in permits that are registered at different ownership addresses.

Two methods are being considered for determining total ownership. Under the first method, if an individual owned any share of a permit the entire permit (or the full harvest percentage represented by the permit)
would be counted toward determining the number of permits (or percent harvest privileges) owned by the individual. Under the second method, an individual's share in the ownership of a permit would be accounted for in determining the total harvest rights owned by an individual. Thus, if an individual owned two-thirds of one permit and one-third of another permit, he or she would be considered to own one entire permit (one-third plus two-thirds). On the other hand, using the first formula described, the individual would be considered to own two permits.

Tracking ownership information is an administratively expensive proposal and places a burden on small businesses. Following the model of the north Pacific IFQ program, permit owners would be required to submit complete ownership information with partnerships and corporations traced down to the living human beings that control the business entities. The north Pacific IFQ program requires the submission of all contracts for the sale of permits along with information about permit prices. In addition to the burden of submitting the information, databases would need to be created to compile and analyze the results. Alternatively, the limits on ownership could be implemented in the regulations and individual cases investigated as suspicious ownership situations are identified or reported. Limits on concentration of ownership combined with owner-on-board provisions would be intended to encourage local small business ownership and a connection between the fishing fleet and local coastal communities.

The degree of burden for tracking permit ownership will depend on the complexity of permit ownership. In a 1997 survey of the fixed gear fleet, of the responding permit owners (59% of the population), a single individual owned the permit 59% of the time, 22% of the permits were owned in partnerships and 19% of the permits were owned by corporations (including Chapter S corporations or limited partnerships). For 64% of the respondents, a single individual owned the permit (including those individuals organized as Chapter S corporations).

Provision 4: Combination of Stacked Permits

Options: 4a. Permits May Be Unstacked. Permits that are stacked would retain their original length, gear, fixed gear sablefish and tier endorsements and could be transferred to other vessels in the future (i.e., stacked permits would not take on the gear and length endorsement of the vessel's designated base permit when unstacked).

4b. Permits May Not Be Unstacked and Tier Endorsements are Not Tradeable. When permits are stacked on a single vessel they would be reissued as a single permit that could not be unstacked (redivided) and endorsements remaining on the permit would confer the fishing opportunities specified in Provisions 1 and 2. The length endorsement would be the length endorsement on the permit designated as the base permit.

4c. Permits May Not Be Unstacked and Tier Endorsements are Tradeable Among the Endorsed Fleet. Same as Option 4b except that Tier endorsements could be transferred separate from the permit to another permit with a fixed gear sablefish endorsement. However, at least one tier endorsement must remain with the base permit. Permits would be limited to a maximum number of endorsements as specified in Provision 3.

The stacking issue involves a balance between the incentive to stack and the degree to which consolidation is permanently locked in. If permits cannot be unstacked (Option 4b and 4c) individuals who stack permits would likely have to own the permits. As compared to freely stacking and unstacking (Option 4a), inability to unstack permits (Option 4b and 4c) would reduce future options for reorganizing business operations or liquidating some fishing privileges (i.e., impose a higher opportunity cost for stacking). While any gains from fleet consolidation would be permanently captured under a permanent stacking rule, the incentive for permit stacking would be less and hence the degree of consolidation less than if unstacking were allowed.

Some flexibility could be preserved if permits were stacked permanently but tier limits could be traded separately (Option 4c). This would make the system more like an ITQ program with sablefish trading in large blocks. Any gains in capacity reduction for nonsablefish species (see Provision 8) would be locked in while flexibility in sizing the sablefish operations and expanding or contracting participation would be...
maintained. Additionally, the sablefish fleet could not be expanded because a minimum of one sablefish tier would have to remain with each permit. Thus a person with an unstacked permit could not sell the sablefish endorsement off the permit. When one permit is stacked with another, the number of sablefish endorsed permits would decline and the sablefish tier endorsements could only be traded to one of the remaining permits with sablefish endorsements. Some consolidation of the sablefish harvesters would be locked in.

Provision 5:  Fishery Duration

Options :  5a. The fishery would extend over a number of months (the initial recommended season is April 1 thru Oct. 31). For 2001, the fishery could start no earlier than August 1, 2000, in order to provide time for regulations to be put in place. There would be no preseason and post season closures and vessels would be required to make their final deliveries prior to closure of the season. There would be no mop-up fishery. No stacking deadline would be needed (Provision 12). The Council may wish to consider adding provisions related to the extended season such that when transfers occur midseason, the seller would be responsible for providing copies of all sablefish fish tickets landed for the year, to date; and that the buyer would have to maintain such copies aboard the vessel.

5b. Current Situation: The fishery would continue to be managed as a modified derby followed by a mop-up. The current preseason and post season closures would continue to apply and vessels would be required to cease fishing upon closure of the fishery. Permits would have to be stacked before some deadline prior to the start of the seasons in order to provide analysis and the Council sufficient time to assess and recommend appropriate cumulative limits and season durations (Provision 12). The steps would include (1) setting the allocation in November, (2) making a preliminary estimate of season lengths and limits and setting season opening date in March, (3) a deadline for stacking of May 15, and (4) final season duration and limits set in June. (Seasons would continue to be set short enough that many vessels would be unable to fully take the allowed catch. In recent years the season duration has been slightly more than one week. Maintenance of this abbreviated fishery has been necessary to prevent the program from being classified as an individual quota program. Such programs are currently prohibited under the Magnuson-Stevens Act.)

Fishery duration will be one of the most important features determining the impacts of permit stacking provisions. If the current short seasons must be maintained to avoid individual quota classification (Option 5b), the amount of stacking will be less, new more complicated preseason procedures will have to be established, and, at expected levels of stacking seasons would have to be shortened and more vessels would be pressed to harvest their limits in the allotted time, increasing safety concerns.

Under Option 5b, more complicated preseason procedures would be created because the cumulative limits would be determined by the amount of stacking and season length. In order to know whether they wanted to stack permits, fishers would have to be provided with initial estimates of the cumulative limits and season lengths. These initial estimates would then have to be adjusted after amount of stacking is determined. It has been projected that only 30 vessels would be able to stack permits and take their full additional limit at current season lengths and harvest levels. If there would be a sufficient amount of stacking, seasons could lengthen. However, even if 50% of the permits were stacked (62 permits), the season would only lengthen by one day (Hastie, in Press).

Under the longer season (Option 5a), every vessel would be assumed capable of fully taking its cumulative limit, therefore cumulative limits would not need to be adjusted to maintain overhead and avoid the IFQ classification. Moreover, the preseason openings and closures that affect all fixed gear vessels would no longer be required. For short seasons, these closures were needed to ensure that all vessels had a fair start and that the fishery could be closed at-sea (vessels cease fishing at the closure time but do not have to be in port).

If a longer season is allowed (Option 5a), there will be more stacking and consolidation in the fleet; there would be some involuntary reallocation with the decline in cumulative limits and with the elimination of the
mop-up fishery (under which every vessel had an equal limit); opportunity for selective targeting or onboard highgrading of larger fish would increase; safety would improve; and pre-season and post-season closures would be unnecessary; simplifying the enforcement and management system (as previously mentioned). However, while enforcement tasks may be come less complex, they would be longer in duration as it would become necessary to track vessel harvest over the entire duration of the cumulative limit period. While this would be somewhat similar to the current situation for other cumulative limit fisheries, differences are discussed in Section 3.2.3.

Under a longer season, permits may be transferred mid-season, unless the Council specifies otherwise. This would create a situation in which the buyer of a permit would be relying on the seller to inform him or her about the poundage already taken on the permit during the year. There is considerable delay between when fish tickets are filled out (complete with vessel information) and when those fish tickets are tied to a permit in the data base. To reduce the risk in this “buyer-be-ware” situation, sellers might be required to provide buyers with true and complete copies of all fixed gear sablefish fish tickets for the portion of the current year season prior to the transfer. To assist in enforcement, the permit buyer could be required to keep these fish tickets on board, along with the receipts for all landings by the vessel to which the permit is transferred.

For vessels that participate both in the primary season and the daily trip limit fishery, extension of the season (Option 5b) will reduce opportunities in the daily trip limit fishery unless there is some reallocation of fish from the daily trip limit component of the fishery to the primary season.

**Provision 6: At-Sea Processing**

Note that “processing,” as defined under the West Coast groundfish FMP includes such activities as freezing, but excludes heading and gutting.

**Options:**

5a. At-sea processing would be prohibited in the fixed gear sablefish fishery except for vessels that can demonstrate the landing of at least 2000 pounds of frozen sablefish in 1998, 1999, or 2000. *(Note: Data in the PacFIN database will not support a landing criteria based on frozen product.)*

6b. Current Situation: At-sea processing would be allowed in the fixed gear sablefish fishery. *(Note: At-sea processing has not played a significant role in the fishery in recent years because of the short seasons in place since 1996.)*

While the PacFIN data system has a conditions code for frozen landings, there are no frozen landings of sablefish recorded in the data system. It appears that state fish tickets have not been coded with this information. Therefore, it will not be possible to use the fish ticket system to determine whether vessels meet the landings requirement specified in 6a. **An alternative approach may be to specify that a vessel associated with a permit must have a given amount of freezing capacity as of a specified date.** Vessel owners wishing to qualify as freezer vessels would submit sworn affidavits that would be followed up with enforcement inspections of vessels claiming to have freezer capacity.

Vessels generally deliver their catch to shoreside processors iced but not frozen. It is reported that in the 1980s there were some freezer-pot vessels and freezer-longline vessels that took sablefish off the West Coast. These vessels are said to have not participated in the abbreviated seasons that generally characterized the fishery in the 1990s. Fishers at the September 2000 Council meeting reported that some vessels have invested in equipment to freeze sablefish. There are news reports that Alaska limit seiners and other vessels have been refitted for freezing capacity. The reported incentive for this refitting is to handle product harvested from Alaska IFQ fisheries (Haig-Brown, 2000a and 2000b). The PacFIN data system shows no landings of sablefish in frozen condition from 1981 to date (July 2000). Given that no

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3/ Highgrading may have positive or negative biological and economic consequences, depending on the degree of associated gillnet and accurate measurement and accounting of the mortality (Section 3.2.1)
landings have been recorded as frozen, either the reports of frozen sablefish landings are incorrect or it will not be possible to use the fish ticket system to determine whether vessels met the landing requirement specified in Option 6a.

Given the uncertainties about when West Coast sablefish have been caught and landed frozen, it is likely that the quantities landed have been relatively small. If permits can be stacked and the fishing season is extended (Option 5a), the extended and more flexible fishing opportunities may increase the probability that at-sea freezing activity will occur (or expand). At-sea freezer vessels are known to participate in Alaska fisheries. At-sea freezing may relocate processing jobs from coastal communities to the freezer vessels and the offloading ports. Freezer vessels may draw their workers from many noncoastal and coastal communities and in the past are said to have typically offloaded their catch in major city-ports such as Los Angeles. Prohibition of at-sea freezing (with grandfather provisions, Option 6a) would reduce the relocation of processing jobs and limit on-shore/off-shore allocation disputes, such as the disputes that have occurred in the whiting fishery. However, if at-sea freezing is the most efficient way to harvest and process sablefish, the provision would also result in the loss of some economic benefit to the nation.

Provision 7: Permit Ownership and Permit-Owner-on-Board Provisions

Options: 7a. Fixed gear sablefish permits could only be transferred to individuals (corporations and partnerships and other such business entities would not be allowed to acquire additional permits unless they already owned permits as of a specific date to be announced). The requirement that the permit be owned by an individual would not restrict other aspects of the business operation from being organized as a partnership, corporation or other type of legal entity (Also see Provision 10).

Grandfathered Corporations and Partnerships. The exemption for a particular corporation or partnership allowing it to own a permit would cease with a change in the identity of that corporation or partnership.

The permit owner would be required to be onboard the vessel during fishing operations, with the exception of those falling under the following grandfather provision.

Grandfathered Absentee Owners: Corporations, partnerships, and individuals who hold sablefish permits when stacking becomes permissible will not be required to be onboard the vessel on which the permit will be used, so long as they also have

(d) 20% ownership interest in the vessel (the amount of ownership required might be at least 20% as in the North Pacific IFQ program), or
(e) 100% ownership interest in the vessel,
(f) Some other value (specify)

The percent ownership required will be decided by the Council at the time it makes its final recommendations. Grandfathered absentee owners may acquire additional permits to stack with the permits they own, subject to accumulation caps, and still maintain their status under this provision. Additionally, this exemption from the permit-owner on board requirement will cease if there is any change in the identity of a corporation or partnership owning the stacked permits as follows:

Emergency Exemption: NMFS may grant exemptions from the permit-owner-on-board provision for medical and personal emergencies beyond the control of the permit owner.

Changes in the Identity of Corporations or Partnerships: A change in the identity of the corporation or partnership will be deemed to occur with a change in the corporate or partner membership, except a change caused by the death of a member providing that death did not result in any new members. Additionally, membership is not deemed to change if a member becomes legally incapacitated and a trustee is appointed to act on his behalf, nor is membership deemed to have changed if the ownership of shares among existing members changes, nor is membership deemed to have changed 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.

7b. Current Situation: The permit owner would not be required to be on board the vessel during fishing operations and any business entity eligible to own a US fishing vessel may own a limited entry permit.
7c. Same as 7a, except that the onboard requirement would apply only when permits are stacked. (NOTE: The Council voted to drop this option. The option number (7c) and discussion of the option will be retained in the analytical document in order to speed the release of the document for public review.)

Permit-owner-on-board requirements were first discussed by this Council when a program was being developed for sablefish individual quotas. Concern had been expressed that ability to buy and sell individual quotas would result in economic incentives that would potentially shift valued socio-economic characteristics of the fishery. The intent of the permit-owner-on-board requirements is to reduce the chance that control of the fishery might go into the hands of absentee owners that are not part of the traditional fishing communities and reduce the chance the income would leave fishery dependent communities. Fishers voiced concern that those in the profession would become “share croppers” instead of having the opportunity to be independent fishers. The concern was that wealthy individuals would accumulate fishing privileges and not be willing to sell the privileges at prices fishers could afford, given the fishers’ levels of wealth, liquidity, and available collateral. These concerns may be more prominent in situations such as that proposed here where access rights can only be acquired in large lumps (the tier levels associated with limited entry groundfish permits).

Requiring that the permits be owned only by individuals would be intended to ease the enforcement of the owner-on-board provision and increase the probability that harvest privileges will remain or come under the ownership of individuals that are members of local fishing communities. The provision that a single individual would be registered as a permit owner with NMFS would not prevent that individual from organizing other aspects of his or her business in a partnership or corporate form.

In developing the single-individual-owner and owner-on-board provisions the Council was concerned about disrupting existing businesses practices in the fishery. Therefore, "grandfather provisions" were created to allow corporations and partnerships to continue permit ownership and to allow those already in the fishery to continue to hire skippers to fish their vessels or use their fishing rights.

Initially it appeared that the “grandfather” status for corporations and partnerships could be maintained indefinitely or circumvented by transferring ownership of the business owning a permit without registering a transfer for the permit. Therefore, a change in ownership was defined to occur with a change in the composition of those owning the business that owned a permit (with the exception of companies that were publicly owned).

Another possible way that the owner-on-board requirement might be circumvented for extended periods of time was through the long-term leasing of permits. Long-term leases could essentially convey the exemption from the permit-owner-on-board requirement from the owner to a long-term lease holder. Therefore, the clause was added requiring that in order to be exempt from the owner-on-board provision, the fishing privilege owner also had to own the vessel, essentially preventing leasing of the fishing rights. The degree of ownership required in the Council’s initial language was unspecified. The North Pacific IFQ programs for sablefish and halibut require 20% ownership. The language used by the Council could be interpreted as requiring 100% ownership or ownership of a small fraction of the permit. If this provision is adopted, the Council will need to specify the percent of vessel ownership required in order to qualify for the grandfathered exemption to the permit-owner-on-board requirement.

All of the provisons (owner-on-board, leasing prohibition, and definition of a change in ownership) were modeled after the North Pacific Fishery Management Council individual quota programs for sablefish and halibut.

The option of requiring the permit owner to be on board only when permits are stacked (Option 7c) would have limited the potential for growth in absentee ownership for those accumulating permits for stacking while maintaining business organization options for owners that did not choose to stack permits. At its September 2000 meeting, the Council eliminated this option, leaving on the table for consideration only the option of requiring the single-owner and owner-on-board provisions for all vessels in the fleet (Option 7a) or for none of the vessels (Option 7b). This action implies a policy that favors an owner-operated fishery, independent of the permit stacking issue.
Ownership and Participation in the Current Fishery

The current fishery is generally characterized by owner-operator fishing operations that are owned by individuals.

The limited entry fixed gear fleet was surveyed in 1997. Of 234 fixed gear permit owners, 133 responded to the survey for a response rate of 57%. During the 1995 and 1996 derby fisheries, permit owners that responded to the survey were on board their vessels 100% of the time for between 92% and 84% of the respondents. During the 1996 mop-up fishery the owner was on-board 100% of the time for 76% of the respondents and during other fixed gear groundfish fisheries in 1996 the owner was on-board 100% of the time for 75% of the respondents. The permit owners were never on board their vessels for the derby fisheries for between 13% and 15% of the respondents; were never aboard for the mop-up fishery for 20% of the respondents; and were never on-board for other fixed gear groundfish fisheries for 17% of the respondents. In the responding group, 64% of the permits were owned by single individuals (including single individuals organized as Chapter S Corporations) and 28% of the permits held by respondents were jointly by two individuals. The remaining 8% of the permits were owned by 3 or 4 individuals. If the respondents are representative of the fleet, 92% of the limited entry fixed gear permits on the West Coast are held by single individuals or partners.

An examination of a 1999 list of permit owners from the limited entry office showed 36 of the 164 sablefish endorsed permits are held under business names and 45 permits were held in the name of two individuals (the vast majority of which appeared to be husband and wife). The remaining 83 permits were owned under the name of an individual. It is possible that some in some cases where only one individual is listed as an owner, that individual is organized as a Chapter S corporation.

Option 7a effectively prevents leasing. A recent examination of permit files at the limited entry office showed that 59 or 164 permits were leased out for the 1999 fixed gear sablefish season. Based on the names on the leases, six of the leases appeared to be leases between different legal entities within the same fishing business and five of the leases appeared to be between family members. There was at least one instance where permits appeared to have been exchanged between fishers through the use of a lease and at least one situation where the same individual leased out the permit he owned and acquired another permit through a lease. There were 14 business names listed as lessors and 15 business names listed as lessees (based on data provided by the NMFS NWR Limited Entry Permit Office).

Impacts

The permit-owner-on-board requirements would temporarily create two classes of owners: (1) those grandfathered in who, could own permits under their current form of business operation (including partnerships and corporations) and would be allowed to designate skippers to use their permits either in response to temporary conditions (e.g., sickness, injury, vacations, conflicting business activities) or in order to be absentee owners; and (2) those who must own permits as an individual and be on board their vessel at all times while their permit is being used in the primary fixed gear sablefish fishery, except when excused for unspecified personal emergencies by the NMFS. Any corporation, partnership, or individual exempted under the grandfather clause will be able to buy more permits and vessels, hire skippers and generally operate free of the permit-owner-on-board requirement. With respect to the restriction’s effect on business organization, the requirement that owners be on-board the vessel would not constrain other aspects of the business from being organized as a corporation or partnership, nor would it prevent the encumbrance of a permit to such corporations or partnerships by a private contract.

Aspects of Provision 7 would prohibit leasing. Traditional fishing practices have involved a certain amount of leasing and absentee interests in vessels and permits. These practices provide flexible business conditions that can facilitate gradual transitions into or out of the fishery or adjustment to other changing circumstances of the fishing business. Leases provide access to capital and, for those who lease assets out, the leasing may provide an important part of the income for their overall fishing operations. In general, regulations that reduce flexibility reduce efficiency (net benefits). The owner-on-board and single-owner
provisions are intended to address social values not generally reflected in the traditional cost benefit analysis, in this case increasing the probability that control of the fishery and fishery benefits will be distributed to local fishing communities and that the fishery will maintain its current status as one dominated by owner-operated businesses.

Requiring the permit owner to be an individual and be on board the vessel would rule out the acquisition of sablefish harvest privileges by municipalities or other non-fishing entities for the purpose of stabilizing local economic activity.

Requiring the permit owner to be on board could lead to increased discards of sablefish if a mixed species fishery that includes some sablefish is pursued while the owner is not on board.

There would be some costs associated with tracking changes in ownership for the purpose of administering grandfather clauses. These information needs would be similar to those for monitoring ownership for the purposes of limiting the accumulation of permit rights (Option 3). Given that the dominant form of ownership in the fishery is single owner or two owner permits and owner-operated vessels the number of complex ownership situations that may need to be tracked by the limited entry office may be small and the administrative burden less substantial than for the North Pacific IFQ programs.

Provision 8: Nonsablefish Cumulative Limits

Options: 8a. The stacking of permits with sablefish endorsements would not allow vessels to harvest more than one cumulative limit for non-sablefish species.

8b. When permits are stacked, some credit would be provided to allow the landing of additional nonsablefish groundfish species.

Under Option 8a, the stacking proposal would allow the stacking of limits for only the most lucrative of the fixed gear groundfish species, sablefish. Sablefish management has been the primary fixed gear fleet issue occupying Council time and attention. Option 8a, provides no additional fishing opportunity for nonsablefish species when permits are stacked. Because sablefish is so lucrative, it is expected that permits would be stacked even if stacking does not confer the opportunity to harvest more cumulative limits for other species. This would be similar to what happened in the whiting fishery when catcher-processors bought permits just for their value in harvesting whiting, effectively removing from the fishery latent capacity that might be targeted on other groundfish species. Under the current sablefish fishery, there is little bycatch landed during the derby fishery. Bycatch is generally discarded in favor of retaining retaining sablefish. Therefore the stacking of permits is not expected to increase discards during the current short season (Option 5b), nor would discards of nonsablefish species increase during a longer season (Option 5a). If permits are transferred off vessels that fish nonsablefish groundfish for the purpose of stacking, there may be some reduction in nonsablefish groundfish harvest pressure from the fixed gear sablefish fleet. This could result in somewhat higher fixed gear cumulative limits for the nonsablefish segment, however, latent nonsablefish groundfish capacity in this segment is very large. Reduction in latent capacity may be noticeable only if some future capacity reduction program more easily achieves its target because of the capacity removed through stacking.

If cumulative limits for nonsablefish species are also stacked will be greater incentive to stack permits, even if full additional limits of the nonsablefish species are not provided (Option 8b). However, the stacking of cumulative limits for nonsablefish species is likely to activate substantial latent capacity. Stacking within the tiered system takes some account of differing production levels among fixed gear limited entry vessels. First the fleet is divided into sablefish participants and nonparticipants (sablefish endorsement holders and those without such endorsements). Nonparticipants cannot use their permits to participate in the primary sablefish fishery. Then the fleet that participates is divided into tiers with different quantities of harvest opportunity available for members of each tier. Through these policies latent capacity in the fishery has been reduced. The stacking of fixed gear sablefish permits is not likely to allow the activation of substantial latent capacity.
within the sablefish fishery without inactivating a similar amount of capacity. Additionally, there is more unused capacity associated with the nonsablefish groundfish species than with sablefish. Stacking where every permitted vessel has an equal cumulative limit could result in more substantial expansion of catch rates as permits flow from less active to more active vessels.

One of the consequences of stacking nonsablefish cumulative limits would be a decline of such limits for vessels that do not stack permits, including vessels without sablefish endorsements. Holders of fixed gear permits without sablefish endorsements would not be able to recover from limit reduction through the stacking of permits under the provisions currently specified. The Council may specify that if additional harvest control is required, limits be reduced first for stacked permits. This would increase analytical and regulatory complexity. Focusing initial reductions on stacked permits could create a situation where stacked permits would take the brunt of the conservation burden for nonsablefish groundfish species and nonsablefish groundfish limits for stacked permits might be reduced to zero, effectively implementing Option 8a over the long run.

Providing additional limits for nonsablefish species when permits are stacked might provide yet more opportunity to retain bycatch in sablefish directed fisheries. Because of the lack of logbook or observer data, the amount of bycatch in sablefish directed fisheries is uncertain. However, some bycatch levels may be implied through historic catch information (Table 4-6). In the longline segment of the 1996 derby fishery, only 5.8% of the catch was nonsablefish species, while in the slower paced mop-up fishery 24.1% of the catch was nonsablefish species. In the daily trip limit fishery, a little over one-third of the catch was taken in trips where sablefish comprised less than 50% of the harvest and a little under two-thirds was taken in trips where sablefish comprised 50% or more of the harvest. While the stacking of nonsablefish cumulative limits would allow the retention of more bycatch, extension of season length alone (Option 5a) alone will likely increase retention of bycatch as compared to the current derby like fishery where most bycatch is discarded.

**Provision 9: Vessels Without Sablefish Endorsements**

**Options:**

9a. Current Situation: The limited entry daily-trip-limit fishery for vessels without sablefish endorsements would be closed during the primary fixed gear sablefish fishery.

9b. The limited entry daily-trip-limit fishery for vessels without sablefish endorsements would be allowed to run at the same time as the primary fixed gear sablefish fishery.

The original prohibition on harvest by fixed gear limited entry vessels during the primary fixed gear sablefish fishery was an attempt to simplify the situation for enforcement. Given the brevity of the primary fishery and that the daily-trip-limit fishery was managed with two-month cumulative limits, there was plenty of opportunity for limited entry fixed gear vessels without sablefish endorsements to make up fishing time lost during a closure for the primary fishery. The effort to simplify enforcement was not entirely successful because the open access daily-trip-limit fishery was allowed to run during the primary fishery. If the season length is extended to seven months (Option 5a), the limited entry fixed gear vessels without sablefish endorsements would be prohibited from fishing during the period when most of their catch is taken. Given this changed situation, the Council may wish to reevaluate the balance between adverse impact to the unendorsed fleet and the additional enforcement burden and either reconfirm the current prohibition or make an adjustment such as that suggested in Option 9b.

**Provision 10: U.S. Citizenship Requirement**

**Options:**

10a. Only US Citizens would be allowed to acquire fixed gear sablefish permits.

10b. Current situation: Anyone eligible to own a U.S. fishing vessel may acquire fixed gear sablefish limited entry permits.

Concerns over foreign ownership with respect to fisheries have been categorized as follows:

1. Fear of foreign economic domination of the maritime industry and fisheries.
2. Difficulties in regulating foreign-owned businesses.
3. Threats to the social values of U.S. fishing communities.
4. Loss of potential economic benefits.

(NRC, 1999)

Currently, US flag fishing vessels must be owned 50% by US Citizens. In response to the American Fisheries Act the US Coast Guard has proposed that the US citizenship requirement be increased to 75% for vessels under 100 feet in length. Congress has expressed an interest in mechanizations to prohibit from holding IFQs persons who are not eligible to be deemed citizens of the United States for the purposes of operating a vessel in the coastwise trade under U.S. maritime statutes.

Option 10a would specify that permits must be 100% owned by US citizens. Unless a grandfather provision is added to Option 10a allowing US companies to own permits, this option would conflict with the grandfather provision of Option 7a (allowing only individuals to acquire permits). The grandfather provision of Option 7a allows companies that currently own a permit (corporations, partnerships, etc) to continue to own and acquire additional permits. If a grandfather provision is added to Option 10a, then this option does not appear to add to the restrictions of Options 7a. Under status quo management only entities eligible to own US fishing vessels are allowed to hold groundfish limited entry permits. Thus, if grandfather provisions are added allowing US companies currently owning permits to continue to own permits and acquire more (as under Option 7a) then Option 10a and 10b would provide the same restrictions when combined with Option 7a. Option 10a, with a grandfather provision added, would mainly act to reinforce the intent of Option 7a and the status quo provisions.

If new owners do not have to be individuals (Option 7b), then Option 10a would prevent US companies from acquiring permits while Option 10b would allow US companies to acquire permits. If Option 7b is adopted the Council may wish to consider a grandfather provision for Option 10b if it wishes to prevent the proposed policies from forcing the transfer of permits from US fishing companies that currently own such permits.

<table>
<thead>
<tr>
<th>Allowed to Acquire Permits (Yes or No)</th>
<th>U.S. Citizens</th>
<th>U.S. Companies (75% control by U.S. citizens)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 10a (only U.S. Citizens can own permits)</td>
<td>Yes</td>
<td>No (grandfather provision needed to clarify interaction with Option 7a?)</td>
</tr>
<tr>
<td>Option 10b</td>
<td>Yes</td>
<td>No, in combination with Option 7a except for those grandfathered in (only individuals may acquire permits and owner must be on board)</td>
</tr>
</tbody>
</table>

Shaded areas represent the current situation.

**Provision 11: Advance Notice of Landing Required**

Options:
- **11a.** When making landings under stacked permits, fishers would be required to provide 6 hours prior notice.
- **11b.** Current situation. No advance notice is required.
- **11c.** All limited entry fixed gear sablefish fishers would be required to provide 6 hours notice when making landings during the primary season.

*The Council may wish to consider adding provisions or the flexibility to ask for other information such as hull weight and location of landings.*

An advance notice provision would increase deterrence and facilitate enforcement. To be more effective in providing deterrence and increasing the efficiency of enforcement efforts, the Council may wish to consider a recommendation that would allow NMFS to put other requirements on the advance notice
provision. For example, a maximum on the advance notice of landing requirement, location of landing and estimated catch weight. All of this information would enhance the deterrence effect and increase the efficiency of enforcement and port sampling efforts. Advance notice and catch weight provisions were considered as part of the proposal to amend the sablefish IFQ program (Amendment 8) tabled by the Council in 1994.

The main need for an advance notice requirement comes more from the extension of the season than from whether or not permits are stacked. Therefore, Option 11c has been added for Council consideration. This Option would require advance notice of landing for all participants in this segment of the fishery, not just those who stack permits. Sablefish are one of the more valuable segments of the fishery. This value combined with the long season may provide greater incentive for underreporting than for other groundfish species.

The issue for underreporting/unreported landings is a concern for nonsablefish groundfish species landed managed under cumulative limits as well, however, no advance notice landing requirements have been proposed for other segments of the fishery.

A system would have to be established to receive the advanced notice and disseminate information to enforcement agents in the field and port samplers. The requirement for notice would place an additional burden on private business, and possibly require the completion of Paperwork Reduction Act filings and procedures before the provision could be put into place.

If the advance notice requirement is adopted, vessels would be able to enter port but not be allowed to begin offloading until the 6 hour notice requirement is met. If the system established to receive notice is not operative seven days a week 24 hours a day, there may be some delay in offloading, causing inconvenience and potential economic losses, though the size of such losses would likely be minor.

**Provision 12: Stacking Deadline**

Options 12a: Fishers would be required to declare their intent to stack by June 30 in the year 2001 and by January 15 in all subsequent years; or

12b: All permit stacking would have to occur by June 30 in the year 2001 and by May 15 in all subsequent years.

12c: Current situation: No notice of intent to stack would be required.

*Options 12a and 12b are necessary only if a short season is to be maintained (Option 5b). For 2001, the final set of alternative season durations and cumulative limits will not be available until after the June Council meeting. A process will need to be established to allow NMFS to make the final determination of season duration and cumulative limits. This would be similar to the process established for setting the cumulative limits for the mop-up that follows the initial opening of the primary fishery.*

A stacking deadline is needed to assist in establishing cumulative limits and season durations only if the length of the fishery is not extended (Option 5b). Actual stacking (Option 12b) or a declaration of intent to stack (Option 12a) may be required. For the year 2001, regulations to allow stacking may not be in place until June 2001. Additionally, the prohibition on transfers more than once every 365 days may make actual stacking impossible for permits that were transferred after June 30, 2000 and before the month and day of the start of the 2001 season. Such vessels would benefit from a provision that allows declaration of intent to stack (Option 12a) rather than a requirement to stack.

On the one hand managers need to know how much stacking is going to occur to estimate the season length and cumulative limits. On the other hand, fishers need to know season lengths and cumulative limits in order to decide whether or not to stack permits. The intent of the stacking deadline is to provide fishers the opportunity to view the preliminary estimates of cumulative limits and season duration before making a commitment to stack their permits. The commitment to stack would have to be made with the understanding that it is likely that cumulative limits and season durations will vary somewhat from the preliminary estimates.
The January 15 deadline in Option 12a would not provide industry the opportunity to review estimates of cumulative limits and season length based on the previous years data. Data sets would not be sufficiently complete to allow production of a full analysis by January 15.

A declaration requirement may provide some equity for fishers that can’t stack because of the limit on number of transfers per year (particularly for the year 2001). However, requiring the declaration rather than actual stacking will create more uncertainty since it is possible that fishers would not follow through on their declaration of intent. On the other hand, requiring actual stacking, rather than just a declaration of intent to stack, would reduce flexibility in the system. Any reduction in flexibility is likely to reduce incentive for stacking and the attendant benefits.

The options listed here create a range from which the Council can develop final recommendations. The same is true for other provisions. It may be true that final action will be some combination of the options, for example: “Fishers would be required to declare their intent to stack by June 30 in the year 2001 and would have to complete stacking by May 15 in subsequent years.”

Management of short seasons (Option 5b) without knowing the amount of stacking likely to occur (Option 12c) would be difficult and would likely require a greater level of conservativism (resulting in the setting of shorter seasons and/or lower cumulative limits). For Option 5a (a long season), there is not need to determine the amount of stacking in advance of the season.

If intent to stack can be declared (or actual stacking occur) up to June 30, 2001, then some mechanism would be needed to establish season duration and actual cumulative limits after the June 2001 Council meeting.

A system would have to be established to receive the advanced notice of intent to stack. The requirement for notice would place some additional burden on private business and the procedures of the Paperwork Reduction Act may apply such that between 4 and 6 months are required to establish the notice provision.

3.2 Biological Impacts

The total allowable harvest will not change with stacking. Management problems with biological implications will vary depending on whether the fishery is managed under extended season (Option 5a) or as a modified derby (Option 5b).

3.2.1 Highgrading

The Problem

When there is a price-per-pound differential between different sizes of fish there may be incentive to highgrade. For sablefish, highgrading involves discarding small sablefish in order to retain larger sablefish. The degree to which this presents a biological problem is related to the discard mortality rate and the degree to which discard mortalities are not accounted for in stock assessments. If discard mortality is properly estimated and allowed harvest properly adjusted and controlled, the problem is more one of economic wastage than conservation.

When the situation is such that a vessel can take its limits with additional fishing time leftover, it is possible that the net revenue from continuing to fish and highgrade for larger fish may be greater than the net revenue from switching effort to the next best fishery. Highgrading has been reported for some fisheries (e.g., IFQ in New Zealand) and appears to be minimal for other fisheries (e.g. halibut and sablefish fisheries in Alaska) (NRC, 1990). An economic calculation using IPHC data from the halibut fishery indicated that highgrading the smallest halibut out of a 75,000 pound catch would increase revenues by $5,300 (3.7%). Achieving this additional $5,300 of revenue would require catching an additional 18,217 pounds of halibut to replace the 14,600 pounds of small fish discarded (NRC, 1991). This is the equivalent to extending the length of a trip and incurring related effort costs in order to harvest a fish that would bring $0.296 per pound ($5,300/18,217) at a CPUE similar to that in the halibut fishery. A similar analysis conducted for this Council
in 1994 showed that highgrading sablefish would yield gross revenues similar to catching a fish that would bring between $0.20 and $0.27 per pound dockside, depending on the price differential between size categories (Council, 1994). Whether or not highgrading is worthwhile depends on the price spreads between different size categories of sablefish and the ratios in which different sized fish are caught. If time constraints and grounds crowding are relieved, fishers are better able to target on larger sablefish (reduce the proportion of small sablefish in their catch), there is an increase in the gross revenue per pound of fish caught to replace discarded fish. In the 1994 Council analysis, a one third reduction in the extra small category (from 54% to 36% of the catch) increased the expected gross revenue per additional pound caught from the $0.20 to $0.27 range to a $0.28 to $0.38 range. In order to determine whether these incentives to highgrade are significant, the question to be answered is whether once out on the grounds would fishers deploy some additional gear if there were an opportunity to harvest additional fish in the price ranges just discussed. Data needed for a complete economic analysis to answer this question is not available.

Fishery evidence shows that at a minimum, the average size of fish landed is substantially greater in slower paced West Coast fixed gear sablefish fisheries (Table 3 and following).

<table>
<thead>
<tr>
<th>Sablefish size composition during different portions of the 1999 limited entry fixed gear fisheries for sablefish.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daily-Trip-Limit Fishery</td>
</tr>
<tr>
<td>---------------------------</td>
</tr>
<tr>
<td>Large</td>
</tr>
<tr>
<td>Medium</td>
</tr>
<tr>
<td>Small</td>
</tr>
<tr>
<td>Extra-Small</td>
</tr>
</tbody>
</table>

Distribution of sablefish sizes after distribution of "unspecifed grade" fish using average price for all landings of the same condition and size, based on data from the 1999 fishery.

Highgrading may be achieved either through discarding from the deck/side or by targeting on larger fish that may be caught in certain geographic locations or in complexes with other species. The most important conservation issue is whether highgrading results in discard mortality and if so whether that discard mortality is properly accounted for in the management process. It has been suggested that (1) pot vessels may highgrade by adjusting the mesh size in the panels, (2) fishers may have more ability to target larger size fish when there is less competition on the fishing grounds and (3) that discard mortality rates for sablefish taken in the fixed gear sablefish fishery are relatively low because sablefish do not have swim bladders. If high grading for larger fish can be achieved with little or no discard mortality, the reduction of the amount of smaller fish in the harvest could increase the average annual growth rate of the sablefish biomass as well as the average value per pound harvested.

Status Quo

Under status quo management, some vessels are able to easily take their cumulative limit in the time allotted by the regular opening of the primary fishery and most vessels can easily take their cumulative limits in the time allotted for the mop-up fishery. For these openings and vessels, highgrading may be an issue.

Stacking for an Extended Season (Option 5a)

In an extended season of 6 months, most vessels would likely have ample opportunity to harvest their limits within the allotted time, even for vessels that stack permits. Highgrading would be expected to increase if it is economically viable and provides more net revenue than the next best fishing opportunity.

4/ This analysis used size composition reported by Washington port samplers in the early 1990s and prices from 1991-1993.
Stacking for a Modified Derby (Option 5b)

If a short season must be maintained to avoid the IFQ classification, season length would likely be reduced as compared to status quo (see Appendix A). This would reduce the amount of excess time for any vessels that do not stack permits, reducing the opportunity for highgrading. Similarly, vessels that do stack permits would spend more time catching their limits and have less time for highgrading.

Relation to Other Aspects of the Stacking Proposal

The ability to stack pot and longline permits on a single vessel may result in a shift in the proportions of fish caught by each gear type. If one gear type is more conducive to unmeasured discard mortality from highgrading than the other gear type, there may be some effect on highgrading (either positive or negative) from allowing the two permit types to be stacked on a single vessel.

3.2.2 Other Sources of Sablefish Discards

Currently limited entry fixed gear vessels targeting on nonsablefish species may catch sablefish in the complex of species on which they target. If such sablefish catch is in excess of the DTL limits, the sablefish must be discarded. Expansion of the fixed gear sablefish season length (Option 5a) would increase the amount of sablefish that might be retained by sablefish vessels when they target on segments of a stock complex that include both sablefish and nonsablefish groundfish. In 1996, over one-third of the sablefish taken in the daily trip limit fishery were taken in landings where sablefish comprised over 50% of the catch (Table 4-6).

3.2.3 Discards of Nonsablefish Groundfish

Landings of other groundfish species along with fixed gear sablefish tend to be larger and more frequent in the daily-trip-limit and cumulative limit mop-up fishery than during the main opening of the primary fishery (the modified derby fishery) (Table 4). This indicates that other groundfish species may be being discarded during the modified derby. Extending the season will relieve the time pressure on fishers to complete all the landings allowed under cumulative limits of the modified derby. This would be expected to increase the economic incentive for the landing of other fish caught along with sablefish, reducing discards. Whether or not permits are stacked, vessels would be more likely to land their nonsablefish species limits along with their sablefish, an improvement over the current situations where it is more likely that these other species will be discarded.

On the one hand additional reduction of discards might occur through the stacking of nonsablefish cumulative limits (Option 8b), depending on the amount of bycatch of nonsablefish groundfish in the sablefish directed fishery. On the other hand, stacking nonsablefish cumulative limits may activate substantial latent capacity, exacerbating management problems for nonsablefish groundfish species and reduce cumulative limits. The vessels participating in the sablefish fishery have already been identified (through Amendment 9 that created the sablefish endorsement) and to a certain extent are limited to given capacity levels by assignment to tiers. Sablefish vessels targeting on nonsablefish groundfish have not gone through similar stages of limitation and categorization. Thus sablefish permits from vessels that have rarely landed nonsablefish groundfish species may be transferred to sablefish vessels that actively participate in nonsablefish groundfish fisheries, activating latent capacity targeted on nonsablefish groundfish.

3.2.4 Unreported and Underreported Sablefish Landings

Unreported or underreported landings can result in harvest in excess of target harvest levels, resulting in conservation problems for the stock.

The incentive and opportunity for cheating is greatest when a vessel has not yet fully taken its cumulative limit. In such a situation, the window of highest vulnerability to detection is relatively brief: the period of time between when the landing paperwork is completed and the fish is mixed with other landings of sablefish in
a plant or shipped out of the landing area. The sablefish in a plant may include fixed gear, open access and trawl landings. For plants handling large volumes of sablefish, cheating by some vessels may be hidden as slightly higher than average recovery rates.

**Status Quo**

Under status quo management, many vessels have capacity far in excess of that needed to take the available cumulative limits during the season. For such vessels, advantage may be gained by underreporting the vessel’s first landing(s) so that more fish may be landed later in the season, however, the opportunity for making additional landings is very brief in the current short season. Additionally, the short season makes it easier to concentrate enforcement efforts on monitoring the fishery.

**Stacking for an Extended Season (Option 5a)**

Incentives and opportunities for cheating under an extended season would be similar to those available for other groundfish species under the current cumulative limit managements system. The additional harvest opportunity gained by underreporting a particular landing would be available over several months. The primary difference in incentives for the fixed gear sablefish fishery as compared to other groundfish fisheries managed under cumulative limits is that the fixed gear sablefish is more valuable on a per pound basis than most other groundfish species, hence there may be a greater incentive for underreporting.

**Stacking for a Modified Derby (Option 5b)**

Stacking of permits would shorten the season. Both vessels that stack and do not stack permits will have less time to harvest the additional fish needed to take advantage of underreporting their landings. Thus with stacking and continued short seasons, the amount of incentive for underreporting would decline.

**Advance Notice of Landing Requirement (Options 11a or 11c)**

Six hours advance notice of landing may substantially increase the deterrence for not reporting a landing. Field enforcement officers discovering an offloading activity for which no advance notice had been given would be able to immediately issue a citation on that basis alone.

Attaching a requirement that vessels provide an estimated hail weight along with the advance notice of landing may provide an additional deterrent for underreporting. If a vessel consistently reported landing amounts less than the amount hailed, enforcement might target that vessel for increased monitoring to determine whether underreporting was occurring.

### 3.2.5 Collection of Biological Samples

An increase in at-sea dressing (heading and gutting) would make it more difficult to collect biological samples. Increased dressing at sea might be expected if the fishing season were extended, giving vessels more time to harvest their allotted limits (Option 5a). Table 5 shows that in 1996, landings for which condition was reported had more at-sea dressing during the daily-limit-fishery and mop-up than during the regular derby season (however, it should be noted when fish with unreported condition of landing are included in the calculation, the proportion of dressed fish increases during the derby season). Allowing the stacking of permits without relieving the individual quota constraint (Option 5b) may shorten the season, focusing more attention on completely harvesting the vessel limits than spending time dressing fish. Additionally, under a short season there would be less time for highgrading, resulting in landings composition for which biological information from the sablefish component more accurately represents the portion of the population recruited to the fishery.

The six hour advance notice proposed for enforcement purposes (Option 11a) would also help increase the efficiency of the port sampling program.
3.3 Social and Economic Impacts

3.3.1 Season Duration and Vessel Allocation

The stacking of permits would affect the allocation of fish among vessels and season duration. The basic stacking provision (Provision 1) would provide an opportunity for a mostly voluntary reallocation of sablefish among vessels. Vessels divesting their groundfish limited entry permits may seek to increase fishing activities in other fisheries. Thus stacking may increase competition and reallocate harvest in other fisheries.

Base Permits and Gear Usage (Provision 2)

Administratively, the easiest way to create a stacking program would be to associate the current cumulative limits with the permit rather than the vessel. However, with 132 longline permits and only 31 pot permits having sablefish endorsements (and hence sablefish tier endorsements), pot permit holders who wanted to stack would be at a considerable disadvantage in finding permits of the same gear type. Similarly, permits for large vessels are fewer in number than those for small vessels, thus size endorsements on the permits would place owners of large vessels at a disadvantage compared to smaller vessels. To provide a more consistent opportunity for stacking across the fleet and to encourage stacking, Provision 2 would eliminate any length endorsement requirement for stacked permits (so long as one permit had the proper length endorsement) and provide three options for flexibility in the fixed gear to be used when permits are stacked (see page 5).

There is a groundfish fleet capacity reduction advantage that may be gained from the stacking of permits. When permits are stacked, while usable harvest capacity in the fixed gear sablefish fishery will remain constant, limits for other groundfish species may (Option 8b) or may not be stacked (Option 8a). Under Option 8a, if three permits are stacked, where there was previously a potential for three vessels with cumulative limits for groundfish species other than sablefish, only one vessel will remain.

Under Option 8b, at least some credit may be given for nonsablefish species, increasing the limits for these species when permits are stacked. Because there is no tier system for nonsablefish species there is greater divergence between the nonsablefish cumulative limits and the amount of capacity utilized under each permit (greater latent capacity) than for tiered sablefish permits. Thus, for nonsablefish groundfish there is more potential for individual vessels to expand harvest through the transfer of permits from vessels that do not generally utilize their nonsablefish groundfish harvest privileges to vessels more intensely involved in the nonsablefish groundfish fisheries. If some vessels are able to expand their harvest of nonsablefish groundfish species, cumulative limits may decline. Vessels that do not stack permits may experience some reduction in their harvest opportunity. Vessels with fixed gear limited entry permits that do not have sablefish endorsements would not be able to recover harvest opportunity through stacking.

Limits on Stacking (Provision 3) and Owner-on-Board Provisions (Provision 7)

Vessels would be able to increase their share of the catch by stacking up to three permits (Provision 3) except to the degree that their harvest share is constrained by season length (Option 5b). Owner-on-board requirements (Provision 7) would make fishing multiple vessels more difficult during short seasons (Option 5b), but during a longer season (Option 5a) the permit owner could move between vessels to fish multiple permits. However, if an owner had multiple vessels, the vessel(s) that the owner was not on could not take sablefish, even as bycatch in fixed gear efforts targeted on other groundfish stocks. The owner-on-board provision would not apply to current permit holders. Therefore, current owners would be less constrained in fishing multiple vessels in the groundfish fishery, if it were desirable to do so.

Combination of Stacked Permits (Provision 4) and Nonsablefish Cumulative Limits (Provision 8)

When permits are stacked there may be capacity reduction for nonsablefish species in that the stacked permits would confer the opportunity to harvest more sablefish but may (Option 8b) or may not (Option 8a) confer opportunity to harvest more of other groundfish species. If no credit is given to allow additional
harvest of nonsablefish cumulative limits when permits are stacked and the stacked permits have been used by vessels to target other species, there could be some reallocation of nonsablefish groundfish harvest toward other vessels. Under Option 4a, permits could be unstacked and capacity for targeting groundfish reintroduced. Preventing permits from being unstacked (Option 4b), or allowing only sablefish endorsements to be traded off stacked permits (Option 4c), would permanently capture the reduced harvest capacity resulting under Option 8a (no stacking of nonsablefish cumulative limits). On the other hand, the permanency of the decision to stack increases the investment risk of stacking and thus may reduce the amount of stacking which occurs. Allowing tier endorsements to be traded but requiring the permits remain stacked (Option 4c) would provide more investment flexibility than Option 4b while still capturing any gains in capacity reduction for nonsablefish groundfish. The system would also more resemble an individual quota program in which shares could be traded only in large blocks.

If additional credit for nonsablefish cumulative limit species is given for permits that are stacked, latent capacity (permits not previously used to target nonsablefish cumulative limits) may be transferred to vessels actively targeting on nonsablefish groundfish, increasing harvest for vessels able to stack while decreasing harvest opportunity for vessels that do not stack, or are unable to stack (in the case of nonsablefish endorsed vessels, see the discussion of Provision 8 in Section 3.1).

**Fishery Duration and Cumulative Limits (Provision 5)**

If Option 5a (lengthened seasons) were implemented without stacking, there would be a shift of harvest toward lower capacity vessels. Under status quo, seasons are set short enough that vessels with small capacity relative to their cumulative limits are unable to take all of their cumulative limits in the allotted time. Managing to ensure cumulative limits are not a guaranteed amount of fish that vessels are able to harvest distinguishes the current management system from an individual quota system. If every vessel fully harvested its cumulative limit, harvest would exceed the amount allocated to the limited entry fixed gear primary fishery by an amount that has been termed “overhead.” The target overhead has generally been set at 25% of the expected harvest. The lengthened season under Option 5a provides opportunity for every vessel to take its full cumulative limit, thus cumulative limits would have to be reduced (overhead eliminated) so that the allocation to the fishery is not exceeded. Cumulative limits would decline by about 20%. This would imply a reduction in harvest opportunity for vessels able to take close to their full cumulative limits under the short status quo seasons and an increase in harvest opportunity for vessels that harvest substantially below their cumulative limits during the status quo season. Vessels would recover/increase the harvest opportunity by stacking permits.

With an extended season (Option 5a), vessels that participate in the daily trip limit fishery may experience some reduction in opportunities in that fishery. These vessels would not be able to fish against the daily trip limits during the primary season while limited entry sablefish vessels without endorsements may have an opportunity to do so (Option 9b). In an April through October fishery, inability to participate in the daily trip limit fishery could constitute a substantial reduction in sablefish harvest opportunity for bottom tier vessels.

Under Option 5b, it appears most likely that seasons would shorten slightly. A shorter season would result in a shift toward higher capacity vessels that stack permits and away from lower capacity vessels. Tier cumulative limits would not change substantially, however, season length would likely decline. Example modeling for the year 2000 indicated that season length might be reduced from nine days to eight days if permit stacking were allowed under the current moratorium on individual quota programs (permit stacking were allowed but season lengths had to be set to maintain overhead, Table 3 in Appendix A). The reduction in season length would adversely impact lower capacity vessels not able or just able to take their cumulative limits in a nine-day fishery. If half the half of all permits were stacked the season might be lengthened by about one day (Hastie, In Press), however, such a high level of stacking does not appear likely with the current short seasons.

**Prohibition on At-Sea Freezing (Provision 6)**

The Council first considered a prohibition on at-sea processing, then decided to allow existing at-sea freezer vessels to continue their activities. The limitation on at-sea processing has been characterized by
proponents on the Council as primarily a social issue. The proposal (Option 6a) would limit a shift of shore based processing operations and employment to at-sea vessels. Currently, landing codes on fish tickets show no at-sea freezing is occurring. However, members of industry report that at-sea freezing is occurring and there are press reports of vessels being modified to freeze sablefish taken under the Alaska ITQ system (Haig-Brown, 2000). It may be difficult to evaluate the proposed criteria for qualification. Alternative qualification requirement may need to be considered (see discussion of Provision 6 in Section 3.1). If some vessels qualify permits for at-sea processing the cumulative limits and limits on the number of permits that can freeze would restrict the growth of this sector. Thus the provision would limit deviations from status quo toward more at-sea processing and limit allocation issues such as those that developed in the Pacific whiting fishery.

**Vessels Without Sablefish Endorsements (Provision 9)**

Under status quo management, limited entry fixed gear vessels without sablefish endorsements are not allowed to harvest daily-trip-limits during openings of the primary fixed gear fishery. Because of the monthly and two-month cumulative limits that apply to the daily-trip-limit fishery, the loss of fishing time during the primary season openings is easily made up when the primary fishery is closed. If the primary season is extended to 6 months, the restriction prohibiting harvest by these unendorsed vessels during the primary fishery may severely constrain their harvest, allocating fish away from those unendorsed vessels most active during the extended primary season (proposed as April 1 through October 31, Option 5a). An alternative would be to allow fixed gear limited entry vessels without sablefish endorsements to fish their daily-trip-limits during the primary fishery (Option 9b). One of the primary reasons for not allowing these two segments of the fleet to operate concurrently was the additional complexity that would be added to the enforcement task. However, given that the open access fleet is allowed to continue to harvest its daily sablefish limits during the primary fishery there is likely a minimal additional detrimental impact on enforcement efforts from allowing between up to 70 and 80 other limited entry fixed gear permitted vessels to fish daily limits concurrently with the limited entry sablefish endorsed fleet's primary season.

### 3.3.2 Equity

National Standard 4 dictates that allocations be made in a fair and equitable manner. Because of the wide-ranging views in our society about what constitutes equitable allocation, there are not commonly accepted standards against which an objective analysis can conclude that one allocation decision is more fair and equitable than another. There are no generally accepted measuring sticks for equity similar to those for evaluating such factors as efficiency. Therefore, analysis is limited to pointing out the major decision which would likely affect the allocation, perceived fairness and equity of a limited entry system and the rationale for those decisions. It will be up to each individual involved in the process to evaluate for him or herself whether the alternative adopted is, or would be evaluated by the general public to be, on the whole, fair and equitable.

### 3.3.3 Income and Employment

In general, a system which generates more efficient use of resources to generate the same amount of production will lead to an increase in income for the nation as a whole. Permit stacking is expected to have this effect, primarily if Option 5b is implemented. The amount of associated employment may go up or down. If permits are stacked there may be fewer jobs for crew members, however, the jobs may last longer and provide a higher level of income per crew member. Additionally, some vessels may attempt vertical integration (attempt to take on some processing functions to gain more income), using crew member labor to replace labor that would have been provided by workers in shore plants.

### 3.3.4 Relative Bargaining Strength

The main change in relative bargaining strength would occur if the season for fixed gear sablefish were extended (Option 5a). An extended season would give harvesters more delivery alternatives increasing the pressure on processors during price negotiations.
The owner-on-board requirement (Option 7a) would effectively prevent vertical integration into the harvesting sector by processors that do not currently own permits (assuming that the processors are not owned by a single individual willing to go to sea during sablefish harvest operations). Those processors that currently own a permit could continue to acquire additional permits and vertically integrate to secure control over a supply of sablefish. This may provide a competitive advantage in the wholesale marketplace.

The additional harvest flexibility and harvest certainty provided by an extended season (Option 5a) will likely increase the value of permits with tier endorsements. Those holding these permits will be made wealthier and thus will be more able to control and acquire additional permits for stacking.

With IQ programs crew members are often able to accumulate shares over time and so increase their share of profits from vessel operations. The cumulative limits that would be created under permit stacking, may have many characteristics similar to an IQ program, however, control over harvest privileges would continue to be associated with the limited entry permit. This would provide no opportunity for those without permits to gradually accumulate harvest shares and additional leverage in the fishery.

### 3.3.5 Safety

Safety related problems under status quo management include:

- fishers having to choose between fishing in poor weather or unsafe mechanical situations and forgoing their primary sablefish harvest opportunity for the year;
- fishers choosing to operate under high stress and at a high speed, with a lack of rest, in order to maximize their primary sablefish harvest opportunity for the year;
- fishers choosing to fish with less than optimal safety related maintenance due to financial pressures associated with overcapacity in the fishery; and
- difficult to enforce at-sea closures implemented in an attempt to make the fishery safer.

Under permit stacking all of these problems would continue unless the season is lengthened (Option 5a). There appear to be few options for relief from the current situation other than creating a system that would be classified as individual quota management (currently prohibited under the Sustainable Fisheries Act moratorium), implementing a buyback program (funding not available), or imposing involuntary capacity reduction measures (highly controversial and potentially inequitable). It is unlikely that voluntary permit stacking will be sufficient to result in a lengthening of the season. Stacking of half the permits would increase season length by only one day. The more likely scenario is a shortening of the season, unless there is an end to or exemption from the individual quota moratorium.

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

### 3.3.6 Windfall Profits

"Windfall profits" is a term often used when one group of citizens acquires unanticipated profits at the expense of others as a result of a shift in the economy or governing rules and regulations. When individual quota programs were considered by the Council in the early 1990s, the generation of windfall profits was a major concern for a number of Council members. In the current situation, limited entry permits have been issued and those permits have been assigned to tiers that determine the maximum amount of fixed gear
sablefish that may be harvested with the permit. For fixed gears, the sablefish harvest opportunity is a major component of the value of the permit. Additional permit value ("windfall") will be generated by any changes to the system that increase the net value of the harvest allowed under the permit. On the other hand, permits may also lose value. The value of permits on the market is determined both by what others think they can make with a permit (demand) and by what someone is actually making with the permit (supply).

With permit stacking and a lengthened season (Option 5a), maximum gross revenues for every permit will decrease with the decrease in cumulative limits necessary to ensure harvest does not exceed the allocation (the elimination of overhead). In general, if the season is lengthened such that every vessel is able to take its limit, cumulative limits would be expected to decline by about 20%. This will tend to put downward pressure on the price for permits. On the other hand, a lengthening of the season will reduce the risk that a vessel will be unable to harvest its available harvest. This increased certainty of harvest would have an upward influence on price along with a number of other factors which are likely to increase the value of the sablefish harvest opportunity. For example, a longer season would allow fishers to schedule their sablefish harvest activity between other fishing opportunities, avoid crowded fishing grounds, harvest larger higher quality fish, and possibly negotiate higher market prices.

In general, regulations that provide more flexibility while attaining the primary regulatory objectives will generate more net value and result in higher permit values. Any provision that restricts how the sablefish will be harvested would reduce the value of the permit and sablefish harvest rights from what they would have been, for example, limits on stacking (Provision 3), not allowing permits to be unstacked (Option 4a), prohibiting at-sea processing (Option 5a), and requiring the permit owner to be on board the vessel (Option 7a). Any provision that increases the flexibility in how fish are harvested will likely result in higher values for permits and sablefish harvest rights, for example, more flexibility in deciding on the fixed gear to be fished (Option 2c), allowing tier endorsements to be transferred separately from the permit (Option 4c) or not limiting the number of transfers per year (not currently being considered as part of this regulatory package).

3.3.7 Fisher Job Satisfaction and Life Style

Permit stacking alone will likely affect fisher job satisfaction and lifestyle only to the degree that fishers stack permits and expand their harvest to the limit that can be taken in the short openings that would be provided in Option 5b. Risks of not taking the harvest in the allotted time will increase as well as the pressure to operate in conditions that might be otherwise considered unsafe. This pressure may be felt particularly if there is a need to pay-off expenditures made on permits that have been stacked. Those who stack permits while seasons are short will be taking a gamble. Additionally, those who do not stack permits will face some additional risks as seasons are shortened as a result of permit stacking (see Appendix A). Some studies show that there are many similarities in the characteristics of fishers and gamblers (McGoodwin, 1990). If the season is lengthened so that all vessels are able to easily take their cumulative limits, the importance of skill in the speed of catching fish to ensure maximum gross returns may be replaced by the importance of skills in handling and maintaining quality. Skills in locating fish may not be important so much for the greater harvests such skills bring as for their value in reducing harvest cost and increasing the amount of large fish in the catch. As the importance and measures of various skills change, there may be some disruption in the job satisfaction generally experienced by individuals in the profession.

With a lengthened season, a reduction in the hazards imposed by recent derby-like fisheries may reduce some aspects of stress for both fishers their families.

While the changes discussed above may be significant for many fishing operations, sablefish harvesting may be only a small portion of the overall fishing operations of many vessels. To the degree that this is true for a particular operation, there will be less reduction in the "gambling" nature of the activity. However, as more fisheries come under fleet rationalization programs, it is likely that the mark of the successful fisherman will be ability to maintain, accumulate, and manage access privileges, and maximizing the net value of the harvest opportunities imbued by those access privileges.
3.3.8 Gear Conflict

On the one hand, there may be reduction in grounds pre-emption and other types of on-grounds competition between fixed gear vessels if seasons are lengthened. On the other hand, an extended season will increase the probability of fixed sablefish/mobile-gear encounters during the period of the extended season. Under the condensed season of recent years, mobile gear vessels had short periods of time during which they could either remain off the water to avoid conflict or simply exercise a heightened awareness of the probability of interaction with fixed gears. While the potential for gear fixed-gear/mobile-gear conflict may increase, the situation will not be much different from that of the mid- and late-1980s when the fixed gear sablefish season was nearly a year round fishery.

3.3.9 Risk of Foreign Control

Concern has been expressed that transferable harvest privileges, especially IQ or IQ-like privileges may be subject to foreign purchase and control. Foreign interests which were displaced from fisheries within 200 miles of the U.S. coast by the MFCMA have a continued interest in access to U.S. fishery resources.

In response to this concern the Council has specified provisions in the license limitation program that would require anyone acquiring control of a permit to be eligible to own a U.S. fishing vessel. Despite this provision, there is concern by some that the exertion of foreign control in a fishery is possible through a broad number of mechanisms running from part ownership of a business or parent business, to exclusive marketing agreements to the provision of financing for acquisition of harvest rights. There is an inherent risk to foreign enterprises that try to achieve control over US firms because of differences in business culture. This risk is amplified when the domestic firm is taking part in an inherently variable and risk prone industry. When an industry becomes more stable through practice or a change in the business environment, there may be a tendency for foreign interests to seek additional vertical integration in the domestic economy in order to seek control of the resource base. Thus, an extension of the fixed gear sablefish season, by reducing the uncertainty of achieving target harvests, may encourage foreign interests to seek more control in the industry.

One way to reduce the risk of foreign (or corporate) control may be to require the owner(s) of the harvest privileges to be on board the vessel during fishing operations. This does not eliminate the opportunity for control through exclusive marketing or financing agreements, but does make control more difficult and less certain. An additional measure to reduce the opportunity for foreign control and influence is to specify that only U.S. citizens be eligible to own permits.

3.3.10 Privatization of a Public Resource

Extension of the season length such as would occur under Option 5a would essentially turn the current management system into an individual quota program in which quota is traded in large blocks of three different sizes (reflecting the current three-tier program). Concern is often expressed that limited entry and individual quotas in particular go against the "free enterprise system" and represents the privatization of a public resource—the creation of a private "property right." While what would be allocated are fishing "privileges," rather than "rights," these "privileges" are beneficial to the economy to the degree that they emulate private property "rights" and support market based decision incentives. The basis for the strength of this system is that individuals who own resources will husband them to achieve the greatest good for themselves and, in pursuit of that personal benefit, will be guided to use the resources to produce the greatest value for society.

Fallings of the free enterprise system generally occur when property rights systems are not in place, so that the individual does not bear the full cost and benefit from his or her use of a resource. For example, wastes are released into the air and water, in part, because the person creating the waste bears only a very small portion of the costs of the pollution created. Fisheries is another area in which property rights are not assigned to a resource. License limitation and IQs are attempts to rectify the economic failures which occur as a result of the lack of property rights (e.g., overcapitalization) by assigning access privileges which behave in some ways like property rights. Because of the fugitive nature of the fisheries resources, the
rights to specific fish cannot be assigned. Therefore there is not full emulation of a private property system. For example, an individuals may find it in their best interest to highgrade to earn more per pound of quota because any negative effect highgrading has on productivity of the resource is shared by all users.

The fishery is a public resource held as common property by the people of the United States. Statements in the groundfish limited entry program indicate that rather than a "right," a fishing permits constitute fishing "privileges" which may be revoked or modified by an amendment to the groundfish plan. At present, when permit values are increased or decreased through actions under the groundfish management plan, the sale of permits can result in capital gains or losses against which taxes are assessed. Thus, changes in the value of the access rights can be passed on to the general public in the form of changes in amounts of tax revenue collected.

3.3.11 Entry and Exit

Flexibility for entry and exit to the fixed gear sablefish fishery would remain essentially unchanged from the status quo with the exception of the owner-on-board requirement for new entrants and the restriction that only individuals be allowed to own permits. These requirements would provide less operational flexibility for new entrants as compared to pre-existing permit owners, placing the new entrants at somewhat of a competitive disadvantage. The permit stacking proposal would also differ from many individual quota programs, in which crew members and in some cases local jurisdictions and corporations can acquire quota without needing to control an entire license for access to a particular fishery (in this case the fixed gear groundfish fishery).

3.3.12 Geographic Distribution

Geographic redistribution of landings may result from a lengthening of the season and the consolidation of permits. The longer season allows vessels the opportunity to take their harvest to preferred ports of landings, which may be more distant from the fishing grounds. For example, Figure 1 shows that as the season shortened in the early 1990s, sablefish landings moved from inside Puget Sound to coastal ports. A lengthening of the season may reverse this effect.

Over time, the consolidation of permits among fewer vessels could result in the consolidation permits in ports where there are lower costs or higher exvessel values, giving fishers in the port the opportunity to outbid individuals from other geographic areas in the competition to purchase permits. Data is not available that can be used to predict which ports may offer residents a competitive advantage in bidding for permits, so little prediction can be made of the geographic redistributions that may occur.

3.3.13 Enforcement Costs

**Seasons and Underreporting:** Changes in enforcement costs will primarily vary by changes in the season length. Derby fisheries are some of the simplest fisheries to regulate. The current derby, capped with cumulative limits, presents some enforcement problems because of the difficulty of determining whether or not the amount of fish on board a vessel is within the vessel's limits and is being properly reported. The problem is similar to that for other groundfish managed under cumulative limits, however, under the short season (Option 5b) the enforcement problem and opportunities to benefit from underreporting are restricted to a relatively few days. Additionally, the incentives for underreporting for sablefish would be substantially greater than for most other groundfish managed under cumulative limits because sablefish bring a substantially higher price per pound. Under an extended season (Option 5a), the enforcement problem would be protracted over a number of months. On the other hand, some of the enforcement problems associated with the derby fishery would be eliminated: preseason and postseason closures would not be needed and at-sea closures would not be necessary. However, overall the enforcement burden would be expected to increase.

**Advance Notice of Landing:** Enforcement costs may be reduced if all fixed gear permit holders are required to provide advance notice of landings Option 11c. Such advance notice, particularly when combined with a requirement that hake weights be provided, would increase deterrence and increase the
efficiency of enforcement efforts. Individuals offloading limited entry fixed gear sablefish without having provided advance notice would be immediately subject to citation. Individuals that consistently land less than their hauling weight would be targeted for investigation of underreporting. The advance notice could be required only for those who stack permits (Option 11a), however, the increased monitoring costs that the reporting requirement would mitigate apply to all limited entry fixed gear vessels and are associated with the increased length of the season.

**Owner-on-Board Requirement and Limits on Concentration of Ownership:** Under Provision 7, the owner of the permit would have to be on board the vessel during sablefish fishing operations, unless the owner is exempted as a pre-existing owner under a grandfather clause. Owner-on-board requirements present two administrative or enforcement problems. The first is determining who the owner is and the second is determining whether the owner is required to be on board. Determination of whether the owner is required to be on board will also involve an evaluation of the vessel ownership (the grandfather clause exempting pre-existing owners applies only if the permit owner also owns the vessel). Limits on the concentration of ownership may also require detailed consideration of ownership information for the permit. It is likely that permit owners would be required to submit full documentation of the ownership of their fishing business on an annual basis. This documentation would have to be evaluated and information provided to enforcement on the requirements that apply. Additionally, some enforcement effort may be necessary to ensure that the information submitted is accurate.

**Midseason Transfers:** If midseason transfers occur, situations may arise where vessels separately fish under the amount allotted by the permit but together fish over the cumulative limit for the single permit. Questions arise as to which vessel would be held responsible for the overage and whether a permit buyer would be held responsible if a permit seller had not properly reported the amount of fish landed to date at the time of sale. Regulations might include a provision requiring a seller to accurately report to the permit office the pounds of sablefish caught against the permits cumulative limit, together with a copy of all relevant landings receipts. The permit buyer might be required to keep all landing receipts on board the vessel, including copies of the receipts submitted by the permit seller. The problem of midseason transfers would primarily apply for a longer sablefish season (Option 5b).

**Harvest Opportunities for Unendorsed Fixed Gear Limited Entry Vessels**

When the fixed gear limited entry fleet was first subdivided into those with and without sablefish endorsements, rules were set out that restricted unendorsed vessels from fishing for sablefish during the openings of the primary sablefish season. While this may have provided some relief for enforcement, fixed gear oper access vessels were allowed to continue to harvest sablefish during the limited entry primary fishery. Thus enforcement still had to deal with distinguishing between participants in the primary fishery and those in the open access fishery. Option 9b would allow fixed gear limited entry vessels without sablefish endorsements to continue to fish during the primary season. Because the open access fleet is already allowed to fish during the primary season only a minimal additional burden on enforcement is expected.

### 3.3.14 Administrative Costs

There would be some relatively minor initial administrative costs associated with modification of permit office data bases to implement the basic stacking provisions (Provisions 1, 2, 3 and 4). The more significant administrative costs may be associated with tracking and documenting permit and vessel ownership changes for the purpose of implementing the grandfather clause that provides an exception to the owner-on-board requirement (Options 7a and 7c), the limits on concentration of ownership (Provision 3) and ensuring that only US citizens own permits (Option 10a). Additionally, there are hardship exceptions to the owner-on-board provisions for health and other factors on which the permit office would likely be asked to advise the regional director.

In addition to permit administration, there would be administrative costs associated with the requirement that vessels provide 6 hours advance notice of their intent to land. A system would have to be established to receive, record and disseminate notices of intent to land.
3.3.15 Council Workload and Process

Stacking under a shortened sablefish season (Option 5b) would add to Council workload. As outlined in Option 5b, a tentative set of cumulative limits and season lengths would be identified, a period allowed for fishers to decide whether or not to stack permits, and then a final set of limits and season lengths would be specified. Under Option 5a (long seasons), there would be a single specification of cumulative limits and it would be generally assumed that all vessels would easily take their limits.

Complexities may arise with respect to the limit on number of transfers per year such that the Council may receive requests for additional modifications or exceptions to the limits. At a minimum, in the first year of the program, the Council may wish to loosen the restriction on number of permit transfers per year in order to provide all permit owners an equal opportunity to change their permit holdings and adjust to the new system.

If the IQ moratorium is lifted, there may be modifications needed to meet congressional criteria for new IQ programs (See Section 1.3). Additionally, it is likely that the Council will face requests to modify the system, for example, to make the tier limits separable from the permits and divisible, allow crew members and others to purchase the tier limits (quota shares) etc.

3.3.16 Benefit-Cost (Efficiency) Analysis

Capital Costs

The primary economic benefit expected from permit stacking would be through the reduction in capacity in the fishery (and hence a reduction in the long-term capital cost of harvest). The SSC report on capacity (Council, 2000b) notes that capacity reduction achieved through permit stacking can be expected to erode over the long term. This is particularly true for options such as Option 5b (a short sablefish season). Under Option 5b a modified derby would be maintained and those vessels not able to harvest their allocated cumulative limits in the allotted time would likely increase capital investment in order to do so. However, with the opportunity to stack permits, those vessels able to easily take the harvests allotted under their permits would be most likely to buy or lease permits to stack. Slower harvesters may sell or lease out their permits rather than undertake the investment needed to bring their operations up to full capacity, knowing that as they and others increase capacity the season would continue to shorten, increasing risks and the amount of investment required. Thus, under a continued short season with stacking, some future capital investment may be avoided as the industry transfers permits to realign harvest opportunity with existing harvest capacity.

In contrast, under Option 5a (long seasons) every vessel would likely have more than enough time to harvest their allotted sablefish limits, even after permits have been stacked. Reductions in capacity within the sablefish fishery are not likely to erode over time because there would be no incentive to increase capacity for the purpose of harvesting sablefish more rapidly. Profits in the sablefish fishery would be expected to increase for reasons discussed below, providing fishers the opportunity to increase investment in other fisheries, other sectors of the economy, or in consumer purchases.

Operation Costs

Given a longer fishery (Option 5a), vessel owners would have more opportunity to harvest sablefish at times or in manners that minimize their costs. For example, harvest costs may be reduced by using sablefish cumulative limits to retain bycatch in fisheries targeted on other stocks. Opportunity costs may be reduced by timing sablefish harvest to reduce conflict with other fishing opportunities (e.g. tuna or salmon).

Exvessel Value

The exvessel value of retained product may be increased by means such as improved handling of the product or by highgrading. Highgrading may have impacts that are either positive or negative in an economic and biological sense, depending on the accompanying discard mortality (see Section 3.2.1). For
example, there are locations where sablefish tend to be larger. By reducing competition on the grounds, fishers may be able to increase the average size of fish caught, increasing the value per pound value without any discarding. Even if a fisher intends to highgrade on the deck (discard), the economic incentive is still to harvest in an area and at a time when the fish will be the largest. This contrasts with a derby situation where the primary incentive may be to set gear in an available location where the catch rate is likely to be highest.

Vessels may also receive higher exvessel prices for sablefish by being in a better position to negotiate price among a greater number of processors in different ports. This type of increase in “value” may represent more of a transfer of benefits between harvesting and processing sectors than an actual increase in net national benefits.

**Processor Efficiency**

The most significant problem for processors may be scheduling processing activities during a long sablefish season (Option 5b). Larger volume processors handling a relatively continuous flow of product from various fisheries may be able to process and ship sablefish that are delivered on a somewhat irregular schedule, absorbing the additional product into existing production schedules. For processors that must open a plant or bring on extra crew to handle large sablefish deliveries, variability in product flow and uncertainties about exact vessel delivery times may add to the expense of handling sablefish, as compared to the current abbreviated seasons (Option 5b).

As the large Japanese winter demand for sablefish continues to dominate the markets, processors may incur some additional storage costs if some sablefish are delivered in the spring (Option 5a). However, price signals will influence the timing of sablefish harvest. Processor demand will include considerations such as cold storage costs and any seasonal differences in flesh quality and average sizes. Harvester supply will take into account processor demand for sablefish as well as potential revenues in alternative fisheries at different times of year.

#### 3.3.17 Effects on Other Fisheries

**West Coast**

The stacking of permits among fewer vessels will not change the capacity utilized in West Coast sablefish fishery but may reduce capacity available to target on other West Coast groundfish (Option 8a). To the degree stacking occurs, some vessels would be able to target other West Coast groundfish fishery and may seek to increase effort in other West Coast fisheries. The amount of capacity transfer will depend on the amount of consolidation through stacking.

**Adjacent Council Fisheries (Alaska Fisheries)**

There is an inverse correlation between harvest in the West Coast fixed gear sablefish fishery and harvest in the Alaskan fishery with Alaska harvest dropping in August, when the West Coast fishery is usually in progress and then rebounding (Figure 2). This relationship could be the result of a switch in harvesting effort from Alaska to the West Coast or a temporary decrease in processor demand in Alaska as a result of increased availability of fish from the West Coast. Additional analysis of the vessels participating in the Alaska and West Coast fisheries would shed some light on this issue, however, West Coast analysts are not allowed to access individual vessel landings information for Alaskan fisheries.

#### 4.0 Other Applicable Law

**4.1 Regulatory Impact Review and Regulatory Flexibility Act Determination**

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

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

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

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

EO 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant." A "significant regulatory action" is one that is likely to (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this EO.

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

4.1.2 Impacts on Small Entities (Regulatory Flexibility Act)

The RIR is also designed to determine whether the proposed rule has a "significant economic impact on a substantial number of small entities" under the RFA. The purpose of the RFA is to relieve small businesses, small organizations, and small governmental entities from burdensome regulations and record-keeping requirements. Major goals of the RFA are: (1) to increase agency awareness and understanding

5/ The Small Business Administration defines a small business in commercial fishing "as a fish harvesting or hatchery business that is independently owned and operated and not dominant in its field of operation" with "annual receipts not in excess of $3,000,000."
of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities. The RFA emphasizes predicting impacts on small entities as a group distinct from other entities and the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action. An initial regulatory flexibility analysis (IRFA) is conducted unless it can be determined that an action will not have a "significant economic impact on a substantial number of small entities." For the plan and regulatory amendments that may be proposed here, information is not sufficient to determine that an IRFA is not necessary. The RFA specifically requires that an initial regulatory flexibility analysis include the following information:

- A description of the reasons why action by the agency is being considered;

  See Section 1.2.

- A succinct statement of the objectives of, and the legal basis for, the proposed rule;

  See Sections 1.0, and 1.3.

- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);

  The proposed rules would apply to the owners of the 164 limited entry fixed gear sablefish permits issued for this fishery. Additionally, there may be a modification to regulations affecting holders of approximately 70 fixed gear permits that are not endorsed for sablefish (Provisions 8 and 9).

- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

  All holders of fixed gear limited entry permits endorsed for sablefish would be required to submit on an annual basis full documentation of the ownership of their permits, including the identification of the ownership of all companies and parent companies that participate in the ownership of the permit. Permit buyers may be required to submit sales contracts including documentation of the ownership of all parties to the contract and the sales price of the permit. This provision would apply to those grandfathered into the fishery under the exception that allows entities other than individuals to own permits, if they owned permits prior to the implementation of this amendment. Individuals may be required to provide documentation of their US citizenship.

  All holders of fixed gear limited entry permits endorsed for sablefish may be required to provide at least six hours advance notice of landing submit including a hale weight and the location of the landing.

  When permits are stacked, part of the application for the stacking of a permit will require identification of a base permit.

  If Option 5b is implemented (short seasons) permit owners intending to stack permits may have to submit an intent to stack declaration prior to a deadline to be established.

  If an at-sea processing ban is implemented with an exception for vessels with pre-existing sablefish fishery capacity or history of freezing sablefish, there will be an application procedure required for vessels wishing to qualify under the exception.

  The skills required for the submission of the above information should be held by anyone running a fish harvesting business.

- An identification to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule.
The recommendation of Option 5a would conflict with the Magnuson-Stevens Act moratorium on new individual quota programs (this moratorium is due to expire October 1, 2000). The Council is not aware of any other Federal rules that would duplicate or conflict with the permit stacking proposal.

- A description of any significant alternatives to the proposed rule that accomplish the stated objectives that would minimize any significant economic impact of the proposed rule on small entities.

The actions considered in this document may have significant impacts on small entities. Public comment is invited on adjustments that would reduce the impacts on small entities and on whether the analysis adequately takes impacts on small entities into account.

### 4.2 Coastal Zone Consistency

Section 307(c)(1) of the Federal Coastal Zone Management Act (CZMA) of 1972 requires all federal activities which directly affect the coastal zone be consistent with approved, state coastal zone management programs to the maximum extent practicable. The relationship of the groundfish FMP with the CZMA is discussed in Section 11.6.1 of the groundfish FMP. The groundfish FMP has been found to be consistent with the Washington, Oregon, and California coastal zone management programs. The recommended action is consistent and within the scope of the actions contemplated under the framework FMP. The recommended action will conserve and maintain the sablefish resource. The action is consistent to the maximum extent practicable with the coastal zone management programs of Washington, Oregon, and California, within the meaning of Section 307(c)(1) of the CZMA and its implementing regulations. This determination will be submitted to the responsible state agencies for their review.

Under the CZMA, each state develops its own coastal zone management program which is then submitted for federal approval. This has resulted in programs which vary widely from one state to the next. The following is a review of the fishery relevant consistency criteria used in federal consistency determinations by each state.

**Washington**

Consistency with the Washington Coastal Zone Management Program requires compliance with the Washington Shoreline Management Act, the state and federal clean water acts, and the State Environmental Policy Act or National Environmental Policy Act (NEPA). Compliance with the Washington Shoreline Management Act requires consistency with the master plans for the affected coastal counties. The fishery activities covered in this action fall in the exempt category for the coastal county master plans. The proposed action has no water quality implications, meets the requirements of the NEPA, and was developed in consultation with the Washington Department of Fish and Wildlife.

**Oregon**

**General Goals and Requirements**

Federal fishery management decisions are reviewed against Oregon's statewide planning Goal 19 for ocean resources and the applicable requirements of the Oregon Territorial Sea Plan.

**Goal 19: Ocean Resources:** “To conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf. All local, state, and federal plans, policies, projects, and activities which affect the territorial sea shall be developed, managed and conducted to maintain, and where appropriate, enhance and restore, the long-term benefits derived from the nearshore oceanic resources of Oregon. Since renewable ocean resources and uses, such as food production, water quality, navigation, recreation, and aesthetic enjoyment, will provide greater long-term benefits than will nonrenewable resources, such plans and activities shall give clear priority to the proper management and protection of renewable resources.”
Oregon Territorial Sea Plan: "The principal focus of the Territorial Sea Plan is conservation and protection of marine habitat through clear procedures and standards for decision making." While the plan is not intended to be an ocean-fisheries management plan, marine habitat conservation and protection considerations may affect federal ocean-fisheries management decisions.

Specific Requirements of Goal 19 and the Territorial Sea Plan

Resource Inventory/Effects Evaluation: Prior to any decisions to approve or implement an action that will potentially affect the state's territorial sea, a resource inventory and effects evaluation is required. The inventory and effects evaluation must be sufficient to understand the short-term and long-term impacts of the proposed activity on resources and uses of the continental shelf and nearshore ocean. Inventory and evaluation content standards are listed in the Territorial Sea Plan (p. 44-47).

For Fishery Resources, the ocean policy goals are to:

- Develop scientific information on the stocks and life histories of commercial, recreational, and ecologically important species of fish, shellfish, marine mammals and other marine fauna.
- Designate and enforce fishing regulations to maintain the optimum sustainable yield while protecting the natural marine ecosystem.
- Develop and promote improved fishing practices and equipment to achieve the optimum sustainable yield while protecting the natural marine ecosystem.
- Develop a better scientific understanding of the effects of man's activities on the marine ecosystem.
- Encourage, where appropriate and in keeping with sound practices for conservation of ocean resources, the exploitation of unutilized and underutilized fish species.

For Biological Habitat, the ocean policy goals are to:

- Identify and protect areas of important biological habitat, including kelp and other algae beds, seagrass beds, rock reef areas and areas of important fish, shellfish and invertebrate concentration.
- Identify and protect important feeding areas; spawning areas; nurseries; migration routes; and other biologically important areas of marine mammals, marine birds, and commercial and recreational important fish and shellfish.
- Protect the integrity of the marine ecosystem, including its natural biological productivity and diversity.

Permits or other approvals for actions potentially affecting ocean resources should:

- Designate any areas where certain activities will be prohibited.
- Specify methods and equipment to be used and standards to be met.
- Be available for public review and comment before issuance. Agencies and governments which use or manage ocean resources should also be consulted.

California

The following are the standards related to fishery harvest by which consistency with the California Coastal Zone Management Program is generally determined. Section references are to the California Coastal Act.

Section 30230: Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30234.5: The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.
4.3 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. None of the alternatives under any of the issues discussed above are likely to affect the incidental mortality levels of species protected under the MMPA.

4.4 Seabirds

Human activities affect seabirds through direct mortality from: 1) collisions with vessels, 2) entanglement with fishing gear, 3) entanglement with discarded plastics and other debris, and 4) shooting. Indirect effects include: 1) competition with fisheries for food, 2) alteration of the food web dynamics due to commercial and recreational removals, 3) disruption of avian feeding habits resulting from dependency on fish wastes, 4) fish-waste related increases in gull populations that prey of other bird species, and marine pollution and changes in water quality (NMFS 1997).

Seabirds are caught incidentally to all types of fishing operations, but the vulnerability of bird species to gear types differ with feeding ecology. Fishing gear used in the groundfish fishery includes trawl, hook-and-line, pot, and setnet. Hook-and-line gear occasionally catches surface-feeding seabirds that are attempting to capture bait as the line is being set; some birds are caught on hooks and drowned. Trawl gear appears to catch surface-feeding and diving birds that are feeding and scavenging while the net is being hauled. Pot gear does not commonly catch birds, though rare reports of dead diving and surface-feeding birds exist in pot gear. Setnet gear, which is legal only in southern California waters, has documented effects on seabirds as well (Wohl, 1998). None of the alternatives under any of the issues discussed above are likely to affect the incidental mortality of seabirds.

4.5 Paperwork Reduction Act

The major purposes of the Paperwork Reduction Act (PRA) of 1980 are to (1) minimize the federal paperwork burden for individuals, small businesses, state, and local governments; (2) minimize the cost to the federal government of collecting, maintaining, using, and disseminating information; and (3) ensure the collection, maintenance, use, and dissemination of information by the federal government is consistent with applicable laws relating to confidentiality. A PRA analysis and Office of Management and Budget authorization may be required for several aspects of the permit stacking program including declaration of a base permits (Provision 2), submission of ownership information on an annual basis (Provision 3), qualifying for at-sea processing (Provision 6), qualifying for and maintaining exemptions from individual-owner and owner-on-board requirements though the submission of ownership information (Provision 7), information requirements similar to Provision 3, demonstration of US citizenship (Provision 10) and declarations of intent to stack (Provision 12). The number of individuals/businesses affected is expected to be about 136 at any one time (there are 164 limited entry fixed gear sablefish permits however, 47 are held by 19 companies/individuals that each own more than one permit).
4.6 Federalism

Executive Order 12612 contains nine fundamental federalism principles to which executive agencies must adhere in formulating and implementing policies having federalism implications. No federalism issues have been identified relative to the options in this document. The affected states have been closely involved in developing the options considered, and the principle state officials responsible for fisheries management in their respective states have not expressed federalism-related opposition to the options. Preparation of a federalism assessment under Executive Order 12612 is not warranted.

4.7 National Environmental Policy Act

4.7.1 General

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

The implementation of a permit stacking program would not be a major action having significant impact on the quality of the marine or human environment of the West Coast.

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

4.7.2 Finding of no Significant Environmental impact

The recommended action would alter the current implementation of the groundfish FMP by allowing fixed gear sablefish permits to be stacked for the primary limited entry sablefish fishery. The options being considered are described in detail in Section 1.

Section 1508.27 of the CEQ Regulations lists ten points to be considered in determining whether or not impacts are significant.

Beneficial and Adverse Impacts

There would be beneficial and adverse impacts from limited entry fixed gear permit stacking. The impacts are described in Section 3.

Public Health or Safety

Limited entry fixed gear permit stacking would not be expected to have any significant adverse impact on public health or safety. There may be substantial vessel safety benefits if seasons can be lengthened (see Section 3.3.5).

Unique Characteristics

Limited entry fixed gear permit stacking would not be expected to have any significant adverse impact on unique characteristics of the area such as historic or cultural resources, park lands, wetlands, or ecologically critical areas.

Controversial Effects

Limited entry fixed gear permit stacking is not expected to involve significant controversial issues for the broader public. Among participants in the fleet, there may be some controversy if the season is lengthened as some participants may experience a reduction in their cumulative limits of about 20% and a decrease in their access to harvest under the daily trip limit fishery.
Uncertainty or Unique/Unknown Risks

Limited entry fixed gear permit stacking would not be expected to have any significant effects on the human environment that are highly uncertain or involve unique or unknown risks.

Precedent/Principle Setting

Limited entry fixed gear permit stacking would not be expected to have any significant effects in establishing a precedent and does not include actions which would represent a decision in principle about a future consideration. Section 14.1.4 of the license limitation program will continue to apply. This section states:

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

Relationship/Cumulative Impact

Limited entry fixed gear permit stacking would not be expected to have any significant cumulative impacts that could have a substantial adverse effect on the sablefish resource or any related resource (see Section 3.2).

Historical/Cultural Impacts

Limited entry fixed gear permit stacking would not be expected to have any significant effects on historical sites listed in the National Register of Historic Places and will not result in any significant impacts on significant scientific, cultural, or historic resources.

Endangered/Threatened Impacts

Limited entry fixed gear permit stacking would not be expected to adversely affect any endangered or threatened species or marine mammal population (see Section 6.3).

Interaction with Existing Laws for Habitat Protection

Limited entry fixed gear permit stacking would not be expected to have any significant interaction which might threaten a violation of Federal, state, or local law or requirements imposed for the protection of the environment.

5.0 References


6.0 List of Preparers

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The authors gratefully acknowledge data and aid received from Dr. James Hastie (NMFS/NWFSC), Ms. Yvonne de Reynier (NMFS/NWR), Mr. John Bishop (NMFS/NWR), and Mr. Kevin Ford (NMFS/NWR Fisheries Permits Office).
### TABLE 1. Potential concentration of harvest by number of stacked permits for each tier level.

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<th>Tier Levels</th>
<th>Total Permits</th>
<th>1</th>
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<th>3</th>
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<th>5</th>
<th>6</th>
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<tr>
<td>Concentration of Harvest Opportunity with Extended Season</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Potential Harvest = 125% of Allocation)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>27</td>
<td>1.8%</td>
<td>3.5%</td>
<td>5.3%</td>
<td>7.0%</td>
<td>8.8%</td>
<td>12.3%</td>
<td>22.3%</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>43</td>
<td>0.8%</td>
<td>1.8%</td>
<td>2.4%</td>
<td>3.2%</td>
<td>4.0%</td>
<td>5.6%</td>
<td>10.4%</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>94</td>
<td>0.5%</td>
<td>0.9%</td>
<td>1.4%</td>
<td>1.8%</td>
<td>2.3%</td>
<td>3.2%</td>
<td>5.9%</td>
<td></td>
</tr>
</tbody>
</table>

### TABLE 2. Number of owners with multiple permits and the tier levels associated with the permits (based on review of permit owners listed addresses).

<table>
<thead>
<tr>
<th>Number of Owners</th>
<th>Cumulative Number of Owners</th>
<th>Tier 1</th>
<th>Tier 2</th>
<th>Tier 3</th>
<th>Number of Permits Per Owner</th>
<th>Per Owner</th>
<th>For the Row</th>
<th>Cumulative Row Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>5</td>
<td>5.2%</td>
<td>5.2%</td>
<td>5.2%</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>3</td>
<td>3.5%</td>
<td>3.5%</td>
<td>6.7%</td>
</tr>
<tr>
<td>1</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>3</td>
<td>3.5%</td>
<td>3.5%</td>
<td>6.7%</td>
</tr>
<tr>
<td>1</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>3.5%</td>
<td>3.5%</td>
<td>6.7%</td>
</tr>
<tr>
<td>5</td>
<td>9</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>2.0%</td>
<td>2.0%</td>
<td>2.0%</td>
</tr>
<tr>
<td>1</td>
<td>10</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>3</td>
<td>2.1%</td>
<td>2.1%</td>
<td>2.1%</td>
</tr>
<tr>
<td>1</td>
<td>11</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>2.1%</td>
<td>2.1%</td>
<td>2.1%</td>
</tr>
<tr>
<td>2</td>
<td>13</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1.0%</td>
<td>1.0%</td>
<td>1.0%</td>
</tr>
<tr>
<td>1</td>
<td>14</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>1.1%</td>
<td>1.1%</td>
<td>1.1%</td>
</tr>
<tr>
<td>5</td>
<td>19</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>0.7%</td>
<td>0.7%</td>
<td>0.7%</td>
</tr>
</tbody>
</table>

Note: Percents with no overhead (assumes an extended season, percents would be higher with a shortened season.)
TABLE 3. Amounts of 1996 fixed gear sablefish catch by condition and size category for the daily-trip-limit, derby, and mop-up fishery.\(^a\)

<table>
<thead>
<tr>
<th></th>
<th>Daily-Trip-Limit</th>
<th>Derby</th>
<th>Mop-Up</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dressed Condition</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(percent of all dressed condition fish, excluding unspecified size)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Large</td>
<td>7%</td>
<td>3%</td>
<td>8%</td>
</tr>
<tr>
<td>Medium</td>
<td>27%</td>
<td>20%</td>
<td>27%</td>
</tr>
<tr>
<td>Small</td>
<td>64%</td>
<td>57%</td>
<td>54%</td>
</tr>
<tr>
<td>Extra-Small</td>
<td>3%</td>
<td>20%</td>
<td>10%</td>
</tr>
<tr>
<td><strong>Pounds of Dressed Condition and Specified Size</strong></td>
<td>237</td>
<td>2,077</td>
<td>244</td>
</tr>
<tr>
<td><strong>Unspecified Size as a Percent of Total Dressed Pounds</strong></td>
<td>4%</td>
<td>3%</td>
<td>4%</td>
</tr>
<tr>
<td><strong>Round Condition</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(percent of all round condition fish, excluding unspecified size)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Large</td>
<td>39%</td>
<td>1%</td>
<td>17%</td>
</tr>
<tr>
<td>Medium</td>
<td>26%</td>
<td>3%</td>
<td>50%</td>
</tr>
<tr>
<td>Small</td>
<td>29%</td>
<td>91%</td>
<td>33%</td>
</tr>
<tr>
<td>Extra-Small</td>
<td>6%</td>
<td>4%</td>
<td>0%</td>
</tr>
<tr>
<td><strong>Pounds of Round Condition and Specified Size</strong></td>
<td>31</td>
<td>143</td>
<td>18</td>
</tr>
<tr>
<td><strong>Unspecified Size as a Percent of Total Round Pounds</strong></td>
<td>49%</td>
<td>85%</td>
<td>68%</td>
</tr>
<tr>
<td><strong>Unspecified Condition</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(percent of all unspecified condition fish, excluding unspecified size)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Large</td>
<td>15%</td>
<td>16%</td>
<td>0%</td>
</tr>
<tr>
<td>Medium</td>
<td>54%</td>
<td>71%</td>
<td>83%</td>
</tr>
<tr>
<td>Small</td>
<td>31%</td>
<td>13%</td>
<td>17%</td>
</tr>
<tr>
<td><strong>Pounds of Unspecified Condition and Specified Size</strong></td>
<td>123</td>
<td>408</td>
<td>53</td>
</tr>
<tr>
<td><strong>Unspecified Size as a Percent of Total Unspecified Condition Pounds</strong></td>
<td>70%</td>
<td>60%</td>
<td>64%</td>
</tr>
<tr>
<td><strong>Dressed, Round, and Unspecified Combined</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pounds</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Large and Medium</td>
<td>184</td>
<td>830</td>
<td>143</td>
</tr>
<tr>
<td>Small and Extra-Small</td>
<td>190</td>
<td>1,798</td>
<td>172</td>
</tr>
<tr>
<td><strong>Percent of Total (excluding unspecified sizes)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Large and Medium</td>
<td>49%</td>
<td>32%</td>
<td>45%</td>
</tr>
<tr>
<td>Small and Extra-Small</td>
<td>51%</td>
<td>68%</td>
<td>55%</td>
</tr>
</tbody>
</table>

\(^a\) All poundages are expressed in round pound equivalents.
TABLE 4. Distribution of 1996 longline sablefish landings by season and the percentage of total pounds in the landing contributed by sablefish (includes Conception area).

<table>
<thead>
<tr>
<th>Fishery/Groups Based on Percent of Weight From Sablefish</th>
<th>Number of Landings</th>
<th>Percent Sablefish</th>
<th>Total Sablefish Poundage</th>
<th>Total Nonsablefish Pounds</th>
<th>Total Poundage</th>
<th>Percent Nonsablefish</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daily Limit</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-10</td>
<td>521</td>
<td>5.0</td>
<td>108,931</td>
<td>2,084,015</td>
<td>2,172,946</td>
<td>95.0</td>
</tr>
<tr>
<td>10-30</td>
<td>677</td>
<td>17.5</td>
<td>157,036</td>
<td>742,458</td>
<td>899,494</td>
<td>82.5</td>
</tr>
<tr>
<td>30-40</td>
<td>252</td>
<td>34.9</td>
<td>56,155</td>
<td>104,975</td>
<td>161,130</td>
<td>55.1</td>
</tr>
<tr>
<td>40-50</td>
<td>292</td>
<td>44.8</td>
<td>69,710</td>
<td>85,816</td>
<td>155,526</td>
<td>55.2</td>
</tr>
<tr>
<td>50-60</td>
<td>302</td>
<td>55.0</td>
<td>72,427</td>
<td>59,152</td>
<td>131,579</td>
<td>45.0</td>
</tr>
<tr>
<td>60-70</td>
<td>327</td>
<td>65.0</td>
<td>79,038</td>
<td>42,605</td>
<td>121,643</td>
<td>35.0</td>
</tr>
<tr>
<td>70-80</td>
<td>365</td>
<td>74.8</td>
<td>92,272</td>
<td>31,043</td>
<td>123,315</td>
<td>25.2</td>
</tr>
<tr>
<td>80-90</td>
<td>393</td>
<td>84.7</td>
<td>92,414</td>
<td>18,699</td>
<td>111,113</td>
<td>15.3</td>
</tr>
<tr>
<td>90-95</td>
<td>175</td>
<td>90.0</td>
<td>73,714</td>
<td>5,518</td>
<td>79,232</td>
<td>7.0</td>
</tr>
<tr>
<td>95-100</td>
<td>800</td>
<td>98.9</td>
<td>284,341</td>
<td>3,130</td>
<td>287,480</td>
<td>1.1</td>
</tr>
<tr>
<td>Total</td>
<td>4,155</td>
<td>25.6</td>
<td>1,086,089</td>
<td>3,155,419</td>
<td>4,241,508</td>
<td>74.4</td>
</tr>
<tr>
<td>Derby</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-10</td>
<td>2</td>
<td>2.4</td>
<td>423</td>
<td>17,334</td>
<td>17,757</td>
<td>97.6</td>
</tr>
<tr>
<td>10-30</td>
<td>3</td>
<td>20.2</td>
<td>497</td>
<td>1,957</td>
<td>2,454</td>
<td>79.8</td>
</tr>
<tr>
<td>30-40</td>
<td>0</td>
<td>-</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>40-50</td>
<td>4</td>
<td>41.6</td>
<td>987</td>
<td>1,386</td>
<td>2,373</td>
<td>58.4</td>
</tr>
<tr>
<td>50-60</td>
<td>2</td>
<td>55.9</td>
<td>1,566</td>
<td>1,233</td>
<td>2,799</td>
<td>44.1</td>
</tr>
<tr>
<td>60-70</td>
<td>6</td>
<td>62.8</td>
<td>4,791</td>
<td>2,880</td>
<td>7,651</td>
<td>37.4</td>
</tr>
<tr>
<td>70-80</td>
<td>10</td>
<td>74.7</td>
<td>30,274</td>
<td>10,298</td>
<td>40,540</td>
<td>25.3</td>
</tr>
<tr>
<td>80-90</td>
<td>53</td>
<td>87.1</td>
<td>462,544</td>
<td>68,442</td>
<td>531,086</td>
<td>12.9</td>
</tr>
<tr>
<td>90-95</td>
<td>52</td>
<td>93.3</td>
<td>663,201</td>
<td>47,999</td>
<td>711,190</td>
<td>6.7</td>
</tr>
<tr>
<td>95-100</td>
<td>181</td>
<td>97.9</td>
<td>2,000,715</td>
<td>43,774</td>
<td>2,044,489</td>
<td>2.1</td>
</tr>
<tr>
<td>Total</td>
<td>313</td>
<td>94.2</td>
<td>3,168,098</td>
<td>195,250</td>
<td>3,363,348</td>
<td>5.8</td>
</tr>
<tr>
<td>Mop-up</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-10</td>
<td>8</td>
<td>0.9</td>
<td>183</td>
<td>21,026</td>
<td>21,209</td>
<td>99.1</td>
</tr>
<tr>
<td>10-30</td>
<td>22</td>
<td>22.6</td>
<td>6,338</td>
<td>21,668</td>
<td>28,004</td>
<td>77.4</td>
</tr>
<tr>
<td>30-40</td>
<td>19</td>
<td>35.3</td>
<td>15,192</td>
<td>27,901</td>
<td>43,093</td>
<td>64.7</td>
</tr>
<tr>
<td>40-50</td>
<td>11</td>
<td>45.3</td>
<td>9,577</td>
<td>11,558</td>
<td>21,135</td>
<td>54.7</td>
</tr>
<tr>
<td>50-60</td>
<td>12</td>
<td>56.1</td>
<td>13,168</td>
<td>10,297</td>
<td>23,465</td>
<td>43.9</td>
</tr>
<tr>
<td>60-70</td>
<td>19</td>
<td>64.9</td>
<td>12,162</td>
<td>6,533</td>
<td>18,695</td>
<td>35.1</td>
</tr>
<tr>
<td>70-80</td>
<td>35</td>
<td>76.8</td>
<td>44,505</td>
<td>13,467</td>
<td>57,972</td>
<td>23.2</td>
</tr>
<tr>
<td>80-90</td>
<td>30</td>
<td>86.6</td>
<td>61,702</td>
<td>9,583</td>
<td>71,285</td>
<td>13.4</td>
</tr>
<tr>
<td>90-95</td>
<td>29</td>
<td>92.5</td>
<td>67,958</td>
<td>5,479</td>
<td>73,437</td>
<td>7.5</td>
</tr>
<tr>
<td>95-100</td>
<td>89</td>
<td>98.8</td>
<td>178,051</td>
<td>2,200</td>
<td>180,251</td>
<td>1.2</td>
</tr>
<tr>
<td>Total</td>
<td>272</td>
<td>75.9</td>
<td>408,836</td>
<td>129,760</td>
<td>538,596</td>
<td>24.1</td>
</tr>
</tbody>
</table>
TABLE 5. Amounts of 1996 limited entry fixed gear sablefish catch, by condition category for the daily-trip-limit, derby, and mop-up fishery.

<table>
<thead>
<tr>
<th>Total Pounds Landed, by Condition Category</th>
<th>Daily-Trip-Limit</th>
<th>Derby</th>
<th>Mop-Up</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dressed</td>
<td>248</td>
<td>2,150</td>
<td>254</td>
</tr>
<tr>
<td>Round</td>
<td>80</td>
<td>970</td>
<td>57</td>
</tr>
<tr>
<td>Unspecified</td>
<td>496</td>
<td>1,016</td>
<td>146</td>
</tr>
<tr>
<td>Total</td>
<td>824</td>
<td>4,136</td>
<td>459</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Portion of Specified Condition Pounds Landed, by Condition</th>
<th>Portions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dressed</td>
<td>0.76</td>
</tr>
<tr>
<td>Round</td>
<td>0.24</td>
</tr>
<tr>
<td>Portion of Total Pounds Landed, by Condition Category</td>
<td></td>
</tr>
<tr>
<td>Dressed</td>
<td>0.30</td>
</tr>
<tr>
<td>Round</td>
<td>0.10</td>
</tr>
<tr>
<td>Unspecified</td>
<td>0.60</td>
</tr>
</tbody>
</table>
The dependence percentages are based on total shoreside landings of marine and anadromous fish and do not take into account fish transported to the area which were reported as being landed in other areas, e.g., Alaska landings transported to Seattle.

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

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

FIGURE 1. Fishpot and line gear sablefish landings by geographic distribution and port dependence.
Figure 2. Fixed gear sablefish landings (average for 1997-1999).

- West Coast
- Alaska
APPENDIX A

Supplemental GMT Report D.15.
June 2000

PRELIMINARY EVALUATION OF THE EFFECTS OF PERMIT STACKING ON SEASON LENGTH AND LIMITS IN THE THREE-TIERED, LIMITED ENTRY, FIXED GEAR FISHERY FOR SABLEFISH

Prepared by Dr. James Hastie
of the National Marine Fisheries Service Northwest Fisheries Science Center

The draft version of the Strategic Plan presented to the Council at this meeting identifies the development of a voluntary stacking program for the three-tiered sablefish fishery as a high priority. In support of that discussion, this document summarizes the results of a modeling exercise intended to provide insight into the changes in season length and cumulative limits that would be required to maintain the desired level of "overhead" in the fishery. As such, this analysis is predicated on the assumption that the moratorium on new IQ programs remains in force.

If the moratorium were to lapse in 2000, a season length of at least two months would be anticipated in 2001. Since season length would be far less constraining under those circumstances, the number of permits that might reasonably be used for stacking would be higher and the distribution of stacked permits would be quite different than portrayed in this analysis. Without the need for overhead, cumulative limits would fall to the point where the cumulative limits times the number of endorsed permits in each tier equaled the target poundage for the fishery. Given the current target, the Tier 1 limit would be 66,510 pounds, with limits for Tiers 2 and 3 roughly 30,000 pounds and 17,000 pounds, respectively. A conservative expansion of the currently estimated permit catching capacities to reflect a 2-month season suggests that at least 62 permits could catch at least 200,000 pounds--about three Tier-1 limits--in that amount of time. Of course, this represents the ability of these 62 permits to catch the equivalent of 186 Tier-1 limits, and there are only 164 sablefish-endorsed permits, and just 27 of those are Tier 1. Given this circumstance, the ultimate disposition of stacked permits in a two-month fishery without overhead considerations would be highly uncertain.

In the modeling scenario developed for this analysis, 30 permits are assumed to be stacked in a fishery with the same target poundage as in 2000. The primary criterion used in determining which permits would add an additional permit was the poundage difference between the estimated catching capacity of the permit and the amount of its current cumulative limit. The degree to which that catching capacity has actually be utilized in recent fisheries was also considered. Determining which permits would be included in the group providing the stacked permits was more complicated. Factors included in developing a ranking permits according to their likelihood of being stacked included 1) the difference between a permit's current limit and its projected landings; 2) the difference between a permit's current limit and its recent sablefish landings; 3) the value of its sablefish limit poundage relative to recent earnings from other groundfish and non-groundfish species; and 4) ownership of multiple permits and whether any such permits are currently leased.

To simplify the modeling, no more than one permit was stacked on any other, and the original permit attached to a vessel was always retained by that vessel if it remained in the fishery. In other words, a vessel currently having a Tier-2 permit was only evaluated with regard to adding another permit, not with regard to selling it and buying two Tier-3 permits. The analysis does not evaluate how many permits would be stacked if the opportunity were available. No consideration of the cost of obtaining permits or the effects of doing so on vessel profitability was included. Permits selected to add another permit were assigned a permit from a tier having a limit poundage that was less than, or near, the estimated difference between their catching capacities and existing limit poundages.

The number of 30 stacked permits was selected, during the evaluations described above, because it did not appear that many more permits would have an ability to make full use of an additional limit, given the time constraints placed on the fishery. Therefore, 30 probably represents a reasonable estimate of the largest number of permits that would be stacked under a voluntary program subject to existing overhead.
considerations. Uncertainties regarding the limit poundage that would be realized through stacking, as well as the time that would be available to catch it, could discourage some potential stackers from doing so. Additionally, market conditions might be such that the expected financial benefits from stacking would not exceed the costs of permit acquisition for many vessels that have the physical capability of landing additional limits. Because those who acquire additional permits to stack will be buying permits conveying access to a suite of groundfish species—not just sablefish—the status of rockfish allocation, fixed gear rockfish endorsements, changes in groundfish limits for 2001 (and beyond), and the ability to obtain higher rockfish limits through stacking will also affect the willingness of individuals to purchase permits for stacking. On the basis of current ownership of multiple permits and permits that have few or no landings in recent fisheries, a reasonable estimate for the minimum number of stacked permits would be in the 7-10 range.

Table 1 provides a summary of permit shifts used in this scenario. The pool of 30 stacked permits is drawn from all three tiers: three from Tier 1, nine from Tier 2, and 18 from Tier 3. This represents about 11% of the Tier-1 permits, and about 20% of the permits in each of the other tiers. The stacked Tier-1 permits were distributed to one permit in each of the three tiers. Of the 9 stacked Tier-2 permits, three went to Tier-1 permits, two to Tier-2 permits, and four to Tier-3 permits. Of the 18 stacked Tier-3 permits, three were assigned to Tier-1 permits, seven to Tier-2 permits and eight to Tier-3 permits.

Each of the two models used to provide recommendations for the 2000 fishery (Attachment D.6.a.) was used to project limit size and season length under this assumed distribution of permits. Table 2 summarizes the overhead results using these model configurations, with the addition of stacking. Also, the last row shown for each model indicates the estimated amount of overhead if this stacked fleet were provided with the season length and limits recommended for the 2000 fishery (with that model). The right-hand columns illustrate the difference in the contribution to estimated overhead between the group of permits fishing a single limit and those fishing two.

Table 3 provides a more detailed summary of limit amounts, season lengths and overhead for the two model configurations. For each case, the 2000 model results without stacking are provided first, for comparative purposes. With stacking, an 8-day fishery, under Model 1, would meet the worst-case overhead goal of exceeding 15%, however the expected overhead is slightly below the current minimum target of 25%. As a result, both models indicate that in order to meet both overhead standards, the fishery would need to be constrained to seven days. This would represent a reduction of two days from the 2000 Model-1 recommendation and one day from the Model-2 recommendation. Due to the greater reduction in length under Model 1, the limits available for a seven-day fishery with 30 stacked permits would be about 6% higher than recommended for a nine-day fishery in 2000. Because the eight-day scenario is so close to achieving the overhead objectives, reduction of another full day produces much higher overhead than necessary (41%). Projected limits for seven days under the more conservative Model 2 are lower than the Model-2 recommendations for 2000, but the estimated overhead is closer to the minimum standards.

Assuming that sufficient overhead will continue to be a concern, the difference between these results and projections for the 2000 fishery underscores the need for a management structure which will allow final parameters for the fishery to be determined after a deadline has passed marking the close of permit stacking that can be utilized during that year's fishery.
### TABLE 1. Distribution of three-tiered sablefish endorsements in the hypothetical modeling of 30 stacked permits.

<table>
<thead>
<tr>
<th></th>
<th>Original Tier Assignment</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td># of Tier 1 endorsements after stacking</td>
<td></td>
<td>25</td>
<td>1</td>
<td>1</td>
<td>27</td>
</tr>
<tr>
<td># of Tier 2 endorsements after stacking</td>
<td></td>
<td>3</td>
<td>36</td>
<td>4</td>
<td>43</td>
</tr>
<tr>
<td># of Tier 3 endorsements after stacking</td>
<td></td>
<td>3</td>
<td>7</td>
<td>84</td>
<td>94</td>
</tr>
<tr>
<td>Total endorsements after stacking</td>
<td></td>
<td>31</td>
<td>44</td>
<td>89</td>
<td>164</td>
</tr>
<tr>
<td># of stacked permits</td>
<td></td>
<td>3</td>
<td>9</td>
<td>18</td>
<td>30</td>
</tr>
<tr>
<td>Tier 1 only</td>
<td></td>
<td>17</td>
<td></td>
<td></td>
<td>17</td>
</tr>
<tr>
<td>Tier 2 only</td>
<td></td>
<td>24</td>
<td></td>
<td></td>
<td>24</td>
</tr>
<tr>
<td>Tier 3 only</td>
<td></td>
<td>63</td>
<td></td>
<td></td>
<td>63</td>
</tr>
<tr>
<td>Tier 1+1</td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Tier 1+2</td>
<td></td>
<td>3</td>
<td>1</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>Tier 1+3</td>
<td></td>
<td>3</td>
<td></td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>Tier 2+2</td>
<td></td>
<td>2</td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Tier 2+3</td>
<td></td>
<td>7</td>
<td>4</td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>Tier 3+3</td>
<td></td>
<td>8</td>
<td></td>
<td></td>
<td>8</td>
</tr>
</tbody>
</table>

### TABLE 2. Comparison of estimated overhead for the entire fleet with values for vessels stacking permits or fishing a single permit in the hypothetical stacking scenario.

<table>
<thead>
<tr>
<th>Model 1 Configuration</th>
<th>Fleet Overhead</th>
<th>Overhead among Vessels With:</th>
<th>Overhead among Vessels With:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Stacked Permits</td>
<td>Single Permits</td>
</tr>
<tr>
<td>Model 1 configuration</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8 days</td>
<td>22%</td>
<td>9%</td>
<td>33%</td>
</tr>
<tr>
<td>7 days</td>
<td>41%</td>
<td>18%</td>
<td>61%</td>
</tr>
<tr>
<td>9 days and 2000 limits</td>
<td>19%</td>
<td>8%</td>
<td>26%</td>
</tr>
<tr>
<td>Model 2 configuration</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7 days</td>
<td>30%</td>
<td>10%</td>
<td>46%</td>
</tr>
<tr>
<td>8 days and 2000 limits</td>
<td>25%</td>
<td>8%</td>
<td>38%</td>
</tr>
</tbody>
</table>
TABLE 3.—Comparison of recommendations for the duration and cumulative limits for the 2000 primary fishery with projections for a fishery in which 30 underutilized permits were stacked.

<table>
<thead>
<tr>
<th></th>
<th>Tier 1</th>
<th>Tier 2</th>
<th>Tier 3</th>
<th>Total</th>
<th>Worst Case</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(1-day differential)</td>
</tr>
<tr>
<td># of permits</td>
<td>27</td>
<td>43</td>
<td>94</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Model 1: (less conservative)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>with a general landings reduction of 1% and landings reductions for permits not fishing in [1999:1998:1997] of (30%:20%:10%) and/or landings reductions for achieving less than [50%:70%] of their available 1999 limit (20%:10%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tier-specific capacity reductions</td>
<td>2%</td>
<td>13%</td>
<td>33%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Model results for the 2000 fishery</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Duration</td>
<td>9 days</td>
<td>5,757,435</td>
<td>5,757,435</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cumulative Limit</td>
<td>81,278</td>
<td>36,731</td>
<td>21,101</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expected landings</td>
<td>68,009</td>
<td>29,884</td>
<td>14,774</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overhead</td>
<td>20%</td>
<td>24%</td>
<td>43%</td>
<td>28%</td>
<td>22%</td>
</tr>
<tr>
<td>Model results with 30 stacked permits</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Duration</td>
<td>8 days</td>
<td>5,507,774</td>
<td>5,507,774</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cumulative Limit</td>
<td>77,753</td>
<td>35,139</td>
<td>20,186</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expected landings</td>
<td>4,496,899</td>
<td>4,711,315</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overhead</td>
<td>22%</td>
<td></td>
<td></td>
<td>17%</td>
<td></td>
</tr>
<tr>
<td>Duration</td>
<td>7 days</td>
<td>6,095,734</td>
<td>6,095,734</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cumulative Limit</td>
<td>86,054</td>
<td>38,890</td>
<td>22,341</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expected landings</td>
<td>4,309,769</td>
<td>4,711,315</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overhead</td>
<td>41%</td>
<td></td>
<td></td>
<td>26%</td>
<td></td>
</tr>
<tr>
<td>Model 2: (more conservative)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>with a general landings reduction of 2% but smaller landings reductions for permits not fishing in [1999:1998:1997] of (20%:10%:10%)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tier-specific capacity reductions</td>
<td>4%</td>
<td>15%</td>
<td>35%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Model results for the 2000 fishery</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Duration</td>
<td>8 days</td>
<td>6,071,510</td>
<td>6,071,510</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cumulative Limit</td>
<td>85,712</td>
<td>38,735</td>
<td>22,252</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expected landings</td>
<td>64,706</td>
<td>29,083</td>
<td>14,817</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overhead</td>
<td>32%</td>
<td>33%</td>
<td>50%</td>
<td>38%</td>
<td>29%</td>
</tr>
<tr>
<td>Model results with 30 stacked permits</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Duration</td>
<td>7 days</td>
<td>5,673,622</td>
<td>5,673,622</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cumulative Limit</td>
<td>80,095</td>
<td>36,197</td>
<td>20,794</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expected landings</td>
<td>4,355,905</td>
<td>4,711,315</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overhead</td>
<td>30%</td>
<td></td>
<td></td>
<td>20%</td>
<td></td>
</tr>
</tbody>
</table>
This appendix outlines changes to the FMP text that would be needed to implement those aspects of the stacking alternative that would require an FMP amendment (see Section 1.6). Text to be added is highlighted in bold italics and text to be deleted is struck through.

**Existing FMP Language Authorizing Permit Stacking**

Section 14.2.4 of the FMP authorizes the stacking of permits and reads as follows (bolded text added as part of Amendment 13):

14.2.4 Ownership Restriction and Changes in Ownership

1. Only entities (human beings, corporations, etc.) qualified to own a U.S. fishing vessel may be issued or may hold (by ownership or otherwise) an LE permit. (Foreign ownership of LE permits should be limited to the maximum degree possible given what is allowed under the law.)

2. Ownership of a permit will be considered to change when there is an ownership change on U.S. Coast Guard documents, however, an owner can submit documents to demonstrate that the controlling interest has not changed and therefore the change in documentation is not a change in ownership.

3. An entity qualified to hold an LE permit may hold more than one LE permit. If the Council authorizes a LE permit stacking program, in which a vessel could use more than one permit simultaneously, each LE fishery participant would be required to hold at least one LE "base" permit. An LE base permit is the initial permit necessary to participate in the LE fishery, and subject to all of the requirements described herein for LE permit ownership qualifications, and gear and length endorsements. Requirements and additional priorities for permits "stacked" on to base permits may be authorized in a federal rulemaking.

**Any Provision 2 Stacking Option Combined with Option 4a of the Stacking Alternative**

Section 14.2.4 gives the Council the authority to create a permit stacking program, however, Provision 2 of the stacking alternative specifies that where a trawl endorsement is involved in permit stacking (i.e. a permit has both a trawl endorsement and at least one fixed gear endorsement), if permits can be unstacked (Option 4a), the downsizing requirement for trawl permits will be waived. The following the changes to the FMP needed to implement any Provision 2 option combined with Option 4a.

14.2.7 Size Endorsement Will Specify the Vessel Length

The LE permit will be endorsed with the length overall (as defined for purposes of U.S. Coast Guard documentation) of the vessel for which the LE permit is initially issued. The length for which the LE permit is endorsed will be changed only when LE permits are combined, as per Section 14.2.10, or, in the case of LE permits endorsed for trawl gear, when the size of the vessel used with the permit is more than five feet less than the originally endorsed length. In the latter case, the LE permit will be reissued with a size endorsement for the length of the smaller vessel. Regulations may be promulgated to waive this downsizing requirement if the permit was transferred to a smaller vessel for the purpose of stacking (See Section 14.2.4 paragraph 3). Vessels which do not have documents stating their length overall will have to be measured by a marine surveyor or the U.S. Coast Guard and certified for that length.
14.2.9 Transfer of an LE Permit to Different Owners or Vessels of the Same Owner

3. LE permits may be used with vessels greater in length than the endorsed length provided the increase does not exceed five feet of the endorsed length. Original size endorsements will change only when LE permits are combined as per Section 14.2.10, or when an LE permit with a trawl endorsement is transferred to a vessel five feet less in length than the endorsed length. In the latter case, the LE permit will be reissued with a size endorsement for the length of the smaller vessel. Regulations may be promulgated to waive this down sizing requirement if the permit was transferred to a smaller vessel for the purpose of stacking (See Section 14.2.4 paragraph 3).

Option 4c of the Stacking Alternative

Section 14.2.4 gives the Council the authority to create a permit stacking program and require that once permits are stacked they cannot be unstacked. However, tier limits are associated with the sablefish endorsement. In order to allow tier limits to be transferred separately from the sablefish endorsements, as specified in Option 4c, Section 14.2.6 paragraph 4 of the FMP would be amended to read:

4. If permits are stacked such that a single permit has multiple sablefish endorsements, sablefish endorsements and associated cumulative limits may be transferred to other sablefish endorsed permits so long as at least one sablefish endorsement and associated tier limit remains with the permit. Fixed gear sablefish endorsements may not be transferred from permits on which there is only one fixed gear sablefish endorsement. are not separable from the LE permit and therefore may not be transferred separately from the LE permit.

Options 7a and 7c of the Stacking Alternative

Section 14.2.4 gives the Council the authority to create a permit stacking program and require that permit owners be on board the vessel when permits are stacked. However, Option 7a would require all permit owners to be on board while a vessel is participating in the primary fixed gear sablefish fishery, even when permits are not stacked. Additionally, for the purpose of implementing a grandfather clause, Options 7a and 7c would create a definition of change in ownership different from that in the FMP. To implement the grandfather clause Section 14.2.4 of the FMP would need to be modified as follows.

14.2.4 Ownership Restriction and Changes in Ownership

4. For the purpose of provisions specifically identified by the Council, NMFS may promulgate regulations which define a change in ownership of a permit as a change in the identity or ownership interest of a corporation or partnership owning a permit.

To implement the owner-on-board requirement for permits that are not stacked (Option 7a), a new section (Section 14.2.12) would be added to the FMP:

14.2.12 Owner-on-board Requirements

In order to preserve the social and historic characteristics and practices in the fishery or to encourage the flow of fishery benefits into fishing communities, on the Council’s recommendation, as it deems appropriate and consistent with the goals of the groundfish FMP and National Standards, NMFS may require permit owners to be on-board a vessel during fishing operations.
Option 9b of the Stacking Alternative

Under the extended season specified in Option 5a, vessels with fixed gear limited entry permits that do not have sablefish endorsements would not be able to operate for a substantial portion of the season. If these vessels are to be provided a fixed gear sablefish opportunity during the primary fixed gear fishery, the following changes would be needed in the FMP language.

14.2.6 Fixed Gear Sablefish Endorsements

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

14.2.8 An LE Permit and Necessary Gear and Sablefish Fixed Gear Endorsements Will Be Held by the Owner of Record of the Vessel

6. A vessel owner may not use a vessel, or allow a vessel to be used, to catch any Council-managed sablefish with longline or fishpot gear against the LE fixed gear sablefish allocation and under LE fixed gear sablefish regulations during fishing periods as part of the primary fixed gear sablefish fishery specified in the regulations and north of 36°N latitude, unless the vessel owner holds an LE permit with a longline or fishpot gear endorsement and a fixed gear sablefish endorsement, and the LE permit has been registered with National Marine Fisheries Service (NMFS) for use with that vessel. Sablefish endorsements are not required to harvest under fixed gear limited entry daily-trip-limit or other regulations intended to allow low level or incidental harvest.

US Citizenship Requirement (Option 10a)

14.2.4 Ownership Restriction and Changes in Ownership

1. Only entities (human beings, corporations, etc.) qualified to own a U.S. fishing vessel may be issued or may hold (by ownership or otherwise) an LE permit with the exception of limited entry longline and fishpot permits endorsed for sablefish. Longline and fishpot permits endorsed for sablefish maybe owned only by US citizens. (Foreign ownership of LE permits should be limited to the maximum degree possible given what is allowed under the law.)
APPENDIX C
National Standards and Groundfish FMP Goals and Objectives

National Standards

The following are the national standards that must be met by any action recommended by the Council. The national standards most relevant to permit stacking are italicized.

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

(2) Conservation and management measures shall be based upon the best scientific information available.

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

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

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

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

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

Groundfish Fishery Management Plan

The following are the goals and objectives of the groundfish FMP. The goals and objectives most relevant to permit stacking are italicized.

Management Goals.

Goal 1 - Conservation. Prevent overfishing by managing for appropriate harvest levels, and prevent any net loss of the habitat of living marine resources.
Goal 2 - Economics. Maximize the value of the groundfish resource as a whole.

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

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

Conservation.

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

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

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

Economics.

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

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

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

Utilization.

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

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

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

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

Social Factors.

Objective 11. When conservation actions are necessary to protect a stock or stock assemblage, attempt to develop management measures that will affect users equitably. Develop management measures that minimize bycatch to the extent practicable and, to the extent that bycatch cannot be avoided, minimize the mortality of such bycatch. Promote and support
monitoring programs to improve estimates of total fishing-related mortality and bycatch, as well as those to improve other information necessary to determine the extent to which it is practicable to reduce bycatch and bycatch mortality.

**Objective 12.** Minimize gear conflicts among resource users.

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