

DECISION STEPS APPENDIX A: IFQ DESIGN ELEMENTS

This is the appendix to Agenda Item E.6.a Attachment 3 and covers design elements for an IFQ program.

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A.1.0 Portion of the LE Trawl Fleet Allocation for Which IFQs are Required

The issue here is how to treat landings by LE trawl vessels using open access gears. Should they be required to hold IFQ to cover these landings or not. Under current catch accounting rules, any groundfish catch by trawl vessels is counted against the limited entry allocation, regardless of gear used.

Summary of Options from Public Information Document:

		TIQC Pref
IFQ Program Scope - Option 1: Require IFQ for all catch by LE trawl vessels. For LE trawl vessel landings with OA gear		
SubOption A	Apply open access fishery cumulative limit and other harvest regulations.	
SubOption B	Allow landings in excess of open access fishery cumulative limits, so long as landings are completely covered by IFQ.	
IFQ Program Scope - Option 2: Require IFQ only for groundfish trawl catch by LE trawl vessels		
SubOption A	<ul style="list-style-type: none"> Split the trawl allocation between IFQ and nonIFQ harvest Manage groundfish harvest by trawl vessels using open access gears to stay within the suballocation. 	
SubOption B	<ul style="list-style-type: none"> Maintain the same LE allocation Change the accounting system such that catch by LE trawl vessels using open access gears counts against the open access allocation. Determine whether or not to make similar changes with respect to LE longline and fishpot vessels. 	
SubOption C	<ul style="list-style-type: none"> Re-allocate a portion of the LE allocation Change the accounting system such that catch by LE trawl vessels using open access gears counts against the open access allocation. Determine whether or not to make similar changes with respect to LE longline and fishpot vessels. 	
NEW		

Public Comments: None

Some Key Issues and Information:

If the scope of the program

includes LE trawl vessel landings with open access gears

- such landings will need to be made in compliance with the IFQ monitoring program (this could mean that trawlers need to carry observers when participating in any fishery that might take groundfish as bycatch).
- the opportunity could be provided for trawl vessels to switch all of their groundfish landings to nontrawl gear (depending on suboptions selected).

does not include trawl vessel landings with open access gears

- accounting and management measures (including inseason tracking and adjustments) will be needed for OY taken by trawl vessels using open access gears, or such activities will need to be merged and managed jointly with some other sector (e.g. trawl vessel landings with open access gear managed jointly with limited entry fixed gear or open access vessel landings).

Data for 1998 and 2003 indicate that 80 and 16 LE trawl vessels landed a total of 280 thousand and 54 thousand pounds, respectively, of groundfish using open access gears (see Analytical Team Report for more information).

Potential Council Action

- 1. Narrow the set of options based on information provided.*
- 2. Based on narrowed set of options decide whether to assign this issue to the Allocation Committee for further deliberation.*

Reference Materials:

Analytical Team Report
Section A.1 of the Scoping Results Document

A.2.0 Area Restrictions

Area restrictions on IFQ can be applied to area of catch or area of landing. Which type of restriction is applied, if any, probably depends on whether the primary concern is regional stock depletion or the geographic distribution of benefits. However, area of catch restrictions would likely assist in preventing geographic concentration of landings and area of landings restrictions would likely assist in preventing regionalized depletion. Area restrictions may also lead to increased local control and stewardship since regional participants would have an increased investment in the health and longevity of stocks.

Summary of Options from Public Information Document:

		TIQC Pref
Option 1:	Area restrictions based solely on the need to address stock conservation concerns. Suboption: If some IFQ are to be catch area specific, all landings should occur in ports within the catch area, unless catch is kept separate and monitored at-sea.	
NEW		

The TIQC recommended not adopting IFQs with landing area restrictions.

Public Comments:

Landing or catch area specific IFQ based on biological and socio-economic need	ED, Survey (ED)
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Some Key Issues and Information:

Sufficient stock information to provide definitive answers on the need for area management for many species will not likely be available (see Analytical Team Report). At its September 2004 meeting, the Council included in the Terms of Reference to stock assessment authors direction to evaluate regional stock differences or identify the information needed to make such an evaluation. The key question in deciding on whether to implement area management for an IFQ system will likely be based on risk trade-off and the cost of error recovery. If it turns out that area management was needed but not implemented, error recovery costs would be both in the form of recovery from biological damage and the costs of modifying the program IFQs after IFQs have been issued. Costs associated with area management are reduced flexibility, increased management and monitoring complexity and the loss of potential operational efficiency gains from the program.

The distribution of effort in the trawl fishery will likely be driven, in part, by the value derived from the complex of species that is available for harvest. If CPUE for a complex is high, effort may stay focused in an area even if some components of the complex are regionally depleted.

The reduced CPUE resulting from regionalized depletion of an individual species does not necessarily mean that IFQ for that species will flow to other areas.

There does appear to be reason to believe that IFQs could create conditions under which there will be a greater potential for shift in the geographic distribution of landings as compared to the status quo license limitation program (Analytical Team Report).

Depending on the at-sea monitoring system needed to ensure that all catch is accurately reported, landing area based IFQ may be less expensive to enforce than catch area restrictions.

Potential Council Action

Determine whether options for area specific IFQs should be developed.

If so,

- a. Should the primary focus be on catch area or landing area, or both (as a combined option)?*
- b. Can one of the types of area IFQs be tentatively set aside (catch area or landing area)?*

Note: any option set aside will be discussed as part of the analysis and may be restored at a later date if information is brought to bear warranting such reconsideration.

Reference Materials:

Analytical Team Report
Section A.2 of the Scoping Results Document

A.3.0 IFQ and LE Permit Holding Requirements

Summary of Options from Public Information Document:

		TIQC Preference
Option 1	Register IFQ to the vessel - vessels must cover the species with IFQ at the time of landing.	
Option 2	Register IFQ to the vessel - vessels must cover the species within 24 the time of landing.	
Option 3	Register IFQ to the vessel - vessels must cover the species with IFQ within 30 days of landing - no more fishing until covered.	
NEW		

These options may be combined with a suboption that requires that some threshold amount of unused IFQ be held at the time a vessel departs from port. The TIQC recommended not adopting an option that would require that all IFQ needed to cover a landing be held prior to departing from a port.

Public Comments: None

Some Key Issues and Information:

Requiring that a IFQ be fished only from vessels with LE trawl permits will reduce enforcement costs but could potentially prevent the most efficient outcome.

The decision on when to require that IFQ be held has implications for likely program benefits and enforcement and monitoring costs.

	Basic Choice	
	Sufficient IFQ to Cover Catch Must Be Held Prior to Landing	IFQ Can Be Acquired After Offloading Completed
Industry		
Enforcement and Monitoring	Violations can be detected by hold inspections of returning vessels.	No opportunity for determination of a violation prior to offloading. System must rely on accurate recording of catch.

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A.4.0 Transfer Rules

A.4.1 Transfer of IFQ or IBQ to a Different Sector for Use

IFQ might be issued under sector-specific allocation rules (Section 13.0) but could be freely transferable among trawl sectors or specific to a particular trawl sector. For example, there could be a single type of IFQ for darkblotched rockfish or there may be a separate type of darkblotched IFQ for each of the whiting sectors and the nonwhiting sector. Similarly there might be a single category or separate categories for each sector (including the shoreside nonwhiting fishery).

Transfer might also be allowed to nontrawl sectors, if an adequate tracking and monitoring system is in place. The following are the sectors and subdivisions for which sector specific IFQs might be considered.

Trawl	Whiting	At Sea	Catcher Processors
			Motherships
		Shoreside	
Nonwhiting			
Nontrawl			

Summary of Options from Public Information Document:

		TIQC Preference
IFQ Option 1	IFQ must be used within the trawl sector for which it was issued (e.g. establish separate IFQ classes for the whiting and nonwhiting fleets).	
IFQ Option 2	IFQ may be traded between trawl sectors managed under the IFQ program.	
NEW		

IQ might also be established for bycatch species such as halibut. If halibut is a prohibited species the IQ would be termed IBQ.

IBQ Option 1	Prohibit transfers outside the trawl sector.
IBQ Option 2	Allow transfers to gears that are legal for the species and allow those gears to retain catch taken under IBQ when operating in compliance with the IBQ program.

Public Comments:

Include recreational fisheries and allow cross sector transfers.	UASC
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Some Key Issues and Information:

The more transferability that is allowed the more efficient the use of the resource. Restrictions on sector transfers may be desirable to maintain the character of the fishery.

If IBQ were created for halibut consultation with the IPHC would be required. If the program were to allow transfer of the IBQ to another gear type that could legally retain the halibut, there would need to be a downward adjustment in the amount of halibut represented by the IBQ. For halibut taken by the trawl sector there is an assumed bycatch discard mortality rate that is less than 100%. Obviously, mortality would be 100% in a retention fishery, hence the need for a downward adjustment. If the system were designed such that IBQ for halibut were converted to IFQ for the trawl fishery (i.e. trawl vessels would be allowed to retain halibut) the halibut catch sharing plan would need to be modified and approval would be required by the IPHC. A June 30, 2004 letter to the Council from IPHC Executive Director Bruce Leaman observed "Recent proposals to the Commission requesting trawl retention of halibut have not been approved, so it is unlikely that the Commission would adopt this proposal."

Any provisions for transfer of trawl IFQ to groups outside the trawl fishery will have to include design of an adequate quota and catch tracking and monitoring system and harmonization of the rules for use of the trawl IFQ with rules controlling nontrawl catch such that it results in additional harvest opportunity and can be adequately enforced. Administration, tracking and monitoring costs would likely increase with the extension. Gross benefits from harvest might increase if the trawl quota could be used to generate greater value in another sector.

Potential Council Action

1. *Determine whether or not to pursue development of options that would manage the whiting sectors under an IFQ system segregated from the nonwhiting sectors.*
2. *Determine whether or not to pursue options that*
 - a. *would allow the transfer of halibut IBQ to fisheries in which it could be legally retained.*
 - b. *create IBQ for other prohibited species, such as salmon or crab.*
3. *Determine whether to consider options to allow the transfer of trawl IFQ for use by nontrawl groups.*

Reference Materials:

Section A.4.1 of the Scoping Results Document

A.4.2 Eligible Owners/holders (Who May Own/hold)

Initial allocation of IFQ generally determines how windfall benefits will be distributed (Section 13.0). The question of who will be allowed to own IFQ is one of future control over benefits from the fishery.

Summary of Options from Public Information Document:

		TIQC Preference
Option 1	Anyone eligible to own a US documented vessel.	
Option 2	Stakeholders: include owners and lessees of LE permits or vessels, skippers/crew, processors, buyers, communities. <i>(NOTE: If ownership is restricted to these classes, criteria will need to be established to identify membership in these groups.)</i>	
NEW		

Public Comments:

Allow communities to form nonprofits and acquire IFQs	ED
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Some Key Issues and Information:

From Section 4.2.2 of the Scoping Results Document:

Some groups with social concern can be accommodated at least in part through the scope of eligible owners. For example, communities that are concerned about losing the benefits of fishing activities can be provided the opportunity to organize themselves and acquire IFQ, unless the ownership provisions prohibit them from doing so.

In general the more participants and more types of participants in the IFQ market the more likely it is that the IFQ will be used by those able to generate the greatest self-benefit from use of the IFQ and the higher the likely trading price for the IFQ.

If the class of persons eligible to own IFQs is to be limited, there would need to be rules for establishing membership in those classes. Where the person in an eligible class is a partnership or corporation, a determination would need to be made as to whether the individuals holding an interest in the partnership or corporation can separately qualify to own or lease IFQ or whether only the partnership or corporation itself may own or lease IFQ. If the latter is the case, a person who owns a vessel in a partnership might not, on his or her own, separately own IFQ. If the former is the case, then Option 2 which attempts to restrict ownership to stakeholders could allow a larger class of persons to own IFQs than Option 1.

Potential Council Action

- 1. Determine whether or not to consider options that would restrict the class of persons eligible to own IFQ. If so, identify classes to be considered for inclusion or exclusion under such an option.*

Reference Materials:

Section A.4.2 of the Scoping Results Document

A.4.3 Duration of Transfer - Leasing and Sale Prohibition

Leasing can allow fisheries to adapt to change and cover overages and incidental catch through the short term transfer of IFQ, rather than through discarding. One of the primary concerns associated with leasing is the potential for absentee ownership.

Summary of Options from Public Information Document:

		TIQC Preference
Option 1	Permanent transfers only - leasing prohibited.	
Option 2	Leasing and permanent transfers. Suboption: Prohibit all permanent transfers (leasing only) during the first year of the program.	
NEW		

Public Comments:

Compel quota holders who have historically leased their permits to others to continue to lease their IFQ to those individuals.	Survey (ED)
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Some Key Issues and Information:

From Section 4.3.2 of scoping document.

Participants in the New Zealand fishery have reported that in the first year of the program some individuals made unwise transactions as they did not have a good understanding of how the program would work. They recommended that during the initial years of a new program consideration be given to prohibiting the permanent transfer of IFQ.

The analysis done for the Amendment 6 groundfish license limitation program showed that while rules may be put in place to prohibit leasing or sale of a permit, if a permit is transferable private contractual agreements provide many opportunities to circumvent the intended effect of such prohibitions.

Potential Council Action

1. Determine whether or not to consider options that would restrict the leasing or sale of IFQs.

Reference Materials:

Section A.4.3 of the Scoping Results Document

A.4.4 Time of Sale

Restricting when quota shares may be transferred could simplify tracking IFQ. A restriction in place on transfers at the end of the year (not a listed option) might be an administrative necessity that facilitates the issuance of quota pounds for the following year. The transfer embargo is proposed as an enforcement measure.

Summary of Options from Public Information Document:

Time of Year

		TIQC Preference
Option 1	Allow transfers of quota shares any time during year.	
Option 2	Allow transfers of quota shares only at the end of year.	
NEW		

Transfer Embargo

		TIQC Preference
Option	Quota shares should not be transferred from any account for which there is a deficit of quota pounds (i.e. any account for which landings exceed quota pounds for at least one species.	
NEW		

Public Comments: None

Some Key Issues and Information:

Need and costs for restrictions on the time of year of transfer will likely become more apparent as the program is further developed.

Potential Council Action

1. *None. Wait until more information is available on administrative constraints and potential costs.*

Reference Materials:

Section A.4.4 of the Scoping Results Document

A.4.5 Divisibility

Blocking quota share combined with a limit on stacking has been suggested as a means to preserve opportunity for small operations.

Summary of Options from Public Information Document:

Elements of Divisibility Provisions (Separate Options Not Identified)		TIQC Preference
1.	Quota Shares: nearly unrestricted divisibility - "many decimal points."	
2.	Quota Pounds: divisible to the single pound	
NEW		

Public Comments:

Blocked quota shares	ED-Survey
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Some Key Issues and Information:

Putting quota in small blocks and placing limits on the number of blocks that could be stacked (plus a requirement that those holding blocked quota could not hold unblocked quota) could make quota available at a lower per unit price. Individuals entering the fishery would have a choice of acquiring blocks (likely available at a lower price per unit of quota) or divisible quota in what ever size increment they could afford.

Because of the multispecies nature of the West Coast fishery, blocking quota shares may make it more difficult for fishers to match their holdings to catch. Difficulty in matching catch to quota holdings may increase the incentive to discard or underreport landings or result in lower catch levels (more unused quota).

The Alaskan blocked quota share system has been repealed.

Potential Council Action

- 1. Consider whether or not to pursue development of an option to block quota shares.*

Reference Materials:

Section A.4.5 of the Scoping Results Document

A.4.6 Liens

The Magnuson-Stevens Act includes creation of a lien registry system, but none has been implemented to date. Lenders have expressed concern that liens on IFQ might be passed on to IFQ purchasers without the purchasers knowledge. This situation may undermine the confidence of lenders, making it more difficult for potential new entrants or existing operations to gain the financing needed to purchase IFQ.

Summary of Options from Public Information Document: No special provisions recommended. The TIQC believed pledging IFQs as collateral is a matter of private contract, independent of the government program.

NEW

Public Comments: None

Some Key Issues and Information:

The ability for new entrants to acquire financing for IFQ may rest in part on their ability to use IFQ as collateral. A central lien registry system would help provide that assurance. However, even with the additional assurance provided by a lean registry system, IFQ would still be revokable either as part of an enforcement action or with a change in the program through an FMP amendment.

Consideration could be given to the creation of a West Coast lien registry system for IFQ and other Federal fishery permits.

Potential Council Action

- 1. No options have been identified for further consideration.*

Reference Materials:

Section A.4.6 of the Scoping Results Document

A.4.7 Accumulation Caps

Summary of Options from Public Information Document:

Options for IFQ concentration caps.

	Non-Whiting Groundfish			TIQC Preference	Whiting Fishery			TIQC Preference
	Ownership	Control	Use by a Vessel		Ownership	Control	Use by a Vessel	
Option 1	1%	1%	1%		5%	5%	5%	
Option 2	5%	5%	5%		10%	10%	10%	
Option 3	10%	10%	10%		25%	25%	25%	
NEW								

The TIQC recommended not adopting an option that would require persons receiving an initial allocation in excess of the caps to divest themselves of the excess.

Public Comments:

Include a no-cap option	WCSPA
Consider different caps for different types of owners (e.g. vessels, buyers, communities)	WCSPA
Apply the same caps to all types of owners	1 individual
Caps for processors should take into account any IPQ held (NOTE: applies only if there is IPQ)	1 individual

Some Key Issues and Information:

NMFS guidance on limiting accumulation is expected to be forthcoming.

The Analytical Team report contains some information on concentration of harvest among permits and buyers/processors in recent years. A review of the historic concentration of harvest in any single year may provide the Council with some guidance for policies that may limit the concentration of ownership of IFQs.

For any allocation formula it will be possible to project the largest shares that might be allocated for a single permit or vessel. However, projection of the size of shares allocated to a given person based on permits or vessel history will be more difficult, and limited by the available ownership information.

For buyers and processors, tracking ownership history is more difficult because buyer/processor identification numbers sometimes change (and sometimes do not change) with changes in ownership. Additionally, in some situations identification numbers may change although there is no change in ownership. Finally, ownership information for buyers or processors is not as readily available as it is for vessel and permit owners.

One issue imbedded in the options pertaining to ownership and control is the degree of ownership or control required for the IFQ to count against the ownership or control cap. For the

sablefish tier program, any interest in the ownership or control of a permit counts as complete ownership or control of the permit. A vessel owner is considered to control a permit if the permit is registered for use with a vessel (the permit is considered to have been leased by the vessel owner) even if the vessel has been leased to someone else for use. Thus if a person has the maximum (three permits) for his or her vessel and he or she also has a partial interest in a second vessel, no permits could be fished from the second vessel. No specific options pertaining to alternative ways of defining ownership or control have been presented for consideration at this time.

Potential Council Action

1. Consider adjusting the existing cap options, possibly adding the no-cap option.

Reference Materials:

Independent Experts Panel Report
Section A.4.6 of the Scoping Results Document

A.4.8 Vertical Integration Limit

Vertical integration occurs through the control of multiple levels of the production chain (for example, the same ownership interest controlling both fish harvesting and processing operations).

Summary of Options from Public Information Document: No special provisions. The TIQC recommended no limits on vertical integration other than what is provided through the accumulation caps.

TIQC Preference
NEW

Public Comments: None

Some Key Issues and Information:

From Section 4.8.2 of scoping document.

Some degree of vertical integration already exists in the industry through processor control of permits and vessels. The creation of IFQ would involve a redefinition of the privileges conveyed by a limited entry permit. If processors were to be prohibited from owning IFQ vertical integration would be reduced from present levels.

Vertical integration will be limited to some degree by the caps discussed in Section 4.7. Depending on the number and landings history of permits held by processors, the amount (if any) of IFQ allocated among processors, the ownership and control caps may be exceeded by processors under a grandfather clause (as is the case for any permit holder receiving an initial allocation).

Potential Council Action

1. Consider whether to develop special provisions to address the potential for vertical integration.

Reference Materials:

Section A.4.8 of the Scoping Results Document

A.5.0 Rollover (Carryover) to a Following Year

Rollover would allow unused quota pounds to be used in a subsequent year or allow an overage in one year to be covered with quota pounds issued for a subsequent year.

Summary of Options from Public Information Document:

		TIQC Preference
Option 1	No rollover.	
Option 2	10% rollover (no rollover allowance for overfished species).	
Option 3	20% rollover (5% rollover allowance for overfished species).	
Option 4	30% rollover (full rollover allowance for overfished species).	
NEW		

Question: If quota pounds have been leased out to a vessel, how would rollover provisions for overages be applied to quota shares?

Public Comments: None

Some Key Issues and Information:

From Section 5.2 of scoping document.

In deciding whether or how much rollover to allow, consider that if too much rollover is allowed and there are substantial overages for overfished species, fishing in the subsequent year could be seriously constrained. Also, if a fleet overage resulted in the potential for harvest in excess of ABC, other sectors might have to be constrained. While these are possibilities, the Canadian system has a roll-over provision and has not exceeded the quota for a stock in any one year. Consideration might be given to not providing a roll-over for overfished species because the objective for those species is often to minimize harvest, not take full advantage of harvest available.

For some fishers, a rollover could just become another target up to which they will fish. However, if the fishery is fully monitored at-sea, given that IFQ counts against catch, penalties would be incurred for fish caught in excess of the roll-over provisions. For those wishing to avoid such penalties, the roll-over provisions provide an opportunity to fully take each year's quota pounds without incurring penalties from violations or from leaving fish "on the table." The ability to fully take the available harvest is necessary if, on average, OY is to be achieved.

Potential Council Action

- 1. Information is not provided that would help distinguish between Options 2, 3, and 4. The Council may wish to consider whether or not, in general, to maintain an option for a rollover provision and whether there are any other permutations of the rollover options it would like to consider.*

Reference Materials:

Section A.5.0 of the Scoping Results Document

A.6.0 Use-or-Lose Provisions

Use-or-lose provisions would require that if IFQ is not used over a certain period of time it would expire or be revoked and reallocated.

Summary of Options from Public Information Document:

		TIQC Preference
Option 1	Include use-or-lose provisions (consider how to treat leases, medical exceptions, and partial use).	
Option 2	Do not include use-or-lose provisions.	
NEW		

Several questions have been raised for consideration with respect to use-or-lose provisions:

- *How long would quota shares need to go unused before they would be revoked.*
- *What portion of the quota shares would have to be used in order for this provision to be applied?*
- *How would it be determined which quota shares had been used and which not used?*
- *If someone failed to utilize the required proportion, what portion of the quota shares in the account would be forfeited?*
- *If there were a requirement that quota shares be used in three out of five years or lost, and it was determined that certain quota shares had not been used in two years, if the quota shares were then transferred to a new owner would the new owner be required to use the shares immediately? What if the new owner already has quota shares, other than requiring the owner to utilize all shares in his or her account is there a way to determine whether he or she had used the newly acquired shares?*
- *If someone holds quota shares and leases out shares (or quota pounds) to someone who holds some of his or her own quota, how would it be determined which quota was utilized?*
- *How would use-or-lose provisions be applied if part but not all quota shares were transferred from one account to another?*
- *Would the quota shares be reissued or would the value of all remaining quota shares simply be allowed to increase?*

Public Comments: None

Some Key Issues and Information:

Consideration of this proposal is motivated by concern that some might

- acquire IFQ and hold it depriving the industry, community and general public from the benefits of reasonable fishing opportunities, or
- hold IFQ for key species off the market to garner a higher price for it.

If rules can be developed to determine when particular quota shares have been left unused, the proposal might achieve its desired objective. The problem can be illustrated with a bank account analogy. If the requirement is that some portion of the money in a bank account be used over some period of time then how would such use be demonstrated and how would “unused” money be tracked if it is transferred from one account to another?

A use-or-lose provision could result in discard of some species if they are caught only to avoid loss of quota shares. This would be more of a problem if IFQ is developed to cover all groundfish species.

Potential Council Action

1. Provide guidance on whether or not to continue development of use-or-lose provisions.

Reference Materials:

Section A.6.0 of the Scoping Results Document

A.7.0 Entry Level Opportunities (and Other Loan Programs)

The M-S Act requires that some options be considered for accommodating new entry by entry-level fishermen, small vessel owners, and crew members.

Summary of Options from Public Information Document:

		TIQC Preference
Option 1	Provide a low interest loan program (qualification factors to be determined).	
Option 2	Provide an opportunity for new entrants to qualify for shares revoked for program violations (qualification factors to be determined).	
NEW		

The TIQC recommended not requiring IFQ holders to give back a small percentage of their IFQ each year for auction, with proceeds from the auction going back to those who gave back the IFQ.

Public Comments:

Provide low interest loans for community nonprofit organizations to purchase IFQ	ED
Provide low interest loans for new entrants and younger fishermen to purchase IFQ	Survey (ED)
Allocate to new entrants or provide IFQ for purchase from: IFQ reclaimed from IFQ already distributed, IFQ created from increasing TAC, forced sale in an auction (each year existing IFQ holders would provide a portion of their IFQ for annual auction).	Survey (ED)
Provide low interest loans to assist "lease-dependent" fishermen	Survey (ED)

Some Key Issues and Information:

For the loan program options, the amount of fees collected under IFQ programs is limited to 3% of exvessel value, all of which will likely be needed to cover other program costs, some other funding source would be required.

For the other options, an IFQ source would need to be identified in order to issue an amount of IFQ each year for new entrants. There are other program provisions under which IFQ might be forfeited, either as part of an enforcement action or if a viable use-or-lose option is developed or implemented. If this option is to be considered, criteria need to be developed for qualifying potential IFQ recipients. There will be administrative costs associated with implementation of such qualifying criteria.

Potential Council Action

1. Consider whether or not to add options based on public comments.
2. Provide guidance on options relevant to the sources of IFQ for annual reissuance (forfeitures and/or mandatory surrender) and development of qualifying criteria for those to whom IFQ would be reissued.

Reference Materials:

Section A.7.0 of the Scoping Results Document

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A.8.0 Tracking, Monitoring, and Enforcement

Numerous possible elements of a tracking and monitoring program have been arrayed into program options by the TIQ Enforcement Group (Table 1).

Summary from Public Information Document:

Elements of Tracking Monitoring and Enforcement System		TIQC Preference
1.	Onboard compliance monitors (20%-100%)	
2.	Dockside compliance monitors (20%-100%)	
3.	Hailing requirements	
4.	Small vessel exemptions for onboard compliance observers	
5.	Video monitoring system	
6.	Full retention requirement	
7.	Bycatch reporting system	
8.	Electronic landings tracking system	
9.	Limited delivery ports	
10.	Limited delivery sites	
11.	Electronic IFQ tracking systems	
12.	Vessel monitoring system (VMS)	
NEW		

Public Comments:

Require VMS and 100% observer coverage - shoreside and at-sea	ED
Analyze limits on number of ports to which deliveries are allowed	WCSPA

Some Key Issues and Information:

In Section A.8 of the Scoping Results Document, enforcement program goals and objectives are provided along with a description of elements of the program. With an adequate tracking and monitoring program the additional cost for enforcement personnel is expected to be minor as compared to an adequately enforced status quo (see Analytical Team Report). Risk levels for enforcement program Options 4 and 5 increase substantially due to substantial opportunity for discarding and underreporting catch. This would likely require the setting aside of OY to cover unreported landings.

To help assess the possibility of limiting the ports in which IFQ landings can be made, the Analytical Team Report also provides information on the ports to which deliveries were being made in recent years.

In order to track catch against IFQ, options that allow discarding at-sea would require the development of a catch reporting system that has the same level of speed and accuracy as the landing/delivery reporting system.

Details of the enforcement program will need to be developed for the EIS in order to complete the impact assessment. However, it is not certain how much of the detail needs to be included as

part of the FMP amendment or formal Council policy. The Alaskan sablefish and halibut IFQ program monitoring system was developed by an implementation committee comprised of governmental representatives and working in consultation with an industry advisory committee. These groups developed an implementation plan that was included as a chapter in the EIS. Few details were provided in the Council FMP amendment. Section A.8.0 of the scoping results document shows the enforcement and tracking and monitoring program language adopted by the NPFMC in their FMP.

Potential Council Action

- 1. Determine the degree to which the enforcement program will be part of the amendment or regulatory language considered by the Council.*
- 2. Provide guidance on options to be considered.*

Reference Materials:

Section A.8.0 of the Scoping Results Document
TIQ Enforcement Group Report

A.9.0 Cost Recovery/Sharing and Rent Extraction

Summary from Public Information Document:

Elements of Cost Recovery/Sharing Rent Extraction Provisions		TIQC Preference
1.	Landings Fee (max of three percent under current Magnuson-Stevens Act).	
2.	Privatization of Elements of the Management System: Monitoring IFQ Landings (e.g. industry pays for their own compliance monitors) Fishtickets Stock Assessments	
NEW		

Public Comments:

An IFQ Program should have discrete and secure funding.	UASC
Include cost recovery provisions with a sliding scale for those that may be disadvantaged by such provisions	ED
Split all or a portion of observer costs evenly between quota holders.	Survey (ED)

Some Key Issues and Information:

The three percent fee currently authorized under the Magnuson-Stevens Act may not be sufficient to recover all direct costs related to the IFQ program. The NRC has recommended that Congress increase the cap to above three percent.

Legal counsel opinion is needed on the degree to which privatization of particular functions might be used to transfer a larger portion of program expense to industry. At-sea or dockside monitors may well be part of the future of the fishery whether an IFQ program is adopted, or sector caps and vessel catch caps are adopted to control bycatch. Given this, it is unclear what these costs to attribute to the IFQ program. The TIQ Enforcement Group has indicated that the privatization of responsibility for catch and landings monitoring would require increased enforcement activity to verify that the monitoring program is functioning properly.

Potential Council Action

1. Provide guidance on whether or not to develop privatization options. Consider requesting legal evaluation of the degree to which portions of the IFQ tracking and monitoring program and other fishery management functions might be privatized.

Reference Materials:

Section A.9.0 of the Scoping Results Document

A.10 Penalties

The NRC report to Congress on IFQ programs recommends a set of graduated sanctions:

“Administratively imposed sanctions should be established for minor violations with specified increase in penalties for each additional offense. Criminal penalties (jail sentences and/or seizure of catch, vessel, and equipment and forfeiture of quota) should be reserved for serious offenders and for intentional falsification of reports.” (NRC, 1999, pg. 217)

Summary from Public Information Document:

Elements of Provisions Related to Penalties		TIQC Preference
1.	Strong sanctions for violators.	
2.	Illegal overages should forfeited on landings, debited against the IFQ holders account. Additional enforcement action should be taken, as appropriate. Fishing suspended until IFQ has been acquired to cover the overage.	
NEW		

Public Comments: None.

Some Key Issues and Information:

Council and NMFS control over penalties is limited. Penalty determination is generally exercised by the courts. The Council may establish guidance on the reallocation of forfeited quota. Like the enforcement program, the Council should consider the level of detail into which it wants to be involved in considering penalties. The following is the language from the Alaskan halibut and sablefish IFQ amendments:

- (G) Administration and Enforcement
 - (2) The Secretary will promulgate regulations to establish a monitoring and enforcement regime to assure compliance with this program. [appropriate penalties for violators, Council directs implementation to develop recommendations on penalties]

Potential Council Action

1. *Determine whether or not to more fully develop options on this issue.*

Reference Materials:

Section A.10.0 of the Scoping Results Document

A.11 Procedures for Program Performance Monitoring, Review and Revision

The NRC recommends that a monitoring and evaluation program for short- term and long-term impacts be included as part of the initial program design (NRC, 1999, pg. 198). The program should include a clear timetable, criteria to be used in evaluation, and steps to be taken if the programs do not meet these criteria (NRC, 1999, pg. 221).

Summary from Public Information Document:

Elements of Provisions Related to Performance Monitoring, Review and Revision		TIQC Preference
1.	The program should include a review period, built in performance monitoring, and opportunity for adjustments to the program.	
2.	No automatic sunset provisions.	
NEW		

Public Comments:

Consider a range of automatic sunset provisions (1-10 years)	PMCC
Consider sunset provisions with disposal of the quota in a manner that satisfies the public trust.	UASC
Include performance reviews	PMCC

Some Key Issues and Information:

Element 1 needs more development in order to assess the effects. Opportunities to adjust the program are always available through regulatory or FMP amendment process. A time period for performance review and evaluation criteria should be specified. Evaluation criteria will determine what data should be collected to perform the review. Data collection is addressed in Section A.12.

The review period and timing of the review should take into account the two year groundfish management cycle.

Potential Council Action

1. Refer to GMT or other group for option development.

Reference Materials:

Section A.11.0 of the Scoping Results Document

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A12.0 Data Collection

The NRC recommendations state that Councils and NMFS should ensure that long-term routine data collection and studies be initiated that are complementary to data collection for IFQ monitoring (NRC, 1999, pg. 218).

The issue of whether industry provision of data should be mandatory or voluntary will likely be addressed under this design element. Mandatory industry compliance is included as part of the data collection provisions under the Alaska crab rationalization program. The Alaska program provisions are specific as to the data elements and include draft survey instruments.

Summary Public Information Document: No data collection requirements identified.

TIQC Preference

NEW

Public Comments: None.

Some Key Issues and Information:

Whether mandatory or voluntary, data collection will be necessary to monitor program impacts.

The following are the steps by which a mandatory data collection program was developed for the Bering Sea and Aleutian Island crab rationalization plan.

- June 2001: Council expression of interest in receiving information on objective measures of the success of the crab rationalization program.

An Inter-Agency Economic Data Collection Workgroup identified objective measures of success based on program objectives identified needed data
- Feb 2002: SSC statement to the NPFMC on the need for mandatory reporting of socioeconomic data to support program evaluation.
- April-June 2002: Informal discussions with agencies and the fishing industry.
- June 2002: Council adopted motion to recommend giving the Council and NMFS authority to implement mandatory data reporting requirements as part of the crab rationalization program:

A mandatory data collection program shall be developed and implemented as part of the crab rationalization program and continued through the life of the program. Cost, revenue, ownership and employment data will be collected on a periodic basis (based on scientific requirements) to provide the information necessary to study the impacts of the crab rationalization program as well as collecting data that could be used to analyze the economic and social impacts of future FMP amendments on industry, regions, and localities. This data collection effort is also required to fulfill the Council problem statement requiring a crab rationalization program that would achieve “equity between the harvesting and processing sectors” and to monitor the “...economic stability for harvesters, processors and coastal communities”. Both statutory and regulatory language shall be developed to ensure the confidentiality of these data. Any mandatory data collection program shall include:

A comprehensive discussion of the enforcement of such a program, including enforcement actions that would be taken if inaccuracies in the data are found. The intent of this action would be to ensure that accurate data are collected without being overly burdensome on industry for unintended errors.

Implementing a mandatory data collection requirement would require changes to the Magnuson-Stevens Act as well as other laws governing the collection of data from fishermen and processors.

Potential Council Action

- 1. Consider whether or not options should be developed requiring mandatory submission of socio-economic data.*
- 2. Refer to GMT or other group for development of options for mandatory or voluntary data requirements.*

Reference Materials:

Section A.12.0 of the Scoping Results Document

A13.0 Initial IFQ Allocation

The NRC recommends that “the councils consider a wide range of initial allocation criteria and allocation mechanisms in designing IFQ program . . . “ Councils should “avoid taking for granted the option of ‘gifting’ quota shares to the present participants in the fishery, just as they should avoid taking for granted that vessel owners should be the only recipients and historical participation the only measure of what each deserves. Council’s should consider using auctions, lotteries, or a combination of mechanisms to allocate initial shares of quota” (NRC, 1999, pg. 207).

The initial issuance of quota share determines a distribution of wealth (distribution of windfall). Over the long term, the initial distribution does not determine how the program will distribute control within the fishing industry, except to the extent that the increase wealth of those receiving the initial allocation can be used to exert more control and influence. Over the long term what will be most important to program performance is the opportunity to acquire IFQ to address concerns over control of fishing activities. The issues of opportunities to acquire are addressed in Section A.4.

Relative to the current West Coast license limitation system, the creation of a IFQ would redistribute wealth through three mechanisms:

- (1) The value of the asset received by the initial recipient (value in excess of any payment for IFQ issuance).
- (2) The expenditure on IFQ for those who do not receive enough IFQ to enable them to maintain the stream of net revenue associated with current operations (or, if the choice is made not to acquire additional IFQ, the reduced net revenue stream).
- (3) A reduction in the value of existing LE permits due to the separation, redefinition and reallocation of the bundle of fishing privileges previously associated with the permit.

Details on the IFQ options for initial allocation from the public scoping document are summarized in following subsections. Below are some general comments that did not fit neatly within one of the subsections.

Public Comments:

Establish a control date for processors.	1 individual
Don't make the shares so small that opportunity is reduced below current levels	1 individual

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A.13.1 Eligible Groups

The first issue to be addressed is what groups are to receive an allocation and the amount of IFQ to be allocated to each group.

Summary of Options from Public Information Document:

		TIQC Preference
Option 1	Allocate IFQ to Current Permit Owners.	
Option 2	Allocate IFQ to Vessel Owners.	
Option 3	Allocate IFQs to Permit-Owners/Vessel-Owners/Processors (consider all combinations and allocate to ownership of the vessel or facility at the time of initial allocation, where relevant). <i>Combinations need to be specified to fully develop options.</i>	
Option 4	Allocate to High Bidder in Auction (eligibility rules for participation to be developed).	
NEW		

TIQC recommended not adopting options that would give initial allocation to: 1) owners of permit at time of landings; 2) lottery entrants 3); crew/skippers; 4) communities.

Public Comments:

Allocate to processors that are NOT vertically integrated (do not own fishing operations)	1 individual
Allocate 50% to permit owners and 50% to primary processors.	CJC
Allocate to permits, processors (company or facility, to be decided) and communities handling more than 1% of the annual landings	WCSPA
Allocate to permit owners, processors and communities.	CJC
Allocate to skippers who can demonstrate dependence	ED and two individuals
Allocate to crew members	Survey (ED)
Allocate to communities	Survey (ED)
Allocate to processors	Survey (ED)
Do NOT allocate to processors	Survey (ED)

Some Key Issues and Information:

Compensation for potential adverse impacts is one possible basis for determining the appropriate groups to whom an initial allocation of IFQ might be made. The group most directly affected by the IFQ program will be the owners of permits because the value of permits will likely decline substantially. Owners of major capital assets such as vessels and processing/buying facilities may also experience some dislocational effects as a result of changes to the management system. The same is true of experienced crew members, who contribute human capital to the fishery. Methods for qualifying crew members for IFQ are discussed in the Analytical Team Report.

Potential Council Action

1. *Identify the groups for which the Council would like to see allocation options developed.*
2. *Provide guidance on some ranges to be used for the amounts to be allocated to each group, or provide some policy guidance on criteria for determining such ranges.*

Reference Materials:

Section A.13.1 of the Scoping Results Document
Analytical Team Report

A.13.2 Qualifying Criteria: Recent Participation Requirement

A recent participation requirement may be used to increase the emphasis on those currently involved in the fishery, ensuring that current participants (whether permit owners, vessel owners, processor owners, crew members or others) benefit from allocations rather than those who may have left the fishery. Such emphasis may help reduce the disruptive effects of any changes.

Summary of Options from Public Information Document:

		TIQC Preference
Option 1.	No recent participation requirement	
Option 2.	Recent participation (1998-2003) required to be eligible for an initial allocation (number of trips and/or number of yrs required, to be specified).	
Option 3.	Same as Option 2 but the years would be 2000-2003.	
NEW		

Recent participation in either the shoreside or at-sea fisheries would suffice to meet minimum landing requirements for shoreside or at-sea IFQ, if such a distinction is made.

Public Comments:

Have a continuing recent participation requirement so that if IFQ are issued they do not go to individuals who have left the fishery.	1 individual
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Some Key Issues and Information:

To some extent, an allocation that places greater weight on recent participation than participation in the distant past may reduce disruptive effects of the initial allocation.

The degree of emphasis on the current participation requirement may be adjusted by limiting the portion of the allocation for which a recent participation requirement applies. Recent participation may be required to receive any allocation, or it may just be required for a portion of the IFQ that is allocated on a certain basis (for example to qualify under the equal allocation portion of the formula, or alternatively, to qualify under the landings history portion of the formula).

The following table, shows that a 2000-2003 (Option 2) one landing recent participation requirement would eliminate 13 permits from qualifying for IFQ, and a 1998-2003 (Option 3) requirement would eliminate 5 permits from qualifying. More permits would be eliminated if more than one landing is needed to meet the recent participation requirement.

Number of Unfished Permits by Consecutive Period (NMFS NWR, 3/9/04):

Period	Number of Permits Not Fished During the Period	Year	Number of Permits Not Fished During the Year
1998-2003	5	1998	18
1999-2003	7	1999	14
2000-2003	13	2000	20
2001-2003	24	2001	32
2002-2003	33	2002	40
2003	40	2003	40

Permits bought back are not included.

The 2000-2003 recent participation period (Option 2) corresponds to the period when large footrope restrictions were in place. The 1998-2003 recent participation period (Option 3) include time both before and after the imposition of large footrope restrictions, and both before and after the year 2000 declaration of a groundfish disaster.

Potential Council Action

1. *Should a recent participation requirement be used to qualify for any IFQ, or for only certain portions of the allocation formula (e.g. require recent participation to qualify for an equal allocation component but not for the landings history based component of the allocation (or visa versa))?*
2. *Should recent participation be applied to all potential qualifying groups designated in A.13.1?*
3. *Can any of the recent participation requirement options (including the “no requirement” options) be set aside during the next phase of the analysis?*
4. *Can an initial determination be made, or guidance be provided on criteria for determining the level of recent participation to be required?*

Reference Materials:

Section A.13.2 of the Scoping Results Document
Analytical Team Report

A 13.3 Elements of the Allocation “Formula”

In determining the amount of initial allocation, the NRC report (1999, pg. 224) encourages consideration of stewardship and other potential criteria in addition to landings history. The TIQC developed some preliminary recommendations for elements of formulas to allocate IFQ among permits and processors (1st buyers). If other groups are to qualify, such as those described in Section 13.1, IFQ allocation formula would have to be developed for each group.

Summary of Options from Public Information Document:

Options for Vessels/Permits		TIQC Preference
Option 1.	Auction	
Option 2.	Some mix of criteria that might include: <ul style="list-style-type: none"> • Landings history, wt (for certain species, consider allocating a portion based on an estimate of bycatch). • Equal sharing <ul style="list-style-type: none"> • Equally allocate QS (represented by landings history) of those vessels/permits bought back, among those vessels/permits with landings history for the species. • Equally allocate incidental catch species. • Some other equal sharing basis. 	
Option 3.	Landings history (wt) only (for certain species, consider allocating a portion based on an estimate of bycatch).	
NEW		

The TIQC recommended not adopting an option that would allocate based on vessel length.

Options for Buyers/Processors		TIQC Preference
Option 1.	1st receiver purchase history of groundfish trawl landings (lbs)	
Option 2.	Auction	
NEW		

Note: Processors may also receive some IFQ based on their ownership of vessels (vertical integration).

Public Comments:

Measure landings history by value of product rather than weight of catch	Survey (ED)
Allocate based on an auction	CJC, WCSPA
Allocate based on an auction tiered for different types of operations	ED
Do NOT allocate based on an auction	1 individual

Some Key Issues and Information:

Initial allocations determine a distribution of wealth, i.e. the windfall from the initial allocation of IFQ. The fairness and equity of that initial allocation is largely a judgement to be made by the Council, NMFS and, if challenged, the courts. Initial allocation will also affect the level of initial disruption and transition costs.

Auctions

All or a portion of the IFQ could be allocated through auction if necessary changes were made under the Magnuson-Stevens Act.

Equal Allocation

There are a variety of rationales that might be used to support equal allocation. The issue of whether and how much weight to place on any factor is primarily a fairness and equity question.

Landings History

Emphasizing landings history in the allocation formula is one means of reducing transition costs and disruption associated with the move to IFQ. This could be landings history for the permit, vessel, crew, processor, community, etc.

Of particular concern is the use of landings history data for incidental catch species, some of which have become overfished in recent years. Concerns relate to low catch levels, data quality, and rewarding fishermen with high incidental catch rates for overfished species. An alternative might be to allocate certain species based on amounts of target species taken.

To Whom Does Landings History Accrue?

For IFQ issued to permits, based on the precedent set in the limited entry fixed gear sablefish fishery, and absent Council guidance otherwise, it is presumed that landings history would accrue to the current owner of the permit.

If vessel owners are to be qualified, a determination is needed as to whether the current owner of the vessel gets credited for all the landings history of the vessel, or whether vessel owners get credit for landings made only at the time they owned the vessel.

In order to allocate to processors/buyers based on the history of landings received, questions must be addressed that are similar to those for vessel owners but more extensive. The equivalent of the vessel is the processing/buying facility, however these facilities are often owned by companies which are themselves bought and sold.

Potential Council Action

- 1. What allocation criteria should be included and what is the Council sense of the range of relative weights that would be appropriate to consider for different criteria?*
- 2. Is there Council interest in development of options for the allocation of incidental species based on landings of target species? Based on landings of incidental species?*
- 3. If vessel owners are to be considered, provide preliminary indication on whether current owner or owner at the time of landing/delivery should be considered.*
- 4. If processors are to be considered provide preliminary guidance on whether options should be developed based on the landings history of a facility (with landings history accruing to the current owner of the facility) or accrue to the ownership of the facility at the time the landings were made. Some guidance might also be provided on whether landings history of a corporation (or other legal entity) would accrue to any entity that subsequently acquired ownership of the corporation.*

Reference Materials:

Section A.13.3 of the Scoping Results Document
The Analytical Team Report

A.13.4 Landings history: Species/Species Groups to be Used for Allocation

Summary of Options from Public Information Document:

		TIQC Preference
Option 1.	Allocate species IFQ based on relative total groundfish catch except whiting, but use whiting to allocate whiting IFQ.	
Option 2.	Allocate species IFQ based on relative catch of each species.	
NEW		

Public Comments: None

Some Key Issues and Information:

The following table reflects the primary tradeoffs between the options listed above:

Option 1	Option 2
a more simple allocation formula	relies on species comp data that is generally not viewed as valid at the vessel level.
an IFQ allocation result that does not match with the species mix of the recipients landings	some method needed to address groundfish landings that remain in unspecified categories even after application of the species comp data

Data quality issues are addressed in the November 2004 Analytical Team Report.

Potential Council Action

1. *Indicate willingness (or lack thereof) to base allocation formulas on species comp information.*

Reference Materials:

Section A.13.4 of the Scoping Results Document

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A.13.5 Landings history: Allocation Period

If allocation is to be based on landings history, a period needs to be specified to determine what landings count toward landings history.

Summary of Options from Public Information Document:

Allocation Period Option	Number of Years in Allocation Period	Number of Worst Years to Drop from Landings history		TIQC Preference (INCLUDE NUMBER OF YEARS TO DROP)
		Option A	Option B	
Option 1. 1994-2003	10	None	2	
Option 2. 1994-1999	6	None	1	
Option 3. 2000-2003	4	None	None	
Option 4. 1998-2003	6	None	1	
NEW				

Consider suboptions

- i. Base allocation on a calculation using total pounds summed across all years (a pound in 1994 will qualify an individual for the same amount of quota share as a pound landed in 2003).
- ii. Base allocation on a calculation using the percent of total catch of each species in each year (0.005% of the landings in 1994 will qualify an individual for the same amount of quota share as 0.005% of the landings in 2003).

Public Comments: None

Some Key Issues and Information:

Information available which may enable the Council to make preliminary decisions that narrow some of the allocation period options:

- Fairness and equity considerations pertaining to alternative weighting formulas for catch history across years, based on relative fishing opportunity
- Annual total landings data indicating average of weightings among years (roughly 2:1 for a pound in 2003 vs a pound in 1994) (Section 13.5.2 of Scoping Results Document).
- See data quality information in Analytical Team Report for historic variation of landings across years.
- Reduced need for hardship provisions by allowing applicants to drop worst years from catch history (Section 13.5.2 of Scoping Results Document).
- Effect on allocations of from allowing applicants to drop worst years from catch history (vessel catch history example in Section 13.5.2 of Scoping Results Document)
- Data quality concerns and need to rely on species comp information (varies across years, see Analytical Team Report)
- Rationale for choice of start and end years of the allocation period options (Section 13.5.2 of Scoping Results Document)

Potential Council Action

Determine whether options can be narrowed on a preliminary basis using information provided.

- 1. Options which do/do not allow applicants to drop worst years of catch history.*
- 2. Options based or not based on equally weighting of **shares** of annual catch across years.*
- 3. Options including or not including certain years in the allocation period.*

Reference Materials:

Section A.13.5 of the Scoping Results Document
Analytical Team Report

A.13.6 Landings history: Combined Permits and Other Exceptional Situations

Summary of Options from Public Information Document:

Landings history for Combined Permits		TIQC Preference
Option 1.	Consider all landings history of the permits that have been combined to be part of the landings history of the permit resulting from the combination.	
Option 2.	The combined permit would have only the landings history associated with its permit number (landings history of other permits with which it has been combined would not accrue to the combined permit).	
NEW		

Other categories of catch to be considered for inclusion or exclusion as part of the landings history for purpose of allocation are:

- Illegal catch - do not count toward landings history
- Catch in excess of trip limits, as authorized under an EFP - whether to count these needs to be decided
- Compensation fish (fish taken as payment by vessels assisting in research) - whether to count these needs to be decided

Public Comments: None

Some Key Issues and Information:

Potential Council Action

Reference Materials:

Section A.13.6 of the Scoping Results Document

A 13.7 Initial Issuance Appeals Process

An appeals process may be needed to address disputes between permit applicants and the NMFS Limited Entry Permits office over landings records or other qualification criteria.

Summary of Options from Public Information Document:

No specific recommendations on appeals were identified. The TIQC enforcement group recommended that any proposed revisions to fish tickets undergo review by state enforcement personnel prior to finalization of the revisions.

TIQC Preference
NEW

Public Comments: None

Some Key Issues and Information:

An appeals process may be specified using general language deferring development and standards to NMFS, or more detailed guidelines may be developed, as was done for the Amendment 6 license limitation system.

The number of disputes would likely be affected by two factors:

- opportunity to gain additional quota shares by resolving disputed information in the applicant's favor
- the amount to be gained relative to the cost of the appeal.

On the one hand, this would be the first limited entry program the Council has recommended under which every additional pound of groundfish landed could potentially affect the applicant's initial allocation. On the other hand, compared with the license limitation program, sablefish endorsement program and sablefish tier program, the value of the additional IFQ gained from a successful appeal is likely to be smaller than what was at stake in one of the other programs (i.e. reaching a qualification threshold), unless there are large amounts of catch in dispute.

Potential Council Action

Provide guidance on the desired degree of specificity for Council policy on appeals.

Reference Materials:

Section A.13.7 of the Scoping Results Document

A.14.0 Some Other Possible Provisions

The following are other possible provisions that would constitute new design elements for the IFQ program. Most are grouped by the primary interests that would be affected by the provisions.

Public Comments:

Comment	Source	TIQC Preference
Prohibit highgrading	ED	
Incorporate unambiguous language to address concerns about IQs becoming property right.	ED and 1 individual	
Develop measurable performance objectives.	ED	
Make a policy statement that IFQ program for groundfish trawl should not be considered to set a policy precedent for other sectors of the fishery.	Survey (ED)	
Make a statement on the eventual need to address inter-gear transferability of IFQs	Survey (ED)	
Crew		
Provide worker protections in the regulations.	Survey (ED)	
Withhold 10% of quota from a vessel if a review board finds the vessel is not treating the crew well.	Survey (ED)	
Tax quotas to fund crew protections such as unemployment insurance, pensions or health care.	Survey (ED)	
Establish a minimum base wage in addition to any percentage based compensation.	Survey (ED)	
Establish an outreach program to assist industry refugees in accessing public services and making transitions to other employment.	Survey (ED)	
Buyers/Processors		
IFQ shares allocated to processors diminishes over time (e.g. annual % reductions)	Survey (ED)	
IFQ processor shares are valid only at the plants for which they are issued.	Survey (ED)	
Hold back a percent of IFQ and allocate it annually based on fisher-processor proposals.	ED	
Compensate processors through transfer payments at time of initial allocation.	Survey (ED)	
Compensate processors through transfer payments on demonstration of stranded capital.	Survey (ED)	
Harvesters		
Assign vessel size class endorsements to IFQ and restrict trading between size classes.	Survey (ED)	
Require that the IFQ owner be on board the vessel when it is used.	Survey (ED)	
Individuals leasing permits get the right of first refusal if the IFQ issued for that permit is sold.		
Local Businesses		
Establish a fund to assist negatively affected businesses or to fund business development.	Survey (ED)	
Local Governments		
Establish a revenue sharing system among active groundfish trawl ports	Survey (ED)	
Other Fishing Sectors		

Comment	Source	TIQC Preference
Set aside IFQ from TAC increases and allocate it to low impact gears	Survey (ED)	
Set aside certain areas for fishing only by non-trawl gears	Survey (ED)	
Use a buyback program to offset spillover effects	Survey (ED)	
Restrict use of vessels that sell IFQ and leave the fishery (make IFQ allocation contingent on this provision)	Survey (ED)	
If a trawler sells IFQ to a fisher in another sector, require that a certain percentage of that IFQ be allocated among all participants in that sector (an increase in the quota for the sector)	Survey (ED)	
Take into account disaster tows and increases in participation that exhaust the allocated quota and the resultant necessary adjustments to allocations both within and outside the trawl IFQ fishery.	UASC	
Environment		
Set aside IFQ from TAC increases in order to address conservation concerns	Survey (ED)	
Combine the IFQ system with marine reserves.	Survey (ED)	
Research		
Capture some of the surplus and dedicate it to a fund for research and conservation.	Survey (ED)	
NEW		
NEW		
NEW		
NEW		
NEW		

Some Key Issues and Information:

None.

Potential Council Action

Identify those design elements that the Council would like to see in the form of developed options.

Reference Materials:

Agendum E.6.a, Public Scoping Comments: Formal Scoping Period Comments on Dedicated Access Privileges (Individual Quotas) For the Pacific Coast Limited Entry Trawl Groundfish Fishery (on CD)

Table A-1. TIQ Enforcement Group preliminary scoping of possible enforcement programs.

	Program 1	Program 2	Program 3	Program 4	Program 5
At-Sea Monitoring	100% (Compliance Monitors)	100% (Compliance Monitors)	100% (Compliance Monitors or Camera)	Partial Compliance Monitor Coverage	None
Retention Requirement	Full Retention	Discards Allowed	Full if Camera, Discards Allowed if Compliance Monitor Present (see NOTE)	Discards Allowed if Compliance Monitors Present	Full Retention (OY held in reserve)
Bycatch Reporting System Comparable to Landing Tracking System	None	System Needed (electronic)	System Needed (electronic)	System Needed (electronic)	None
Landing Tracking System	Electronic	Electronic	Parallel Electronic Federal System (maintain paper fishtickets)	Parallel Electronic Federal System (maintain paper fishtickets)	Paper Fishticket
Shorebased Monitoring	100%	Monitoring Opportunity (Based on Notice)	Monitoring Opportunity (Based on Notice)	Monitoring Opportunity (Based on Notice)	Monitoring Opportunity (Based on Notice)
Vessel Provides Advance Notice of Landing	Yes	Yes	Yes	Yes	Yes
Limited Landing Locations	Specified Ports	Site Licenses	Site Licenses	Specified Ports	Specified Ports
Electronic IFQ Reporting	Yes	Yes	Yes	Yes	Yes
Limited Landing Hours	Yes	No	No	Yes	No
Overall Assessment of Program Effectiveness	Programs provide adequate control with different degrees of cost and flexibility for the vessels.			Control inadequate. Compensation required through a reduction in the OY in anticipation of unreported landings.	

VMS is an assumed component of the enforcement environment.

Small vessel provision: small vessels may apply for an exemption and carry a camera instead of an compliance monitors.

NOTE: For systems relying on cameras and a “no discard” rule, there may be a problem with not being able to discard prohibited species.