Agenda Item E.6.a
Attachment 5
November 2004

SCOPING RESULTS ON DEDICATED ACCESS PRIVILEGES

FOR THE

PACIFIC COAST LIMITED ENTRY TRAWL GROUNDFISH FISHERY

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Terminology and Acronyms

Buyer/Processor - All references to buyers or processors are references to the first receiver of a vessel's catch.

DAP - Dedicated Access Privileges - (A form of output control whereby an individual fisherman, community, or other entity is granted the privilege to catch a specified portion of the total allowable catch)

ICA - Incidental Catch Allowance (an amount of catch available to a harvesting sector to cover incidental catch, not allocated individually)

IQ - Individual Quota (IQ for fishing or processing)

- IBQ - Individual Bycatch Quota (IQ for fishing, must be held for the catch of certain species for which discard is required–prohibited species)
- IFQ - Individual Fishing Quota (IQ for fishing, must be held for catch, catch may be retained or discarded at the fisher discretion but once caught it counts against the IFQ regardless of its final disposition)
- IPQ - Individual Processing Quota (IQ for processing, currently prohibited)

QS - Quota Shares (IQ held as percent of total quota allocated to an individual)

Quota Pounds - Annual Individual Quota (IQ held as pounds allocated annually based on the quota share held)

1.0 INTRODUCTION

1.1 Process and Organization of this Document

Overview

The policy consideration that is the subject of this scoping process is

> the possible creation of a dedicated access privilege system for the Pacific Coast groundfish limited entry trawl fishery

Dedicated access privileges (DAP) are a "form of output control whereby an individual fisherman, community, or other entity is granted the privilege to catch a specified portion of the total allowable catch." One type of dedicated access privilege with which many people are familiar is individual fishing quotas (IFQs). The primary type of dedicated access privilege proposed thus far is IFQs.

The formal NEPA public scoping period on whether to institute an IFQ program for West Coast, trawl caught groundfish ran from May 24, 2004 through August 2, 2004. Hearings were held June 13, 2004 in Foster City, California; July 20, 2004 in Seattle, Washington; and July 27, 2004 in Newport, Oregon

This document contains

- information that was provided in the scoping information document during the formal NEPA scoping process
- summaries by topic of public comments received through the September 2004 Council meeting
- some initial analysis of IFQ design elements in Appendix A.

Two Decision Stages

If a dedicated access privilege program is to be recommended and implemented, the Council will need to deal with two main issues: first, the design of the program; second, the establishment of allocations of groundfish between the limited entry trawl and other groundfish sectors. Intersector allocation is needed not only to support possible adoption of an IFQ program for the trawl fishery but for the management tools that will be implemented for all other sectors in order to fully implement the preferred alternatives adopted under the programmatic bycatch EIS. The preferred alternatives require consideration of sectors' catch accountability through management tools such as sector caps or IFQs. These two issues (management tools for the trawl fishery and intersector allocation) will be addressed in separate but related EISs.

The scoping process just completed addressed program design issues that will be covered in the DAP EIS. There will be a separate scoping process to address the between sector allocation EIS.

Public scoping for an EIS on the allocation issue is scheduled to begin after a decision has been made on alternatives that will be considered in the draft DAP EIS. While alternative DAP programs are being designed, the Council's allocation committee will engage in some initial discussions on the need for intersector allocations to support a DAP program. Preliminary comments on the

between sector allocation issue may be sent to the Council office or e-mailed to pfmc.comments@noaa.gov (enter "Intersector Groundfish Allocation" in the subject line).

Organization of This Document

Dedicated access privileges are being proposed to address the problem statement, goals, and objectives presented in Section 1.2. Alternatives currently being considered are provided in Section 2.0 and those detailed design elements thus far identified for an IFQ program are provided in Appendix A. Recommendations and comments from the public, Trawl Individual Quota Committee, TIQ Independent Experts Panel and TIQ Enforcement Group are summarized and provided in the relevant sections of Chapters 1 and 2 and Appendix A. Public comments pertaining to alternatives and impacts have also been recorded, summarized, and presented separately (November 2004, Exhibit C.6.e, Attachment 6 - Public Scoping Comments).

1.2 Purpose and Need for the Proposed Action

1.2.1 The Proposed Action

The proposed alternatives to the status quo are programs that provide dedicated access privileges for participants in the non-tribal Pacific Coast groundfish trawl fishery. The main dedicated access privilege alternative the Pacific Council is considering is an individual fishing quota (IFQ) program for the Pacific Coast groundfish limited entry trawl fishery off Washington, Oregon, and California. A trawl IFQ program would change management of harvest in the trawl fishery from a trip limit system with cumulative trip limits for every two-month period to a quota system where each quota share could be harvested at any time during an open season. Status quo (no action) will also be considered along with dedicated access privilege and other reasonable alternatives that may be proposed to address issues identified in the problem statement.

Public comments:

Include recreational fisheries and allow cross sector transfers. A hard allocation guaranteeing catch for one sector is unfair.	UASC

1.2.2 Statement of Need

Despite the recently completed buyback program, management of the West Coast groundfish trawl fishery is still marked by serious biological, social, and economic concerns; and discord between fishermen and managers and between different sectors of the fishery, similar to those cited in the U.S. Commission on Ocean Policy's April 2004 preliminary report. The trawl fishery is viewed as economically unsustainable given the current status of the stocks and the various measures to protect these stocks. One major source of discord and concern stems from the management of bycatch, particularly of overfished species as described in the draft programmatic bycatch DEIS. The notice of availability of the DEIS was published in the *Federal Register* on February 27, 2004 (69 FR 9314). The DEIS is available from the Pacific Council office. After reviewing the programmatic bycatch DEIS, the Pacific Council adopted a preferred alternative for addressing bycatch that included IFQ programs. The alternatives to status quo to be evaluated are amendments to the Fishery Management Plan (FMP) and associated regulations that address these concerns through the

use of dedicated access privileges. The concerns are described in more detail in the following problem statement.

As a result of bycatch problems, considerable harvest opportunity is being forgone in an economically stressed fishery. The trawl groundfish fishery is a multispecies fishery in which fishers exert varying and limited control of the mix of species in their catch. The optimum yields (OYs) for many overfished species have been set at levels so low that they place a major constraint on the industry's ability to fully harvest the available OYs of the more abundant target species that occur with the overfished species, wasting economic opportunity.

Average discard rates for the fleet are applied to projected bycatch of overfished species. These discard rates determine the degree to which managers must constrain the harvest of targeted species that co-occur with overfished species. These discard rates are developed over a long period of time and do not rapidly respond to changes in fishing behavior by individual vessels or for the fleet as a whole. Under this system, there is little direct incentive for individual vessels to do everything possible to avoid take of species for which there are conservation concerns, such as overfished species. In an economically stressed environment, uncertainties about average bycatch rates become highly controversial. As a consequence, members of fishing fleets tend to place pressure on managers to be less conservative in their estimates of bycatch. Thus, in the current system there are uncertainties about the appropriate bycatch estimation factors, few incentives for the individual to reduce bycatch rates, and an associated loss of economic opportunity related to the harvest of target species.

The current management regime is not responsive to the wide variety of fishing business strategies and operational concerns. For example, historically the Pacific Council has tried to maintain a year-round groundfish fishery. Such a pattern works well for some business strategies in the industry, but there has been substantial comment from fishers who would prefer being able to pursue a more seasonal groundfish fishing strategy. The current management system does not have the flexibility to accommodate these disparate interests. Nor does it have the sophistication, information, and ability to make timely responses necessary to react to changes in market, weather, and harvest conditions that occur during the fishing year. The ability to react to changing conditions is key to conducting an efficient fishery in a manner that is safe for the participants.

Fishery stock depletion and economic deterioration of the fishery are concerns for fishing communities. Communities have a vital interest in the short-term and long-term economic viability of the industry, the income and employment opportunities it provides, and the safety of participants in the fishery.

In summary, management of the fishery is challenged with the competing goals of: controlling bycatch, taking advantage of the available allowable harvests of more abundant stocks (including conducting safe and efficient harvest activities in a manner that optimizes net benefits over the short-term and long-term), increasing management efficiency, and responding to community concern.

1.2.3 Purpose of the Proposed Action

The purpose of the proposed action is to resolve or ameliorate problems in the fishery related to the current access system by addressing the following goals and objectives.

Goals

1. Provide for a well managed system for protection and conservation of groundfish resources.
2. Provide for a viable and efficient groundfish industry.
3. Increase net benefits that arise from the fishery.
4. Provide for a fair and equitable distribution of fishery benefits.
5. Provide for a safe fishery.
6. Capacity rationalization through market forces.

Objectives

1. Takes into account structure of the stocks.
2. Minimize ecological impacts while taking the available harvest.
3. Reduce bycatch and discard.
4. Encourage sustainable fishing practices.
5. Account for total groundfish mortality.
6. Promote individual accountability - responsibility for landed catch and bycatch.
7. Avoid provisions where the primary intent is a change in marketing power balance between harvesting and processing sectors.
8. Avoid excessive quota concentration.
9. Provide certainty/stability for economic planning.
10. Provide operational flexibility.
11. Minimize adverse effects on fishing communities to the extent practical.
12. Promote economic and employment benefits through the seafood catching, processing, and distribution elements of the industry.
13. Provide efficient and effective monitoring and enforcement.
14. Design a responsive review and modification mechanism.

Design features of the IFQ alternative should be related to these objectives (NRC, 1999, pg 197).

In considering modification to the current rules for access to the fishery and harvest from the fishery, the goals and objectives for the groundfish fishery management plan and the Magnuson-Stevens Act national standards will be considered.

1.3 Background

Council consideration of limited entry programs, such as license limitation and IFQs, has been in response to significant over capacity problems in the harvesting sector of the groundfish fishery. IFQ programs have been under Council discussion since before the 1987 inception of the limited entry committee that designed the West Coast groundfish license limitation program. When the Council adopted the groundfish license limitation program in 1991, it acknowledged that additional capacity control measures would be required. It was anticipated that the license limitation program

would limit the growth of harvesting capacity but would not resolve the overcapacity problem. The Council's first effort to develop an IQ program was for the fixed gear sablefish fishery. This effort was cut short in 1996 by a Congressional moratorium on new IQ programs. The groundfish fishery was declared a disaster in the year 2000. The groundfish strategic plan, adopted in October 2000, listed reduction of harvesting capacity as one of its main goals. Given the moratorium on IQs, the plan included a trawl vessel buyback program as a short to intermediate term objective, and a trawl IQ or mandatory permit stacking program[1/] as an intermediate to long-term objective. IQs for trawlers have been on the Council's workload list since just after the October 2000 adoption of the strategic plan. In June 2001, the Council created an Ad Hoc Trawl Permit Stacking Work Group. That group met February 26, 2002, but then activity was suspended while the permit buyback program was developed and other Council workload priorities were addressed. The moratorium on IQ programs expired October 1, 2002, and the buyback program was completed in December of 2003.

The Pacific Groundfish Limited Entry Trawl Buyback Program was designed with the following goals:

- Reduce capacity in the groundfish fishery.
- Increase the remaining harvesters' productivity.
- Financially stabilize the fishery.
- Conserve and manage groundfish.

On December 4, 2003, under the buyback program, 91 trawl vessels and their Pacific Groundfish limited entry trawl permits were permanently retired from the fishery. The buyback program reduced the available pool of limited entry permits for vessels that deliver to shore plants and motherships from 263 permits to 172 permits, excluding the ten permits associated with the catcher-processor fleet. In terms of 2002 groundfish ex-vessel revenues, buyback program vessels accounted for 40% of the $32 million landed by all groundfish trawlers, either on shore or delivered to non-tribal motherships. The buyback program was funded by a $10 million appropriation and a $36 million buyback loan (approved in an industry referendum). This loan will be repaid by members of the participating fleets through landings fees to be collected the next 30 years.

A major concern after completion of the buyback program was that relatively unused permits (latent permits) would be acquired by those who sold their permit under the program and would then be used at higher levels of effort. The Council decided not to take action to address concerns about permit latency. In reaching its decision the Council noted the degree of permit latency in the Pacific Coast program was not as substantial as in other limited entry systems that had been subject to buyback programs. The Council found no need to take remedial action given the relatively low degree of long term latency represented by currently unfished permits and the low level of concern among those bearing the responsibility for repaying the industry loan that largely funded the buyback program. Further, it was stated that moving forward with the IFQ project was a better solution to the issues of overcapacity in the fleet. Such an IFQ program would obviate the need to address any remaining concerns with latent permit issues.

1/ Mandatory permit stacking reduces capacity in the fishery by requiring permit holders to acquire an additional permit to continue fishing.

At its September 2003 meeting, the Council chair was authorized to appoint the TIQC. This committee met October 28 and 29 and began developing an IFQ alternative for consideration. At its November 2003, meeting the Council heard testimony that individual quotas (IQs) have been identified as a management tool that could potentially do more than any other management tool to permanently resolve various problems in the trawl fishery, including bycatch and other conservation concerns, safety, and industry economic viability. The Council concurred and acted to:

- Recommend November 6, 2003 be published as a control date for IFQ and individual processing quota (IPQ) programs (Appendix E).
- Identify that additional resources would be required for consideration of a trawl IQ program.
- Task the staff with preparing a detailed draft plan for IQ program development, identifying the necessary budget, and pursuing funding options.

NMFS did not publish the IPQ control date, because of restrictions on consideration of individual processing quota programs. Another meeting of the TIQC was held on March 18-19, 2004 to continue with initial scoping options for an IFQ alternative. A notice of intent to develop an EIS and formally initiate scoping was published in the *Federal Register* on May 24, 2004 (Appendix F). A trawl individual quota enforcement group meeting was held May 25-26 to scope enforcement issues related to IFQs, and a TIQ Analytical Team meeting was held June 8-9 to scope analytical issues.

2.0 ALTERNATIVES AND IMPACTS

2.1 Description of the Alternatives

The policy that is the subject of this scoping process is the possible creation of a dedicated access privilege system for the Pacific Coast groundfish limited entry trawl fishery.

The primary type of dedicated access privilege proposed thus far is IFQs. Specification of an IFQ or other alternatives for the groundfish trawl fishery requires answering three main questions:

1 What would be the specific design elements of the IFQ system and other possible management tools?
2. Which species and species groups would be managed with which types of management tools?
3. What would be the initial intersector allocations of nonwhiting species between whiting and nonwhiting sectors?

For an IFQ program there may also be a limited-entry-trawl/open-access allocation issue that arises if the groundfish catch of trawl vessels with open access gear (e.g. pink shrimp) is not covered by the IFQ program. If an option is chosen which would affect the open access fleet, the allocation itself would be addressed in the allocation EIS (see Section 1.1, Two Decision Stages).

2.1.1 Alternative Harvest Control Tools

There are a number of management tools that may be applied to controlling harvest in the trawl fishery. Potentially, different tools could be applied to different species and areas. The Council will need to make decisions on design elements for the alternative management tools. Design of the IFQ program alternatives will likely require the most attention. The decision on which tools to apply to which species is treated in Section 2.1.2.

Four main alternatives for controlling total harvest were included in the scoping information document. After the Council reviewed public comment at the September 2004 Council meeting, the Council added a fifth alternative: permit stacking with extended cumulative limit periods. Under each alternative, tools such as rockfish conservation areas might or might not remain in place to further control the harvest rates of particular species.

Status Quo Management: cumulative landing limits and season closures are the primary tools.

Trawl Individual Quotas: IFQs and individual bycatch quotas (IBQs). IBQs is the term applied to individual quota used to control the catch of prohibited species. A list of possible types of design elements that may be considered for an IFQ program is provided in this section. Discussion of the design elements and initial recommendations from some Council committees are provided in Appendix A along with a summary of public comment.

Cumulative Catch Limits: Cumulative catch limits apply to the vessel and are like cumulative landing limits, except they would apply to catch rather than landings. When the cumulative catch limit is reached, a vessel would have to cease operations in segments of the fishery where a

particular species is caught. Cumulative catch limits might or might not be temporarily transferable between vessels within the designated period to which they apply.

Incidental Catch Allowances: Incidental catch allowances are sector catch caps. They apply to a segment of the fleet and when that segment of the fleet reaches its catch cap for a species the segment would have to stop fishing. Cumulative limits might still be used to control harvest rates.

Permit Stacking and Extended Cumulative Limit Periods: Vessels stacking permits would be allowed some portion of an additional cumulative limit for each permit stacked. If a full cumulative limit were allowed as permits are stacked then the amount of fish that could be taken under each cumulative limit could decline. If partial cumulative limits were allowed for stacked permits then the stacking of permits might not change the basic cumulative limit available to vessels that do not stack permits. The second part of this proposal would extend the duration of the cumulative limit period from the current duration of 2 months to a duration of 3, 4, 6 or 12 months. A 12 month cumulative limit would either be an annual vessel quota, or if cumulative limits were set such that if every vessel took its limit catch targets would be exceeded, the fishery would be managed as a derby.

Public comments on other management tools that should be considered:

Community Development Quotas (CDQs)	CJC, POORT, ED, Survey (ED)
CDQs Opposed	Individual (1)
Individual Processor Quotas	
IPQs Opposed	Individual (1)
Trip Landing Limits with Extended Periods (3, 4, or 6 months)	PMCC
Reduce Season Length	Individual (1)
Consider Marine Reserves and Reduce Quotas (50% in first year and 10% in each year thereafter)	Individual (1)

Status Quo Management

Status quo for management measures for the trawl fishery is generally characterized by cumulative landing limits and season management for Pacific whiting. With adoption of the programmatic bycatch EIS, the status quo system should probably be considered to include some follow-on actions. For example, an upgrade of the observer program produce inseason catch data on overfished species.

OYs are also part of the status quo management. The 2003 fishery provides a baseline against which both status quo and the alternatives can be measured.

Cumulative Landing Limits (Cumulative Limits)

Cumulative limits are a kind of trip limit. Trip limits have been a feature of groundfish management since the inception of the FMP; over time the regime has become more complex, covering a wider range of species and fishery sectors. The basic concept is to set a limit on the how much of a given

species (or multi-species complex[2/]) an individual vessel may land during a fixed time period. Thus trip limits, as currently implemented, are retention or landing limits. Any groundfish captured beyond the specified limit are classified as bycatch (if discarded) or a violation (if retained). As long as a vessel owner does not retain more fish than the limit, additional fishing is allowed. Originally, these limits were per trip limits; today the limits are for a two-month cumulative limit period, in order to reduce the likelihood of regulatory discards. Vessels are allowed to make as many individual trips as the fisherman desires. So long as cumulative landing limits are not exceeded additional fishing is allowed. In general, separate limits are established for U.S. waters north and south of 40° 10' N. lat. (approximately Cape Mendocino, California). The Pacific whiting fishery is a significant exception to trip limit management.

Seasons

Most fisheries are managed to achieve a year round season. Iin fact, this is one of the key objectives expressed in the groundfish FMP because buyers and processors regard a continuous and consistent supply of fish as essential to maintaining markets. In the last two years managing fisheries to prevent OYs from being exceeded before the end of the year has become increasingly difficult because of the low harvest limits for some overfished species, and some fisheries have been closed early.

Only one groundfish trawl fishery is managed primarily with a season closure, the Pacific whiting fishery. The length of the whiting season is determined by how quickly the OY is taken. The OY is allocated according to fixed percentages between vessels delivering to shore-based processors, at sea motherships, at-sea catcher/processor, and the tribal fleet. Seasons for sectors of the nontribal fishery are staggered, usually beginning on April 1 for shoreside deliveries in California. Each sector's season runs until the allocation for the sector has been caught. Before and after the season openings there is some opportunity to retain whiting under a 10,000 pound cumulative landing limit.

Other Measures

There are a number of other status quo management measures for the trawl and other fisheries including closed areas, partial observer coverage, management areas, bycatch caps in EFP fisheries, gear restrictions, VMS, and sorting requirements. A complete list, generated in consultation with the GMT, is provided in Table 1 of the November 2004 Analytical Team Report.

Trawl Individual Quota Management (IFQ and IBQ)

Under IFQs, total harvest is controlled by allocating an amount of quota to individual fishers and holding those individuals responsible for ensuring that their catch does not exceed the amount they are allocated. The Magnuson-Stevens Act defines IFQs as "a Federal permit under a limited access

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2/ Many less commercially important or less frequently caught species are combined in stock complexes for the purposes of management. These species may not be differentiated in reported landings and most have not been assessed. These factors make it impossible to manage these species individually. Multi-species complexes currently in use include the minor rockfish (additionally separated into several sub-categories), other flatfish, and other fish categories.

system to harvest a quantity of fish expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person." [Sec 3(21)]. IFQs differ from cumulative limits in that, in general, they may not be infringed upon by the catch of others. In contrast, with cumulative limits or season closures, increased participation by other fishers can cause reduction in the cumulative limits or reduction in the season length. Typically IFQs also allow the fishers great flexibility in determining the time and area of catch, and, where IFQs are transferable, the scale of their harvest operation.

The term IFQ applies to fish that may be retained or discarded by a fisherman while IBQ is reserved for fish that must be discarded (prohibited species).

IFQs may be used to control catch or landings. Consistent with the programmatic bycatch EIS, a central design element of the IFQ program alternative being considered here is that it applies to catch rather than landings. The following is a list of other IFQ program design elements covered in Appendix A. The list is based on preliminary work of the TIQC. Additions to the list may be made as a result of public comment and the comments of other Council advisory bodies.

- Portion of the Limited Entry Trawl Fleet Allocation for Which IFQs are Required
- Area Restrictions on IFQ
- IFQ and Limited Entry Permit Holding Requirements
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- Rollover to a Following Year
- Use-or-Lose Provisions
- Entry Level Opportunities
- Tracking IFQ, Monitoring Landings, and Enforcement
- Cost Recovery/Sharing and Rent Extraction
- Penalties
- Procedures for Program Performance Monitoring, Review and Revision (Magnuson-Stevens Act (d)(5)(A))
- Data Collection
- Initial IFQ Allocation
  - Qualifying Criteria: Membership in an Eligible Group
  - Qualifying Criteria: Recent Participation
  - Allocation "Formula" (Size of Individual Allocations)
  - Landings history: Species/Species Groups to Be Used for Allocation
  - Landings history: Allocation Periods
  - Landings history: Combined Permits and Other Exceptional Situations
  - Initial Issuance Appeals Process

There are generally a number of different ways to specify each design element. The term "design option" is being used to refer to the different ways to specify design elements (e.g. a five percent cap on ownership vs. a ten percent cap on ownership). The term "alternative" is being reserved for reference to an IFQ program constructed of a set of design elements (e.g. a program composed of a five percent ownership cap, a ten percent rollover provision, a 1999-2003 qualifying period, etc.) Preliminary TIQC recommendations on design options are included as part of Appendix A and public comment is sought on additional design options for consideration.

One issue that will need to be settled as part of the design of the IFQ alternatives is the date after which qualifying activities (such as landings) would not count toward an initial allocation of IFQ. To this end, a control data of November 6, 2003 has been published (Appendix E).

Another issue that comes up when IFQs are discussed is whether or not the IFQ constitute a property right. IFQs do not change the basic ownership of the resource. The resource is a public resource managed by the government as a public trust. Under the current management system, the government manages the resource to the public benefit by controlling catch and allowing catch taken under the management rules to be converted to private property sometime between when it is caught and sold to a fish buyer. An IFQ system would not change the current public ownership of the resource and would likely make little change in the determination of when particular catch might be considered private property. IFQs are an alternative way for the government to control and organize harvest activity. They do so by creating a catch privilege. A catch privilege is different from ownership of the resource. The Magnuson-Stevens Act contains specific language pertaining to the limits to this catch privilege:

Sec. 303(d)(2) No provision of law shall be construed to limit the authority of a Council to submit and the U.S. Secretary of Commerce to approve the termination or limitation, without compensation to holders of any limited access system permits . . . or regulations that provides for a limited access system, including an individual quota program.

Sec. 303(d)(3), "An individual fishing quota...

(B) May be revoked or limited at any time in accordance with the Magnuson-Stevens Act.

(C) Shall not infer any right of compensation to the holder of such individual fishing quota, if it is revoked or limited.

(D) Shall not be construed to create, any right, title , or interest in or to any fish before the fish is harvested.

Cumulative Catch Limits

Vessel catch caps were part of Alternative 4 of the programmatic bycatch EIS and were adopted for consideration as part of the Council's final action on the programmatic EIS. Cumulative catch limits apply to catch rather than landings and require 100% accounting of catch. Under vessel catch limits a vessel would stop harvesting when the limit is reached. Under the current trip limit system, vessels continue to harvest but discard fish taken in excess of the limit. These cumulative catch limits might be specified as temporarily transferable between vessels but could not be transferred between

periods. The cumulative catch limits might be used to manage toward catch quotas or catch based harvest guidelines (as distinct from status quo landing quotas or harvest guidelines).

Under the programmatic bycatch EIS, vessel cumulative catch limits were to be applied only to control harvest taken under sector catch caps and sector catch caps would be developed for overfished species. It was anticipated that observers or other at-sea monitoring systems would be required to ensure compliance with catch limits. This EIS includes consideration of cumulative catch limits for overfished as well as other groundfish species when taken by trawl gear.

Thus far, only a few design elements have been identified for consideration with respect to cumulative catch limits:

Cumulative Catch Limit Design Elements	Options
Vessel Caps	Consider time periods other than the current 2-month cumulative limit periods use for cumulative vessel landing limits.
Tracking and Monitoring	
At-Sea	Option 1: At-sea Compliance Monitors (100%) Option 2: Full retention and Video Camera
Shoreside	Option 1: Spot enforcement presence and Audits Option 2: Shoreside Compliance Monitors (100%)
Data Reporting	Upgrade reporting of at-sea catch data system such that catch data is complete and available at the vessel level in a time frame similar to that for dock receipts and fish tickets

Additional design elements are provided in comments from public scoping:

! Consider a management system under which vessel catch limits would be available for vessels opting out of fishing under sector caps. Vessels opting out " receive a “proportionate” share of the sector cap for overfished species for their individual use. " must carry an at-sea compliance monitor or otherwise assure 100% accounting of catch. " receive higher cumulative landing limits for nonoverfished species than for other vessels in the sector " can continue fishing even if their sector is shut-down due to exceeding a cap " can pool caps with others who have opted out.	PMCC
Sector Bycatch Caps - Nontransferable	PMCC
Sector Bycatch Caps - Transferable	ED

The last two comments on transferable sector "bycatch" caps may be intended to reference vessel cumulative limits for incidentally caught overfished species (as opposed to bycatch as specified under the Magnuson Stevens Act[3/]).

Pooled Species Caps (Sector Catch Caps or ICAs)

Various names have been applied to the sector catch caps of the type identified in the programmatic bycatch EIS, including pooled species caps and incidental catch allowances (ICAs). All are sector level catch limits and are not allocated to individual vessels. Sector caps differ from status quo sector level landings quotas in that they apply to catch rather than landings. Sector caps would generally be used for incidental species rather than targeted catch, though could be applied for any species. A sector may be kept within its cap by application of season closures, cumulative limits or other mechanisms to slow or stop the fishery. If a sector reaches its cap, all mortality caused by that sector must be halted, usually achieved through a season closure. Fish taken under a sector cap may be retained or discarded, unless full retention rules are in place, or the cap is provided for a prohibited species (in which case discard would be mandatory). Catch caps for prohibited species are often termed prohibited species caps (PSC).

Sector Catch Cap Design Elements	Options
Tracking and Monitoring At-Sea	Stratified, partial observer coverage
Data Reporting	Upgraded inseason catch monitoring and verification program to ensure limits are not exceeded.

Public comments:

Sector Bycatch Caps for Overfished Species ! Caps for the trawl fleet or possibly subdivisions of the trawl fleet (explicit allocation of an amount of overfished species) ! Sector stops fishing on attainment of the cap. ! Adequate monitoring (not necessarily 100% monitoring) ! No action recommended with respect to nonoverfished species.	PMCC
Sector Bycatch Caps - Nontransferable	PMCC
Sector Bycatch Caps - Transferable	ED

These comments are likely using the term bycatch to refer to incidental catch rather than only to discards (bycatch as defined under the M-S Act[3/]).

3/ Magnuson Stevens Act definition of bycatch: "The term 'bycatch' means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

Permit Stacking and Extended Trip Limit Periods

Permit Stacking

A permit stacking program for the limited entry sectors of the groundfish fishery would allow a vessel to land more than the monthly or bimonthly trip limit by assigning and using two or more permits on the same vessel. This voluntary program would allow permit holders who can acquire another permit, or permit holders who already own multiple permits, to acquire fishing opportunity that more closely matches their desired level of operation. This plan would reduce the number of vessels operating with "A" permits and would allow higher trip limits for some vessels.

In 2002, the Council's Trawl Permit Stacking Committee identified four major approaches to determining the size of the stacked trip limit, two of which consider a permit's size endorsement and two of which do not. The options are briefly described as follows.

Option	
1A	Whole Trip Limit for Additional Permits. In this approach, a vessel would need one permit endorsed for the size of the vessel. Additional permits could be for any size vessel. Each additional permit would allow a vessel to harvest an additional whole trip limit. This approach is simple, but with substantial participation would lead to reductions in per-permit limits.
1B	Fixed Fractional Trip Limit for Additional Permits. This option is a variation on Option 1A. A permit of any length could be stacked with a suitable primary permit, but a single stacked permit would not carry a full additional limit. The percentage of an additional limit provided would be invariant with permit length, but could conceivably be expressed as a function of a variable, such as groundfish abundance, that would vary over time.
2	Same Size Requirement. Another approach is to require that all stacked permits be endorsed for the size of the vessel on which they are used. From a regulatory standpoint, this approach would likely be the easiest, since limits that are currently specified on a per-vessel basis could be changed to apply per-permit, with no additional changes to the structure of the limited entry program. A full additional limit would be provided for each stacked permit, but with substantial participation per-permit limits would decline.
3	Additional Fractional Trip Limit Linked to Size Endorsement or Fishing Power Points of Stacked Permit. This approach would establish a formula that links the magnitude of additional landing limits to the size endorsement of the permits that are stacked. Additional permits could be for any size vessel. Thus, a vessel could operate with fractional limits depending on the size endorsements of the stacked permits. This approach would give vessel operators greater flexibility to obtain a desired level of monthly landings.

The most apparent means of implementing a length-based program would be to utilize the fishing power formula ("points" system) defined in the implementation of Amendment 6. The "points" system could be used in at least two ways for determining the percentage of a full limit that would be obtained through stacking. The approach for analyzing impacts that could most easily be accomplished (referred to hereafter as Option 3A) would involve assigning a standard reference length for all permits with the same gear endorsement. All permits at or above that length would carry a full additional limit when stacked. The percentage of a full limit that would be assigned to a shorter permit would be determined by the ratio of points for that permit to the points corresponding to the reference length. The following table illustrates the percentage of a full limit that would be assigned for nine different permit lengths, and four alternative reference lengths.

Percentage of permit combination "points", for selected lengths, relative to four reference lengths.					
Permit Length	Market "Points"	Percentage of "points" relative to a permit of:			
		75 ft	70 ft	65 ft	60 ft
35	4	15%	18%	21%	26%
40	6	21%	25%	30%	36%
45	8	28%	33%	40%	49%
50	10	36%	43%	52%	63%
55	13	46%	55%	66%	80%
60	16	57%	68%	82%	100%
65	19	70%	83%	100%	100%
70	23	84%	100%	100%	100%
75	27	100%	100%	100%	100%

The other approach (referred to hereafter as Option 3B) would set the reference length equal to the length of the primary permit attached to each vessel. As a result, a particular permit could have considerably different value for stacking, depending on the size of the primary permit. As illustrated in the following table, a 45-foot permit stacked with a 60-foot primary permit would yield about half an additional limit, while only 28% of a full limit when stacked with a 75-foot primary permit. Another aspect to note relates to the highlighted values in the last two columns. Two individuals could own identical pairs of permits--one 65-foot, and the other 75-foot--worth precisely the same dollar value in the market, and yet the person with the shorter primary permit--whose vessel might be less than five-feet shorter--would be entitled to two full limits, whereas the other would only receive 1.7 limits. Because of the situationally-dependent value of a permit with this option and our current inability to realistically model the economic factors that underlie the stacking decision-making process, the effects of this option would be extremely difficult to project.

Percentage of an additional limit received, under Option 3B, where the length of the primary permit serves as the reference length.				
Length of Primary permit (relative reference point)	Percentage of an additional full limit received through stacking a permit of length:			
	45 ft.	55 ft.	65 ft.	75 ft.
60 ft.	49%	80%	100%	100%
65 ft.	40%	66%	100%	100%
70 ft.	33%	55%	83%	100%
75 ft.	28%	46%	70%	100%

In evaluating options, the following are some of the key trade-offs to be considered.

Key Trade-off 1: When a permit is stacked, if the harvest of a species or species group taken under the permit is greater than the harvest of the species or species group taken under the permit prior to when it was stacked, the cumulative limit for that species or species group would need to be reduced in order to keep the fleet within the annual harvest (within the OY).

Key Trade-off 2: If permits are allowed to move between segments of the groundfish fishery, there will be a greater likelihood that per-permit cumulative limits would have to be reduced in the segments to which permits are moved.

One concern about the stacking of permits is the potential transfer of effort from one segment of the fishery to another segment, for example, the stacking of a permit used in the whiting trawl fishery onto a permit mainly used in the DTS fishery. In this situation, the only way to prevent the erosion of the per-permit limit in the DTS fishery would be to provide no additional DTS cumulative limit for the stacked permit. If prevention of such transfers is desirable, then consideration of some kind of a species group endorsement might be appropriate.

Extended Trip Limit Period

The current trip limits are for two month periods. The limit periods might be extended to 3, 4, 6, or 12 month period. As the length of the management periods are extended, opportunity for inseason actions effective at the start of the subsequent cumulative limit period is reduced, and the potential need for mid period correction could lead to more derby type fishing. In the extreme, with a 12 month period, cumulative limits would either have to be set such that they represent vessel quotas, or set such that if every vessel took its limit, the allowable harvest would be exceeded (as is the case under the current trip limit system). In the latter case, a derby fishery would be created under which vessels would race to achieve their limit before the fishery is close through inseason action.

2.1.2 Choice of Species to Which Harvest Control Measures Will Apply

The overriding question before the Council is how to best control total catch, including bycatch, of the limited entry trawl fleet. Under status quo management, access to the trawl fishery is controlled under a license limitation system and total harvest in the fishery is controlled predominantly using cumulative limit management. IFQs, a kind of direct access privilege, have been proposed as an alternative means for controlling access and managing harvest. Sector caps and cumulative catch limits are other tools being discussed to be applied in concert or in place of IFQs (see Section 2.1.1).

Different management tools may be used for different species. Different combinations of management measures and species are used to structure alternatives. To stimulate discussion and bring issues into focus, the TIQC constructed a number of initial alternatives for public consideration during the scoping process. The following are the guidelines under which the specific alternative mixes of harvest measures were constructed.

Alternative 1 (Status Quo). All species are managed under one of the following: cumulative limits, season closures (Pacific whiting), catch monitoring only (no regulatory constraints).

Alternative 2 (IFQ Only for Primary Trawl Targets). IFQ for groundfish species that are primarily trawl targets with minimal harvest by other sectors (whiting split by sector, DTS, slope rockfish, nearshore flatfish) and target species for which there is already trawl allocation, i.e. sablefish. Transferable cumulative catch limit management or monitoring only for all other groundfish, and status quo prohibited species management.

Alternative 3 (IFQ for OY Species). IFQ for all groundfish species with an OY (with separate types of IFQ for each of the whiting sectors). Transferable cumulative catch limit management or monitoring only for non-OY species, and status quo prohibited species management.

Alternative 4 (IFQ for All Groundfish and IBQ for Selected Prohibited Species) All groundfish species would be covered by an IFQ, in some cases IFQ would be aggregated, particularly for species that are currently not managed with cumulative limits or quotas. IBQ for halibut and possibly other prohibited species.

Table 2.1-1 lists the species and species groups for which the Council currently sets OYs and controls harvest. Each column in the table specifies an alternative by indicating the management approach that would be used for the species listed in the rows, based on the above guidelines. There is more than one row for species or species groups for which area management has been established or for which there is a division of harvest among trawl sectors (Pacific whiting). *At some future point, the Council may wish to specify IFQ types which distinguish between fish delivered for at-sea and shoreside processing*, regardless of whether the processing takes place in the context of the whiting or some other groundfish fishery *(fish dressed and iced at-sea would not be considered processed at-sea and fish frozen at-sea would be considered processed at-sea).*

TIQC recommendations for additional options for the management systems under these alternatives are provided in Table 2.1-2. Some of these details include

- when OYs are set very low due to rebuilding schedules, a provision to switch the management measures to sector caps with catch rates controlled by nontransferable cumulative catch limits (Alternative 2 and 3).
- use of sector caps for bycatch species in the whiting fishery under Alternative 2.
- limits on the transfer of IFQ between whiting and nonwhiting sectors, and among the three whiting sectors (Alternatives 2, 3, and 4).
- allow retention of prohibited species landed with trawl IBQ (i.e. convert the IBQ for prohibited species to IFQ).

Rationale for TIQC recommendations: The TIQC spent an extensive amount of time discussing a system under which some species would be managed using IFQ and others would be managed with more traditional management measures. The primary concern was the control of harvest of the non-IFQ species under an alternative in which not all species would be managed with IFQs. In discussing the non-IFQ management measures to be used, it was agreed the principle of individual accountability and responsibility should guide the design of management measures. On this basis, the TIQC found it appropriate to support a regime that focuses on catch limits rather than landing limits, such that individuals are held accountable for their discards.

Vessel cumulative catch limits could lead to difficult situations for some vessels, therefore consideration of transferable cumulative catch limits is recommended. Concern was expressed for the effect of “disaster tows” on the individual. Cumulative catch limits would likely be based on incidental catch rates, derived from averages that reflect fleet performance. However, individual vessel performance is likely to vary from the average, to some degree on the basis of skill but also on the basis of chance. Under vessel catch limits, vessels that are unlucky enough to experience a high bycatch tow for a species for which there is a low limit could be forced to stop fishing (under the current landing limits system the vessel discards catch in excess of limits and continues to fish). Transferability of catch opportunity (cumulative catch limits) might allow the vessel to be able to continue fishing while still limiting fleet catch to the desired level.

The potential for a disaster tow also led to consideration of management with sector caps. The effects of disaster tows may also be of major concern for a whiting fishery in which incidental harvest is managed with IFQs and for situations where the OYs for IFQ species would be very low, such as for an overfished species. In both cases the concern is that a vessel may have a disaster tow and be forced to stop fishing or bear a substantial financial burden, as no other vessel would be very willing to sell IFQ until it was sure it would be able to take all of its target species without encountering a disaster tow of its own. As a possible means of addressing this concern, the TIQC recommended inclusion of an option under which some species would not be managed with IFQs but would be pooled and managed as a sector cap for the fleet as a whole.

Public comments:

Bycatch caps for overfished species	ED, PMCC
IFQ for All species	WCSPA

2.1.3 Within Trawl Sector Allocation (Excluding Initial IFQ Allocation)

Allocation Between and Among Whiting and Nonwhiting Sectors

The types of IFQ may distinguish between fish subject to processing at-sea and fish delivered for shoreside processing. In the whiting fishery, incidental catch species may be managed differently from the nonwhiting fishery (managed with sector caps instead of IFQs). In either case, an allocation between whiting and nonwhiting sectors and among the whiting sectors may need to be addressed. Thus far, one approach for allocating between sectors has been suggested:

> One of the principles on which the following allocation approach is based is to not reward individuals or sectors that have historically had higher incidental catch rates than other individuals or sectors.
>
> 1. Establish an incidental catch rate for the whiting fishery as a whole. This rate would be established by determining the incidental rate for each year of the allocation period, and then determining the average of the annual incidental rates. Annual incidental rates would be calculated by summing the estimated catch of incidental species for all whiting sectors and dividing by the sum of whiting catch for all whiting sectors.
>
> 2. To establish the whiting fishery allocation of a nonoverfished incidental species in any particular year, multiply the incidental rate from Step 1 by the nontribal directed whiting sector OY. For overfished species a set-aside would be determined by the Council.
>
> 3. Allocate the incidental catch species among the three whiting sectors (catcher processors, vessels delivering to motherships and vessels delivering shoreside) based on the formula used to allocate whiting between these sectors (i.e. shoreside 34%, catcherprocessor 42%, motherships 24%).

A policy call will need to be made as to whether to use only landings/deliveries or to include estimated discarded catch for the purpose of allocation. Some additional allocation decisions may be needed with respect to crediting sectors with landings history accounted for by permits removed by the buyback program.

Trawl Allocation Taken By Trawl Vessels Using Open Access Gears

Current Allocation Accounting Rules

Under the current license limitation program, all groundfish taken by vessels with limited entry permits count against the limited entry groundfish quota, regardless of the gear used. Limited entry vessels may use open access gears in fisheries that target groundfish or harvest groundfish incidental to the harvest of nongroundfish species. For example, directed groundfish catch by limited entry vessels using longline and fishpot gear under open access regulations counts against the limited entry allocation. Additionally, if a vessel with a limited entry trawl permit participates in nongroundfish fisheries, such as pink shrimp or California halibut, and lands groundfish as incidental catch, the landed incidental groundfish catch counts against the limited entry allocation.

Provisions with Possible Impacts on Open Access Sector

The coverage of the IFQ program needs to be reconciled with the current allocation accounting rules (see Section A.1.0 of the appendix). This allocation issue primarily affects the trawl sector but some options that would address this issue may affect the open access fishery. In specifying the scope of the IFQ program, the Council may decide to consider the separation, and possible reallocation to the open access sector, of the portion of the limited entry allocation typically taken by limited entry trawl vessels using open access gears. Such consideration will be needed if the scope of the IFQ program does not include catch by limited entry trawl vessels using directed or incidental open access gears (such catch is currently counted against the limited entry gear allocation).

Two issues affecting the open access fishery may be involved.

The first issue is whether or not to change the catch accounting rules and make a reallocation between the limited entry trawl and open access fishery. This issue would be addressed as part of this EIS. Additional committee level work on the issue and recommendations to the Council will be developed by the Allocation Committee.

The second issue concerns the amount that would be reallocated. This issue would also be handled by the Allocation Committee but would be addressed as part of the second step of this process and analyzed in the allocation EIS (see Section 1.1, “Two Decision Stages”).

2.2 Types of Environmental Impacts for Consideration

One purpose of the public scoping process is to solicit comment on environmental impacts that should be considered. Comments may be aimed at adding to the list or suggesting possible mechanisms of impact that should be evaluated. The following categories of impacts have thus far been identified.

2.2.1 Habitat and Ecosystem

Changing impact on habitat due to gear changes.
Potential changes in ecosystem dynamics if regional or localized depletion occurs.
Potential changes in the mix of species harvested with changes in fishing tactics, seasonality or gear.
Environmental impacts due to economic, community, and resource management changes.

2.2.2 Fishery Resources

Changes in accuracy of total mortality estimates.
- Incentives for unreported highgrading.
- Incentives to underreport landings.
- Improved monitoring.

Changes in total mortality.
- Incentives to minimize take of incidental catch species to avoid IFQ costs.

Changes in size and maturity of fish taken.
Direct and indirect impacts on fisheries prosecuted by other gear sectors, including sport.

2.2.3 Socioeconomic Environment

Production Value - harvesters and processors
- Mix of species and products
- Product quality
- Market timing (special orders)
- Allowable catch (reduced uncertainty about discards with proper monitoring)

Production Costs - harvesters
- Harvest flexibility
  - opportunity to better scale harvest activities to improve operational efficiency
- Gear flexibility
- Timing flexibility
- Opportunity for more efficient investment in capital
- Asset values (permit and vessel)

Production Costs - buyers and processors
- Product recovery rates
- Operational planning
- Storage costs
- Opportunity for more efficient investment in capital
- Asset values (facilities)
- Consolidation impacts, loss of infrastructure, and indirect impacts on the businesses (e.g. shifts impacting the operation of existing businesses and their competitiveness)

Safety and Personal Security
- Vessel maintenance, repair and replacement
- Avoidance of bad weather
- Personal financial and employment security

Community Impacts

- Local income
- Employment
- Tax base and municipal revenues
- Cost recovery for fishery related public works projects
- Cultural heritage
- Business and infrastructure impacts

Fairness and Equity

- Effects on groups involved and dependent on the fishery (income and employment) for crew, skippers, vessel owners, processor labor and management, support industries
- Effects on small entities (businesses (including family businesses) local governments, organizations)
- Effects on low income and minority populations
- Effects on asset value (quotas, permits, vessels)
- Effects on adjacent fisheries (geographically adjacent fisheries, for example Alaskan fisheries)
- Effects on nontrawl gear fisheries on the West Coast including sport fisheries

Nonconsumptive Values

- Nonconsumptive Use
- Existence Value

Initial Program Development and Implementation Costs
Ongoing Administrative Costs
Enforcement and Compliance Monitoring Costs
Research and Performance Monitoring Costs

References

National Research Council. 1999. "Sharing the Fish: Toward a National Policy on Individual Fishing Quotas." Ocean Studies Board, Commission on Geosciences, Environment, and Resources, National Research Council. National Academy Press. Washington, D.C.

TABLE 2.1-1. Trawl catch, management regime alternatives (INITIAL/ PRELIMINARY TIQC RECOMMENDATIONS) and acceptable biological catches (ABCs) and total catch optimum yields (OYs) (mt) for 2003 and 2004. (Overfished stocks in CAPS) (page 1 of 2).

Stock	2004 ABCs/OYs (mt)		Alternative Management Regimes				Deliveries for At-Sea Processing (NOTES 1&2)		
	ABC	OY	Alt 1 - Status Quo	Alt 2	Alt 3	Alt 4	Alt2	Alt 3	Alt 4
LINGCOD	1,385	735	CL	CL/SecCap	IFQ	IFQ			IFQ
Pacific Cod (Vanc-Col OY, Eur-Mont-Conc catch counts toward the "Other Fish" OY)	3,200	3,200	No Lim	IFQ	IFQ	IFQ			
PACIFIC WHITING (Coastwide)	188,000	250,000							
Shoreside			Season & CL	IFQ	IFQ	IFQ	IFQ	IFQ	IFQ
Mothership			Season	IFQ	IFQ	IFQ	IFQ	IFQ	IFQ
Catcherprocessor			Season	IFQ	IFQ	IFQ	IFQ	IFQ	IFQ
Sablefish (Coastwide) b/	8,487	7,786	CL						
North of Conception	8,185	7,510	CL	IFQ	IFQ	IFQ	SecCap	Sector Cap	IFQ
Conception area	302	276	CL	IFQ	IFQ	IFQ			
PACIFIC OCEAN PERCH	980	444	N-CL; S-CLgrp	IFQ	IFQ	IFQ	SecCap	SecCap	IFQ
Shortbelly Rockfish	13,900	13,900	No Lim	IFQ	IFQ	IFQ	SecCap	SecCap	IFQ
WIDOW ROCKFISH	3,460	284	Closure & CL	IFQ	IFQ	IFQ	SecCap	SecCap	IFQ
CANARY ROCKFISH c/	256	47	CL	CL/SecCap	IFQ	IFQ	SecCap	SecCap	IFQ
Chilipepper Rockfish	2,700	2,000	N-CLgrp; S-CLgrp	IFQ	IFQ	IFQ	SecCap	SecCap	IFQ
BOCACCIO	400	250	S-Closure	CL/SecCap	IFQ	IFQ	SecCap	SecCap	IFQ
Splitnose Rockfish	615	461	S-CL	IFQ	IFQ	IFQ	SecCap	SecCap	IFQ
Yellowtail Rockfish (north)	4,320	4,320	N-CL; S-CLgrp	IFQ	IFQ	IFQ	SecCap	SecCap	IFQ
Shortspine Thornyhead	1,030	983	CL	IFQ	IFQ	IFQ	SecCap	SecCap	IFQ
Longspine Thornyhead	2,461	2,443	CL	IFQ	IFQ	IFQ			
S. of Pt. Conception	390	195	CL	IFQ	IFQ	IFQ			
COWCOD N. Concep & Monterey)	5	2.4	Closure	CL/SecCap	IFQ	IFQ			
S. Concep	19	2.4	Closure	CL/SecCap	IFQ	IFQ			
DARKBLOTCHED	240	240	N-CLgrp; S-CLgrp	IFQ	IFQ	IFQ	SecCap	SecCap	IFQ
YELLOWEYE	53	22	N-CL, CLgrp; S-CLgrp	CL/SecCap	IFQ	IFQ	SecCap	SecCap	IFQ
Nearshore Species									
Black WA	540	540	N-CLgrp; S-CLgrp	CL/SecCap	IFQ	IFQ	SecCap	SecCap	IFQ
Black OR-CA	775	775	N-CLgrp; S-CLgrp	CL/SecCap	IFQ	IFQ	SecCap	SecCap	IFQ
Minor Rockfish North (for management purposes split: nearshore, shelf and slope)	4,795	2,250 (ns=122, shlf=968, slp=1,160)		ns - CL/SecCap shlf-IFQ slp-IFQ	IFQ-grp	IFQ or IFQ-grp (depending on spp)	SecCap	SecCap	IFQ-grp
Remaining Rockfish North	1,612	-							
Bocaccio	318	-	N-CLgrp	IFQ-grp	IFQ-grp	IFQ or IFQ-grp			
Chilipepper - Eureka	32	-	N-CLgrp	IFQ-grp	IFQ-grp	IFQ or IFQ-grp			
Redstripe	576	-	N-CLgrp	IFQ-grp	IFQ-grp	IFQ or IFQ-grp			

TABLE 2.1-1. Trawl catch, management regime alternatives (INITIAL/ PRELIMINARY TIQC RECOMMENDATIONS) and acceptable biological catches (ABCs) and total catch optimum yields (OYs) (mt) for 2003 and 2004. (Overfished stocks in CAPS) (page 2 of 2).

Stock	2004 ABCs/OYs (mt)		Alternative Management Regimes				Deliveries for At-Sea Processing (NOTES 1&2)		
	ABC	**OY**	**Alt 1 - Status Quo**	**Alt 2**	**Alt 3**	**Alt 4**	Alt2	Alt 3	Alt 4
Sharpchin	307	-	N-CLgrp	IFQ-grp	IFQ-grp	IFQ or IFQ-grp			
Silvergrey	38	-	N-CLgrp	IFQ-grp	IFQ-grp	IFQ or IFQ-grp			
Splitnose	242	-	N-CLgrp	IFQ-grp	IFQ-grp	IFQ or IFQ-grp			
Yellowmouth	99	-	N-CLgrp	IFQ-grp	IFQ-grp	IFQ or IFQ-grp			
Other Rockfish North	2,068	-	N-CLgrp by depth	IFQ-grp	IFQ-grp	IFQ-grp			
Minor Rockfish South (for management purposes split: nearshore, shelf and slope)	3,506	1,968 (ns=615, shlf=714, slp=639)		ns - CL/SecCap shlf-IFQ slp-IFQ	IFQ	IFQ or IFQ-grp (depending on spp)			IFQ??
Remaining Rockfish South	854	-							
Bank	350	-	S-CLgrp	IFQ-grp	IFQ-grp	IFQ or IFQ-grp			
Blackgill	343	-	S-CLgrp	IFQ-grp	IFQ-grp	IFQ or IFQ-grp			
Sharpchin	45	-	S-CLgrp	IFQ-grp	IFQ-grp	IFQ or IFQ-grp			
Yellowtail	116	-	S-CLgrp	IFQ-grp	IFQ-grp	IFQ or IFQ-grp			
Other Rockfish South	2,558	-	S-CLgrp by depth	IFQ-grp	IFQ-grp	IFQ-grp			
Dover Sole	8,510	7,440	CL	IFQ	IFQ	IFQ			
English Sole	3,100	na	CLgrp	IFQ	IFQ	IFQ			
Petrale Sole	2,762	na	CL	IFQ	IFQ	IFQ			
Arrowtooth Flounder	5,800	na	CL	IFQ	IFQ	IFQ	SecCap	SecCap	IFQ
Other Flatfish	7,700	na	CLgrp	IFQ	IFQ	IFQ	SecCap	SecCap	IFQ
Other Fish	14,700	na	No Lim	**??**	CL/SecCap	IFQ			
Halibut NOTE3			Prohib	Prohib	Prohib	IBQ	Prohib	Prohib	IBQ
Salmon NOTE3			Prohib	Prohib	Prohib	Prohib??	Prohib	Prohib	Prohib??
Crab NOTE3			Prohib	Prohib	Prohib	Prohib??	Prohib	Prohib	Prohib??

KEY TO CODES FOR ALTERNATIVE MANAGEMENT REGIMES
SecCap=Sector Catch Cap
Prefix N or S = measures used north or south of Cape Mendocino.
CL = species specific cumulative trip limits
-grp = harvest controlled under the IFQ or cumulative limit for a species group.
Season = opening with no cumulative limits
Closure = no retention allowed (any catch must be discarded)
Prohib = no retention every allowed in the groundfish fishery.
No Lim = harvest monitoring only, other limits have not been necessary to control harvest.

NOTE1: Substantial dog shark are caught in the whiting fishery (2,269 mt in the at-sea portion from 1992-2002)
NOTE2: At-sea species for management has not been discussed by the TIQC. The list of potential species provided here is based on a threshold of at-least 3 mt in the estimated at-sea deliveries for 1992-2002.
NOTE3: TIQC has not reviewed management options for prohibited species under Alternative 4.

Table 2.1-2. Management alternatives recommended for consideration by the TIQC (page of 2).			
	Species Groups to Which Tool Applies and Transfer Rules between Whiting and NonWhiting Fishery		
Management Tools to Be Applied	**Alt 2**	**Alt 3**	**Alt 4**
NonWhiting Fishery			
IFQ	Target Species and Species for Which There is a Trawl Allocation	OY Species (except as noted under sector caps)	All Groundfish Species
Cumulative catch limit • Transferable cumulative catch limit between vessels *within period*. • Trawl share based on biennial Council decision. • Any transfers between vessels are temporary.	Most Other Species with OYs (during initial allocation calculate an IFQ so it would be available for future use)	Species without OYs (non-IFQ species) (same as Alt 2)	Not Applicable
Monitoring Only	Species managed with monitoring only under status quo.	Same as Alt 2	Same as Alt 2
Sector Caps (Collective cap). Managed as a pool. When pool is exhausted fishery shuts down. 100% mortality accounting. Retention allowances may vary based on annual management measure decisions. Harvest rate control measures: • Cumulative catch limit (nontransferable), when a vessel reaches its limit that vessel's operations shut down. • Sector/area caps, when sector reaches cap it shuts down. Other measures to keep bycatch rates low may stay in place (e.g. RCAs).	non-IFQ Species with Extremely Low OYs (such as rebuilding species) (establish a threshold at which point a species would switch from incidental catch management to "Low OY" management) (during initial allocation, calculate an IFQ so it's available for future use)	Species with Extremely Low OYs (rebuilding species)	Not Applicable
Nongroundfish Species: Pacific halibut, salmon crab. (prohibited under status quo management)	Prohibited	Prohibited	IBQ for some (Suboption: Allow retention of IBQ when taken by gear legal for the prohibited species)
(Alt 1 = status quo, primarily cumulative landing limits)			

Table 2.1-2. Management alternatives recommended for consideration by the TIQC (page of 2).			
	Species Groups to Which Tool Applies and Transfer Rules between Whiting and NonWhiting Fishery		
Management Tools to Be Applied	**Alt 2**	**Alt 3**	**Alt 4**
Whiting Fishery			
IFQ	Target Species (Whiting)	Target Species and Incidental Catch Species with OYs	Target Species and Incidental Catch
Sector Caps: collective catch cap managed as a pool. When pool is exhausted sector shuts down. 100% mortality accounting.	Incidental Catch of Other OY Species (NonWhiting Groundfish)	Not applicable, however, individuals could form a co-op and pool their IFQ.	Not applicable, however, individuals could form a co-op and pool their IFQ.
Monitoring Only	Species managed with monitoring only under status quo.	Same as Alt 2	Same as Alt 2
Whiting Nonwhiting Transfer Rules			
Whiting-Nonwhiting Access Privilege Transfer Rules	Roll-over any unused incidental catch from one whiting sector to the next as the year progresses. Allow one sector to buy from another sector's pool (requires establishing a co-op). Allow purchase of IFQ from nonwhiting vessels. Such IFQ would be placed in the pool for whiting vessels.	Do not allow transfer of nonwhiting IFQ between whiting and nonwhiting sectors.	Allow transfer of nonwhiting IFQ between whiting and nonwhiting sectors.
Under Alternatives 3 and 4, allocate incidental catch equally among vessels, see Section A.13. (Alt 1 = status quo, primarily season management)			

APPENDIX A: IFQ PROGRAM ELEMENTS AND ANALYSIS

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Appendix A: IFQ Program Elements and Analysis

This appendix describes potential design elements and related options for a trawl IFQ program. These options will be grouped into program alternatives for the main analysis of the EIS (see Section 2.1.1). The EIS impact analysis will draw on the options and specific analysis of this appendix. As the initial recommendations of TIQ advisory groups have been reviewed and incorporated into this document, questions have been identified as to exactly how some of the provisions would be implemented. These implementation questions are noted in italics and will be the subject of further discussion. Each section includes the TIQC initial recommendations that were provided in the public scoping document, recommendations from other Council advisors and comments received during the public scoping period which ran from May 24, 2004 through August 2, 2004.

Incorporated in the discussion on each design element are references to relevant Magnuson-Stevens Act language and recommendations of a recent report from the National Research Council of the National Academy of Sciences (NRC, 1999). The NRC report was mandated by Congress. Section 303(d)(5) of the Magnuson-Stevens Act requires that "In submitting and approving any new individual fishing quota program . . . the Councils and the Secretary shall consider the report of the National Academy of Sciences and any recommendations contained in such report."

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

A.1.1 Discussion and Options

Under the allocation accounting system of the license limitation program, all groundfish taken by vessels with groundfish limited entry (LE) permits count against the LE groundfish quota, regardless of the gear used. LE vessels may use open access gears in fisheries that target groundfish or harvest groundfish incidental to the harvest of nongroundfish species. For example, directed groundfish catch by LE trawl vessels using longline and fishpot gear under open access regulations counts against the LE allocation. Additionally, if a vessel with an LE trawl permit participates in nongroundfish fisheries, such as pink shrimp, salmon or California halibut, and lands groundfish as incidental catch, the landed incidental groundfish catch counts against the LE allocation.

The coverage of the IFQ program needs to be reconciled with the current allocation accounting rules. If the current accounting rules are used and the IFQ program is to cover all of the LE trawl vessel allocation, LE trawl vessels making groundfish landings in nongroundfish fisheries would have to make those landings in compliance with tracking and monitoring rules for the IFQ program. As a mitigation measure, the possibility might be explored for having somewhat different tracking and monitoring rules when a vessel is using an open access gear. In considering this possibility, the effect on opportunities for noncompliance would have to be taken into account.

Ensuring LE trawl vessel compliance with IFQ tracking and monitoring rules while fishing with open access gear would result in additional costs for vessels and the tracking and monitoring system. Therefore, options might be considered that would not require IFQs when LE trawl vessels use open access gears. Subdividing the trawl allocation brings up issues of how to divide the allocation, the need to modify the catch accounting system to track progress toward taking the allocation, difficulties in managing what may be very small quotas and management responses when such

non-IFQ LE trawl quotas are approached by the LE trawl fleet participating in directed or incidental open access fisheries. Options include subdividing the trawl allocation and/or changing the LE catch accounting system. In the following table, Option 2 provides a set of logically complete approaches outlined for a system in which IFQ is not required for groundfish catch by LE trawl vessels using open access gears. To date, no one has advocated Option 2, SubOption B. Changing the accounting system for LE trawl vessels would also bring up the issue of considering such a change for LE fixed gear vessels and treatment of vessels with LE permits for both trawl and fixed gears.

IFQ Program Scope - Option 1: Require IFQ for all Catch by LE Trawl Vessels. Require LE Trawl vessels to make landings in compliance with IFQ tracking and monitoring rules, even when using nontrawl open access gears (examples of directed and incidental gears that may take groundfish include longline, fishpot, shrimp trawl, California halibut trawl, and crab pots).	
SubOption A	Require that landings be made in compliance with 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	• Split the trawl allocation between IFQ and non-IFQ harvest • Manage groundfish harvest by trawl vessels using open access gears to stay within the suballocation.
SubOption B	• 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	• Reallocate 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.

TIQC Recommendations: Option 1 or 2. No consensus has been identified.

Options from Public Comment Period: None.

A.1.2 Initial Analysis

Central Cost Issues

IFQ Required for OA Landings by LE Trawl Vessels	IFQ NOT Required for OA Landings by LE Trawl Vessels
Greater Vessel Costs Vessels must make landings in compliance with the IFQ monitoring program. On the one hand, this could include carrying an at-sea compliance monitor. On the other hand, some adjustment might be made to reduce the compliance burden for LE trawl vessels using open access gear.	Greater Management Costs Either: (a) increased costs associated with separate management of another very small subquota OR (b) costs of reallocating and redefining the limited entry quota accounting rules such that open access catch by these vessels is merged with management of another sector.

Magnitude of Problem

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).

Possible Equity Considerations Identified to Date

Link to Allocation Rule

If trawl vessel IFQ is allocated based on a landings history that includes groundfish bycatch in the pink shrimp fishery and if LE permitted vessels are then allowed to take groundfish bycatch in the pink shrimp fishery and not use IFQ to do it, then it might be considered double dipping (the vessel would take groundfish as bycatch, in common with other pink shrimp vessels, but also receive an initial allocation of IFQ based on groundfish from the pink shrimp fishery).

Operational Cost Burdens

If vessels must make IFQ landings in compliance with the monitoring system, then the IFQ vessel might have greater shrimp fishing operational costs than other vessels participating in the shrimp fishery.

Question for Further Consideration

What is the implication of this decision for dual endorsement vessels (vessels with LE permits endorsed for both trawl and fixed (fishpot or longline gear)? Presumably the current LE allocation will be split between trawl and fixed gear and the gear used on the trip will determine which quota and requirements apply. If one of these vessels is also using open access gear, what rules will apply for catch accounting?

An Additional Option to Consider

If there is a split of the LE quota between trawl and fixed gear and if the rules for open access gear use by fixed gear vessels do not change (such landings count against the LE fixed gear quota) then Option 2C above might be modified to merge management LE trawl vessel using open access gear with the fixed gear portion of the LE fishery rather than the open access portion (as currently specified in Option 2c).

Other Notes

If LE trawl vessels are required to hold IFQ to cover their catch made with open access gear, a significant new policy option opens up, the potential to allow trawl vessels to convert to the use of other gears (SubOption 1B).

A.2.0 Area Restrictions on IFQ

A.2.1 Discussion and Options

Area restrictions can be applied to IFQs:

- To prevent regional depletion[4/] and set catch levels for areas that correspond to stock assessments.
- To disperse economic benefits of catch along the coast.
- To ensure that certain communities receive economic benefits.

Any of these aims could be pursued through catch area or landing area restrictions. Catch area restrictions would most precisely meet needs to prevent regional stock depletion and would likely keep landings more geographically dispersed than might be the case without catch or landing restrictions. Landing area restrictions would more precisely meet objectives for distributing harvest benefits along the coast (or in particular communities) and would likely serve to keep ocean catch area more dispersed than might be the case without catch or landing restrictions.

Landing area restrictions might be achieved either by putting landing area endorsements on all IFQ or through a policy that allocates some IFQ to communities, similar to Alaskan CDQ programs. Catch area restrictions would most likely be achieved through the use of catch area endorsements. Because CDQs are somewhat different than more general restrictions on area of catch or landing, it is suggested that this issue be taken up in Section A.14 as part of the consideration of a variety of measures that might benefit communities.

Option:	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.

TIQC Recommendation: Inclusion of catch area restrictions should be based solely on need to address stock conservation concerns.

Minimizing such restrictions will increase operational flexibility and increase the value of the IFQ. Vessels need maximum flexibility so they can go to areas where they can fish the cleanest. Nothing in the current system prevents vessels from migrating between ports. This is a reality for market driven systems. Where fish should be landed cannot be forecasted and is worked out through negotiations between vessels and processors.

Landings area endorsements should be rejected. With respect to ports of landings, the TIQC felt that there is not enough groundfish to support processing facilities in every port which has historically

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4/ "Regional" depletion is being used here to denote broader scale depletion of a segment of a stock and "localized" depletion is being reserved for concerns related to depletion of reefs or other relatively small geographic areas. IFQs established for INPFC management areas might prevent regional depletion but would not address localized depletion of biomass on a particular reef or in the area of a particular port.

had such fisheries. The economics of the trawl fishery are such that vessels cannot travel too far from the fishing grounds to make their deliveries.

TIQ Enforcement Group Recommendations: If some IFQ are to be catch area specific, all landings should occur in ports within the catch area. This implies that a vessel would not be able to fish in two catch areas in the same trip. If the enforcement system includes VMS, compliance monitors, and full retention, it may be possible to allow vessels to fish in two areas on a single trip and separate the fish.

Options from Public Comment Period:

Landing or catch area specific IFQ based on biological and socio-economic need	ED, Survey (ED)

A.2.2 Initial Analysis

See November 2004 Analytical Team Report for analysis.

Enforcement problems related to transiting and fishing in multiple areas on a single trip would have to be addressed in the design of an enforcement and monitoring program that included catch area restrictions.

If some stocks are and others are not under catch-area endorsed IFQ, there should probably be a method specified by which catch-area IFQ can be created after the program is implemented, should the biological need for such area management be established. Also, thought should be given to whether there is a reasonable probability that management lines might need to be changed in the future and, if so, how those changes would be accomplished.

A.3.0 IFQ and LE Permit Holding Requirements

A.3.1 Discussion and Options

If the only requirement for landing groundfish with trawl gear is the possession of IFQ, the number of vessels participating in the fishery could potentially increase. In order to facilitate cost effective enforcement it may be useful to identify and limit the number of participants. This can be done through a requirement that IFQ be fished only from vessels with limited entry trawl permits.

Determination of when the IFQ must be held has a substantial bearing on program enforceability and monitoring costs and on discard rates (bycatch). A program that requires IFQ be held at some time prior to offloading would allow greater opportunity for ensuring compliance through the potential for enforcement activity during fishing or offloading activities. In such a case, enforcement officers in the field (USCG at-sea or state or NMFS agents on the dock) can determine whether there is sufficient IFQ to cover a particular landing. A program that allows IFQ to be acquired after offloading has been completed provides no opportunity for in-the-field detection of quota busting. On the other hand, allowing a vessel to cover its landing of IFQ after offloading has been completed reduces the incentive for at-sea discards (bycatch) or underreporting a landing for which insufficient IFQ is held.

Where IFQ may be acquired after a landing is completed, greater emphasis must be placed on ensuring that catch information is accurately recorded. Once accurately recorded, at a later time a determination can be made as to whether adequate IFQ was held to cover the landing. Ensuring accurate recording of catch makes it more necessary to have 100% at-sea monitoring and/or weigh master presence during offloading operations. Additionally, if there is 100% at-sea and/or shoreside monitoring, the opportunity is substantially reduced for underreporting a landing for which sufficient IFQ is already held (the motive for such underreporting would be to preserve the IFQ for future use). Enforcement program elements are discussed in Section A.8.0.

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.

SUBOPTION: 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.

TIQC Recommendation: Options 1 and 3 with possible suboptions requiring that some IFQ be held at the time of vessel departure from port. No consensus has been identified. (NOTE: TIQC has not had an opportunity to consider Option 2).

Do not consider an option requiring IFQ be held prior to departure from port. Requiring that IFQ be held prior to departure from port was viewed as overly constraining and would force fishers into situations where they would have to discard catch in excess of IFQ held.

TIQ Enforcement Group Recommendation: Option 2 including a suboption that requires some quota be held prior to departure from port and that the vessel IFQ account have no deficits for any species.

If a landing is not covered within 24 hours, catch in excess of IFQ holdings (or, if there are carryover provisions, catch in excess of IFQ holdings plus carryover provisions) would be forfeited and additional enforcement actions possibly taken. Overages would be debited against a vessel's IFQ account and show as a deficit balance until additional IFQ is acquired.

Options from Public Comment Period: None.

A.3.2 Initial Analysis

When violators can be detected and cited in the field, enforcement actions can be taken more efficiently and a deterrence is created for engaging in the detectable phase of the illegal activity. However, this deterrence may lead to the adoptions of less detectable methods of noncompliance, for example, under reporting discards rather than attempting to make landings of fish in excess of IFQ.

When IFQ Needs to be Held to Cover Catch	In the Field Detection of Violation	Incentive for Illegal Discard or Underreporting

Time of landing	Detect and cite for excess retained fish at time of landing (no effect on opportunity to detect unreported discards).	Highest incentive for illegal discarding, greatest disincentive decide before reaching port to plan an attempt underreporting a landing.
Within 24 Hours	Detect potential violation at time of landing, verify w/in 24 hours and immediately collect corroborating statements and evidence. Enforcement cost slightly higher.	Lower incentive for illegal discarding. May have to pay high prices to by IFQ on "spot" market. More opportunity for underreporting if there is no monitoring presence.
Within 30 Days	Same as 24 hours except 30 day delay substantially increases cost of developing enforcement cases.	Lowest incentive for illegal activity. Most time to locate IFQ at best price.

A.4.0 Transfer Rules

Transferability promotes economic efficiency but often the potential structural changes to the fishing industry and fishing communities accompanying transfers are perceived as a threat. These perceived threats include the concentration of quota shares, a lopsided distribution of economic gains, and a change in social relations among members of a community (NRC, 1999, pg. 208).

To further goals of economic efficiency and rapid downsizing, transferability should be as free as possible. Restrictions on transferability may be warranted to promote other goals such as protecting the owner-operator mode of production, preventing absentee ownership, or protecting fishery dependent coastal communities (NRC, 1999, pg. 208).

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

A.4.1.1 Discussion and Options

IFQ might be issued under sector specific allocation rules (Section 13.0) but might be transferable among trawl sectors.

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.

The following are the sectors and subdivisions for which sector specific IFQs might be considered.

Trawl	Whiting	At Sea	Catcher Processor
			Motherships
		Shoreside	
	Nonwhiting		
Nontrawl			

IBQ can be thought of as IFQ for prohibited species (species which, under status quo, cannot be retained if taken by trawl gear). IBQ might be created to control harvest related mortality for species such as halibut.

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.

TIQC Recommendation:

IFQ Options 1 or 2 should be considered. No consensus has been identified.
IBQ Options 1 or 2 should be considered. No consensus has been identified.

Restricting transfers of IFQ and IBQ between sectors may help preserve existing structure of the fishing industry and communities. It would also prevent one sector from shutting down another by buying up all of the allotment of a critical bycatch species. Allowing the transfer of IFQ between sectors should encourage optimization of the use of the fish resource. Allowing the transfer of IBQ to a sector that would be allowed to harvest and retain the catch represented by the IBQ would likely reduce bycatch and increase utilization of the covered species, so long as the monitoring system in place is adequate to ensure all catch is accounted for.

There has been some discussion in the TIQC about allowing trawl vessels to retain prohibited species where mortality is managed under an IQ program.

Public Comment:

Include recreational fisheries and allow cross sector transfers.	UASC

A.4.1.2 Initial Analysis

In general, within the scope of the IFQ program (in this case the groundfish trawl fishery) the more transferability that is allowed the more efficient the use of the resource covered by IFQ and hence the greater the total economic benefits of the program. Limits on transfers among sectors of the trawl fishery may be used to preserve characteristics of the fishery that are viewed as desirable.

If IFQ is trawl sector specific (not transferable among sectors), rules will be needed for determining when a vessel is participating in a particular sector. Separating the various whiting sectors is relatively easy in this regard. Separating shoreside whiting from shoreside nonwhiting raises certain questions. Some whiting is taken as incidental catch in trawl fisheries directed toward other species. Vessels are allowed to deliver up to 10,000 pounds of whiting outside the whiting season. If there is a separation of the IFQ for species that are bycatch in the whiting fishery (e.g. whiting sector darkblotched rockfish and nonwhiting sector darkblotched rockfish) on which trips delivered shoreside would whiting sector IFQ be needed for bycatch species. Any trip over 10,000 pounds? If so, then would there also need to be a separation of whiting IFQ between directed and targeted trips or could the same shoreside whiting IFQ be used to cover deliveries under 10,000 pounds as for deliveries greater than 10,000 pounds?

Unless the nontrawl sectors are under a fully monitored IFQ program, transfer of IFQ to nontrawl sectors would expand program complexity and compliance and monitoring costs. At the same time, if such transfers were allowed and the IFQ were bid away from the trawl fishery, this would indicate

that fishers in the nontrawl fishery were able to use the IFQ to generate more profit than the trawl sector.

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."

Creation of IBQ for salmon would require consideration of the variation in stock composition depending on area of harvest and time of year. Creation of IBQ for crab would require establishing an overall quota for the trawl fishery. Currently crab is managed with season and size restrictions.

A.4.2 Eligible Owners/Holders (Who May Own/Hold)

A.4.2.1 Discussion and Options

The NRC study notes that some communities may be heavily dependent on fishing for social, cultural, and economic values and/or are lacking in alternative economic opportunities; and recommends that Council's be permitted to "authorize communities to purchase, hold, manage and sell IFQs" (NRC, 1999, pg. 206). In making this recommendation the NRC states that Council's should determine the qualifying criteria for a community that is permitted to hold quota.

The potential for foreign ownership and control is another issue related to determination of the class of eligible owners. In this regard, the NRC recommended that Congress take the lead in determining eligibility of foreign individuals and companies to receive IFQ in an initial allocation. Because of foreign ownership interest in the existing fishery, limitations on foreign ownership could be problematic and discriminate against US co-owners and investors. Also, bearing on this issue are current trends toward the liberalization of direct foreign investment worldwide (NRC, 1999, 211). Groundfish LE permit ownership in the current license limitation system is controlled with provisions that prohibit ownership of permits by anyone not eligible to own a US documented fishing vessel.

Other potential groups to consider are crew members, skippers, vessel owners, permit owners, members of fishing communities, those that may wish to hold IFQ for their nonuse benefits (e.g. members of conservation organizations), individual members of the general public, those with security interest in the IFQ (e.g. a lender), any person (including business entities such as corporations).

These options apply to both quota shares (QS) and quota pounds.

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. *(NOTE: If ownership is restricted to these classes, criteria will need to be established to identify membership in these groups.)*

TIQC Recommendations: Option 1 and Option 2. No consensus has been identified.

The "eligible to own a US documented vessel" option is intended to restrict foreign ownership without disrupting any current ownership structure in the fishery that involves a foreign interest.

The "stakeholder" option was specified to increase the likelihood the quota shares and the benefits therefrom are held by members of individual fishing communities, such that the communities benefit

Options from Public Comment Period:

Allow communities to form nonprofits and acquire IFQs	ED

A.4.2.2 Initial Analysis

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

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 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. For example, if a qualifying class is"crew members," there is not consistent licensing of crew members among the states. Therefore some system would need to be developed to identify members in this class. 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.

A.4.3 Duration of Transfer - Leasing and Sale Prohibition

A.4.3.1 Discussion and Options

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 (NRC, 1999, pg. 208).[5/] One of the primary social concerns with leasing is the potential for absentee ownership in the fishery. Provisions that might be considered to restrict leasing (if such restriction is desirable) include limiting the proportion of the total quota that may be leased, the frequency of leasing, and taxing leases (NRC, 1999, pg, 208). The NRC recommends permanent transfers generally be allowed with restrictions on to whom or where the quota may be transferred, if necessary to address concerns about absentee ownership, geographic distribution of the fishery or other structural features of the industry.

These options apply to both QS and quota pounds (note: quota pound leasing and quota pound sale are equivalent since, once used, quota pounds convey no ongoing harvest opportunity).

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.

TIQC Recommendations: Option 1 and Option 2. No consensus has been identified.

Prohibiting leasing would be intended to reduce the opportunity for absentee ownership in the fishery.

The purpose of the moratorium on transfers of quota shares contained in the suboption to Option 2 would be to allow fishers to get used to the program so that they might make better business decisions when buying and selling quota shares.

Public Comments:

Compel quota holders who have historically leased their permits to others to continue to lease their IFQ to those individuals.	Survey (ED)

A.4.3.2 Initial Analysis

Participants in the New Zealand fishery 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. This has resulted in a recommendation that consideration be given to prohibiting the permanent transfer of IFQ in the first years of a program (Dewees, 1996, Casey, 1995). In the November 2004 Analytical Team Report, price variability in the first years of an IFQ system declines over time due to learning processes (see section on “Price Dispersion”).

5/ With 100% accounting of catch, using observers or other means of monitoring, discarding to avoid the need to cover catch with IFQ would not be an option.

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.

A.4.4 Time of Transfer

A.4.4.1 Discussion and Options

One reason for considering a restriction on the time of sale is to facilitate tracking IFQ, particularly if roll-over provisions for catch overages are to be applied to quota share or if the IFQ tracking system is not a real time electronic system. In some programs there are restrictions on transfers of quota shares at the end of the year in order to facilitate the settling of accounts and issuance of quota pounds for the subsequent year.

Also included in this category is an enforcement provision that would restrict the transfer of quota share from the holder of any account for which there is a deficit of quota pounds (landings in excess of quota pounds held).

Time of Year

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

Quota pounds would be transferable any time during the year.

Transfer Embargo

Option	Quota shares may 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.

<u>TIQC Recommendations:</u> Option 1 or 2. No consensus has been identified. The TIQC has not reviewed the transfer embargo proposal.

A restriction on the inseason transfer of quota pounds has not been suggested in order to allow fishermen to adjust their holdings to the composition of their catch.

<u>TIQ Enforcement Group Recommendation</u>: Quota shares should not be transferred from any account for which there is a deficit of quota pounds.

Question: If quota pounds have been leased out to a vessel, is the account that would be restricted that of the vessel, that of the lessor or both? If transfers for the account of the lessor are to be restricted and the vessel's account (lessee's) is the one in deficit if there are multiple lessee's would all be considered in deficit. What if the vessel is using leased quota only, hence has no quota shares against which the transfer restriction would be applied.

<u>Public Comments</u>: None

A.4.4.2 Preliminary Analysis

Need and costs for restrictions, or lack thereof, will likely become more apparent as the program is further developed. A limitation on the time of year of transfer might be useful in the administration of the program. Rules such as provisions allowing for roll-over may affect the need for restrictions on transfer.

Restrictions on transfers of quota shares from accounts with a deficit of quota pounds (catch in excess of quota pounds) would serve an enforcement and deterrence function. The restriction seeks to improve the likelihood that quota shares will be available if necessary to cover a deficit with pounds from a following year (if there is a rollover provision in place) or will be available for seizure as a penalty, if the deficit is part of a sufficiently severe compliance problem.

A.4.5 Divisibility

A.4.5.1 Discussion and Options

Limited divisibility (blocked quota shares) combined with limits on the number of blocks that can be stacked were used in Alaska to try to preserve the character of the fishery. With the limits on stacking, quota shares in small blocks were expected to preserve small fishing enterprises and be available at substantially lower prices. In the Alaska system, only a portion of the quota shares were blocked and the remainder were completely divisible. Greater divisibility of IFQ may increase the number of transactions and hence the governing costs.

Elements of Divisibility Provisions	
Element 1.	Quota Shares: nearly unrestricted divisibility - “many decimal points."
Element 2.	Quota Pounds: divisible to the single pound

TIQC Recommendations: No limit on divisibility and no blocked shares. The option of requiring quota shares and quota pounds be held in larger blocks was rejected from consideration in order to provide greater flexibility in entry and exit. Requiring that IFQ be traded in blocks may increase incentive for discards. Fishers faced with needing only small amounts of IFQ to cover incidental catch might chose to discard when faced with the cost of buying blocked shares in excess of their need. Allowing the purchase of small quantities will allow individuals to tailor their IFQ holdings to their needs. It will also make it easier for people to work their way into the fishery. Ability to transfer IFQ in small increments will make it easier to take full advantage of allowed harvest, generating the associated benefits for the nation.

During TIQC discussions it was noted that if transactions go through brokers, transaction costs should largely be privatized. Therefore, there should not be concerns over costs associated with high divisibility of IFQ.

Public Comments:

Blocked quota shares	ED-Survey

A.4.4.2 Preliminary Analysis

Blocking quota shares with stacking limits could result in some quota being substantially lower in value on a per unit basis. Two factors may bear on the relevance of the Alaska system to what might be desirable for a West Coast trawl IQ program. First, the Alaska sablefish and halibut programs were not for multispecies fisheries. There was little need to acquire quota shares to cover incidental catch. Second, the blocked quota share program has since been repealed.

If quota shares were available in both blocked and unblocked form with a limit on the number of blocks that could be stacked, individuals entering the fishery could either acquire blocks (likely available at a lower price per unit of quota) or divisible quota in what ever size increment they could afford.

A.4.6 Liens

A.4.6.1 Discussion and Options

The NRC (1999, page 202) found that "Individuals who do not receive an initial allocation, or those who received a small quantity of quota, may find it difficult to obtain bank financing to purchase shares because they lack acceptable collateral." 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. The Magnuson-Stevens Act includes creation of a lien registry system, but none has been implemented to date.

TIQC Recommendations (Comment): Liens (Use as Collateral) - Pledging IFQs as collateral is a matter of private contract, independent of the government program.

Public Comments: None

Options from Public Comment Period: Comments received during public scoping will be placed here.

4.6.2 Preliminary Analysis

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 lien 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.

A.4.7 Accumulation Limits

A.4.7.1 Discussion and Options

Accumulation limits may be used to promote equity by preventing a few IFQ holders from acquiring excessive market power and thereby adversely affecting other sectors such as crew and processors. Accumulation limits may also be an indirect way to encourage broader geographic distribution of quota shares. While some IFQ programs rely solely on antitrust law to prevent excessive concentration of shares, experience has shown this has not been sufficient to prevent problems resulting from excessive concentration of IFQ (NRC, 1999, page 209). The NRC also notes that concentration limits may not be very effective if there are ways to circumvent them.

Section (d)(5)(c) of the Magnuson-Stevens Act requires that any new program "prevent any person from acquiring an excessive share of the individual fishing quotas issued . . ." The NRC has recommended that all IFQ programs define excessive shares, including specification of its measurement, and prevent the accumulation of "excessive shares" of IFQ (NRC, 1999, pg. 210).

Options for IFQ concentration caps.

	Non-Whiting Groundfish				Whiting Fishery		
	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%

<u>TIQC Recommendations:</u> Caps should be considered to limit the amount of IFQ held.
Caps for catcher vessels may need to be different than caps for catcher-processors. No consensus has been identified with respect to specific percentages for the caps.

The caps may be for individual species and/or total IFQ holdings. The total holdings cap should be lower than the individual species cap so that a person cannot hold the maximum amount of every species. This provides another constraint on accumulation.

If an entity would be eligible to receive more than the cap as part of the initial allocation that entity should be allowed to receive and use the amount in excess.

If a person has partial control of an IFQ account (for example, through a partnership) all IFQ under that account would count toward that person's cap.

The TIQC discussed without resolution whether caps should be based on poundage or value. Under the British Columbia system value equivalents are established, using Pacific Ocean Perch as a base unit.

<u>Independent Experts Panel Comment:</u> If IFQs are area specific, the Council may wish to specify area specific accumulation caps.
<u>Public Comments:</u>

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

4.7.2 Preliminary Analysis

To address the concern that an excessive share of an individual segment of the fishery not be held by a single entity, caps would be applied to individual species and for all groundfish overall. By ensuring more vessels participate in the fishery, caps help reduce the chance that some ports my be eliminated from participation due to consolidation of harvest.

A limit on control (IFQ owned or leased) would be more restrictive than a limit on ownership. Because of the many ways available to circumvent control limits, limits on concentration of harvest aboard a single vessel may also encourage the spreading of benefits from harvest.

One issue imbedded in the options pertaining to ownership and control is the degree of control required before the IFQ counts 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). Thus if a person has the maximum (three permits) for his or her vessel and he or she has a partial interest in a second vessel, no permits could be fished from the second vessel. For the Alaska IFQ system if an individual has any ownership interest in an IFQ account all IFQ in the account counts against their cap.

Ownership and control of IFQ will likely be determined in part on the basis of ownership or control of IFQ accounts. IFQ would be held and tracked in accounts because it is likely to be fungible (interchangeable) and divisible much like money. However, an IFQ account may or may not be associated with a permit or vessel. In order to be used, quota pounds held in accounts not associated with vessel will likely need to be transferred to an account associated with a permit or vessel. If rules parallel to that of the permit stacking program are put in place for the IFQ system, a person who

- owns IFQ and fishes it off his or her vessel and
- has at least part ownership in a second vessel that is leased out to someone else,

could have counted as being under his or her control all of the following:

- quota pounds held under direct ownership
- quota pounds held by a crew member that he allows to be fished off his vessel,
- quota pounds he leases from someone else to fish off his vessel

- plus any quota pounds associated with the vessel he leases out, including
- quota pounds owned by the person to whom he leases his vessel,
- quota pounds the vessel lessee leases from other quota share holders,
- quota pounds fished by crew members off the leased vessel

Options for alternative ways to define control have not been developed.

A.4.8 Vertical Integration Limit

A.4.8.1 Discussion and Options

Vertical integration occurs when a single entity operates at several levels in the harvest and distribution chain, e.g. owns both a catcher vessel and a processing facility.

TIQC Recommendations: No limits on vertical integration other than what is provided through the accumulation caps.

Public Comments: None

4.8.2 Preliminary Analysis

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).

A.5.0 Rollover (Carryover) to a Following Year

A.5.1 Discussion and Options

Allowing a fisher to land catch in excess of his or her IFQ allotment but counting it against the following year's allotment is one means of penalizing fishers for exceeding their IFQ without creating large incentives for discarding the excess harvest (NRC, 1999, pg. 217). Similarly, allowing a fisher to carry over some portion of his or her unused IFQ allotment from one year to the next creates a situation in which there is less incentive for fishers to catch up to their full limit and hence risk exceeding the limit. While midseason transfers can facilitate coverage of any over catch, as the season progresses there would be less and less IFQ available for transfer.

Summary of Options from Public Information Document:

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).

Question: If quota pounds have been leased out to a vessel how would rollover provisions for overages be applied to quota shares?
TIQC Recommendations: The TIQC identified options 1 through 4. No consensus has been identified.

Public Comments: None

A.5.2 Preliminary Analysis

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.

A.6.0 Use-or-Lose Provisions

A.6.1 Discussion and Options

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. The objective of the use-or-lose provision would be to ensure for processors and communities the benefit of biologically sustainable harvest opportunities by preventing the reservation of quota by persons that may not use it for a variety of reasons. Concerns motivating consideration of this provision also include the possibility that someone might acquire large amounts of IFQ for a key species and then demand a high value for its release to someone who would use it.

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.

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?*

TIQC Recommendations: No consensus has been identified. The use-or-lose provision would apply to the person owning the IFQ. A requirement that IFQ be used in three out of five years was considered.

Public Comments: None

A.6.2 Preliminary Analysis

If implementation issues reflected in the above list of questions can be worked out it appears that a use-or-lose provision could achieve the objective of ensuring that quota is utilized. The main issue will be establishing a standard for determining whether IFQ has been used. The problem is aptly 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?

Depending on how it might be implemented, the use-or-lose provision could interact with the roll-over provisions which allow some portion of the IFQ to be left unused each year. Rollover provisions may be a necessary part of an effective use-or-lose provision because, in a multispecies fishery catching near 100% of all quota pounds without exceeding some IFQ holdings would likely be impossible.

If IFQ is issued for all species (including some that are currently not fully harvested) the provision could result in wastage as fishermen might catch and discard fish only to ensure that they do not lose IFQ that might someday become more valuable (either for harvest and retention or to cover bycatch).

A.7.0 Entry Level Opportunities

A.7.1 Discussion and Options

Individuals who do not receive an initial allocation and lack collateral or credit history may have a difficult time acquiring IFQ, particularly in situations where IFQ price is overinflated (NRC, 1999, pg. 211). However, the NRC (1999, pg. 210) warns that measures to facilitate new entry could defeat the purpose of an IFQ system if they expand the quota share pool or hinder consolidation.

Section 303(d)(5)(c) of the Magnuson-Stevens Act requires that any new program "considers the allocation of a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, and crew members who do not hold or qualify for individual fishing quotas." There are also provisions in the Magnuson-Stevens Act that allow for the creation of loan programs to finance small boat and entry level participation.

Section 303(d)(4) of the Magnuson-Stevens Act allows the dedication of 25% of fees collected for the IFQ program to be used to issue obligations to aid in financing:

(i) purchase of individual fishing quotas in that fishery by fishermen who fish from small vessels; and
(ii) first time purchase of individual fishing quotas in that fishery by entry level fishermen.

The criteria for qualifying under (i) and (ii) are to be included as part of the Council recommendations.

With respect to facilitating new entry, a central lien registry system could make loans more available (NRC, 1999, pg. 202) and taxing quota rents would reduce their price (NRC, 1999, pg 214), though at the same time it would reduce the revenue stream from the IFQ and the purchasers ability to recover investment in the purchase of IFQ. The NRC recommends consideration of a zero-revenue auction (NRC, 1999, pg. 211). Under such a system, some percent of the IFQ reverts back to government each year for auctioning, with the proceeds of the auction returning to those forced to give up their quota shares. The advantages cited for this auction are that it provides excellent information about prices (helpful both to fishermen and bankers) and it guarantees the presence of a steady flow of IFQs in the market, ensuring an opportunity for potential entrants to gain access (NRC, 1999, pg. 145). It might also provide price information for the purpose of determining taxes to be levied against the first transfer of IFQ.

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).

What qualification criteria should be used to identify the relevant classes of beneficiaries:

- *entry-level fishermen,*
- *small vessel owners, and*
- *crew members who do not hold or qualify for individual fishing quotas?*

<u>TIQC Recommendations:</u>

- An option for a loan program should be included as part of the analysis. (The question of qualification for low interest loans was left open.)
- If penalties result in revocation of quota shares (including use-or-lose provisions), some of the revoked shares might be used for new entry. (The question as to how individuals might qualify for reissuance of revoked shares was left open.)

The following are some provisions that would help ensure opportunity for new entry:

- Providing unlimited divisibility in the size of share blocks traded.

- Providing a central lien registry to facilitate financing by ensuring more security in the collateral and therefore lower interest rates.
- Limiting ownership to individuals.

A zero revenue auction[6/] should not be considered as there would be sufficient trading to ensure the availability of quota on the market for purchase by a new entrant.

Public Comments:

Provide low interest loans for community nonprofits 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)

A.7.2 Initial Analysis

The M-S Act requires that some options be considered for accommodating entry-level fishermen, small vessel owners, and crew members not owning quota shares.

For the loan program option, the amount of fees collected under IFQ programs is limited to 3% of exvessel value. It is likely that administration of the program, including tracking and monitoring, will require the collection of the maximum fees allowed, leaving no additional money for a loan program. Some other source of funding would be required. Loan guarantees, the use of Capital Construction Fund accounts or other such measures might be an option that would lower the cost of entry.

For the second option, 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. Such forfeitures might be used for new entrants. Another option would be to issue a certain amount of new or reclaimed quota share each year to new entrants. The two mechanisms would be mathematically equivalent with similar declines in the pounds represented by the quota share held by each existing participant.

Whether qualifying for a loan program or the reissuance of shares, some sort of qualifying requirements would need to be developed in order to identify and prioritize the various classes of beneficiaries.

6/ An auction under which revenue would go to those who provided the quota shares use in the auction (there would likely be a provision requiring that all quota holders surrender for auction a certain percentage of their quota shares each year).

A.8.0 Tracking IFQ, Monitoring Landings, and Enforcement

A.8.1 Discussion and Options

The NRC report finds that compliance and self policing would be more likely if the process of establishing an IFQ program involves co-management schemes that allow fishermen to participate in the development and implementation of the IFQ program (NRC, 1999, pg. 216). This program is being developed and considered in an open Council process that provides substantial and significant opportunity for participation of members of industry, interest groups and the public.

Section 303(d)(5)(B) of the Magnuson-Stevens Act requires that any new program "provides for the effective enforcement and management of any such (new IFQ) program, including adequate observer coverage..."

A program that requires IFQ to cover bycatch must have some means by which to ensure that bycatch is not discarded without being accounted for.

Elements of Tracking Monitoring and Enforcement System	
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)

These elements have been tentatively arrayed into enforcement programs in Table 1.

<u>TIQC Recommendations:</u>

A compliance monitoring program my be needed to monitor harvest (catch and/or landings). Of the above list, the TIQC identified the following elements for a compliance monitoring program

1. Onboard Compliance Observer (Compliance Monitors) (20% - 100%).
2. Dockside (Delivery Location) Compliance Monitor (20% - 100%).

1 & 2 (combined) Onboard and Delivery Location Compliance Monitors

3. 100% Hailing Requirement and Lesser % of Landings Monitored.
4. Exemption for Smaller Vessels (from need to carrying monitors.)

12. Video Monitoring System (Including all Components Necessary to Make Effective).

The skills of compliance monitors may or may not be different from those generally required for Federal fishery observers.

TIQ Enforcement Group Recommendations:

The TIQ Enforcement Group developed the following goals and objectives for an enforcement program.

Goal: An effective enforcement system that ensures that the possible gains from violating rules does not exceed the risks of violation penalties and that the costs of enforcement are in balance with the final outcome.

Objectives:

A. Develop reasonably enforceable regulations that are not overly complex.
B. Ensure that catch, landings, and deliveries are properly recorded.
C. Ensure that IFQ is held/acquired to cover landings and deliveries.
D. Prevent and detect fraud.
E. Conduct operations in a cost-effective manner.
F. Facilitate joint Federal-state enforcement activities including the complete sharing of data between agencies.

Initial Application Fraud Detection

PacFIN data should be used to determine the initial allocations. Any proposed revisions to fishtickets should go through enforcement review. Capability should be built into the data system to screen illegal landings from the fishtickets–possibly focus primarily on gross violators using a threshold value . Other landings that may not qualify toward IFQ should also be screened from use in the determination of landings history (e.g. landings over fleet limits taken by EFP vessels, compensation fish).

IFQ Program Operation

The following enforcement program design elements were used to develop five initial enforcement program options for consideration (Table A-1).

At-Sea Monitors ("Observers"). At-Sea Monitors would be obligated to share information with enforcement personnel in a timely fashion. A camera backup might be considered for at-sea monitors.

With partial at-sea monitoring, require a camera if there is no compliance monitor onboard. If cameras are used to monitor a vessel there can be no discards of any species (e.g. no discards of sea-stars). There are issues associated with chain of custody and costs of reviewing films that would need to be addressed with a camera system. If there is not a camera requirement for vessels not carrying at-sea monitors (i.e. some trips are completely unmonitored while at-sea), adjustments would need to be made to the OY to account for likely illegal discards. An accurate violation factor to apply to the OY would be difficult to assess and would be dependent on the officer's ability to detect violations and comparison of observed withunobserved trips.

Retention Requirement. Under a full retention requirement, the role for at-sea monitors would be to ensure that no fish went overboard. Under a partial retention requirement the role for at-sea monitors would be to record information on any discards and ensure that information was entered into a discard recording system, to be debited against IFQ accounts.

Bycatch Reporting System: If at-sea discards are allowed and IFQ is required to cover catch, a bycatch recording system comparable to the landings reporting system would be required to match catch against IFQs.

Landings Tracking System: Either the current fish ticket system could be converted to an electronic system to record close to real time information, or a parallel reporting system could be developed. Reliance on the paper fishticket system might work but flexibility of the IFQ system and associated benefits would have to be substantially constrained. The TIQ Enforcement Group believes that landings should be debited against IFQ accounts based on the dock receipt and not what goes on the final fishticket. How this would work for an electronic fishticket system or if the paper fishticket system is used needs to be addressed. If a parallel system for tracking landings is implemented, there would be inconsistencies between the fishticket system and what is reported as landed against IFQs. Under the current cumulative limit system, citations are issued on the basis of the dock receipt.

Shorebased Monitoring: Either 100% of the landings would have to be observed, or the opportunity to observe would have through an advance-notice-of-landing requirement.

Limited Landing Locations: Limited landing locations would enhance cost-effective enforcement. Enforcement costs would be substantially greater without such limits. One way to limit landing locations would be to specify that landings be made only in certain ports. Another way would be to license specific landing sites. Licensing specific sites would ensure that all communities can participate while still gaining enforcement efficiency. There would be facilities standards applied for licensing sites (e.g. activities at the site would have to be arranged such that a shorebased monitor can observe the off-loading and weighing activity at the same time).

Electronic IFQ Tracking System: Regardless of other elements of the system, an electronic IFQ tracking system would be required such that an enforcement officer in the field can determine the current IFQ account balances for a particular vessel.

With only partial at-sea monitoring and no full retention requirement, the Enforcement Group's initial assessment is that compliance would start to break down. If the IFQ were specified to cover catch instead of landings, expected compliance would likely be similar to the current system, except instead of existing cumulative landings limits there would be IFQs.

Databases would need to be built and communication equipment provided to go with the personnel requirements of the enforcement program.

<u>Public Comments:</u>

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

A.8.2 Initial Analysis

Details of the enforcement program will need to be developed for the EIS in order to complete the impact assessment. However, it is uncertain as to 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 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. The following is the extent of the FMP language related to tracking and monitoring from the Alaska sablefish and halibut IFQ program.

(D) Limitation on Ownership and Use of Quota Shares
- Frozen products may only be off-loaded at sites designated by NMFS for monitoring purposes
- QS owners wishing to transport their catch outside of the jurisdiction of the Council must first check in their catch at a NMFS specified site and have the load sealed.
- Persons holding IFQs and wishing to fish must check-in with NMFS or their agents prior to entering any relevant management area, additionally any person transporting IFQ caught fish between relevant management areas must first contact NMFS or their agents.

(G) Administration and Enforcement
(1) All sales, transfers, or leases of quota shares (or IFQ arising from those quota shares) must occur in a manner approved by the Secretary. [administered by NMFS, in developing rules public hearing must be held]
(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]

On board observers could be a large cost for small boats. The impacts of exempting vessels under a certain size from on-board observer requirements should be considered. Include consideration of possible long-term affect of distorting the size of vessels in the fleet. Consider the possibility of an observer pool and cost sharing.

Permit Endorsed Length (feet)	All Permits	Permits After Buyback
33-40	5	5
41-50	26	21
51-60	73	41
61-70	40	26
71-80	71	38
81-90	27	23
91-100	7	6
101-110	8	6
111+	6	6
Total	263	172

A.9.0 Cost Recovery/Sharing and Rent Extraction

A.9.1 Discussion and Options

Fees or taxes can be used for cost recovery and to capture for the public some of the value fishers gain through use of the public resource (rents). Fees and taxes on transfers should not be so large as to eliminate transfers and the attendant benefits derived from establishing a market for harvest privileges (NRC, 1999, pg. 213). Moreover, because such charges would affect the value at which IFQ trades in the market place, they should be established at the start of the program rather than added on at a later time after investments have already been made (NRC, 1999, pg. 213).

Section 303(d)(5)(b) of the Magnuson-Stevens Act requires that any new program "provides for... fees... to recover actual costs directly related to... enforcement and management [of the new IFQ program]."

Section 304(d)(2)(A)[7/] states that the "Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management and enforcement of any–(i) individual fishing quota program; and (ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such a program." Such a fee is not to exceed three percent of the exvessel value of the fish harvested under the program. Section 304(d)(2)(C)(ii) allows a state to receive up to 33% of any fee collected in relation to a community development program to reimburse the state for related management and enforcement costs.

Noting that for many resources the government captures a significant portion of the rent above cost recovery (timber, oil, etc), the NRC recommends that Magnuson-Stevens Act be amended to allow such cost recovery from fisheries and that the collected rents be placed in funds dedicated to improving the fisheries and the fishing communities dependent on them (NRC, 1999, pg. 215). One means of extracting such rents would be a tax on first transfer of the IFQ (NRC, 1999, pg. 214). The tax would serve a dual purpose of reducing the socially objectionable windfall and collecting rents.[8/] Another means of cost recovery and collecting rents would be a two-fee system. Under such a system a per IFQ share fee might be levied to recover program costs and a tax per pound of landing charged to recover rents (NRC, 1999, pg. 215).

Summary from Public Information Document:

Elements of Cost Recovery/Sharing Rent Extraction Provisions	
1.	Landings Fee (max of three percent under current Magnuson-Stevens Act).

7/ Section 304(d)(1) states that "The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States." Section 303(b)(1) authorizes the charging of fees for permits for fishing vessels, operators and processors (first receivers).

8/ A first transfer tax would have to be carefully structured so that mock transfers at lower than market values could not be used to minimize windfall payment. If a zero-rent auction were in place, prices from that auction might be used to determine taxes to be applied at first transfer.

2.	Privatization of Elements of the Management System: Monitoring IFQ Landings (e.g. industry pays for their own compliance monitors) Fishtickets Stock Assessments

TIQC Recommendations: Options 1 and 2. No consensus has been identified. The TIQC also discussed the potential of using an auction to provide for an initial influx of revenue to support program startup costs.

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)

A.9.2 Initial Analysis

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 (1999, pg. 214) recommends an increase in the cap to above three percent.

Legal council 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. The TIQ Enforcement Group has indicated that the privatization of catch and landings monitoring responsibility industry would require increased enforcement activity to verify that the monitoring program is functioning properly.

A.10.0 Penalties

A.10.1 Discussion and Options

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)

Consideration needs to be given to the likely effect of a set of penalties on the incentive to commit more serious crimes. For example, a severe penalty on landing incidental catch for which no IFQ were held would create incentive for discards, whereas penalizing by deducting any overage from a subsequent year's IFQ would substantially reduce that incentive (NRC, 1999, pg. 217)

Civil penalties for Magnuson-Stevens Act violations are limited to $100,000 for each violation and permit restriction, denial, suspension, or revocation (Magnuson-Stevens Act, Section 308). Criminal penalties are punishable by a fine of not more than $100,000, or imprisonment for not more than six months unless such acts involve threats to observers or enforcement officers, in which case the penalties may reach $200,000 and ten years imprisonment (Magnuson-Stevens Act, Section 309). Criminal penalties include knowingly and willfully submitting to a Council, the Secretary, or the

Governor of a State false information regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying the Magnuson-Stevens Act (Magnuson-Stevens Act, Section 307).

Elements of Provisions Related to Penalties	
1.	Strong sanctions for violators.
2.	Illegal overages should be 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.

TIQC Recommendations: The TIQC was generally supportive of strong sanctions for violators.

TIQ Enforcement Group Recommendations: A situation should not be created in which it is cheaper to catch fish in a manner that violates the IFQ program and incur penalties than to acquire the IFQ needed to cover catch or otherwise comply with the program. Situation wherein a legal participant incurs greater operational costs than a violator are viewed as inequitable and reduce program compliance.

Illegal overages should be landed and forfeited and additional enforcement action possibly taken. Illegal overages should be debited against the IFQ holders account and fishing suspended until they are covered, thereby ensuring that compliance would have been less expensive than violating program rules (with respect to the trip on which the illegal overage occurred).

Public Comments: None.

A.10.2 Initial Analysis

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 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]

A.11.0 Procedures for Program Performance Monitoring, Review, and Revision (Magnuson-Stevens Act (d)(5)(A))

A.11.1 Discussion and Options

Section 303(d)(5)(A) of the Magnuson-Stevens Act requires that any new program "establishes procedures and requirements for the review and revision of the terms of any .. .[program], (including any revisions that may be necessary once a national policy with respect to individual fishing quota

programs is implemented), and, if appropriate, for the renewal, reallocation, or reissuance of individual fishing quotas."

Noting the need for the nation to learn from its mistakes and successes in order to improve management, the NRC has recommended the promulgation of guidelines for monitoring IFQ program effectiveness (NRC, 1999, pg. 218). A monitoring and evaluation program for short- term and long-term impacts should 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). At a minimum, monitoring the effectiveness of an IFQ program should involve maintaining a central registry of shareholders and share transactions (including the value of such transactions); assessing the biological status of the stock, measuring economic performance and characteristics of commercial and recreational fisheries and subsistence patterns; assessing performance of the IFQ market; collecting data on administrative and enforcement costs, and monitoring translocational effects on other fisheries (NRC, 1999, pg. 218). Additionally, annual reports should be provided describing trends in the fishery and effects of the IFQ program (NRC, 1999, pg, 222).

The NRC report also recommends that to lay the groundwork for the impact review, a preliminary study be conducted of relevant socioeconomic aspects of a fishery prior to the design of the management program (NRC, 1999, pg. 198). Such information is contained in recent groundfish programmatic EISs, the EISs for annual and biennial specifications and rebuilding plans, and in baseline description documents such as the community description produced by the Economic Fishery Information Network (EFIN) program of Pacific States Marine Fisheries Commission (PSMFC).

Sunset provisions signify the need to reevaluate an existing law or policy after a period to ensure that they are best achieving program objectives. However, with respect to IFQ programs, the NRC report identifies that sunset provisions are fundamentally inconsistent with the nature of IFQs and may be counter productive to their purpose (NRC, 1999, pg. 201).

While sunset provisions are not recommended, it is recommended that consideration be given to the issuance of cascading fixed-term entitlements. This system works by issuing IFQ for a long but limited duration (e.g. 30 years). The program is then reviewed and if adjustments are needed, new IFQ are defined with a different set of privileges and obligations. IFQ holders are given the option of switching over to the new IFQ prior to the expiration of their existing shares or waiting until their existing shares expire. If they switch prior to the expiration of their existing shares, the new shares would be valid for another 30 years commencing with the date on which they switch. The recommendation for consideration of this design feature is not a recommendation that this type of feature should necessarily be incorporated.

Criteria on which to base program performance need to be developed. Such criteria should probably be derived from program goals and objectives.

Summary from Public Information Document:

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

TIQC Recommendations: The program should include a review period, built in performance monitoring, and opportunity for adjustments to the program.

TIQC Considered But Rejected Options: The committee recommends that automatic sunset provisions for the program not be considered. Sunset provisions make the fishery less stable and make investment planning more difficult.

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

A.11.2 Initial Analysis

No analysis provided at this time.

A.12.0 Data Collection

A.12.1 Discussion and Options

Magnuson-Stevens Act 303(a)(8) states that FMPs must assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan. Section A.11.0 discusses the need for ongoing assessments of the status of the program and its impacts in order to monitor and make changes required to meet the original objectives. The NRC (1999, pg. 198) recommends these assessments be incorporated as part of the IFQ program design.

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). Further, the NRC states that this data collection should occur separate from the consideration of specific management alternatives for a fishery and should facilitate evaluation of impacts of various allocation actions, including IFQs (NRC, 1999, pg. 199).

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 of the Alaska crab rationalization program. The Alaska program provisions are specific as to the data elements and include draft survey instruments.

TIQC Recommendations: None identified.

TIQC Considered But Rejected Options: None identified.

Public Comments: None.

A.12.2 Initial Analysis

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. Changes to the Magnuson-Stevens Act would be required in Section 303(b)(7) and Section 402(a). Section 303(b)(7) prohibits the Council and NOAA Fisheries from collecting economic data from fish processors. Section 402(a) prohibits the Council from requesting that the Secretary implement an information collection program for the fishery which would provide the types of "information that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations".

A.13.0 Initial IFQ Allocation

Section 303(d)(5)(C) of the Magnuson-Stevens Act requires that any new IFQ program "provides for a fair and equitable allocation of individual fishing quotas, . . ." Initial allocations are the most controversial aspect of IFQ programs. Over the long run, performance of the program does not depend substantially on the initial allocation. However, the initial allocation does distribute wealth. A substantial portion of a common opportunity (the capture of fish) is converted to private wealth through the creation of a marketable fishing privilege. Even though the IFQ is revocable without compensation, its function as the near equivalent of a private asset is evidenced by the value placed on it in the market place. When IFQ is awarded without charge, the initial recipient of IFQ receives an unearned asset and income upon sale or lease of that asset.[9/]

Within the context of 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 that would be required of 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 the existing LE permits due to the separation, redefinition and reallocation of the bundle of fishing privileges previously associated with the permit.

In many cases, the same individual may be subject to changes in wealth through all three mechanisms. The greater the degree to which the initial distribution of IFQ does not match the existing distribution of human and physical capital that exists in the fishery, the greater the

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9/ This unearned income is regarded by many as an unfair windfall (recovery of windfall and extraction of rents is addressed in Section A.9).

disruption costs associated with implementation of the program. However, these disruption costs would be a short-term phenomena which would not substantially affect the long-term performance of the program. In addition to disruption costs, there may be longer-term impacts on shifts of power between participants in the fishery, changing the composition of the stakeholders involved in managing the fishery. Initial recipients may be in a better position to obtain loans to buy additional quota than others in the fishery (NRC, 1999, pg. 202).

The NRC recommends that "the councils consider a wide range of initial allocation criteria and allocation mechanisms in designing IFQ program .. . " and more broadly consider ". . . (1) who should receive initial allocation, including crew, skippers, and other stakeholders (councils should define who are included as stakeholders); (2) how much they should receive; and (3) how much potential recipients should be required to pay for the receipt of initial quota (e.g. auctions, windfall taxes)." (NRC, 1999, pg. 203). 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).

A.13.1 Eligible Groups

A.13.1.1 Discussion and Options

The NRC report notes that vessel owners are usually the recipients of initial allocation and makes the following recommendations with respect to allocation to other fishery participants (NRC, 1999, pgs. 202-207).

Groups (Other than Vessel Owners)	Summary of NRC Recommendation
Skippers and Crew Allocations	Consider where appropriate. Lack of detailed catch data is not a reason to forgo this option as equal allocation is an option. It may be less appropriate in industrial fisheries that do not involve crew members as co-venturers in the same sense as other fisheries.
Processor Allocation	No compelling reason to include or exclude processors from an initial allocation.
Communities	Consider initial allocations of IFQ to communities. Some communities may be heavily dependent on fishing for social, cultural, and economic values and/or are lacking in alternative economic opportunities.
Public	Consider auctions, lotteries or combinations of mechanisms to allocate initial shares. Avoid taking for granted the option of "gifting" IFQ.

The following are options developed for the groups to whom allocations might be made.

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). *Combinations need to be specified to fully develop options.*

Option 4	Allocate to High Bidder in Auction (eligibility rules for participation to be developed).

Allocating to vessel owners is the equivalent to allocating to permit holders (the NWR Limited Entry permit holder identifies the vessel owner as the permit holder).

For each group to be included in the initial allocation there would need to be a determination of the amount of IFQ to be divided among members of the group, unless some common point system is developed. For example, IFQ might be allocated under a formula that gives equal weight to landings history of permit holders and vessel owners.

TIQC Recommendations: The TIQC developed Options 1-4. No consensus has been identified. The TIQC recommended against allocating to

1. those who owned the permit at time of landings
2. to lottery entrants
3. crew or skippers.
4. communities.

The TIQC recommends not considering allocation to the owner of a vessel or permit at time of landing because no rationale could be identified for allocating to someone who no longer ones the fishing asset used to take the fish.

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)

A.13.1.2 Initial Analysis

If IFQ is to be allocated to more than one group, some basis will need to be established to determine the amount of IFQ to be allocated among all of the eligible initial recipients. The most direct means is probably to allocate an amount of IFQ to each group and then come up with allocation criteria to allocate between members of the group. There are other approaches that might be taken but they are more complicated or problematic, for example, establishing a common qualifying criteria that

could be applied to all members of all groups (e.g. years of participation or pounds handled), or assigning points on the basis of different qualifying criteria for members of different groups and then allocating based on number of points relative to a common pool of points.

Compensation for potential adverse impact is one possible basis for determining the appropriate groups to whom an initial allocation of IFQ might be made.

Imposition of an IFQ program will change the nature of the rights associated with the permits and hence the value. If IFQs are created the values of the permits are likely to decline substantially, with the vast majority of the value becoming associated with the IFQ. Granting IFQ to the permit owner would compensate the owner for the reduced value of the permit asset, reducing some of the dislocational effects of creating the IFQ program.

Allocating IFQ to vessel owners or processors would provide a valuable asset to the owner of a major capital assets in the fishery, the use of which could be affected by the IFQ program. There are a number of key questions to be answered with respect to qualification and evaluation of landings histories for either of these groups.

In order to allocate to vessel owners, the first question to address is whether the allocation based on landings history goes to the current owner of the vessel or the owner of the vessel at the time landings were made. Past owners may have since departed from the fishery either leaving their vessel in the fishery or taking their vessel to another fishery. Current owners may have recently acquired a new vessel with little or no history or have recently entered the fishery themselves with a vessel with little history. For the license limitation program this question was resolved in favor of the current owner of the vessel as a means of taking into account present participation and minimizing disruption. Permit history was the allocation basis for the sablefish tier program, no consideration was given to vessel history.

In order to allocate to proceessors/buyers, 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, there is not a unique and stable identification system for processing/buying facilities and the systems vary between states. Processor identifiers may or may not change with changes in the ownership of a facility or company and in some circumstances identifiers may change even if there is no change in ownership. There may also be multiple buyer codes used at a particular site. As an example of how the system works for an individual state, in Washington dealers and buyers are licensed. Buyers are individuals that work for dealers and each have their own unique identifiers. Dealer numbers may change when a dealer is purchased by another company or if the corporate status with the Washington Department of Revenue changes. When the dealer numbers change the buyer numbers that work with that dealer would also change. However, the difficulties in establishing unique identifiers make the analysis more difficult but do not prevent consideration of allocations to processors/buyers, once certain questions are addressed. For buyers/processors, the first issue is the nature of the entity for which IFQ would be issued: a company or a site. The second is, if there is a change in ownership, does landings history go to the new owners of a particular company or site or stay with the owners at the time a landing or delivery was received?

Rationalization of the fishery is also likely to affect the nature of employment opportunities for crew. The exact result for crew is uncertain but it is likely that there may be consolidation in the fleet with the result being fewer but more stable jobs. The likely effect on compensation rates for employment is also uncertain at this time. IFQ also provide an opportunity for crew members to incrementally gain ownership of capital in the fishery through acquisition of IFQ. Methods for qualifying crew members for IFQ are discussed in the November 2004 Analytical Team Report.

A.13.2 Qualifying Criteria: Recent Participation

A.13.2.1 Discussion and Options

Recent participation requirements can be used to place more weight on recent participation and ensure that current participants benefit from allocations rather than those who may have left the fishery. 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 that portion of the IFQ allocated on a certain basis. For example, if a portion of the IFQ is to be allocated equally, that portion might be given only to those meeting recent participation requirements and the portion being allocated on the basis of landings history may be distributed independent of whether or not a recent participation requirement is met.

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.

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. The requirements might apply to harvesters or processors.

TIQC Recommendations: The TIQC developed Options 1, 2 and 3. No consensus has been identified. The 2000-2003 recent participation period covers the years for which a small footrope was required.

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

A.13.2.2 Initial Analysis

From the following table, it can be seen that a recent participation requirement of one groundfish trawl landing between 2000 and 2003 would eliminate 13 permits from qualifying for IFQ. The affect on the allocation to others would depend on the landings history for these vessels during the

remainder of the allocation period (see A.13.5) and whether there are other bases on which IFQ is allocated, such as some portion of the IFQ equally allocated (A.13.4).

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

The 2000-2003 recent participation period (Option 2) corresponds to qualifying period when large foot rope restrictions were in place. The 1998-2003 recent participation period (Option 3) includes time before and after the imposition of large footrope restrictions and both before and after the year 2000 declaration of a groundfish disaster. The 1998-2003 recent period qualifying criteria may not match up well with the 1998-2003 allocation period, unless its purpose would be to entirely eliminate from the allocation formula vessels/permits/processors with very small amounts of catch. If landings history is the only criteria used in determining amounts of fish to be allocated, there would be little effect. If there are other allocation criteria, such as equal allocation, the effect on distribution of IFQs may be more significant.

The IFQ program will take most of the value currently embodied by the LE permit and split it off to the IFQ. Holders of permits for which no IFQ is issued will experience a significant decline in the value of the permit as an asset. The EIS for the Amendment 6 license limitation program identified that it was the Council intent that no use-or-lose provision be included in order that vessels not be encouraged to be more active than they otherwise would. A recent participation requirement that disqualifies permits entirely from receiving IFQ could be construed to retroactively impose a use-or-lose provision.

A.13.3 Elements of the Allocation "Formula"

A.13.3.1 Discussion and Options

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. Additionally, there would need to be an allocation of IFQ among the groups before it is subdivided within the groups (see Section 13.1).

Vessel/Permit Related Allocation

Options for Vessels/Permits	
Option 1.	Auction

Option 2.	Some mix of criteria that might include: a. Landings history, wt (for certain species, consider allocating a portion based on an estimate of bycatch as determined by landings of target species). b. Equal sharing i. Equally allocate QS (represented by landings history) of those vessels/permits bought back among those vessels/permits with landings history for the species. ii. Equally allocate incidental catch species. iii. Some other equal sharing basis.
Option 3.	Landings history (wt) only (for certain species, consider allocating a portion based on an estimate of bycatch as determined by landings of target species).

TIQC Recommendations: The TIQC developed Options 1, 2 and 3. No consensus has been identified. The TIQC rejected vessel length as a basis for IFQ allocation.

Options from Public Comment Period:

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

Processor (1st Buyer) Allocation

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

TIQC Recommendations: The TIQC developed Options 1 and 2. No consensus has been identified.

Options from Public Comment Period: See recommendations for permits/vessels.

Allocation for Other Groups

Allocation formulas for any other groups to whom an initial allocation of IFQ might be made need to be developed. There is a discussion of some allocation formula possibilities for crew members in the November 2004 Analytical Team Report.

A.13.3.2 Initial Analysis

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 transition costs, as

participants, will trade IFQ and adjust their business operations to take advantage of perceived opportunities. Section 303(b)(6) also provides guidance on factors that must be taken into account in designing a limited entry program (either in the initial allocation or in other aspects of the program design). These factors include

(A) Present participation in the fishery.
(B) Historical fishing practices in, and dependence on, the fishery.
(C) The economics of the fishery.
(D) The capability of fishing vessels used in the fishery to engage in other fisheries.
(E) The cultural and social framework relevant to the fishery and any affected fishing communities.
(F) Any other relevant considerations.

Auctions

All or a portion of the IFQ could be allocated through auction if necessary changes were made to Section 304(d) under the Magnuson-Stevens Act which states that

"The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits. . ." [EXCEPT THAT] ". . . the Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management and enforcement of any--(i) individual fishing quota program; and (ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program. (B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program . . . ."

Equal Allocation

The asset value most directly affected by an IFQ program would likely be that of the permit. If an intent of the initial allocation is to compensate those who might be most adversely affected by the IFQ program, then an equal allocation may be preferred, since the relative values of permits do not vary as much as the catch history associated with a permit. There may be other rationales for allocating equally or for not allocating equally that have yet to be presented.

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.

The quality of landings history data varies across the different allocation periods covered in Section 13.5. The November 2004 Analytical Team Report covers data quality issues.

Of particular concern is the use of landings history data for incidental catch species, some of which have become overfished in recent years. The concerns are:

- For substantial portions of the proposed allocation periods, these species were not sorted, therefore there will need to be heavy reliance on species catch composition information.

While this data is not generally considered valid at the individual landing or vessel level it may be the best reasonable proxy available.

- For other portions of some of the proposed allocation periods, most catch of some incidental species may have been discarded and not included in the vessel's landing records. These vessels may not receive the IFQ necessary to prosecute some of the fisheries in which they engage.
- Allocation based on catch history of incidental species rewards the fishers who were less successful in avoiding the incidental species. In some cases, these are the species which are now over fished.

For these reasons it has been suggested that consideration be given to allocating some incidental species based on a rough estimate of their co-occurrence with target species.

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 will 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. For the license limitation program this question was resolved in favor of the current owner of the vessel as a means of taking into account present participation and minimizing disruption. Permit history was the allocation basis for the sablefish endorsement and tier program, no consideration was given to vessel history.

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. The basic question is should landings history go with the ownership at the time the landing was received, or go with the facility even if it is sold to a different group. If landings history goes with ownership, how should landings history be treated for a business (e.g. corporation) that is acquired by another business entity (another corporation).

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

A.13.4.1 Discussion and Options

For some species, species composition information would need to be applied to develop allocations based on the landings history. This requires application of fleet average species composition distributions to categories of species taken by individual vessels (e.g. applying fleet

average species composition to landings recorded as "Slope Rockfish").[10/] The other apparent choice would involve allocating all species based on larger levels of catch aggregation (e.g. allocating each individual slope rockfish species based on a permit's landings history of all slope rockfish species combined; or in the extreme allocating each individual nonwhiting species based on a permit's landings history for all nonwhiting species combined).

Summary of Options from Public Information Document:

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.

TIQC Recommendations: The TIQC developed Options 1 and 2. No consensus has been identified.

Public Comments: None

A.13.4.2 Initial Analysis

The following reflects the primary tradeoffs between the two options shown 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 up will 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.

A.13.5 Landings history: Allocation Periods

A.13.5.1 Discussion and Options

If allocation is to be based on landings history a period would need to be used to define what landings count toward landings history. The following periods and rules could be applied to any group for which a portion of the IFQ allocation is to be based on landings history. Different periods and rules might be applied to different groups.

Allocation Period Option	Number of Years in Allocation Period	Number of Worst Years to Drop from Landings history	
		Option A	Option B
Option 1. 1994-2003	10	None	2

10/ Such species composition information is often specific for a given area and time period.

Option 2.	1994-1999	6	None	1
Option 3.	2000-2003	4	None	None
Option 4.	1998-2003	6	None	1

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).

TIQC Recommendations: The TIQC developed Options 1 through 4 and specified the suboptions. No consensus has been identified.

Public Comments: None

A.13.5.2 Initial Analysis

Weighting the Catch

If all years are weighted evenly, years when there was more fishing opportunity would have a greater influence on the amount of IFQ allocated than years with less fishing opportunity. Since there has been less fishing opportunity in recent history years, recent years would have less influence than years in the more distant past. A suboption would weight the landings history between years such that catch representing 0.05% of the landings in 1994 would receive a weight equal to catch representing 0.05% of the landings in 2003. The following table shows the volume of groundfish catch in 1994-2003.

Groundfish landings in thousands of tons by all limited entry trawlers (buyback and nonbuyback) (NMFS NWR, 3/9/04)

	Shore					
Year	Nonwhiting	Whiting	Total	Mothership (Nontribal)	All Whiting	All Groundfish
1994	46	80	126	93	173	219
1995	50	75	125	41	115	166
1996	52	85	137	47	132	184
1997	47	87	135	50	138	185
1998	34	91	125	50	140	175
1999	33	87	120	48	135	167
2000	29	89	117	47	136	164
2001	25	73	99	36	109	135
2002	25	46	71	27	72	98
2003	22	55	78	26	81	104

The landings for individual species would vary from the averages that might be calculated from this table. The Analytical Team Report provides historic landings information by species.

Rationale for the Years Defining the Allocation Period Alternatives

The following is a discussion of the reasoning behind some of the years selected to delineate the landings history qualifying periods.

1994. The earliest year for the allocation period options was set at 1994 because this was the first year of the license limitation program. If the program is to allocate based on permit history, there would be no permit history before 1994 unless it is determined that permit history includes vessel history prior to that time. However, given the complexities of the qualification requirements for the original license limitation program, history prior to 1994 may be difficult to track and treat in an equitable fashion. For example, LE permits were issued to vessels that replaced qualifying vessels prior to the start of the license limitation program. Additionally, LE permits were granted to vessels under construction or conversion on a par with vessels that qualified with 1984-1988 landings history. The use of vessel landings history prior to 1994 may be viewed as inconsistent with the issuance of permits with equivalent rights for vessels under construction or conversion through 1994 and those with a 1984-1988 landings history, the former having had no opportunity to establish landings history.

1999/2000. Regulations prior to 2000 allowed extensive use of large footropes on trawl gear. In 2000, the imposition of restrictions on the use of large footropes shifted trawl effort away from reef and rocky bottom substrates. This substantially changed fishing opportunities and the mix of species landed. An allocation period that ends in 1999 would place more emphasis on the mix of opportunities that was available when either small or large footropes could be widely used. The period after 2000 reflects how vessels operated given the opportunities present under the most recent management regime.

1998. This year is used to establish a six year period (1998-2003) that includes an amount of time of sufficient length to allow vessels to demonstrate their level of activity in the fishery and landings mix. Shortening the allocation period puts more emphasis on recent participation patterns. The license limitation program used a four year period for vessels to demonstrate a pattern of activities that would qualify them for a permit. Using 1998-2003 counts landings history that includes two years prior to the large footrope restrictions and four years under the large footrope restriction.

2003. In order to prevent speculative effort and the consequent exacerbated management problems, a control date of November 6, 2003 was announced. This announcement put fishery participants on notice that fishing after 2003 would not be counted toward qualifying for IFQ. Since there was little fishing opportunity in the last two months of 2003, all of 2003 is being included in the allocation period.

Dropping Worst Years

Allowing vessels to drop their worst years from the allocation period reduces the need for consideration of hardship provisions in developing equitable allocations. The effect is to even out the distribution of IFQ among recipients.

As an indicator of the effect of dropping the worst years out of the allocation formula, the following tables shows the number of vessels for which **the share** of average revenues increases when the two worst years are dropped from a 10 year period (1994-2003). Note that average revenue increases for both groups when the two worst years are dropped.

	Vessels	Percent	Avg Years of Participation	10 Year Average Revenue	8 Yr Average Revenue	Percent Increase
Winners	276	73%	5.12	$60.2K	$72.7K	21%
Losers	101	27%	9.97	$208.0K	$228.9K	10%
Total	377	100%	6.42	$99.9K	$114.6K	15%

Number of vessels by maximum number of years of participation (whiting and nonwhiting vessels).

Years	1	2	3	4	5	6	7	8	9	10
Vessels	74	23	22	18	12	16	19	19	26	149

Similar information will be produced for permits and buyers/processors.

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

A.13.6.1 Discussion and Options

Under the Pacific Coast license limitation program, permits may be combined to create single permits with a larger vessel size endorsement. This is different from, and sometimes confused with, registration of multiple permits for a singe vessel (permit stacking). When permit stacking occurs, permits remain distinct from one another.

Landings history for Combined Permits	
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).

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 needs to be decided
- Compensation fish (fish taken as payment by vessels assisting in research) - whether to count needs to be decided

TIQC Recommendations: The TIQC developed Options 1 and 2. No consensus has been identified. The TIQC recommended illegal catch not be counted toward qualifying for a permit.

Options from Public Comment Period: Comments received during public scoping will be placed here.

A.13.6.2 Initial Analysis

Permit History for Permits that Have Been Combined

For the fixed gear sablefish endorsement and tier qualification requirements, landings history was considered to be transferred with the permit; and, when multiple permits were combined to create a single permit with a larger size endorsement, the landings history of all of the combined permits were considered to accrue to the resultant permit.

EFPs

On the one hand, EFPs provided fishermen with greater harvesting opportunity that they would have otherwise had, and participants in the EFP programs may have been at an advantage in accumulating catch history. On the other hand, there is no way to determine the catch history that would have been accumulated by these vessels had they not been EFP program participants.

A.13.7 Initial Issuance Appeals Process

A.13.7.1 Discussion and Options

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.

For the groundfish license limitation program there were numerous disputes over landings records and other qualifying criteria. For the license limitation program there were thresholds that had to be reached and, depending on whether that threshold was reached, a permit was or was not issued. As part of the appeals process, a Council Limited Entry Permit Review Board was convened composed of members of industry.

For the fixed gear tiered sablefish endorsement program there was also a threshold landing history that had to be reached to qualify for a particular tier. However, the only criteria considered was total landings and the thresholds were set at levels such there was a considerable gap between the permit with the highest landings history in the Tier 2 or Tier 3 group and the amount of landings history required to qualify for the next highest tier. There were no appeals associated with administration of this program.

For an IFQ program qualification requirement based on landings history, on the one hand any additional poundage that can be demonstrated through the challenge of a fish ticket would lead to some additional quota for the applicant, on the other hand the amount of benefit may be small relative to the cost of the appeal, unless there are a large number of landings records for the

individual to dispute. The exception to this might be a recent participation requirement, which may be a threshold amount of landings history that an applicant must demonstrate before being able to qualify for any IFQ. In this case, an applicant coming close to the threshold but falling short may have considerable incentive to initiate appeals.

TIQC Recommendations: None identified.

TIQ Enforcement Group Recommendations: Require that any proposed revisions to fishtickets undergo review by state enforcement personnel prior to finalization of the revisions.

Public Comments: None

A.13.7.2 Initial Analysis

No options have been developed to analyze. Allowing applicants qualifying based on catch history to drop their two worst years may reduce the need to rely on appeals to address hardship provisions (see Section A.13.6)

A.14.0 Some Other Possible Provisions

The above categories were based on design elements that the TIQC identified for consideration. There may be other types of design elements for an IFQ program that are not covered in the above sections. This section is a placeholder for such provisions as may come forward in other parts of the scoping process. For example, owner-on-board provisions were rejected by the TIQC committee because they would be too complex, there are substantial numbers of trawl vessels for which owners are not on-board, and it would be difficult for processors that own permits and vessels. The TIQC's view was that there is no demonstrable conservation or economic benefit from such provisions and unclear social benefits. Design elements such as this, or other such elements that are brought forward during the public comment period will be included here for Council consideration.

Options from Public Comment Period: Comments received during public scoping will be placed here.

Dewees, CM 1996. Industry and Government Negotiation: Communication and Change in New Zealands ITQ System. pp. 333-341 in RM Meyers et al Proceedings of the World Fisheries Congress, Theme 2.

Casey, KE, et al 1995. Marine Resource Economics 110: 211-230.

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.

APPENDIX B - DETERMINING ENVIRONMENTAL SIGNIFICANCE OF NOAA ACTIONS

NOAA 216-6 Guidelines
SECTION 6. INTEGRATING NEPA INTO NOAA LINE OFFICE PROGRAMS.

.01 Determining the Significance of NOAA's Actions. As required by NEPA Section 102(2)(C) and by 40 CFR 1502.3, EISs must be prepared for every recommendation or report on proposals for legislation and other "major Federal actions" significantly affecting the quality of the human environment. A significant effect includes both beneficial and adverse effects. Federal actions, including management plans, management plan amendments, regulatory actions, or projects which will or may cause a significant impact on the quality of the human environment, require preparation of an EIS. Following is additional explanation per the definitions used in determining significance.

a. "Major Federal action" includes actions with effects that may be major and which are potentially subject to NOAA's control and responsibility. "Actions" include: new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by NOAA; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals. Refer to 40 CFR 1508.18 for additional guidance.

b. "Significant" requires consideration of both context and intensity. Context means that significance of an action must be analyzed with respect to society as a whole, the affected region and interests, and the locality. Both short- and long-term effects are relevant. Intensity refers to the severity of the impact. The following factors should be considered in evaluating intensity (40 CFR 1508.27):

1. Impacts may be both beneficial and adverse -- a significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

2. Degree to which public health or safety is affected.

3. Unique characteristics of the geographic area.

4. Degree to which effects on the human environment are likely to be highly controversial.

5. Degree to which effects are highly uncertain or involve unique or unknown risks.

6. Degree to which the action establishes a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

7. Individually insignificant but cumulatively significant impacts.

8. Degree to which the action adversely affects entities listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources.

9. Degree to which endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973, are adversely affected; and

10. Whether a violation of Federal, state, or local law for environmental protection is threatened.

11. Whether a Federal action may result in the introduction or spread of a nonindigenous species.

c. "Affecting" means will or may have an effect (40 CFR 1508.3). "Effects" include direct, indirect, or cumulative effects of an ecological, aesthetic, historic, cultural, economic, social, or health nature (40 CFR 1508.8).

d. "Legislation" refers to a bill or legislative proposal to Congress developed by or with the significant cooperation and support of NOAA, but does not include requests for appropriations (40 CFR 1508.17). The NEPA process for proposals for legislation significantly affecting the quality of the human environment shall be integrated with the legislative process of the Congress (40 CFR 1506.8).

e. "Human environment" includes the relationship of people with the natural and physical environment. Each EA, EIS, or SEIS must discuss interrelated economic, social, and natural or physical environmental effects (40 CFR 1508.14).

.02 Specific Guidance on Significance of Fishery Management Actions. The following specific guidance expands, but does not replace, the general language in Section 6.01 of this Order. When adverse impacts are possible, the following guidelines should aid the RPM in determining the appropriate course of action. If none of these situations may be reasonably expected to occur, the RPM should prepare an EA or determine, in accordance with Section 5.05 of this Order, the applicability of a CE. NEPA document preparers should also consult 50 CFR 600, Subpart D, for guidance on the national standards that serve as principles for approval of all FMPs and amendments. The guidelines follow.

a. The proposed action may be reasonably expected to jeopardize the sustainability of any target species that may be affected by the action.

b. The proposed action may be reasonably expected to jeopardize the sustainability of any non-target species.

c. The proposed action may be reasonably expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs.

d. The proposed action may be reasonably expected to have a substantial adverse impact on public health or safety.

e. The proposed action may be reasonably expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species.

f. The proposed action may be reasonably expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species.

g. The proposed action may be expected to have a substantial impact on biodiversity and ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc).

h. If significant social or economic impacts are interrelated with significant natural or physical environmental effects, then an EIS should discuss all of the effects on the human environment.

i. A final factor to be considered in any determination of significance is the degree to which the effects on the quality of the human environment are likely to be highly controversial. Although no action should be deemed to be significant based solely on its controversial nature, this aspect should be used in weighing the decision on the proper type of environmental review needed to ensure full compliance with NEPA. Socioeconomic factors related to users of the resource should also be considered in determining controversy and significance.

APPENDIX C - FMP GOALS, OBJECTIVES AND NATIONAL STANDARDS

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Groundfish FMP Goals and Objectives

FMP Goals and Objectives (Including Limited Entry) from Pacific Coast Groundfish Fishery Management Plan For the California, Oregon and Washington Groundfish Fishery As Amended Through Amendment [14]

General FMP Goals and Objectives

2.1 Goals and Objectives for Managing the Pacific Coast Groundfish Fishery

The Council is committed to developing long-range plans for managing the Washington, Oregon, and California groundfish fisheries that will promote a stable planning environment for the seafood industry, including marine recreation interests, and will maintain the health of the resource and environment. In developing allocation and harvesting systems, the Council will give consideration to maximizing economic benefits to the United States, consistent with resource stewardship responsibilities for the continuing welfare of the living marine resources. Thus, management must be flexible enough to meet changing social and economic needs of the fishery as well as to address fluctuations in the marine resources supporting the fishery. The following goals have been established in order of priority for managing the West Coast groundfish fisheries, to be considered in conjunction with the national standards of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

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 maximum sustainable yield (MSY), consider rebuilding the stock to the MSY level and, if necessary, develop a plan to rebuild the stock.

Objective 4. Where conservation problems have been identified for nongroundfish species and the best scientific information shows that the groundfish fishery has a direct impact on the ability of that species to maintain its long-term reproductive health, the Council may consider establishing management measures to control the impacts of groundfish fishing on those species. Management measures may be imposed on the groundfish fishery to reduce fishing mortality of a nongroundfish species for documented conservation reasons. The action will be designed to minimize disruption of the groundfish fishery, in so far as consistent with the goal to minimize the bycatch of nongroundfish species, and will not preclude achievement of a quota, harvest guideline, or allocation of groundfish, if any, unless such action is required by other applicable law.

Objective 5. Describe and identify essential fish habitat (EFH), adverse impacts on EFH, and other actions to conserve and enhance EFH, and adopt management measures that minimize, to the extent practicable, adverse impacts from fishing on EFH.

Economics.

Objective 6. Attempt to achieve the greatest possible net economic benefit to the nation from the managed fisheries.

Objective 7. 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 8. Gear restrictions to minimize the necessity for other management measures will be used whenever practicable.

Utilization.

Objective 9. Develop management measures and policies that foster and encourage full utilization (harvesting and processing) of the Pacific coast groundfish resources by domestic fisheries.

Objective 10. Recognizing the multispecies nature of the fishery and establish a concept of managing by species and gear or by groups of interrelated species.

Objective 11. Strive to reduce the economic incentives and regulatory measures that lead to wastage of fish. Also, 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. In addition, 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. Provide for foreign participation in the fishery, consistent with the other goals to take that portion of the optimum yield (OY) not utilized by domestic fisheries while minimizing conflict with domestic fisheries.

Social Factors.

Objective 13. When conservation actions are necessary to protect a stock or stock assemblage, attempt to develop management measures that will affect users equitably.

Objective 14. Minimize gear conflicts among resource users.

Objective 15. When considering alternative management measures to resolve an issue, choose the measure that best accomplishes the change with the least disruption of current domestic fishing practices, marketing procedures, and the environment.

Objective 16. Avoid unnecessary adverse impacts on small entities.

Objective 17. Consider the importance of groundfish resources to fishing communities, provide for the sustained participation of fishing communities, and minimize adverse economic impacts on fishing communities to the extent practicable.

Objective 18. Promote the safety of human life at sea.

[Amended; 7, 11, 13]

Amendment 6: License Limitation Goals and Objectives

14.1.2 Goals and Objectives for Groundfish Limited Entry

The following are the goals and objectives for limited entry adopted by the Council in April 1990. The primary objective directly addresses the overcapacity problem, and the secondary objectives address the ways the Council hopes limited entry will promote achievement of the Council's goals and objectives for the groundfish fishery.

Goals. The goals for the West Coast groundfish fishery limited entry program are to improve stability and economic viability of the industry while recognizing historic participation, meet groundfish management objectives and provide for enforceable laws.

Primary Objective. The primary objective of the limited entry program will be to limit or reduce harvest capacity in the West Coast groundfish fishery.

Secondary Objectives. In pursuit of the primary objective, the following secondary objectives will be addressed:

Economic

- Promote long-term economic stability.
- Increase net returns from the fishery.
- Allow flexibility for combination vessels

Management

- Stabilize management regimes by reducing need for frequent inseason changes.
- Reduce the cost of management.
- Reduce by-catch and waste.
- Encourage effort in underutilized species fisheries.

Enforcement

- Promote cost-effective enforcement by reducing need for frequent changes and tight trip limits.
- Promote logistically viable enforcement by minimizing need to use regulations such as trip limits or subarea closures which are more difficult to enforce.

Social

- Recognize and accommodate historical participation of those investing their life and resources in the fishery.
- Maintain a mechanism for fishery entrance/exit and flexibility for change in the fleet.
- Reduce conflicts between user groups by limiting or reducing effort competition for the same resource.
- Provide a stable supply of groundfish to the public at a reasonable price.

National Standards from the Magnuson-Stevens Act

EXCERPTS from
Public Law 94-265
As amended through October 11, 1996

TITLE III -- NATIONAL FISHERY MANAGEMENT PROGRAM
SEC. 301. NATIONAL STANDARDS FOR FISHERY 16 U.S.C. 1851
CONSERVATION AND MANAGEMENT

(a) IN GENERAL.--Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management:
98-623
(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.
104-297
(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.
104-297
(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.
104-297
(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.
104-297
(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

Additional Magnuson-Stevens Act Considerations (303(b)(6))

The following must be taken into account in designing limited access systems:

(A) Present participation in the fishery.
(B) Historical fishing practices in, and dependence on, the fishery.
(C) The economics of the fishery.
(D) The capability of fishing vessels used in the fishery to engage in other fisheries.
(E) The cultural and social framework relevant to the fishery and any affected fishing communities.
(F) Any other relevant considerations. Magnuson-Stevens Act 303(b)(6)

APPENDIX D - AD HOC TRAWL INDIVIDUAL QUOTA COMMITTEE

Membership:

Dave Hanson-PSMFC-Chair
Steve Bodner-Trawler
Ginny Goblirsch-Communities
Alan Hightower-Trawler
Marion Larkin-Trawler
Pete Leipzig-Trawl Rep
Brad Pettinger-Trawler
Richard Young-Trawler
Chris Garbrick-Whiting Trawler
Dave Jincks-Whiting Trawler
Jan Jacobs-Whiting Catcher-Processor
Dale Myer-Whiting Mothership
Joe Plesha-Whiting Processor
Jay Bornstein-Processor
Frank Dulcich-Processor
Steve Joner-Tribal
Dorothy Lowman-Environmental
Dayna Matthews -Enforcement

APPENDIX E - IQ CONTROL DATE

1563-1564 Federal Register / Vol. 69, No. 6 / Friday, January 9, 2004 / Proposed Rules

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 660
[Docket No. 031230329–3329–01; I.D.120903B]RIN 0648–AR82

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Advance Notice of Proposed Rulemaking regarding a Trawl Individual Quota Program and to Establish a Control Date

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; notice of control date for the Pacific Coast groundfish fishery; request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) is considering implementing an individual quota (IQ) program for the Pacific Coast groundfish limited entry trawl fishery off Washington, Oregon and California. The trawl IQ program would change management of harvest in the trawl fishery from a trip limit system with cumulative trip limits for every 2–month period to a quota system where each quota share could be harvested at any time during an open season. The trawl IQ program would increase fishermen's flexibility in making decisions on when and how much quota to fish. This document announces a control date of November 6, 2003, for the trawl IQ program. The control date for the trawl IQ program is intended to discourage increased fishing effort in the limited entry trawl fishery based on economic speculation while the Pacific Council develops and considers a trawl IQ program.

DATES: Comments may be submitted in writing by February 9, 2004.

ADDRESSES: Comments may be mailed to Don Hansen, Chairman, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: The Pacific Fishery Management Council at 866–806–7204; or Bill Robinson at 206–526–6140; or Svein Fougner at 562–980–4000.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council (Pacific Council) established under section 302(a)(1)(F) of the Magnuson- Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(F)) is considering implementing an individual quota (IQ) program for the Pacific Coast groundfish limited entry trawl fishery off Washington, Oregon and California. The Pacific Coast groundfish limited entry trawl fishery is managed under the Pacific Coast Groundfish Fishery Management Plan (FMP) approved on January 4, 1982 (47 FR 43964, October 5, 1982), as amended 15 times. Implementing regulations for the FMP and its amendments are codified at 50 CFR part 660, subpart G. Additional implementing regulations can be found in the specifications and management measures for the Pacific Coast groundfish fishery published in the Federal Register, as amended through inseason actions. If the Pacific Council recommends and NMFS adopts a trawl IQ program, the program would be implemented through a proposed and final rulemaking, and possibly an FMP amendment.

The trawl IQ program would change management of harvest in the trawl fishery from a trip limit system with cumulative trip limits per vessel for every 2 month period to a quota system where each quota share could be harvested at any time during an open season. The trawl IQ program would increase fishermen's flexibility in making decisions on when and how much quota to fish.

With the lapse of the moratorium on new individual fishing quotas (IFQs) in October 2002, the Regional Fishery Management Councils may propose new IFQs and the Secretary of Commerce will review them for consistency with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), in particular section 303(d).

In advance of a rulemaking on the trawl IQ program, this document announces a control date of November 6, 2003, for the trawl IQ program. The control date for the trawl IQ program is intended to discourage increased fishing effort in the limited entry trawl fishery based on economic speculation while the Pacific Council develops and considers a trawl IQ program. This control date will apply to any person potentially eligible for IQ shares. Persons potentially eligible for IQ shares may include vessel owners, permit owners, vessel operators, and crew. The control date announces to the public that the Pacific Council may decide not to count activities occurring after the control date toward determining a person's qualification for an initial allocation or determining the amount of initial allocation of quota shares. Groundfish landed from limited entry trawl vessels after November 6, 2003, may not be included in the catch history used to qualify for initial allocation in the trawl IQ program.

Implementation of any management measures for the fishery will require amendment of the regulations implementing the FMP and may also require amendment of the FMP itself. Any action will require Council development of a regulatory proposal with public input and a supporting analysis, NMFS approval, and publication of implementing regulations in the Federal Register. The Pacific Council has established an ad-hoc Groundfish Trawl Individual Quota Committee to make recommendations on the development of IQs in the groundfish fisheries. Meetings of this committee are open to the public. Interested parties are urged to contact the Pacific Council office to stay informed of the development of the planned regulations. Fishers are not guaranteed future participation in the groundfish fishery, regardless of their date of entry or level of participation in the fishery.

This advance notice of proposed rulemaking has been determined to be not significant for purposes of Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 6, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 04–464 Filed 1–8–04; 8:45 am]

BILLING CODE 3510–22–S

Appendix F - Notice of Intent to Prepare an Environmental Impact Statement

Billing Code 3510-22-S
DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 660
[I.D. 051004B]
Pacific Fishery Management Council; Notice of Intent
AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.
ACTION: Notice of intent to prepare an environmental impact statement (EIS); request for comments; preliminary notice of public scoping meetings.
SUMMARY: NMFS and the Pacific Fishery Management Council (Pacific Council) announce their intent to prepare an EIS in accordance with the National Environmental Policy Act (NEPA) of 1969 to analyze proposals that provide dedicated access privileges for participants in the non-tribal Pacific Coast groundfish trawl fishery.
DATES: Public scoping meetings will be announced in the Federal Register at a later date. Written comments will be accepted at the Pacific Council office through August 2, 2004.
ADDRESSES: You may submit comments, on issues and alternatives, identified by [i.d. number] by any of the following methods:

! E-mail: TrawlAccessEIS.nwr@noaa.gov. Include [I.D. number] and enter "Scoping Comments" in the subject line of the message.
1. Federal Rulemaking Portal: http://www.regulations.gov.
1. Fax: 503-820-2299.
2. Mail: Dr. Donald McIsaac, Pacific Fishery Management Council, 7700 NE Ambassador Pl., Suite 200, Portland, OR, 97220.

FOR FURTHER INFORMATION CONTACT: Steve Freese, (Northwest Region, NMFS) phone: 206-526-6113, fax: 206-526-6426 and email: steve.freese@noaa.gov; or Jim Seger, Pacific Fishery Management Council, phone: 503-820-2280, fax: 503-820-2299 and email: jim.seger@noaa.gov.
SUPPLEMENTARY INFORMATION:
Electronic Access
This Federal Register document is available on the Government Printing Office's website at: www.gpoaccess.gov/fr/index/html.
Description of the Proposal
The proposed alternatives to the status quo, which will be the subject of the EIS and considered by the Pacific Council for recommendation to NMFS, are programs that provide dedicated access privileges for participants in the non-tribal Pacific Coast groundfish trawl fishery. The main dedicated access privilege alternative the Pacific Council is considering is an individual fishing quota (IFQ) program for the Pacific Coast groundfish limited entry trawl fishery off Washington, Oregon and California. A trawl IFQ program would change management of harvest in the trawl fishery from a trip limit system with cumulative trip limits for every 2-month period to a quota system where each quota share could be harvested at any time during an open season. A trawl IFQ program would increase fishermen's flexibility in making decisions on when and how much quota to fish. Status quo (no action) will also be considered along with dedicated access privilege and other reasonable alternatives that may be proposed to address issues identified in the problem statement.

At the request of the Pacific Council, NMFS published an Advance Notice of Proposed Rulemaking regarding a Trawl Individual Quota Program and to Establish a Control Date (69 FR 1563, January 9, 2004). This control date for the trawl IQ program is intended to discourage increased fishing effort in the limited entry trawl fishery based on economic speculation while the Pacific Council develops and considers a trawl IQ program. Although the control date notice discussed the development of the trawl IQ program, NMFS and the Pacific Council also plan to consider other dedicated access alternatives.
General Background
The Council implemented a Pacific Coast Groundfish Fishery Management Plan (FMP) in 1982. Groundfish stocks are harvested in numerous commercial, recreational, and tribal fisheries in state and Federal waters off the West Coast. The non-tribal commercial seafood fleet taking groundfish is generally regulated as three sectors: Limited entry trawl, limited entry fixed gear, and directed open access. Groundfish are also harvested incidentally in non-groundfish commercial fisheries, most notably fisheries for pink shrimp, spot and ridgeback prawns, Pacific halibut, California halibut, and sea cucumbers (incidental open access fisheries).

Despite the recently completed buyback program, management of the West Coast groundfish trawl fishery is still marked by serious biological, social, and economic concerns; and discord between fishermen and managers and between

different sectors of the fishery, similar to those cited in the U.S. Commission on Ocean Policy's April 2004 preliminary report. The trawl fishery is viewed as economically unsustainable given the current status of the stocks and the various measures to protect these stocks. One major source of discord and concern stems from the management of bycatch, particularly of overfished species as described in the draft programmatic bycatch DEIS. The notice of availability of the DEIS was published in the FEDERAL REGISTER on February 27, 2004 (69 FR 9314). The DEIS is available from the Pacific Council office ((see ADDRESSES). After reviewing the draft programmatic bycatch DEIS the Pacific Council adopted a preferred alternative for addressing bycatch that included IFQ programs. The alternatives to status quo to be evaluated in the dedicated access EIS are amendments to the FMP and associated regulations to address these concerns through the use of dedicated access privileges. The concerns are described in more detail in the following problem statement:

As a result of bycatch problems, considerable harvest opportunity is being forgone in an economically stressed fishery. The trawl groundfish fishery is a multispecies fishery in which fishers exert varying and limited control of the mix of species in their catch. The optimum yields (OYs) for many overfished species have been set at low levels that place a major constraint on the industry's ability to fully harvest the available OYs of the more abundant target species that occur with the overfished species, wasting economic opportunity. Average discard rates for the fleet are applied to projected bycatch of overfished species. These discard rates determine the degree to which managers must constrain the harvest of targeted species that co-occur with overfished species. These discard rates are developed over a long period of time and do not rapidly respond to changes in fishing behavior by individual vessels or for the fleet as a whole. Under this system, there is little direct incentive for individual vessels to do everything possible to avoid take of species for which there are conservation concerns, such as overfished species. In an economically stressed environment, uncertainties about average bycatch rates become highly controversial. As a consequence, members of fishing fleets tend to place pressure on managers to be less conservative in their estimates of bycatch. Thus, in the current system there are uncertainties about the appropriate bycatch estimation factors, few incentives for the individual to reduce bycatch rates, and an associated loss of economic opportunity related to the harvest of target species.

The current management regime is not responsive to the wide variety of fishing business strategies and operational concerns. For example, historically the Pacific Council has tried to maintain a year-round groundfish fishery. Such a pattern works well for some business strategies in the industry, but there has been substantial comment from fishers who would prefer being able to pursue a more seasonal groundfish fishing strategy. The current management system does not have the flexibility to accommodate these disparate interests. Nor does it have the sophistication, information, and ability to make timely responses necessary to react to changes in market, weather, and harvest conditions that occur during the fishing year. The ability to react to changing conditions is key to conducting an efficient fishery in a manner that is safe for the participants.

Fishery stock depletion and economic deterioration of the fishery are concerns for fishing communities. Communities have a vital interest in the short- and long-term economic viability of the industry, the income and employment opportunities it provides, and the safety of participants in the fishery.

In summary, management of the fishery is challenged with the competing goals of: controlling bycatch, taking advantage of the available allowable harvests of more abundant stocks (including conducting safe and efficient harvest activities in a manner that optimizes net benefits over the short- and long-term), increasing management efficiency, and responding to community interest.

In consideration of this statement of the problem, the following goals have also been identified for improving conditions in the groundfish trawl fishery.

- Provide for a well-managed system for protection and conservation of groundfish resources.
- Provide for a viable and efficient groundfish industry.
- Increase net benefits from the fishery.
- Provide for capacity rationalization through market forces.
- Provide for a fair and equitable distribution of fishery benefits.
- Provide for a safe fishery.

Preliminary Identification of Alternatives

NEPA requires preparation of an EIS for major Federal actions significantly affecting the quality of the human environment. The Pacific Council and NMFS are seeking information from the public on the range of alternatives and on the environmental, social, and economic issues to be considered.

Based on the above problem statement, goals and objectives, and consistent with the Pacific Council's preferred alternative in the programmatic bycatch EIS, the Pacific Council has identified IFQs for the trawl fishery as one of the main types of alternatives to status quo that it will consider. The Pacific Council has begun developing specific provisions for IFQ alternatives. Under IFQs, total harvest mortality is controlled by allocating an amount to individual fishers and holding those individuals responsible for ensuring that their harvest or harvest mortality does not exceed the amount they are allocated.

The EIS will identify and evaluate other reasonable and technically feasible alternatives that might be used to simultaneously address capacity rationalization and the other problems and goals specified here. The Pacific Council is interested in public comment on alternatives to dedicated access privilege programs that address the problems surrounding and goals for this issue. The Pacific Council is also interested in receiving comments on different types of

dedicated access privilege programs that should be considered and specific provisions that should be included in the alternatives.

According to the U.S. Commission on Ocean Policy's April 2004 preliminary report (pp. 232-236), there are several different types of dedicated access privileges:

IFQs allow each eligible fisherman to catch a specified portion of the total allowable catch. When the assigned portions can be sold or transferred to other fishermen, they are called individual transferable quotas.

Community quotas grant a specified portion of the allowable catch to a community. The community then decides how to allocate the catch.

Cooperatives split the available quota among the various fishing and processing entities within a fishery via contractual agreements.

Geographically based programs give an individual or group dedicated access to the fish within a specific area of the ocean.

There are also systems that allocate the right to buy fish. Such systems are often referred to as individual processing quotas (IPQs). The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) does not allow NMFS to implement IPQs. Congress has also prohibited the Department of Commerce and the Councils, via the Department's 2004 appropriations bill, from establishing or even considering IPQs (except in crab fisheries off Alaska). Therefore, they will not be considered in this EIS.

Not included in the proposed scope for this action are the two other nontribal commercial seafood harvester sectors: the limited entry fixed gear fleet and the open access fleets. The limited entry fixed gear fleet already operates under an IFQ program for sablefish, a species that dominates the groundfish economic activity for most vessels in this fleet. Including consideration of the fixed gear fleet in the development of a trawl IFQ program could increase the complexity of developing the program. The directed open access fleet has yet to be well identified. Identification of this fleet will likely be a major and controversial task in its own right, even without concurrent inclusion of the fleet under an umbrella IFQ program covering all sectors of the West Coast commercial seafood harvesting industry. However, this notice does not preclude further consideration of IFQ for other sectors of the fleet (open access and fixed gear).

At the end of the scoping process and initial Pacific Council deliberations, the Pacific Council may recommend specific alternatives and options for analysis. Depending on the alternatives selected, Congressional action may be required to provide statutory authority to implement a specific alternative preferred by the Council. Lack of statutory authority to implement any particular alternative does not prevent consideration of that alternative or option in the EIS (40 CFR 1502.14(2)).

Preliminary Identification of Environmental Issues

A principal objective of this scoping and public input process is to identify potentially significant impacts to the human environment that should be analyzed in depth in the dedicated access privilege EIS. Pacific Council and NMFS staff conducted an initial screening to identify potentially significant impacts resulting from implementing one of the proposed alternatives to status quo, as well as the continuation of status quo, no action. These impacts relate to the likelihood that there will be a substantial shift in fishing strategies, the configuration of the groundfish fleet, and fishery management and enforcement activities as a result of the implementation of a program meeting the specified goals. Impacts on the following components of the biological and physical environment may be evaluated (1) Essential fish habitat and ecosystems; (2) protected species listed under the Endangered Species Act and Marine Mammal Protection Act and their critical habitat; and (3) the fishery management unit, including target and non-target fish stocks. Socioeconomic impacts are also considered in terms of the effect changes will have on the following groups: (1) Those who participate in harvesting the fishery resources and other living marine resources (for commercial, subsistence or recreational purposes); (2) those who process and market fish and fish products; (3) those who are involved in allied support industries; (4) those who rely on living marine resources in the management area; (5) those who consume fish products; (6) those who benefit from non-consumptive use (e.g. wildlife viewing); (7) those who do not use the resource but derive benefit from it by virtue of its existence, the option to use it, or the bequest of the resource to future generations; (8) those involved in managing and monitoring fisheries; and (9) fishing communities. Analysis of the effects of the alternatives on these groups will be presented in a manner that allows the identification of any disproportionate impacts on low income and minority segments of the identified groups and impacts on small entities.

Related NEPA Analyses

Certain complementary and closely related actions are likely to be required to implement a dedicated access privilege program. As described herein, implementation of an IFQ program or an alternative dedicated access privilege program for the trawl fishery will be a two-step process. The first step is to design the basic program and its major elements (e.g. allocation of shares among participants, monitoring and reporting requirements, needed species to be allocated, etc.). With this notice, the Council and NMFS are seeking comments on this first step. The second step is to determine the amounts of each species that are to be allocated to the trawl and other sectors. Such allocations would be evaluated in a separate but related process supported by a separate but connected NEPA analysis.

Implementation of an IFQ alternative would require an allocation of available harvest between the commercial trawl fisheries and other fishing sectors (inter-sector allocation). This allocation would be needed to annually set the amount of fish that would be partitioned between participants in the trawl IFQ fishery. An inter-sector allocation may be based on an allocation formula or on a determination of the needs of a fishery for each management cycle. The only species

now allocated between trawl and other sectors is sablefish. For a trawl IFQ program to succeed, the Council may need to quantify allocations for other species between the trawl sector and other fishing sectors. Allocation questions raise issues beyond developing a dedicated access privilege program. Thus, a second but related NEPA analysis will be undertaken, particularly as intersector allocations may be useful for managing the fishery even if an IFQ program is not adopted. This second NEPA analysis will be about the potential costs and benefits to all fisheries from developing specific commercial and recreational allocations and, within the commercial allocations, developing specific sub-allocations to the open access, trawl, and fixed gear fisheries.

The Council's Allocation Committee will be meeting to discuss the need for intersector allocations and criteria for making such allocation decisions. These meetings will be open to the public and announced in a separate Federal Register document. At approximately the time the Council approves a set of alternatives to be analyzed in the dedicated access privileges EIS, it will likely initiate formal scoping for a NEPA document to cover the intersector allocation issue. In the meantime, comments on the intersector allocation issue should be addressed to the Council office pfmc.comments@noaa.gov (enter "Intersector Groundfish Allocation" in the subject line). Potential outcomes of the allocation decision and impacts of that decision on the IFQ program would be considered in the cumulative effects section of the EIS on dedicated access privileges for the trawl fishery.

Scoping and Public Involvement

Scoping is an early and open process for determining the scope of issues to be addressed and for identifying the notable issues related to proposed alternatives (including status quo). A principal objective of the scoping and public input processes is to identify a reasonable set of alternatives that, with adequate analysis, sharply define critical issues and provide a clear basis for distinguishing among those alternatives and selecting a preferred alternative. The public scoping process provides the public with the opportunity to comment on the range of alternatives and specific options within the alternatives. The scope of the alternatives to be analyzed should be broad enough for the Pacific Council and NMFS to make informed decisions on whether an alterative should be developed and, if so, how it should be designed, and to assess other changes to the FMP and regulations necessary for the implementation of the alternative, including necessary intersector allocations.

Some preliminary public scoping of IFQ alternatives has been conducted through the Council process. Such preliminary scoping is consistent with the Council on Environmental Quality guidelines (46 FR 18026, 51 FR 15618). The results of this preliminary scoping are being used to develop a scoping document that will help focus public comment. Public scoping conducted thus far includes Council meetings held September 2003 (68 FR 51007) and November 2003 (68 FR 59589), and Ad Hoc Trawl Individual Quota Committee meetings held in October 2003 (68 FR 59358) and March 2004 (69 FR 10001). To provide additional preliminary information for the public scoping document, a group of enforcement experts will meet in Long Beach, CA, May 25 and 26, 2004, and a group of analysts will meet in Seattle WA, June 8 and 9, 2004. Times and locations for these meetings will be announced in the Federal Register and posted on the Council website (www.pcouncil.org). The public scoping document will be completed and released at least 30 days prior to the end of the scoping period. Copies will be available from the Council office (see ADDRESSES) or from the Council website (www.pcouncil.org).

Written comments will be accepted at the Council office through July 31, 2004 (see ADDRESSES).

Public scoping meetings will be announced in the Federal Register at a later date and posted on the Council website. There will be a public scoping session held June 13, 2004, in Foster City CA, in conjunction with the June 2004 Council meeting. The exact time and location for the meeting will be provided in the Federal Register notice announcing the June 2004 Council meeting.

Authority: 16 U.S.C. 1801 et seq.

Dated: May 18, 2004.

Galen R. Tromble,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.