

GUIDANCE FOR MAKING ALLOCATION DECISIONS RELATED TO CATCH SHARES

This document contains guidance on allocation issues that the Council should take into account in its consideration of reallocation of widow rockfish QS. The guidance is drawn from the Magnuson Stevens Act (MSA), related NOAA/NMFS guidance, and the groundfish FMP.

Contents

MSA.....	1
MSA § 303(b)(6) 16 U.S.C. § 1853(b)(6)	1
MSA § 303A—LIMITED ACCESS PRIVILEGE PROGRAMS - 16 U.S.C. §1853a.....	2
MSA National Standards	2
Agency Guidance.....	3
National Standard Guidelines	3
NOAA Guidance on LAPP Programs.....	5
FMP Goals, Objectives, and Guidance on Allocations.....	8
Section 2.1 Goals and Objectives for Managing the Pacific Coast Groundfish Fishery	8
FMP Allocational Guidelines	11
Section 6.2.3 Non-biological Issues—The Socioeconomic Framework.....	11
Section 6.3.1 Allocation Framework.....	13
Amendment 20 Goals and Objectives.....	14
Section 1.2.3 Purpose of the Proposed Action.....	14

MSA

MSA § 303(b)(6) 16 U.S.C. § 1853(b)(6)

[Any FMP may] establish a limited access system for the fishery in order to achieve optimum yield if, in developing such a system, the Council and the Secretary take into account—

- (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) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations

The phrase “take into account” means only that the council and NMFS must consider the factors listed in section 303(b)(6) and must balance the factors against each other and against any other relevant considerations. *Sea Watch Int’l v. Mosbacher*, 762 F. Supp. 370, 379 (D.D.C. 1991).

MSA § 303A—LIMITED ACCESS PRIVILEGE PROGRAMS - 16 U.S.C. §1853a

(c)(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) **establish procedures to ensure fair and equitable initial allocations, including consideration of—**

- (i) **current and historical harvests;**
- (ii) **employment in the harvesting and processing sectors;**
- (iii) **investments in, and dependence upon, the fishery; and**
- (iv) **the current and historical participation of fishing communities;**

(B) consider the basic cultural and social framework of the fishery, especially through...

(C) include measures to assist, when necessary and appropriate, entry-level...

(D) ensure that limited access privilege holders do not acquire and excessive share...

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in specific sector of such fishery, as specified by the Council.

MSA National Standards

An allocation must be consistent with:

National Standard 2: Conservation and management measures shall be based on the best scientific information available.

National Standard 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 allocations shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.**

National Standard 8: Conservation and management measures shall, consistent with the conservation requirements of this Act...take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), 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.

Agency Guidance

National Standard Guidelines

600.325 National Standard 4 – Allocations

(c)(2) *Analysis of allocations.* Each FMP should contain a description and analysis of the allocations existing in the fishery and of those made in the FMP. The effects of eliminating an existing allocation system should be examined. Allocations schemes considered but rejected by the Council, should be included in the discussion. The analysis should relate the recommended allocations to the FMP's objectives and OY specification, and discuss the factors listed in (c)(3) of this section.

(c)(3) *Factors in making allocations.* An allocation of fishing privileges must be fair and equitable, must be reasonably calculated to promote conservation, and must avoid excessive shares. These tests are explained in paragraphs (c)(3)(i) through (c)(3)(iii) of this section.

(i) *Fairness and equity.*

(A) An allocation of fishing privileges should be rationally connected to the achievement of OY or with the furtherance of legitimate FMP objectives. Inherent in an allocation is the advantaging of one group to the detriment of another. The motive for making a particular allocation should be justified in terms of the objectives of the FMP; otherwise, the disadvantaged user groups would suffer without cause. For example, an FMP objective to preserve the economic status quo cannot be achieved by excluding a group of longtime participants in the fishery. On the other hand, there is a rational connection between an objective of harvesting shrimp at their maximum size and closing a nursery area to trawling.

(B) An allocation may impose a hardship on one group if it is outweighed by the total benefit received by another group or groups. An allocation need not preserve the status quo in the fishery to qualify as “**fair and equitable,**” if a restructuring of fishing privileges would maximize overall benefits. The Council should make an initial estimate of the relative benefits and hardships imposed by the allocation, and compare its consequences with those of alternative allocation schemes, including the status quo. Where relevant, judicial guidance and government policy concerning the rights of treaty Indians and aboriginal Americans must be considered in determining whether an allocation is fair and equitable.

(ii) Promotion of conservation. Numerous methods of allocating fishing privileges are considered “conservation and management” measures under 303 of the Magnuson-Stevens Act. An allocation scheme may promote conservation by encouraging a rational, more easily managed use of the resource. Or, it may promote conservation (in the sense of wise use) by optimizing the yield in terms of size, value, market mix, price, or economic or social benefit of the product. To the extent that rebuilding plans or other conservation and management measures that reduce the overall harvest in a fishery are necessary, any harvest restrictions or recovery benefits must be allocated fairly and equitably among the commercial, recreational, and charter fishing sectors of the fishery.

(iii) Avoidance of excessive shares. An allocation scheme must be designed to deter any person or other entity from acquiring an excessive share of fishing privileges, and to avoid creating conditions fostering inordinate control, by buyers or sellers, that would not otherwise exist.

(iv) Other factors. In designing an allocation scheme, a Council should consider other factors relevant to the FMP’s objectives. Examples are economic and social consequences of the scheme, food production, consumer interest, dependence of the fishery by present participants and coastal communities, efficiency of various types of gear used in the fishery, transferability of effort to and impact on other fisheries, opportunity for new participants to enter the fishery, and enhancement of opportunities for recreational fishing.

§ 600.345 National Standard 4—Communities.

(b)(2) This standard does not constitute a basis for allocating resources to a specific fishing community nor for providing preferential treatment based on residence in a fishing community.

(c)(3) To address the sustained participation of fishing communities that will be affected by management measures, the analysis should first identify affected fishing communities and then assess their differing levels of dependence on and engagement in the fishery being regulated. The analysis should also specify how that assessment was made. The best available data on the history, extent, and type of participation of these fishing communities in the fishery should be incorporated into the social and economic information presented in the FMP. The analysis does not have to contain an exhaustive listing of all communities that might fit the definition; a judgment can be made as to which are primarily affected. The analysis should discuss each alternative’s likely effect on the sustained participation of these fishing communities in the fishery.

(4) The analysis should assess the likely positive and negative social and economic impacts of the alternative management measures, over both the short and the long term, on fishing communities. Any particular management measure may economically benefit some communities while adversely affecting others. Economic impacts should be considered both for individual communities and for the group of all affected communities identified in the FMP....

(5) A discussion of social and economic impacts should identify those alternatives that would minimize the adverse impacts on those fishing communities within the constraints of conservation and management goals of the FMP, other national standards, and other applicable law.

NOAA Guidance on LAPP Programs

Selected portions relevant to the “reconsideration of the qualifying time periods for the initial allocations of whiting” from *The Design And Use Of Limited Access Privilege Programs*, NOAA Technical Memorandum NMFS-F/SPO-86, November 2007

In summary, the allocations must be fair and equitable and they should consider the cultural and social framework of the fishery. However, given the use of term “including consideration of” there is some allowable flexibility beyond the four required considerations in determining exactly how the harvest privileges will be distributed. The discussion here will not attempt to list all of the things that cannot be done other than to say any distribution that showed blatant favoritism or utter disregard to the “fair and equitable” standard in the law would likely not be approved nor would it withstand legal challenge. Similarly there will be no attempt to make a list of all the permissible procedures or formulae that could be used. Rather the discussion will focus on procedures and lessons learned. The goal will be to assist the Councils as they use their ingenuity and inventiveness to develop allocation procedures that support their objectives, taking into account the recent changes in the Act.

The initial allocation task can be broken down into two parts.⁷ Note however that the material under (B) has more to do with restrictions on the use of the harvesting privilege than it does with initial allocation, but the two are related. First, it is necessary to select the pool of entities that will be eligible to receive harvest privileges. The basics of this step have already been discussed in the section on “Eligibility.” It is possible however, that the pool of potential recipients can be a subset of those who are qualified to own privileges. The Council may approve of certain types of entities being able to acquire privileges in the open market, but may feel that they do not merit an initial allocation. Congress has placed RFAs in this category.

The second step is to determine how the privileges will be distributed among those in the designated pool. Under the reauthorized MSA, there are two ways that this can be accomplished. As has been done in the past, the privileges can be given away according to specified allocation formulae. It is also possible to use auctions to sell the initial privileges as long as the auctions are constrained such that they meet the “fair and equitable” standards specified in the Act. If auctions are to be used, they would be most appropriate in traditional IFQ programs, but Councils may also wish to use them in more general LAP programs as well. The two possible ways of allocating the privileges will be discussed in turn. The revised MSA also allows rent collection with formula-based allocations, and this will be treated in a separate section.

B. Free Formula-Based Allocations

There are literally an infinite number of allocation formulae that are acceptable under the MSA. It is possible, however, to list some of the attributes upon which the formulae can be based. In the IFQ programs that have already been adopted under the MSA, the attributes were related to various aspects of participation in the fishery, primarily catch, capital investment, and number of years fished over a reference period.

In response to suggestions to expand the pool of eligible recipients that lead to some of the most recent revisions in the Act, characteristics of entities have become other attributes to consider. Examples are size, ownership characteristic (owner-operated), and operating location of the firm, various measures of dependence on the fishery including percent of revenue or opportunities to participate in other fisheries, and inter-relations with other fishery related business especially with respect to employment.

The participation attributes, though not without controversy, are relatively easy to handle both conceptually and with respect to data availability. For example, in the surf clam and ocean quahog program, the allocation formula was based on a weighted average of a relative catch index and a relative investment index. Working with characteristic attributes will likely be a different story. Coming up with appropriate measures of the specific characteristics that can be calculated given existing or readily available data, and then using several of them to come up with an actual allocation formula will be more difficult. Nonetheless it is a task that will have to be accomplished by those Councils who choose to broaden the potential range of eligible entities.

The following discussion starts of with a consideration of the relatively easy participation attributes in the context of traditional IFQ fisheries. Using that as a base, the discussion will turn to a preliminary assessment of the consideration of both types of attributes in the context of more general LAP programs.

Traditional IFQ Programs.

If the eligible group is restricted to vessel owners, the allocation formula could be based on equal shares (for all individuals satisfying some minimum requirements), vessel size, catch history, the number of consecutive years of participation in the fishery, or some combination of two or more of these factors. One problem with equal shares is that part-timers will have their relative shares increased, and highliners (those who have historically accounted for a disproportionate share of the landings) will be brought down to the level of the average fisherman. If the eligible group also includes crew members, it might be difficult to use catch histories for logistic reasons (turnover rates of crew are high and there may be no records of who was on which boat when catches were taken). Allocations to crew members could be based on either equal shares or the number of years of participation in the fishery or both.

If both vessel owners and crew members are considered to be eligible to receive an initial allocation, it would probably be necessary to include several of the above categories in the allocation formula. For example, 30 percent of the total quota could be divided equally among all eligible parties, 30 percent could be divided on the basis of the number of years of full-time participation in the fishery, and 40 percent could be split among vessel owners on the basis of vessel size. Strategies of this nature (with the percentages split out differently) should be explored with the industry as alternatives to strategies that rely on catch histories especially where catch documentation is weak or missing. An alternative that avoids the necessity of deriving an allocation formula is to use a lottery system.

Identified options for allocations:

1. Allocate shares equally among eligible recipients.
2. Allocate shares on the basis of vessel size.
3. Allocate shares on the basis of catch histories.
4. Allocate shares on the basis of historical participation.
5. Use a lottery to allocate shares.
6. Allocate shares using combinations of two or more of the above.

General LAP Programs.

There is little new in the above discussion for those individuals who have watched the current IFQ programs being developed. It is all second nature. However, to consider how to approach more complicated cases where LAPs are given to both traditional recipients and to FCs and may be available for purchase by RFAs, it will be useful to go back and recreate the mental process through which the above potential options were developed.

Given the laws and accepted views on who were potential recipients, historically the main concern was to set up an allocation that would change the fishery from the *status quo* to an IFQ fishery with a minimum disruption of the current distribution between the recipients. When that was the goal, the question became what sorts of things could be used to quantitatively compare allocations among the potential recipients? Looking at participation characteristics was a good way to do this. Catch histories are a way to compare the relative success of various participants. Comparing the financial investments shows, albeit imperfectly, relative commitments to a fishery, and at the same time, relative differences in amounts that will have to be earned to support the capital equipment. It is interesting to note that the two measures will provide different rankings. A smaller older boat operated by a high-liner could have a very good catch record but could be way low on the financial investment ladder. Which measure is best? That is a judgment call. At the same time, others may not like either of these measures and would argue for years of participation. Finally, others would suggest that the notion of maintaining the existing distribution is not appropriate and would argue for an equal distribution. The allocation formulae actually used in U.S IFQ programs were usually based on more than one of these measures (see the initial allocation entries in the LAP Program Spotlights in Appendix 1).

Consider now the problem of coming up with an allocation formula or procedure for a more general LAP program. It would certainly be permissible to use the same type of measures that have been used in IFQ programs. However, such measures may miss some of the elements or issues that are being addressed by allowing FCs to receive harvesting privileges. It may be possible to correct for this by only using a subset of the measures or to use different weights to make weighted averages.

If Councils want to do more, it may be useful to go through the same type of exercise as described above. For example, what are the motivations for choosing to use a RFA-type organization in a particular case? Assume that it is the ability to look at the full range of fishery related businesses including processing, supply companies, and downstream marketers. In that case it will be necessary to find some measures that capture the specific issues that are being addressed, and can be quantitatively measured. Some possibilities include total employment, employees per unit of fish, percentage of net revenue that remains in the area, etc. The final step would be to turn these measures into an allocation formula. This is but one example of many options, and simply demonstrates a process that the Councils can use to expand the standard ways of calculating allocation formula if they choose to do so.

It would also be possible to use different types of formulae within the general LAP program. The Council may split the TAC into two parts and allocate one part as IFQs according to more or less traditional methods and allocate the second part to other entities with other methods.

Even with this vast array of choices, it is probably impossible to devise a system that will be perceived as equally fair by all eligible entities. To improve the perceived fairness it would be essential for the Council to repeatedly consult with the members of the selected pool and the broader suite of stakeholders.

FMP Goals, Objectives, and Guidance on Allocations

The guidelines for National Standard 4 state with respect to analysis of allocation

“The analysis should relate the recommended allocations to the FMP’s objectives and OY specification” 600.325(c)(2)

To that end, the Council FMP goals and objectives and the goals and objectives for Amendment 20 are provided here.

Section 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 Act.

Management Goals

Goal 1 - Conservation. Prevent overfishing and rebuild overfished stocks by managing for appropriate harvest levels and prevent, to the extent practicable, 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. Within the constraints of overfished species rebuilding requirements, 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. Achieve a level of harvest capacity in the fishery that is appropriate for a sustainable harvest and low discard rates, and which results in a fishery that is diverse, stable, and profitable. This reduced capacity should lead to more effective management for many other fishery problems.

Objective 3. For species or species groups that are overfished, develop a plan to rebuild the stock as soon as possible, taking into account the status and biology of the stock, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock within the marine ecosystem.

Objective 4. Where conservation problems have been identified for non-groundfish 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 non-groundfish 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 non-groundfish 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 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. Within the constraints of the conservation goals and objectives of the FMP, 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. Encourage development of practicable gear restrictions intended to reduce regulatory and/or economic discards through gear research regulated by EFP.

Utilization

Objective 9. Develop management measures and policies that foster and encourage full utilization (harvesting and processing), in accordance with conservation goals, of the Pacific Coast groundfish resources by domestic fisheries.

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

Objective 11. Develop management programs that reduce regulations-induced discard and/or which reduce economic incentives to discard fish. Develop management measures that minimize bycatch to the extent practicable and, to the extent that bycatch cannot be avoided, minimize the mortality of such bycatch. Promote and support monitoring programs to improve estimates of total fishing-related mortality and bycatch, as well as those to improve other information necessary to determine the extent to which it is practicable to reduce bycatch and bycatch mortality.

Social Factors.

Objective 12. When conservation actions are necessary to protect a stock or stock assemblage, attempt to develop management measures that will affect users equitably.

Objective 13. Minimize gear conflicts among resource users.

Objective 14. 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 15. Avoid unnecessary adverse impacts on small entities.

Objective 16. 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 17. Promote the safety of human life at sea.

[Amended; 7, 11, 13, 16-1, 18, 16-4]

FMP Allocational Guidelines

Section 6.2.3 Non-biological Issues—The Socioeconomic Framework

From time to time, non-biological issues may arise that require the Council to recommend management actions to address certain social or economic issues in the fishery. Resource allocation, seasons, or landing limits based on market quality and timing, safety measures, and prevention of gear conflicts make up only a few examples of possible management issues with a social or economic basis. In general, there may be any number of situations where the Council determines that management measures are necessary to achieve the stated social and/or economic objectives of the FMP.

Either on its own initiative or by request, the Council may evaluate current information and issues to determine if social or economic factors warrant imposition of management measures to achieve the Council's established management objectives. Actions that are permitted under this framework include all of the categories of actions authorized under the points of concern framework with the addition of direct resource allocation.

If the Council concludes that a management action is necessary to address a social or economic issue, it will prepare a report containing the rationale in support of its conclusion. The report will include the proposed management measure, a description of other viable alternatives considered, and an analysis that addresses the following criteria: (a) how the action is expected to promote achievement of the goals and objectives of the FMP; (b) likely impacts on other management measures, other fisheries, and bycatch; (c) biological impacts; (d) economic impacts, particularly the cost to the fishing industry; (e)

impacts on fishing communities; and (f) how the action is expected to accomplish at least one of the following, or any other measurable benefit to the fishery:

1. Enable a quota, HG, or allocation to be achieved.
2. Avoid exceeding a quota, HG, or allocation.
3. Extend domestic fishing and marketing opportunities as long as practicable during the fishing year, for those sectors for which the Council has established this policy.
4. Maintain stability in the fishery by continuing management measures for species that previously were managed under the points of concern mechanism.
5. Maintain or improve product volume and flow to the consumer.
6. Increase economic yield.
7. Improve product quality.
8. Reduce anticipated bycatch and bycatch mortality.
9. Reduce gear conflicts, or conflicts between competing user groups.
10. Develop fisheries for underutilized species with minimal impacts on existing domestic fisheries.
11. Increase sustainable landings.
12. Reduce fishing capacity.
13. Maintain data collection and means for verification.
14. Maintain or improve the recreational fishery.

The Council, following review of the report, supporting data, public comment, and other relevant information, may recommend management measures to the NMFS Regional Administrator accompanied by relevant background data, information, and public comment. The recommendation will explain the urgency in implementing the measure(s), if any, and reasons therefore.

The NMFS Regional Administrator will review the Council's recommendation, supporting rationale, public comments, and other relevant information, and, if it is approved, will undertake the appropriate method of implementation. Rejection of the recommendation will be explained in writing.

The procedures specified in this chapter do not affect the authority of the Secretary to take emergency regulatory action as provided for in Section 305(c) of the Magnuson-Stevens Act if an emergency exists involving any groundfish resource, or to take such other regulatory action as may be necessary to discharge the Secretary's responsibilities under Section 305(d) of the Magnuson-Stevens Act.

If conditions warrant, the Council may designate a management measure developed and recommended to address social and economic issues as a routine management measure, provided that the criteria and procedures in Section 6.2.1 are followed.

Quotas, including allocations, implemented through this framework will be set for one-year periods and may be modified inseason only to reflect technical corrections to an

ABC. (In contrast, quotas may be imposed at any time of year for resource conservation reasons under the points of concern mechanism.)

Section 6.3.1 Allocation Framework

Allocation is the apportionment of an item for a specific purpose or to a particular person or group of persons. Allocation of fishery resources may result from any type of management measure, but is most commonly a numerical quota or HG for a specific gear or fishery sector. Most fishery management measures allocate fishery resources to some degree, because they invariably affect access to the resource by different fishery sectors by different amounts. These allocative impacts, if not the intentional purpose of the management measure, are considered to be indirect or unintentional allocations. Direct allocation occurs when numerical quotas, HGs, or other management measures are established with the specific intent of affecting a particular group's access to the fishery resource.

Fishery resources may be allocated to accomplish a single biological, social or economic objective, or a combination of such objectives. The entire resource, or a portion, may be allocated to a particular group, although the Magnuson-Stevens Act requires that allocation among user groups be fair and equitable, reasonably calculated to promote conservation, and determined in such a way that no group, person, or entity receives an undue excessive share of the resource. The socioeconomic framework described in Section 0 provides criteria for direct allocation. Allocative impacts of all proposed management measures should be analyzed and discussed in the Council's decision-making process.

In addition to the requirements described in Section 0, the Council will consider the following factors when intending to recommend direct allocation of the resource.

1. Present participation in and dependence on the fishery, including alternative fisheries.
2. Historical fishing practices in and historical dependence on the fishery.
3. The economics of the fishery.
4. Any consensus harvest sharing agreement or negotiated settlement between the affected participants in the fishery.
5. Potential biological yield of any species or species complex affected by the allocation.
6. Consistency with the Magnuson-Stevens Act national standards.
7. Consistency with the goals and objectives of the FMP.

The modification of a direct allocation cannot be designated as routine unless the specific criteria for the modification have been established in the regulations.

Amendment 20 Goals and Objectives

Section 1.2.3 Purpose of the Proposed Action

In 2003, the Council established a Trawl Individual Quota Committee (TIQC), which was charged with assisting the Council in identifying the elements of a trawl individual quota program and scoping alternatives and potential impacts of those alternatives in support of the requirements of the MSA and NEPA. At its first meeting in October 2003, the TIQC drafted a set of goals and objectives, which another Council-established committee, the Independent Experts Panel (IEP), subsequently recommended modifying. The Council adopted this list in June 2005, but at their March 2007 meeting, the Council adopted a further revision of the goals and objectives. The participation of the TIQC, the IEP, and other entities in the scoping process is described below in Section 1.6. To pursue the goal thus developed and shown below, the Council considered alternatives that would rationalize the west coast trawl fishery and provide incentives to reduce bycatch, either through an IFQ program for all groundfish LE trawl sectors and/or through cooperatives for the fishery sectors targeting Pacific whiting. Under either alternative, allocations would be made to eligible fishery participants as a privilege to harvest a portion of fish, and not as a property right. Though structurally different, the Council's intention is that both the IFQ and co-op alternatives fulfill the goal of the program.

The following goal objectives outline the purpose of the proposed action:

Goal

Create and implement a capacity rationalization plan that increases net economic benefits, creates individual economic stability, provides for full utilization of the trawl sector allocation, considers environmental impacts, and achieves individual accountability of catch and bycatch.

Objectives

The above goal is supported by the following objectives:

1. Provide a mechanism for total catch accounting.
2. Provide for a viable, profitable, and efficient groundfish fishery.
3. Promote practices that reduce bycatch and discard mortality and minimize ecological impacts.
4. Increase operational flexibility.
5. Minimize adverse effects from an IFQ program on fishing communities and other fisheries to the extent practical.
6. Promote measurable economic and employment benefits through the seafood catching, processing, distribution elements, and support sectors of the industry.
7. Provide quality product for the consumer.
8. Increase safety in the fishery.

Constraints and Guiding Principles

The above goals and objectives should be achieved while the following occurs:

1. Take into account the biological structure of the stocks including, but not limited to, populations and genetics.
2. Take into account the need to ensure that the total OYs and allowable biological catch (ABC) are not exceeded.
3. Minimize negative impacts resulting from localized concentrations of fishing effort.
4. Account for total groundfish mortality.
5. Avoid provisions where the primary intent is a change in marketing power balance between harvesting and processing sectors.
6. Avoid excessive quota concentration.
7. Provide efficient and effective monitoring and enforcement.
8. Design a responsive mechanism for program review, evaluation, and modification.
9. Take into account the management and administrative costs of implementing and oversee the IFQ or co-op program and complementary catch monitoring programs, as well as the limited state and Federal resources available.