Agenda Item C.6.a
Attachment 2
April 2014

# Sablefish Permit Stacking Program— Action Issues

*Draft Council Decision Analysis Document*

**March 2014**

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## Chapter 1 Background, Proposed Actions, Purpose and Need for the Actions

### 1.1 Background

The current permit stacking program applies to the sablefish primary fishery which occurs north of 36º N. lat. Under this program vessels registered to at least one limited entry permit, with either a gear endorsement for longline or trap (or pot) gear, and an endorsement for sablefish, fish a specified tier limit during a seven month primary fishery season (April through October).

Under the permit stacking program, each fixed gear sablefish endorsed limited entry permit is assigned to one of three tiers. The permit's tier level determines the poundage of sablefish which can be landed by that permit each season while participating in the primary sablefish fishery. For sablefish endorsed, limited entry permits, the Regional Administrator will biennially or annually announce the size of the cumulative trip limit for each of the three tiers associated with the sablefish endorsement such that the ratio of limits between the tiers is approximately 1:1.75:3.85 for Tier 3:Tier 2:Tier 1, respectively. Up to three permits can be stacked onto a single vessel, allowing that vessel to land up to the sum of the three tier limits in aggregate. Because each vessel is assigned a proportion of catch based on its tier limit, the stacking program is considered a limited access privilege program (LAPP), or catch share program.

Vessels with sablefish endorsed permits are also eligible to fish in the daily trip limit (DT)L fishery before the primary season (i.e., January through March) and after their aggregate tier limit on the vessel has been harvested, or the primary season has ended, whichever comes first. Because each vessel has its own limit, vessels often transition from the primary to DTL fisheries sometime during the sablefish primary season.

The program also includes other provisions, including a prohibition on the ownership of permits by corporations or other business entities, a permit owner-on-board requirement, a limit on the number of permits any individual or entity (individually and collectively) can own or hold, and a prohibition on at-sea processing. A grandfather clause was provided for each of these provisions, allowing the continuation of situations in place prior to Council action. For non-grandfathered permits, the owner must be on board the vessel during the primary season when that permit's tier amount is being fished. If landings from a trip will be attributed to multiple tiers, then all permit owners of those tiered permits being fished must be onboard. However, there are limited[1] medical and death exemptions from this requirement.

Currently there are 164 sablefish endorsed permits of which 131 are endorsed for longline only; 27 are trap/pot endorsed only, and 6 have two gear endorsements. The number of permits by tier levels is as follows: Tier 1 -28 permits; Tier 2 – 42 permits, and Tier 3 – 94 permits. As of August 2013, approximately 40 vessels have stacked (multiple) permits (either tier 2 or 3). When a sablefish fixed gear tier delivery is made, the delivery is recorded on a state fish ticket. One to three tiers may be delivered and recorded on this one trip ticket. If the vessel operator does not specify which tier the catch should be counted against, the delivery is apportioned to the individual tiers (up to 3) by an even split until the tiers are reduced to a point where they are

[1] These exemptions can only be given for three years maximum to a permit owner or to the surviving spouse of a permit owner.

equal to or less than the daily-trip limits (DTL). All of this tabulation is done by the state agency(s) and then sent to Pacific States Marine Fisheries Commission (PSMFC) for entry into Pacific Fishery Information Network (PacFIN).

At the September 2013 meeting of the Pacific Fisheries Management Council (Council), the Enforcement Consultants (EC) report outlined several concerns with the existing reporting requirements. Their primary concern was that the opportunity for underreporting is extremely high under the current regulations, which defer to the states to report catch data and permit numbers on paper fish tickets, and enforcement agents often have little access to data that is often times severely outdated. This creates a situation where at sea boarding or dockside inspection can do little besides checking the permit status, because no real time information on the actual status of the tier(s) being fished is available.

Since inception of the tier program, there has been a voluntary request made to the state agencies to list the federal permit number on the state ticket. Washington requires the tier permit number be listed on the state fish ticket and Washington enforcement and management personnel have ready access to the Washington State landing data. Unlike Washington, in Oregon and California there are no state regulatory requirements for the tier permit number to be listed on the state fish ticket.

Although federal or state enforcement personnel may request information from their individual states or from PACFIN, the information is dated the process does not lend itself to making information available to an agent or officer working in the field performing patrol related activities. This action seeks to address these catch accounting issues.

The current own/hold regulations limit participants (permit owners and/ or vessel owners) in this program to owning or holding three permits, whereby ownership or holdership of any percentage of a permit counts as 1 permit. Regulations at 660.25(b)(3)(iv)(C)(2) specify ownership restrictions and also state that ownership interest from "holding" permits is counted towards the 3 permit limit in addition to owning permits. A permit holder is the owner of the vessel registered to a limited entry permit. A vessel owner is credited with holding a sablefish permit when their vessel is registered to a permit not owned by the vessel owner (the permit is in some sense "leased").

The 3 permit own and hold limit has created an issue for some permit owners who participate in both the Pacific coast sablefish permit stacking program and the North Pacific Fishery Management Council (NPFMC) managed Individual Fishing Quota (IFQ) Program for fixed-gear Pacific halibut and sablefish fisheries in and off of Alaska. Regulations for the Alaska sablefish IFQ program require that individual owners of catcher vessel quota shares (Alaska QS, vessel categories B, C, or D) be onboard the vessel during all IFQ fishing. An exemption to the owner on board requirement allows an initial recipient of catcher vessel Alaska QS to employ a hired master to fish his or her IFQ, but only if the initial recipient owns a minimum of 20 percent interest of the vessel on which they hire a master to fish their IFQ. The regulations were structured in this way to maintain a predominantly owner-operator fishery. In order to harvest their Alaska IFQ under this exemption, some Alaska IFQ owners have invested in partial ownership of Alaskan vessel(s). If there is also a West Coast limited entry fixed gear sablefish permit(s) (LEFG permit) registered to the vessel participating in the Alaska fishery, then the LEFG permit (permits) counts toward the 3 permit own and hold limit for the West Coast program for each owner of that Alaska participating vessel, even if the individual has an ownership interest only in the vessel and not the permit. With respect to the harvest of Alaska IFQ, the West Coast three permit limit combined with the Alaskan 20 percent ownership requirement constrains cooperation between owners of West Coast limited entry fixed gear permits (or owners of permitted vessels) and vessels that participate on both the West Coast and Alaska. Alaska regulations have recently been modified to further encourage movement toward an owner-operated fishery in Alaska. This situation is described in more detail in the impact mechanism section of Chapter 4. This action seeks to address this issue by modifying the West Coast own and hold limits.

## 1.2 Proposed Action

The proposed action is to: (a) implement an electronic fish ticket requirement for the sablefish fishery, and (b) modify the control rules for the Limited Entry Fixed Gear Sablefish Permit Stacking Program (program).

## 1.3 Purpose and Need

The purpose of the electronic fish ticket measure is to consider a Federal landing and monitoring requirement, the implementation of an electronic fish ticket. The need for this measure is to improve catch accounting and enforcement capabilities in the fishery, particularly among the sablefish-endorsed tiers in the primary fishery. There is a need to improve the data system so that management and enforcement can take more timely action when individual vessel overages occur.

The purpose of the own/control limit measure is to modify the vessel ownership threshold used to evaluate the control limit on the number of limited entry fixed gear permits owned or held by a single entity. The need for this measure is to accommodate fishing enterprises that participate in, or partner with enterprises that participate in, both the Alaskan fixed gear sablefish and halibut IFQ program (Alaska program) and the West Coast primary sablefish fishery, as well as West Coast enterprises in which a person’s minor security interests in a vessel may unnecessarily disrupt its business.

## Chapter 2 Description of Alternatives

### 2.1 Electronic Fish Ticket Alternatives

For the electronic fish ticket issue, there are four alternatives (status quo and three action alternatives) which are summarized here and described in more detail in the following sections.

Alternative 1: (Status Quo) There are currently no federal regulations requiring fish ticket documentation for sablefish landings in the primary (tier) sablefish fishery or within the larger limited entry fixed gear (LEFG) fishery.

Alternative 2: A Federal requirement that **all tier** deliveries be recorded on an electronic fish ticket that documents the associated federal groundfish permit number. That Tier Permits be loaded into the IFQ Vessel Account System with deductions made as appropriate when a tier delivery is made and recorded on the E Fish Ticket.

Suboption: Delete the word “electronic” and the second sentence from Alternative 2, to allow the use of paper tickets.

Alternative 3: A Federal requirement that **all limited entry permit sablefish deliveries (primary/tier and DTL)** be recorded on an electronic fish ticket that documents the associated federal groundfish permit number. That Tier Permits be loaded into the IFQ Vessel Account System with deductions made as appropriate when a tier delivery is made and recorded on the E Fish Ticket.

Suboption: Delete the word “electronic” and the second sentence from Alternative 3, to allow the use of paper tickets.

Alternative 4: A Federal requirement that **all sablefish deliveries (primary/tier, DTL, and open access)** be recorded on an E Fish Ticket. That Tier Permits be loaded into the IFQ Vessel Account System with deductions made as appropriate when a tier delivery is made and recorded on the E Fish Ticket.

Suboption: Delete the word “electronic” and the second sentence from Alternative 4, to allow the use of paper tickets.

#### 2.1.1 No Action Alternative

Alternative 1: (Status Quo) There are currently no federal regulations requiring fish ticket documentation for sablefish landings in the primary (tier) sablefish fishery or within the larger limited entry fixed gear (LEFG) fishery.

Recordkeeping and reporting requirements for the fixed gear fishery (at §660.213) refer to the general groundfish recordkeeping and reporting requirements at §660.13 which recognizes that the states of California, Oregon, and Washington are responsible for collecting catch and effort data necessary to implement the FMP and that any person landing groundfish is responsible for complying with all applicable state reporting requirements.

When the sablefish permit stacking program was implemented, documentation of catch against tier limits and documentation of permit numbers was left to the states to implement. Since inception of the tier program, there has been a request made to the state agencies that they voluntarily list the federal permit number on the state paper fish ticket. Washington requires the tier permit number be listed on the state fish ticket and Washington enforcement and management personnel have ready access to the Washington State landing data. Unlike Washington, in Oregon and California there are no state regulatory requirements for the tier permit number to be listed on the state fish ticket.

Under the current system, when a sablefish fixed gear tier delivery is made the delivery is recorded on a state paper fish ticket in accordance with state law. One to three tiers may be delivered and recorded on this one trip ticket. If not specified by the operator, the delivery is apportioned to the individual tiers (up to three) by an even split until the tiers are reduced to a point where they are equal to or less than the daily-trip limits (DTL). All of this tabulation is done by the state agency(s) and then sent to Pacific States Marine Fisheries Commission (PSMFC) for entry into Pacific Fishery Information Network (PacFIN).

### 2.1.2 Action Alternatives

The action alternatives being considered would create a federal requirement for an electronic fish ticket to be filled out by the processor or buyer at the time of a sablefish landing in the Pacific coast groundfish fishery. The action alternatives differ from each other in terms of the sectors of the fishery that would be held to this requirement.

> <u>Alternative 2</u>: A Federal requirement that **all tier** deliveries be recorded on an electronic fish ticket that documents the associated federal groundfish permit number. That Tier Permits be loaded into the IFQ Vessel Account System with deductions made as appropriate when a tier delivery is made and recorded on the E Fish Ticket.
>
> > Suboption: Delete the word “electronic” and the second sentence from Alternative 2, to allow the use of paper tickets.

When deliveries are made, the vessel operator would be required to designate which tier the landing (pounds of sablefish) should be applied to. The existing PSMFC E Fish Ticket already has the appropriate fields and drop down boxes necessary to accommodate this fishery. Washington, Oregon, and California allow “split deliveries” ergo, a trip being landed on multiple electronic tickets. This feature will readily accommodate the owner on board requirement where the portion of the trip that is attributed to one or more tier permits would be recorded on separate tickets, with the owner of the permit signing the electronic ticket as validation that he/she was truly on board during the trip. After a landing was made to a shoreside first receiver, buyer, or processor, all necessary landing and catch information would be recorded on the electronic ticket using software provided by PSMFC. This electronic ticket would then be uploaded to PSMFC within 24 hours of the landing. The data would then be processed and entered into PacFIN and made available online to all interested parties (ie the state agencies, enforcement, NMFS, and permit owners).

Alternative 3: A Federal requirement that **all limited entry permit sablefish deliveries (primary/tier and DTL)** be recorded on an electronic fish ticket that documents the associated federal groundfish permit number. That Tier Permits be loaded into the IFQ Vessel Account System with deductions made as appropriate when a tier delivery is made and recorded on the E Fish Ticket.

Suboption: Delete the word "electronic" and the second sentence from Alternative 3, to allow the use of paper tickets.

When deliveries are made, the vessel operator would be required to designate which tier the landing (pounds of sablefish) should be applied to. The existing PSMFC E Fish Ticket already has the appropriate fields and drop down boxes necessary to accommodate this fishery. Washington, Oregon, and California allow "split deliveries" ergo, a trip being landed on multiple electronic tickets. This feature will readily accommodate the owner on board requirement where the portion of the trip that is attributed to one or more tier permits would be recorded on separate tickets, with the owner of the permit signing the electronic ticket as validation that he/she was truly on board during the trip. Landings made while fishing in the DTL fishery would be recorded in a similar way and would be debited against the DTLs; vessels would still be prohibited from landing catch against the primary season cumulative limits and the DTL limits within the same 24 hour period. After a landing was made to a shoreside first receiver, buyer, or processor, all necessary landing and catch information would be recorded on the electronic ticket using software provided by PSMFC. This electronic ticket would then be uploaded to PSMFC within 24 hours of the landing. The data would then be processed and entered into PacFIN and made available online to all interested parties (ie the state agencies, enforcement, NMFS, and permit owners).

Alternative 4: A Federal requirement that **all sablefish deliveries (primary/tier, DTL, and open access)** be recorded on an E Fish Ticket. That Tier Permits be loaded into the IFQ Vessel Account System with deductions made as appropriate when a tier delivery is made and recorded on the E Fish Ticket.

Suboption: Delete the word "electronic" and the second sentence from Alternative 4, to allow the use of paper tickets.

**Note: This alternative may go beyond the scope of the stated purpose for this action. For example, there are no vessel accounts for open access vessels.**

### 2.2 Own/ Control Limit Alternatives

For the own/control issue, there are three alternatives (status quo and two action alternatives) which are summarized here and described in more detail in the following sections.

Alternative 1: (Status Quo) The control limit to own and hold is 3 permits. Any level of permit ownership would count as 1 permit towards limit of 3. Additionally, any permits registered to a vessel, wholly or partially owned by the entity, would count toward the three permit limit. Select permit owners are grandfathered in with more than 3 permits based on what they owned as of 11/1/00. Any group ownership interest in the permit results in a permit count of 1 being attributed to each group member.

Alternative 2a: Status Quo for permit ownership (any percentage ownership in a permit is a count of 1), however holding a permit is counted only if the vessel owner has a greater than 20% share. Partial vessel ownership is capped at two vessels, i.e. the 20% or less ownership in a vessel exemption could only be used twice.

Alternative 2b: Status Quo for permit ownership (any percentage ownership in a permit is a count of 1), however holding a permit is only counted if the vessel owner has a greater than 30% share. Partial vessel ownership is capped at two vessels, i.e. the 20% or less ownership in a vessel exemption could only be used twice.

### 2.2.1 No Action Alternative

Alternative 1: (Status Quo) The control limit to own and hold is 3 permits. Any level of permit ownership would count as 1 permit towards limit of 3. Additionally, any permits registered to a vessel, wholly or partially owned by the entity, would count toward the three permit limit. Select permit owners are grandfathered in with more than 3 permits based on what they owned as of 11/1/00. Any group ownership interest in the permit results in a permit count of 1 being attributed to each group member.

For example, the partnership of Mary and Mike Smith own a tier permit. As a result, each have 1 permit towards the 3 permit limit, and the partnership also has a count of 1 towards the limit. Similarly, Group Z (owned by John Doe and his partners) has X% ownership of a vessel registered to the permit owned by Mary and Mike Smith. Group Z accrues a count of 1 permit held towards the 3 permit limit AND John Doe and each of his partners accrue a count of 1 permit held towards the 3 permit limit.

### 2.2.2 Action Alternatives

Alternative 2a: Status Quo for permit ownership (any percentage ownership in a permit is a count of 1), however holding a permit is counted only if the vessel owner has a greater than 20% share. Partial vessel ownership is capped at two vessels, i.e. the 20% or less ownership in a vessel exemption could only be used twice.

For example, John Doe owns permit GF0001 and 20% of the vessel Fairweather. Fairweather is registered to GF0001 and GF0002. GF0002 is not owned by John Doe. John Doe has a count of 1 permit because he owns GF0001 but is not credited with a hold count for GF0002 because he only has a 20% interest in the vessel. If John Doe owned 21% of Fairweather, then his own and hold count would be 2 because he owns GF0001 and owns more than 20% of the vessel registered to the second permit.

Alternative 2b: Status Quo for permit ownership (any percentage ownership in a permit is a count of 1), however holding a permit is only counted if the vessel owner has a greater than 30% share. Partial vessel ownership is capped at two vessels, i.e. the 20% or less ownership in a vessel exemption could only be used twice.

For example, John Doe owns permit GF0001 and 30% of the vessel Fairweather. Fairweather is registered to GF0001 and GF0002. John Doe has a count of 1. If John Doe owned 31% of Fairweather, then his own and hold count would be 2 because he owns GF0001 and owns more than 30% of the vessel registered to the second permit.

### 2.2.3 Alternatives Considered But Rejected From Further Analysis

The following alternatives were considered but have been rejected from further analysis because they are administratively burdensome to implement and track (Alternative 3) or because they weaken the control limits beyond what is needed to increase flexibility in the fishery for those that are disadvantaged by the existing control limit rules (Alternatives 4, 5, and 6). If the control limits were revised to the extent that Alternatives 4 through 6 would allow, this could undermine the purpose of having control limits in place, namely to maintain the owner-operator nature of the fleet.

> Alternative 3: Maintain a three permit limit but calculate control based on percentage ownership of permits and vessels. Total ownership (permit ownership and holdership) is capped at 300%. 1st and 2nd generation owners would be limited to a total of 300 percent. (The intent being to limit total ownership to 3 permits which is status quo.)

For example, John Doe wholly owns GF0001 and 20% of the vessel Fairweather. Fairweather is registered to GF0001 and GF0002. John Doe has a count of 120%.
Another possible example: The partnership of Mike and Mary Smith own 3 permits. As such, Mike and Mary Smith, as a partnership, have 300% of total ownership, which is the limit. However, Mike as an individual has 150%, as does Mary.

> Alternative 4: Increase the own and hold limit to 6 permits. Partial or any percent ownership or holdership is a count of 1 towards the limit of 6. (Permit counts are determined as under status quo.)

For example, John Doe owns GF0001, GF0003, and 20% of the vessel Fairweather. Fairweather is registered to GF0001, GF0002, and GF0004. John Doe owns 2 permits and holds 2 additional permits due to partial ownership of Fairweather for a total count of 4.

> Alternative 5: Status Quo on permit owner (no one may own more than 3 permits unless grandfathered in). Cap the number of tier permits an entity may register to a vessel at 3. Cap the number of limited entry fixed gear tier vessels an entity can own at three. The maximum own and hold limit is effectively increased to 12 permits (an entity could own 3 permits and have partial or total ownership of three vessels each of which are registered to three different permits owned by others).

For example, John Doe owns GF0001, GF0002, and GF0003. Mr. Doe also owns 20% of the vessel Alpha, 10% of the vessel Beta, and 30% of the vessel Gamma. Alpha is registered to GF0004, GF0005, and GF0006; Beta is registered to GF0007, GF0008, and GF0009; and Gamma is registered to GF00010, GF00011, and GF00012. John Doe owns 3 permits and has partial ownership of 3 vessels that each hold 3 permits; his total count is 12. In this example, Doe could not register his own permits to any other vessels he owns beyond Alpha, Beta, and Gamma, but he could lease the additional permits out to other vessels. He has maxed out on the number of vessels he has an ownership interest in and they are in the primary fishery. Also, Alpha, Beta, and Gamma are at the limit of 3 permits registered to them during the primary season; they cannot remove a permit mid-season and add a 4th permit.

> Alternative 6: Status Quo on 3 permit limit, but the calculation is based only on ownership of permits; holding or leasing a permit/ ownership in the vessel would not count towards the 3 permit limit. A person could own 3 permits and hold any number of additional permits by registering the vessel(s) they own to permits owned or leased by other persons.

For example, John Doe owns GF0001, GF0002, and GF0003, and 20% of the vessel Fairweather. Fairweather is registered to GF0004, GF0005, and GF0006. John Doe owns 3 permits and his partial ownership of a vessel registered to other permits does not affect his own and hold limit; his total count is 3.

# CHAPTER 3 IMPACTS

## 3.1 Impact Mechanisms

### Own/Control Limits

The action alternative would change the criteria by which it is determined whether an entity controls a limited entry fixed gear (LEFG) permit. Currently, entities are considered to control any permit over which they have some share in the direct ownership plus any permit attached to a vessel in which they have at least a partial ownership interest. For example, if a fisherman owns one vessel and owns two LEFG permits (Fisherman 2 in Figure 3-1), but also holds a partial ownership interest in another vessel (perhaps as security for a loan), then all the permits of the other vessel also count toward that fisherman's total (in Figure 3-1, for Fisherman 2 a total of four permits, i.e. one in excess of the three-permit limit). Such a situation might also arise for a lender or any other person who takes part ownership in a vessel to secure a loan or other debt, rather than establishing a maritime lien (Figure 3-1). The current accounting rule might be conceptualized as an "all-or-nothing" rule: if an entity has any ownership interest in a vessel then all LEFG permits associated with the vessel count as being under that entities control.[2] An action alternative would allow entities to have a small percent ownership interest in a vessel without being considered to also be in control of the permits attached to the vessel.

[2] Direct ownership of a permit is counted in a similar fashion, i.e. any fraction of ownership counts as ownership of the entire permit.

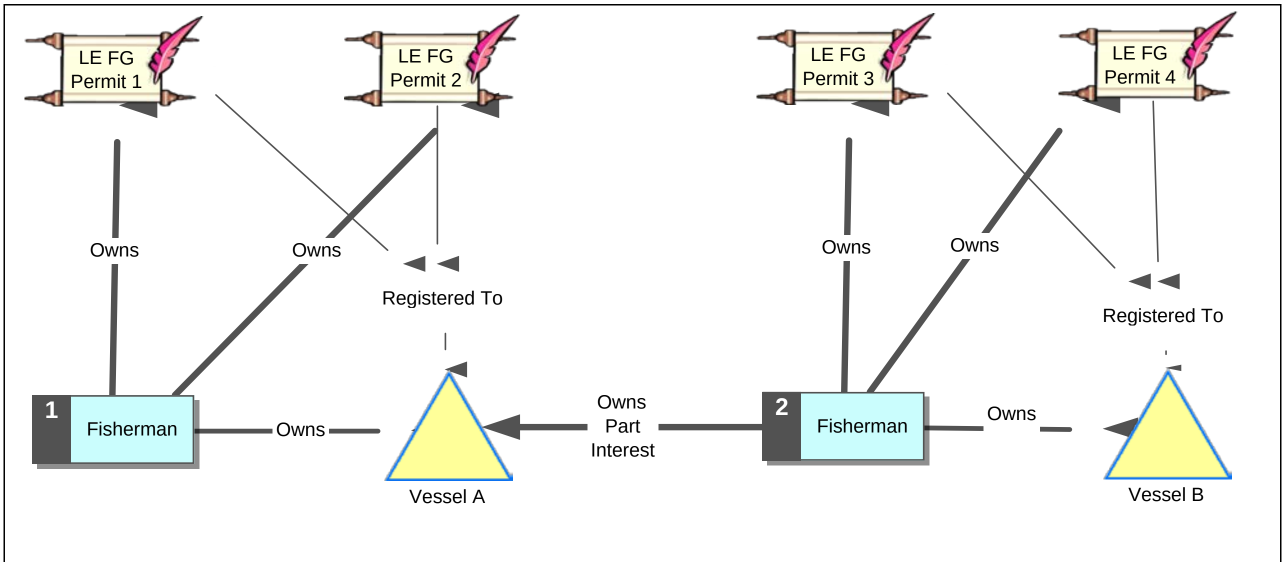


Figure 3-1. Fisherman example--full or partial ownership of a vessel implies control over the limited entry fixed gear (LEFG) permits associated with that vessel, potentially resulting in violation of the three-permit control limit (in this example, four permits for Fisherman 2).

Figure 3-2. Lender example--full or partial ownership of a vessel implies control over the limited entry fixed gear (LEFG) permits associated with that vessel, potentially resulting in violation of the three-permit control limit (in this example, four permits for a lender that secures interest through vessel ownership rather than through a maritime lien).

While there are a number of imaginable situations constrained by the current “all-or-nothing” rule, there are primarily two types of situations that have been brought to managers’ attention. Because these are the situations which are currently bumping up against the all-or-nothing rule, they are the most likely indicators of how human activity would change with a change in the constraint. The first situation had to do with a family wanting to bring other members into the fishery by helping them purchase a vessel, essentially by acquiring the vessel and selling it to them. Whether within a family or among fishermen, a frequent practice is that a seller financing a vessel allows the buyer to operate the vessel (to virtually act as owner) but the seller retains an ownership interest until the vessel is fully paid for (at which time the transaction is completed and full vessel ownership transferred to the buyer). However, by maintaining that ownership interest in the vessel for security (regardless of how small) any LEFG permits the vessel buyer attaches to the vessel will also count against the control total for the seller, and potentially put the seller over the cap, if the seller owns another vessel with LEFG permit(s).

In the second situation, rather than to secure financing, the incentive for maintaining ownership in a vessel relates to IFQ owner participation requirements of the Alaskan fixed gear sablefish and halibut IFQ program (Alaska program). In the Alaska program, there is an IFQ owner-on-board requirement with a grandfather clause exception. Most partnerships, corporations, and other non-individual Alaska IFQ owners are required to hire skippers to fish their IFQ and individuals grandfathered in are allowed to hire skippers to fish in their stead. However, in order to hire a skipper an IFQ owner must have at least a 20% ownership interest in the vessel on which the IFQ will be fished (CITE REGS). This creates a situation in which vessel ownership established to take advantage of the exception to the owner-on-board requirements of the Alaska program may push an entity over the West Coast LEFG permit control limits. For example, if an individual that owns a vessel that participates only in the West Coast fixed gear sablefish fishery also has ownership of Alaskan IFQ, then that person may desire to acquire part ownership in a vessel participating in the Alaskan IFQ fishery in order to take advantage of the Alaskan owner-on-board exception provision. Under such circumstances, any West Coast permits which are attached to the Alaskan IFQ vessel would also count against the individual's control limit for West Coast LEFG permits, as illustrated in Figure 3-3. A similar situation would pertain to corporations, partnerships, etc. that are required to hire a skipper to fish their initial allocations of Alaska IFQ.[3]

[3] The Alaska program grandfathered in corporations, partnerships, and other non-individual entities. Their grandfather status will expire with the addition of new owners of the sale of their IFQ.

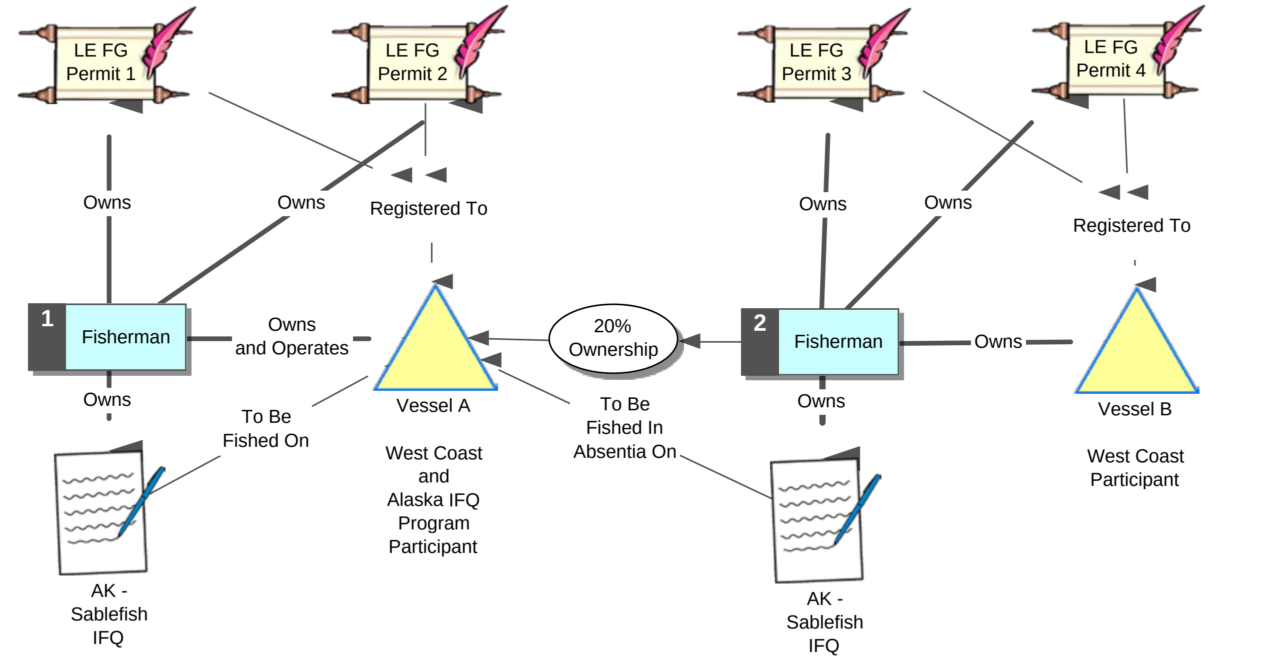


Figure 3-3. Alaska cross participation example--full or partial ownership of a vessel implies control over the limited entry fixed gear (LEFG) permits associated with that vessel, potentially resulting in violation of the three-permit control limit (in this example, four permits for Fisherman 2).

Thus, there appear to be two potential direct effects of the Council's all-or-nothing rule for counting permits toward the control limit:

1. an effect on arrangements that involve financial interests secured through vessel ownership, and
2. an effect on the distribution of limited entry privileges (both Alaska IFQ and LEFG permits) among fishing operations.

The latter of these two situations appears to be of most concern at this time, based on the content of public testimony to the Council and communications with the NMFS Limited Entry Permit Office.

In addition to these two direct effects on participant behavior, a third direct effect of one of the action alternatives would be:

3. a change in effort required to administer the program (collection and tracking of additional information).

## Impact on Lending

To date, institutional lenders have not expressed any concerns about the all-or-nothing rule for assessing the three-permit control limit. An action alternative would only affect assessing the three-permit limit with respect to vessel ownership (i.e., it does not change how control limit would be assessed with respect to direct permit ownership). Institutional lenders likely secure loans against vessels through a *preferred mortgage* and associated maritime lien.

> A preferred mortgage is a mortgage which is given status as a maritime lien. As such it enjoys a certain priority in the event of default. In addition, the Coast Guard is prohibited from making certain changes in documentation including, but not limited to, change of vessel ownership, name, and hailing port without consent of the mortgagee. For this reason many financial institutions require vessels which are eligible for documentation to be documented and to have preferred mortgages recorded against them.
>
> USCG National Documentation Center (http://www.uscg.mil/nvdc/nvdcfaq.asp#18)

As discussed above, the main lending practice likely to be affected by an action alternative would be that which is reported to occur among industry members (as fishing operations and families secure loans they make to other fishermen by maintaining possession of the vessel being sold until such time as all payments have been made, as described above).

If such within industry arrangements are advantageous over working with an institutional lender, it is likely because it generates some economic advantages that would not be available through an institutional lender. For a vessel seller, providing a buyer direct financing may allow the seller to negotiate a better price. The buyer may gain either through access to financing that would otherwise not be available or through access at a lower cost. A seller's personal knowledge and social connections with the buyer may mean that the transaction is a lower risk than would be perceived by an institutional lender or the seller may have a social interest in the buyer's entry into the fleet. At the same time, the fleet has been operating for over 12 years under the current all-or-nothing control rule and in the interim may have found other ways to achieve similar private financing outcomes.

**Thus, with respect to lending, the impact mechanism of an action alternative might be**

- **a redistribution of risks, financing transaction costs, and related profits from institutional lenders toward the private parties involved in a transaction, and**
- **more social connections between buyers and sellers than might be the case if borrowers were qualified by institutional lenders**

### Impact on Distribution of Fishing Privileges

To consider the impact mechanisms with respect to the second direct effect, we will look at three groups of participants:

1. West Coast and Alaska (WC&AK) participants,
2. Alaska only participants (AKO), and
3. West Coast only participants (WCO).

For purposes here, West Coast participation is participation involving control of a West Coast LEFG permit. Alaska participation involves owning or fishing Alaska IFQ. An AKO participant is one that participates in the Alaska IFQ program and may own a vessel that is partially owned by a West Coast participant but the AKO participant does not have an ownership interest in a West Coast operation (example analogy: if stock in a corporation (AKO business) is owned by a mom and pop business (WC&AK business), the corporation issuing the stock is not a participant in the mom-and-pop business (not a WC participant)).

The WC&AK group can be further divided into

1. those who directly participate only on the West Coast, fishing their Alaska sablefish IFQ on an AKO vessel without traveling to Alaska (i.e. hiring a skipper to fish their Alaska IFQ for them), and
2. those who individually or with their vessel travel to Alaska to participate in the fishery.

For the second subgroup to participate in the Alaska IFQ program, there is no requirement that they have ownership in the vessel that fishes (e.g. if they personally travel to Alaska to be present during fishing operations). Therefore, with respect to the WC&AK group, the impact mechanism operates mainly through the first subgroup of WC&AK participants, those fishing under a grandfather exception to the Alaska owner-on-board provision, which allows them to participate without being present during fishing operations. The owners of approximately 87 percent of the West Coast limited entry fixed gear sablefish vessels might fall in the first category (their vessels do not go to Alaska) but would fall in the second category if they travel there individually or would not be affected if they do not own Alaska IFQ. The owners of the remaining 13 percent of vessels fall in the second category (their vessels fish in Alaska) (Table 3-1) and are impacted by their inability to fish Alaska IFQ for members of the first group if doing so would put the vessels fishing in Alaska over the three-permit control limit, as explained further below.

Table 3-1. Number of vessels with LEFG permits that participate in Alaska fisheries.

| | Number of Permits Stacked on a Vessel | | | |
|---|---|---|---|---|
| | 3 Permits | 2 Permits | 1 Permit | Total |
| Number of Vessels Without Alaska Participation (owners might have Alaska IFQ) [a/] | 18 | 16 | 50 | 84 |
| Number of Vessels With Known Alaska Participation | 3 | 6 | 4 | 13 |
| Total | 21 | 22 | 54 | 97 |

a/ These data provide only a general indication of the magnitude of the number of entities potentially affected by the all-or-none accounting method and Alaska participation requirement. On the one hand, the number of entities affected may be greater than these numbers indicate because there may be more than one owner per vessel affected (if for a single vessel there are multiple owners that each individually own Alaska IFQ). On the other hand, the number may be smaller because: some of these owners may still travel to Alaska on their own, and therefore not need to take advantage of the grandfather clause; some may not qualify under the grandfather clause; and some (many) may not have Alaska IFQ.

**In the following discussion it is shown that the direct impacts on the distribution of harvest privileges is likely to be some degree of increase in**

- **consolidation of Alaskan IFQ on vessels that also participate in the West Coast LEFG fishery (WC&AK participants),**
- **consolidation of West Coast LEFG permits on vessels that fish in both fisheries (WK&AK participants), and**
- **acquisition of West Coast LEFG permits by vessels that previously fished only in the Alaskan IFQ fishery (AKO participants).**

To simplify the discussion, we will first examine the effects with respect to WC&AK operations, starting with operations that have three permits. Then we will examine effects with respect to AKO participants.

For a WC&AK operation to participate in the Alaska IFQ fisheries, while taking advantage of the grandfather exception for the owner-on-board provision, it must acquire ownership in a vessel participating in the Alaska fishery (as indicated in Figure 3-3). If the WC&AK operation has three LEFG permits, it cannot fish its AK IFQ as an absent owner on another WC&AK vessel because acquiring an ownership interest in that vessel would put it over the three permit limit. Therefore, the Alaska IFQ owner with ownership in a WC&AK operation that has three permits would either have to fish its Alaska IFQ from an AKO vessel or participate in the fishery in person (forego use of the grandfather clause). This situation can be characterized as a constraint on the opportunity to hire a vessel and is illustrated on the left hand side of Figure 3-4.

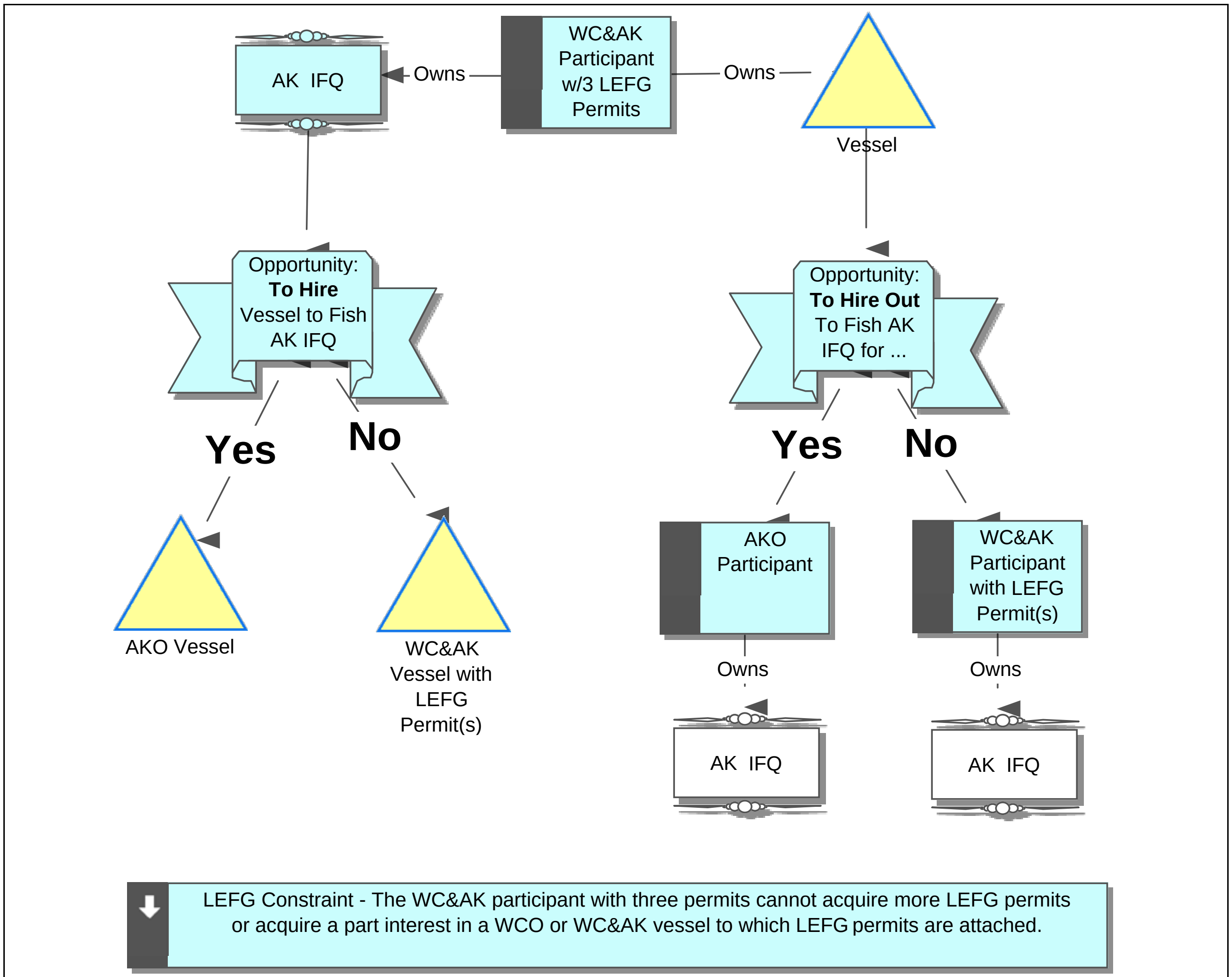


Figure 3-4. Ability of a West Coast and Alaska vessel to hire out to fish Alaska IFQ or to hire others to fish Alaska IFQ for it.

WC&AK vessels also have the opportunity to operate as a hired skipper in the Alaska IFQ fisheries, fishing the Alaska IFQ for other absent IFQ owners taking advantage of the grandfather exception to the owner-on-board provisions. A WC&AK vessel with three LEFG permits would not be able to hire out to fish Alaska IFQ for another WC&AK operation because that other operation would have to acquire an ownership in the WC&AK vessel with three permits, which would put it over the three permit limit. This is illustrated on the right hand side of Figure 3-4.

WC&AK participants with fewer than three LEFG permits would have more flexibility to hire, or hire out to, other WC&AK vessels to fish Alaska IFQ, with the number of other vessels with which they could work depending on the number of permits owned. Table 3-2 illustrates the combinations of WC&AK participants and AKO participants that would be allowed to operate and not operate together under status quo. Table 3-3 shows the change in combinations allowed under an action alternative.

Table 3-2. Status quo: ability of WC&AK and AKO vessels to fish Alaska sablefish IFQ for the potential participant listed in the first column (to "hire out" to the participant listed in the first column) and number of additional LEFG permits that the owners of each entity listed in the columns might acquire.

| | WC&AK Vessels | | | |
|---|---|---|---|---|
| | Number of Permits Owned | | | |
| | 3 Permits | 2 Permits | 1 Permit | AKO Vessels |
| Participants Seeking to Hire Out Their AK IFQ (Hire a Skipper) | Able to Fish IFQ For Entity Listed to Left – Yes or No (Maximum Number of Additional Permits That Could Be Acquired, If Vessel is Able to Fish for Entity Listed to Left) | | | |
| WK&AK w/3 LEFG Permits | N (-) | N (-) | N (-) | Y (0) |
| WK&AK w/2 LEFG Permits | N (-) | N (-) | Y (0) | Y (1) |
| WK&AK w/1 LEFG Permits | N (-) | Y (0) | Y (1) | Y (2) |
| AKO | Y (0) | Y (1) | Y (2) | Y (3) |

"N" means vessel in the column could not hire out to the participant listed in the row.
Numbers in parenthesis show the number of additional LEFG permits the vessel in the column could acquire without violating the three permit limit (a "-" is displayed where the combination is impermissible).

Table 3-3. Action alternative: ability of WC&AK and AKO vessels to fish Alaska sablefish IFQ for the potential participant listed in the first column (to "hire out" to the participant listed in the first column) and number of additional LEFG permits that the owners of each entity listed in the columns might acquire.

| | WC&AK Vessels | | | |
|---|---|---|---|---|
| | Number of Permits Owned | | | |
| | 3 Permits | 2 Permits | 1 Permit | AKO Vessels |
| Participants Seeking to Hire Out Their AK IFQ (Hire a Skipper) | Able to Fish IFQ For Entity Listed to Left – Y/N (Maximum Number of Additional Permits That Could Be Acquired, If Vessel is Able to Fish for Entity Listed to Left) | | | |
| WK&AK w/3 LEFG Permits | Y (0) | Y (1) | Y (2) | Y (3) |
| WK&AK w/2 LEFG Permits | Y (0) | Y (1) | Y (2) | Y (3) |
| WK&AK w/1 LEFG Permits | Y (0) | Y (1) | Y (2) | Y (3) |
| AKO | Y (0) | Y (1) | Y (2) | Y (3) |

Numbers in parenthesis show the number of additional LEFG permits the vessel in the column could acquire without violating the three permit limit.

Under an action alternative, WC&AK operations would have more flexibility to both hire out to other WC&AK operations or to hire other WC&AK vessels to fish their IFQ, because the 20 percent ownership in a hired vessel needed to meet the requirements of the Alaska IFQ program would not be enough to cause associated LEFG permits to count against the three-permit cap. **Thus this change would provide more opportunities for consolidation of AK IFQ on WC&AK vessels.**

If an AKO participant is fishing Alaska IFQ for an absent WC&AK participant (i.e. the WC&AK participant has part ownership in the AKO vessel), each WC&AK participant must have some ownership interest in the AKO vessel but the AKO operation does not have to have an ownership interest in the WC&AK operations. Moreover, an AKO vessel might fish for several separately owned WC&AK operations, each with three LEFG permits, without violating the three permit control limit. This situation is illustrated in Figure 3-5. The main inhibition to the AKO operation is on its ability to acquire a West Coast LEFG permit (i.e. to become a WC&AK vessel).

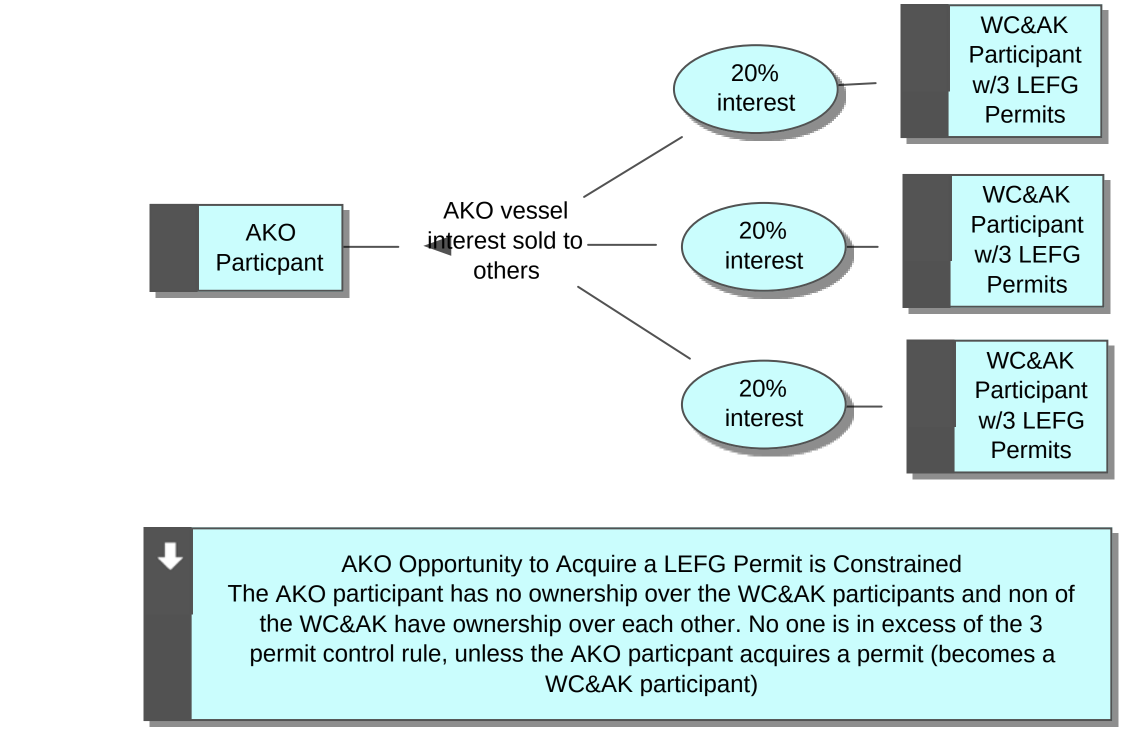


Figure 3-5. Opportunity for AKO participant to hire out to multiple WC&AK participants, each of which might be at the three-permit limit for control of FG GF permts.

The LEFG permits held by the WC&AK operations that an AKO vessel fishes IFQ for do not prevent an AKO vessel from acquiring its own LEFG permit but may provide a disincentive for such acquisitions. The WC&AK vessels that the AKO vessel fish for have an ownership interest in the AKO vessel. If the AKO participant's acquisition of a West Coast LEFG permit puts one of its WC&AK owners over the three permit limit, then that WC&AK participant would have to withdraw its partial ownership and Alaska IFQ from the AKO participant's vessel. (Note: it would be the WC&AK participant that is over the there-permit limit and in violation, not the AKO participant that acquires the WC LEFG permit). Thus, the current West Coast three-permit limit does not limit the AKO vessel's opportunity to hire or hire out to AKO or WC&AK vessels but in some circumstances may provide a disincentive for the AKO operations acquisition of an LEFG permit (Figure 3-6). Table 3-2 shows in parenthesis the number of permits the vessels shown in each column could acquire without either violating the three permit limit or risking loss of the IFQ held by the hiring participant. Table 3-3 shows (by comparison to Table 3-2) that under an action alternative there are more situations in which a vessel hiring out to a WC&AK participant could acquire permits and that in some situations the number of permits that could be acquired by both WC&AK and AKO participants would increase.

**Thus, under an action alternative there may both be fewer situations in which there is a disincentive for AKO vessels to acquire a permit and more opportunities to consolidate LEFG permits on existing WC&AK vessels.**

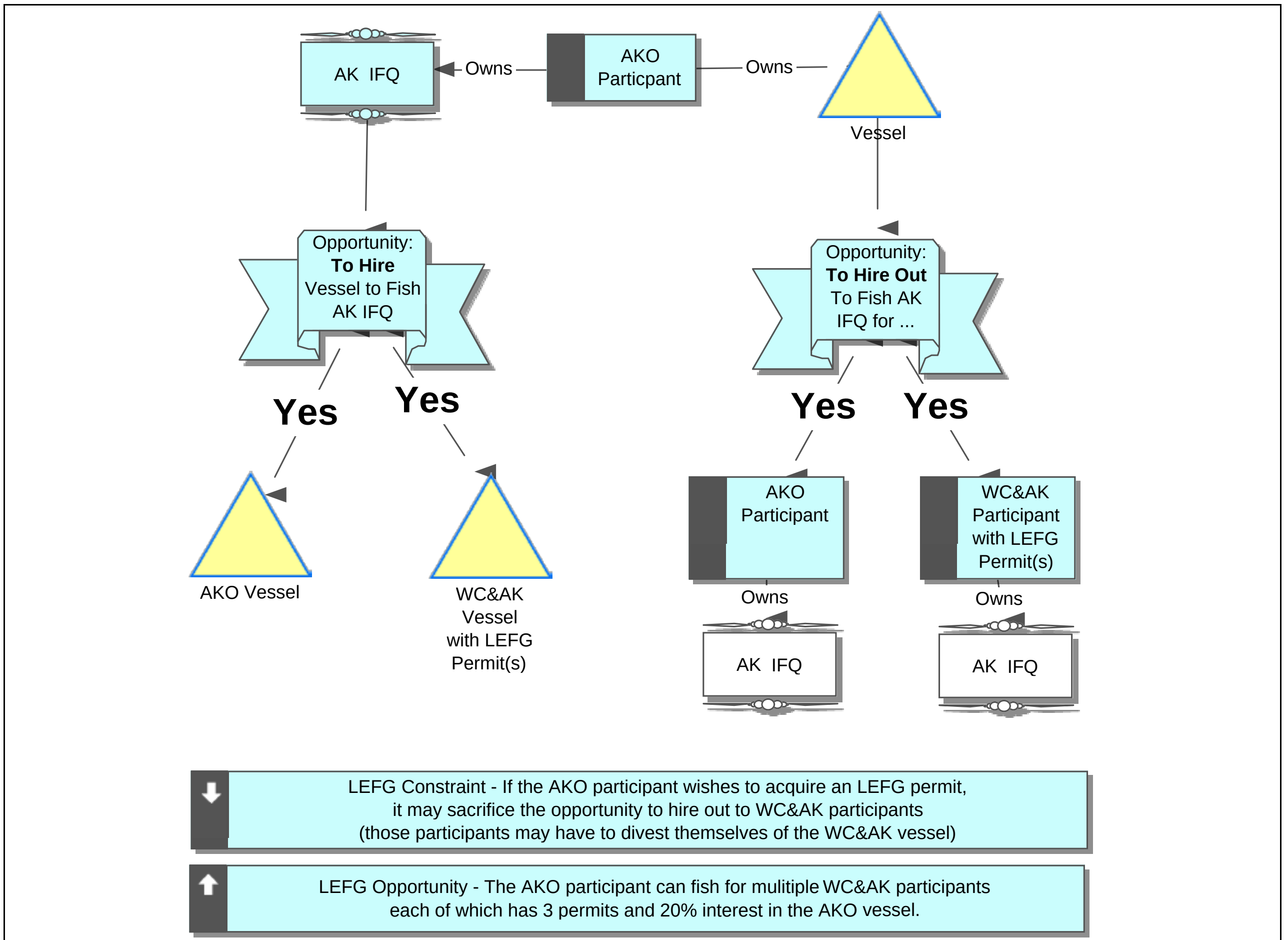


Figure 3-6. Ability of an Alaska only vessel to hire out to fish Alaska IFQ or to hire others to fish Alaska IFQ for it and constraints on acquiring a West Coast LEFG permit.

With respect to the new opportunities for consolidation, the situations affected are somewhat limited. First, the impact mechanisms pertain only to those situations in which a WC&AK participant both qualifies for a grandfather exception to the Alaska owner-on-board provision and chooses to exercise that exception by hiring a vessel and skipper rather than travelling to Alaska to participate in the fishing activities. Second, the most binding constraint relates to the owners of about 18 West Coast LEFG vessels which have three stacked permits and vessels that do not participate in Alaska fisheries, if those owners have IFQ and fall under the grandfather clause. Other operations may experience a lesser constraint, e.g. a vessel with two LEFG permits can fish Alaska IFQ for the owner of an LEFG operation with one permit but not for owners of one of the 18[4] with three permits or one of the 15[4, 5] other vessels with two permits. Vessels that fish only in Alaska and might fish Alaska IFQ for an owner of one of the 18 three permitted vessels would have an immediate disincentive for acquiring a West Coast LE groundfish permit, as described above. Alaska vessels that have already acquired an LEFG permit are included in this discussion as a WC&AK vessel that might acquire additional permits under the action alternative.

[4] Vessels with no Alaska participation, the owners of which may or may not have Alaska IFQ.
[5] Sixteen vessels have two permits and no Alaska participation, but one of those is the vessel in this example, leaving fifteen other two permit vessels that it cannot work with.

The number of all individuals[6] with Alaska sablefish IFQ started at 528 in 1995 and had declined to 445 in 2011 (Table 3-4). Over that same period, the number eligible to hire a skipper (those grandfathered in) has declined from 496 to 239. Of those eligible to hire skippers the number doing so has increased from 20 to 96 over that period. In 2011, the 96 IFQ eligible holders hired 122 different skippers (vessels) to fish their IFQ. Because the number of Alaska participants and potentially hired vessels (362 in 2011) is high relative to the number of West Coast operations, it seems unlikely that the change under an action alternative would create substantial new opportunity for Alaskan only vessels that does not already exist (i.e. only a small percent of the Alaska fleet is potentially affected by the change in constraint). Therefore the action alternative is more likely to affect consolidation among WC&AK operations and mainly among the owners of those west coast vessels that do not participate in Alaska but who have Alaska IFQ. While the degree of consolidation which would occur under the action alternative is uncertain, on these bases, it is expected that the actual degree of additional consolidation, relative to what already exists, would be expected to be modest at most.

Table 3-4. Participation in Alaska sablefish IFQ fishery.

| | **1995** | **2011** |
|---|---|---|
| Total number of vessels fishing. | 616 | 362 |
| | | |
| Individuals with sablefish quota | 528 | 445 |
| Individuals eligible to hire a skipper | 496 | 239 |
| Number that do hire a skipper | 30 | 96 |
| Number of skippers hired | 30 | 122 |
| | | |
| Non-individuals (corporations, partnerships etc.) - must hire a skipper[a/] | 160 | 78 |
| Number that do hire a skipper | 52 | 55 |
| Number of skippers hired | 51 | 105 |

a/ The requirement that non-individuals must hire skippers did not go into place until 1998.

### Impact on Administrative Effort

Currently, NMFS collects only a listing of the individuals with an ownership interest in LEFG permits and the vessels to which they are registered. Under the action alternatives, NMFS would have to collect information on percent of ownership interest in vessels and those ownership interests would have to be updated with any change in the portions of ownership.[7] Additionally, depending on the policy guidance, ownership interests may have to be tracked through several levels of ownership – for example if one partnership is part owner of a second partnership that owns a vessel.

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[6] These numbers for Alaska do not include those required to hire skippers.

[7] This entails ownership interests of shareholders in a corporation and the relative ownership in partnerships. Example

Acme Inc and Fish Inc own a vessel
Acme Inc and Fish Inc each 50% ownership in the vessel
Acme Inc is made up of John Doe and Mary Doe and each owns 50% of Acme
Fish Inc is made up of Mark and Sarah Smith and each have a 50% interest in Fish.

To be determined: Will vessels owned by two or more individuals need to file ownership interest forms?

### Summary of Impact Mechanisms and Differences Between Alternatives 1 and 2

In summary, the primary direct impact mechanisms are as follows.

1. A potential effect on arrangements that involve financial interests secured through vessel ownership in vessels:
    a. a redistribution of risks, financing transaction costs, and related profits from institutional lenders toward the private parties involved in a transaction, and
    b. more social connections between buyers and sellers than would be the case if borrowers were qualified by institutional lenders
2. An uncertain but at most modest effect the distribution of limited entry privileges among fishing operations:
    a. Some degree of increased opportunity for consolidation of Alaskan IFQ on vessels that also participate in the West Coast LEFG fishery,
    b. Some degree of increased opportunity for consolidation of LEFG permits on vessels that fish in both fisheries, and
    c. Some degree of increased opportunity for acquisition of LEFG permits by vessels that previously fished only in the Alaskan IFQ fishery.
3. An increase in the administrative effort required to track and enforce the control limits.

On the basis of the situations that regulations currently constrain, it is expected that the direct impact mechanisms of the action alternatives would be some increased flexibility in financing within the fishery (including an increase in personal connections between lenders and borrowers) and at most some modest consolidation of both LEFG permits and Alaska sablefish and halibut IFQ on fewer vessels. Additionally, there may be some impact on program administrative costs. The effects of these changes on each of the resources is discussed in the following sections.

Action Alternatives 1 and 2 vary from one another in terms of the threshold amount of vessel ownership which counts as ownership of the associated LEFG permits. Under Alternative 1 the amount (20 percent) is the minimum ownership required to take advantage of the grandfather exception provision to the owner-on-board clause for the Alaska IFQ program. The Alternative 2 threshold (30 percent) provides some additional leeway for agreements that may have been established to take advantage of the exception that, for one reason or another, provided somewhat more than the minimum ownership required. Both action alternatives represent a compromise compared to the status quo, under which any one holding even a fraction of a percent ownership of a vessel would meet the control threshold and be credited with complete control over all of the permits associated with the LEFG vessel. While Alternative 2 may cover some individual ownership situations not covered in Alternative 1, Alternative 2 would not be expected to lead to any appreciable overall differences in the intensity of the impact mechanisms described here. If Alternative 1 is selected instead of Alternative 2, individuals in those situations might have to divest themselves of up to 10% of their ownership in order to not exceed the threshold for the LEFG program while meeting the 20% threshold for the Alaska program.

Under both alternatives, two is the maximum number of vessels in which ownership less than 20 percent (or 30 percent) would not count for the purpose of determining permits controlled. This means that the maximum control over LEFG permits that an individual could have would be

100% ownership over three permits (as under status quo) plus up to 20 percent (or 30 percent) ownership in two vessels each of which were registered to three LEFG permits, none of which are owned in any part by the individual.

Recent final and proposed rules for the Alaska halibut and sablefish IFQ fisheries are expected to expedite the shift toward an all owner-on-board fishery in Alaska. NMFS, North Pacific region, recently published a final rule (79 FR 9995, February 24, 2014) that imposes a 12-month vessel ownership requirement on initial individual recipients of QS who wish to use an exemption from the owner on board requirement and use a hired master to harvest their IFQ. NMFS has also proposed a regulation that would prevent an initial recipient from using a hired master to harvest QS that an initial recipient acquired by transfer after February 12, 2010, with a limited exception for small amounts of QS (78 FR 24707, April 26, 2013).

### Physical and Biological Environment

## Own/Control Limits

Summary: Under an action alternative no substantial impact to the physical or biological environment would be expected. The primary potential effect would result from a possible geographic shift in the area of harvest. Any such shift is expected to be modest (as described in Section 3.1.1.2). If that shift were to occur the data collection and reporting system would alert managers to any significant impacts and tools are available for an appropriate management response.

Section 3.1 and 3.2 describe the potentially affected physical and biological environment including:

- Groundfish stocks
- Nongroundfish Species
- Protected Species
- Essential Fish Habitat
- California Current Marine Ecosystem

Impacts on the physical and biological environment would depend on whether the changes in the control rule changed fishing behavior. Impacts to the physical and biological environment might change if there were

- changes in total harvest,
- changes in the types of gear used,
- changes in the way gear is fished,
- changes in the amount of fishing effort required to take a given amount of harvest (CPUE), or
- changes in the distribution of harvest

The limited entry fixed gear allocations are generally fully harvested under the limited entry fixed gear permit stacking program (a type of LAPP program) by vessels using longline and/or fishpot gear (Table 3-x harvest in relation to allocations TO BE PRODUCED). There is no opportunity to increase total removals and no reason to expect that changing the control rule provision would result in a decrease of harvest.

The impacts of a control rule change under an action alternative would occur through the mechanism of changes in financing or consolidation (see Section 3.1.1). There is no reason to expect that these mechanisms would cause a change in the type of gear used, the way the gear is fished, or the catch per unit effort in either the West Coast LE FG sablefish or Alaska fixed gear sablefish and halibut IFQ fisheries.

If the changes result in some modest degree of consolidation on vessels that fish in both the West Coast and Alaska (see discussion in Section 3.1.1.1) and those vessels tend to fish in a different geographic distribution along the West Coast than the vessels from which the permits are acquired, then there could be a spatial shift in the distribution of effort and catch. The current program does not restrain redistribution of sablefish harvest and landings within the management area for the stock. Such redistributions may occur in response to local area CPUE, local fish marketing opportunities, and shifts of the permits between ports (through transfer or changing locations of fishing operations). To a certain extent, a natural rebalancing of effort would be expected from any significant shifts. For example, if effort shifted enough to cause a CPUE decline in a particular area then, as a result of the increased fishing cost, effort would be expected to reshift to some other area. Biologists and managers have determined that the northern sablefish stock to which this program applies (roughly north of 36 degrees north latitude) is a unit that can be effectively managed as such, i.e. there are not issues of localized depletion that would require further subdivisions to ensure the productivity of the target species. All catch in the fishery (including sablefish and nontarget species) is assessed through an observer program and landings are recorded on state fish tickets. Thus, if there is a geographic shift and if that shift leads to changes that are of management concern, a data collection and reporting system is in place to alert managers to the situation and coordinated federal, state, and tribal regulatory authority is available to mitigate such impacts.

Habitat impacts are limited to the possibility that there may be a redistribution of effort, redistributing gear impacts along the coast. The amount of any such redistribution would be expected to be small (see section on impacts on communities in Section 4.3.1). Amendment 19 to the groundfish FMP set aside essential fish habitat conservation areas and provided a process for five year reviews which includes assessment of changes in the intensity and distribution of fishing effort (see NMFS, 2013 for an example of the type of information produced). This review process provides an opportunity for adaptive management in response to any significant shifts in fishing effort that adversely impacts habitat.

#### Socio-economic Environment

### Own/Control Limits

Summary: The following is a summary of the potential socio-economic impacts of an action alternative.

**West Coast LEFG Harvesters.**

- Some potential increase in net revenue and efficiency of vessel operations through consolidation and increased scale of operation and decreased financing costs.
- Some potential increase in fees related to increased NMFS administrative costs.
- Some increase in social cohesion within the fleet.
- An increase in paper work for all vessels related to need to submit ownership interest information.

**Harvesters in Other Fisheries.**

- Some redistribution of Alaska IFQ away from vessels that participate in Alaska but not in the West Coast LEFG fishery.
- A possible increase in acquisition of LEFG permits by Alaska vessels that hire out to catch Alaska IFQ owned by West Coast LEFG participants and the attendant increase in profits and possibly efficiency based on scale of operation.
- Vessels displaced as a result of consolidation may have some impact on other fisheries.

**Crew.**

- Consolidation may lead to fewer jobs but increased wages for remaining jobs.

**Processors.**

- Processing companies tied to a particular port may be affected if there is some geographic redistribution (see section on communities).

**Communities.**

- Potential for some harvest redistribution among ports (appears likely to be minor)
- An increase in social connections within the fleet
- A possible small decrease in the lending business of financial institutions.

**Agencies.**

- An increase in administrative workload related to the need to collect, store, and track vessel ownership information.

Section 3.3 describes the potentially affected socioeconomic environment including:

- Fixed gear sablefish harvesting operations
- Harvesting operations in other fisheries
- Crew
- Processors
- Communities
- Management Agencies

As discussed in Section 3.1.1, the primary direct impact mechanisms are as follows.

1. An potential effect on arrangements that involve financial interests secured through vessel ownership in vessels:
    a. a redistribution of risks, financing transaction costs, and related profits from institutional lenders toward the private parties involved in a transaction, and
    b. more social connections between buyers and sellers than would be the case if borrowers were qualified by institutional lenders
2. An uncertain but at most modest effect the distribution of limited entry privileges among fishing operations:
    a. Some degree of increased opportunity for consolidation of Alaskan IFQ on vessels that also participate in the West Coast LEFG fishery,
    b. Some degree of increased opportunity for consolidation of LEFG permits on vessels that fish in both fisheries, and
    c. Some degree of increased opportunity for acquisition of LEFG permits by vessels that previously fished only in the Alaskan IFQ fishery.
3. An increase in the administrative effort required to track and enforce the control limits.

**Fixed Gear Harvesting Operations**

For the fixed gear sablefish harvesters, the proposed alternatives may affect profits and efficiency. There may also be some social effects.

The action alternatives may facilitate within sector financing whereby the seller retains possession of a vessel as security for a loan (see discussion in Section 3.1.1). To the degree that additional seller financing of buyers is facilitated by an action alternative, the potential economic and social impacts for such sellers include:

- Generating profits from financing the sale (either through charging an interest rate or a higher sale price)
- Increasing the number of potential buyers by lowering transaction costs and financing barriers for potential buyers (which contributes to the profits in the first bullet and may speed the process of finding a buyer, reducing transaction costs for the seller)
- A strengthened social network by facilitating entry of a community member or other known individual into the fishery.

The potential economic and social impacts for the vessel buyer in these situations include:

- Access to financing and or lower financing costs than if financial institutions are the only option.
- Competition from more potential buyers
- Entry into a fleet with more social cohesion

At present seller financing is believed to occur, and only those seller financed transactions inhibited by the three permit limit might be facilitated by one of the action alternatives. Additionally, even where the three-permit limit has presented an obstacle, members of industry may have found alternative ways to secure their loans, further reducing the potential effect through this impact mechanism.

The opportunity for larger operations (i.e. those constrained by the three permit limit) to consolidate more harvest privileges (either by acquiring West Coast LEFG permits or by hiring out to WC&AK participants to harvest Alaska IFQ) may increase economic profits and fleet efficiency through economies of scale. The degree of the current constraint and consequently the opportunity provided by the action alternative (as described in Section 3.1.1.1) is modest for the fleet as a whole but may be significantly important to some individuals.

LEFG permits and their associated tier limits are the main components of an LEFG LAPP program. Because the program is classified as a LAPP, a requirement of the MSA is that costs of administering the program be recovered through fees, up to a maximum of 3% of exvessel revenue. The action alternatives may increase administrative workload and hence cost of administering and enforcing the program. These additional costs may be passed on to participants through fees, increasing vessel costs and resulting in a minor adverse impact on vessel profits.

The current control rule and all-or-none accounting method is intended to err on the side of precaution in trying to ensure that the three permit control rule is not undermined by private business arrangements which might convey control without conveying majority ownership interest. It also makes it more likely that there will be a greater number of harvesters that are totally independent of one another. One mechanism by which control might be asserted over a greater number of permits is through lending to finance the purchase of a vessel. Such lending might be turned into leverage over a permit and the activities of a particular vessel. The current all-or-none rule reduces the opportunity to use that type of mechanism where its use is dependent on securing at least part ownership in a vessel. As discussed in Section 3.1.1, the action alternatives would provide opportunity to secure vessel financing thought part ownership without tripping the control rule, potentially opening an avenue for circumventing the permit control rule. However, the action alternatives still stop well short of providing the opportunity for an entity to have controlling interest in a vessel without also being considered to control the permits registered to the vessel.

As a result of the additional vessel ownership information required to track and enforce compliance with this provision, under the action alternatives most owners of vessels registered with LEFG permits would likely be subject to the requirement to submit vessel ownership interest forms specifying each individual's share of ownership.[8]

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[8] Currently all vessel owners that are businesses (corporations) have to file an ownership interest form at renewal but they do not provide percent ownership for individual shareholders. Vessel owners who are individual partners (husband/wife) would now have to file ownership interest forms and report relative ownership in the vessel. Also vessels with multiple owners (corporations and individuals) would need to report relative ownership in the vessels. Businesses would continue to file ownership interest listing shareholders but would now need to provide percent of ownership for each shareholder.

Impacts on financial institutions are discussed in the section on communities.

**Harvesters in Other Fisheries**

As indicated in Section 3.1.1, an action alternative could result in shifts in fishing privileges among participants. On the one hand, there would be some decreased opportunity for Alaskan only vessels (AKO participants) to fish Alaska IFQ for WC&AK participants, as there would be a reduction in a constraint that currently limits WC&AK participants' ability to fish for one another. On the other hand, a few AKO participants that fish for WC&AK vessels might have a new opportunity to buy LEFG permits (become WC&AK vessels) without sacrificing income they earn by hiring out to fish Alaska IFQ for WC&AK vessels. However, there are already a large number of AKO vessels that have the opportunity to acquire LEFG permits and do not exercise such opportunity. The addition of a few more AKO vessels to the pool of potential participants is not expected to have a notable effect in new entry to the LEFG fishery by what are currently AKO participants.

The main impact mechanism by which other fisheries might be affected is consolidation. Section 3.1.1 indicates that under the action alternative there is some limited possibility that LEFG permits and Alaska IFQ may be consolidated onto fewer vessels. This might then generate some surplus capital (vessels) that would be sold into other fisheries. Most US fisheries are under some form of rationalization program that would limit the effects of this surplus capital.

**Crew**

If there is some consolidation of LEFG permits and/or Alaska IFQ on to fewer vessels, then the income of crew members on vessels from which the permits/IFQ are moved may decrease while there may be a gain on the vessels to which the permits/IFQ are moved. If the loss of permits or IFQ result in a vessel going out of business then, rather than a decrease in income, there may be a net job loss. As described in Section 3.1.1., the degree of consolidation is expected to be, at most, modest.

**Processors**

Section 3.1.1 identifies some possibility of a geographic redistribution of harvest and landings, to the degree that LEFG permits are consolidated onto WC&AK vessels and that WC&AK vessel tend to have a different geographic distribution than West Coast only participants. Such a redistribution may affect processors (and processing dependent jobs) that are dependent on the landings in a particular port. Processing companies that purchase through a number of ports would be less affected.

Any redistribution of permits is expected to be modest and that there would a geographic difference in the distribution of the harvesters receiving such permits is uncertain. The issue of geographic redistribution is discussed further in the section on communities.

## Communities

**Geographic distribution.** Some increased consolidation of LEFG permits on vessels that participate on the West Coast and in Alaska is expected. The current fleet of WC&AK vessels tends to be distributed somewhat differently than those that participate only on the West Coast, with vessels from Washington and northern Oregon ports being more likely to participate in Alaskan fisheries than vessels from other ports (Table 3-5). Whether geographic distribution is affected depends on the degree to which WC&AK acquire additional LEFG permits and the geographic area from which those additional LEFG permits come. With respect to consolidation, one of the primary motivations for the action is to allow the harvest of more Alaska IFQ to be consolidated on WC&AK operations, rather than allowing WC&AK operations to consolidate more LEFG permits. Nevertheless, some additional consolidation of LEFG permits may occur. If WC&AK operations acquire LEFG permits from West Coast only vessels that operate in the same geographic region of the West Coast as the WC&AK operations, then there may be no net geographic impact would be expected. If they acquire permits from other regions on the West Coast, then some geographic redistribution may occur.

Table 3-5. Counts of vessels by principle port and whether the vessels participated only on the West Coast LEFG fishery or also in Alaskan Fisheries.

| | West Coast Only | West Coast and Alaska Participation | Total |
|---|---|---|---|
| Puget Sound | - | 3 | 3 |
| North Washington Coast | 8 | 2 | 10 |
| South & Central WA Coast | 8 | 4 | 12 |
| Astoria | 4 | 1 | 5 |
| Newport | 13 | 1 | 14 |
| Brookings | 9 | - | 9 |
| Coos Bay | 11 | - | 11 |
| Crescent City | 3 | - | 3 |
| Eureka | 4 | - | 4 |
| Fort Bragg | 6 | 1 | 7 |
| Bodega Bay | 2 | - | 2 |
| San Francisco (excl. Bodega Bay) | 4 | - | 4 |
| Monterey | 5 | 1 | 6 |
| Morro Bay | 6 | - | 6 |
| Santa Barbara | 1 | - | 1 |
| | 84 | 13 | 97 |

With respect to the Alaska IFQ program, there could be some additional consolidation of harvest of Alaska IFQ on WC&AK vessels. Most of the Alaska IFQ consolidation is expected to occur among existing WC&AK (i.e. those constrained by the West Coast LEFG control rule) thus a substantial change in geographic distribution of benefits from the Alaska IFQ program would not be expected.

**Social Connections.** As discussed in Section 3.1.1, facilitation of seller financing may increase the degree to which buyers known to the seller are sold vessels, increasing social connections and cohesion within the fleet and community under the action alternatives.

**Financial Institutions.** Financial institutions are often part of local fishing communities. To the degree that permit transactions would have occurred under status quo but under status quo would have been financed through financial institutions rather than through seller financing then under an action alternative the increased in seller financing represents some loss in business to the financial institutions.

**Agency Costs**

Currently, to monitor the three permit limit, the agency need only keep track of a list of the individuals with some ownership interest in the permits and in the vessels. Under the action alternatives the agency would have the additional cost of tracking whether an individual had more or less than a given percent. Additionally, records would have to be updated each time an individual's share of ownership changes. These factors may add to agency costs which could be charged as fees to permit owners.

Prior to the program review, incremental costs associated with this LAPP were likely minimal, although at this time no quantitative assessment of incremental costs has been done. However, the actions being considered during this review process would implement an electronic fish ticket and modify the control rules. Also, the Council has taken action to allow trawl and LEFG endorsed permits to be registered to the same vessel at the same time. These actions may introduce additional incremental costs. For example, implementation of modified control rules could require an additional vessel ownership interest forms from some, as well as new database programming requirements that would take time and would require additional funding to implement. These are examples of additional incremental costs that could be tracked and partially recovered through implementation of a cost recovery program for the LAPP.

As part of the alternatives, a determination will need to be made about the layers through which ownership is tracked. For example, if the ABC Partnership owns 80% of a vessel and Mr. A owns 20% of a vessel but also owns a share of the ABC Partnership, would Mr. A then be considered to own in excess of 20% of the vessel? Such tracking will also add to program administrative costs.

National Marine Fisheries Service. 2013. Groundfish Essential Fish Habitat Synthesis: A report to the Pacific Fishery Management Council. NOAA, NMFS, Northwest Fisheries Science Center, Seattle WA, April, 2013. 107 p.