

POTENTIAL TRAILING ACTIONS ON TRAWL RATIONALIZATION

Depending on the nature of a trailing action either a fishery management plan (FMP) amendment or a regulatory amendment would be required. The potential trailing actions which have been identified so far would be regulatory amendments. This is because most of the catch share program provisions are contained in Appendix E of the FMP. In accordance with procedures adopted by the Council, Appendix E may be updated based on changes in the regulations, i.e. changing Appendix E does not require an FMP amendment. The following section provides a list of the trailing actions identified so far and the remainder of this document provides a brief summary of the issues and potential workload related to each of these potential actions.

Trailing Regulatory Amendments

Substantial Effort Likely Required

1. Cost Recovery (*trailing action obligated under Amendment 20*)
2. Adaptive Management Quota Shares (*trailing action obligated under Amendment 20*)
3. Quota Share/Quota Pound (QS/QP) Control Rules – Safe Harbors
 - Community Fishing Associations
 - Risk Pools
 - Financial Institutions
4. Reducing Observers Costs (educational requirement for observers, less than 100% coverage, alternative technologies)
5. Yelloweye QS Allocation
6. Widow Rockfish Quota Share Reallocation – (*Amendment 20 states the Council may consider reallocating overfished species QS upon rebuilding*).

Possibly Requiring a Moderate Effort

7. Halibut Trawl Allocation Adjustment (needed only if a change is to be considered for 2012)

Relatively Minor Effort Required

8. QP Deficits Lasting More Than 30 Days – Changing the Opt Out Requirement
Requirement that a vessel carrying a deficit for more than 30 days opt out for the entire year to avoid penalty for overage (applies only if the deficit is less than or equal to the carry over allowance).
9. Revise Calculation of Mothership Processing Ownership Limits (application of individual and collective rule)
10. Allow Permit Stacking (putting both a fixed gear and trawl permit on the same vessel)
11. Eliminate Double Filing of Co-op Reports (November and March)
12. Severability of catch history from the mothership catcher vessel permit

Trailing Plan Amendments

None identified.

Trailing Regulatory Amendments

1. Cost Recovery

The Council needs to further develop the methodology for identifying costs to be recovered through fees and specify a program of fees. The Section 303A(e) of the MSA states that

In establishing a limited access privilege program a Council shall -- (1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and (2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

The program adopted in Amendment 20 is now Appendix E of the groundfish FMP. Section A-2.3.3 of Appendix E states

Program costs

- a. Cost recovery. Fees up to three percent of exvessel value, consistent with MSA 303A(e) may be assessed. Cost recover shall be for costs of management, data collection, analysis, and enforcement activities.
- b. Fee structure. To be determined. The TIQC recommended a fee structure that reflects usage. A fee structure that allows for equitable sharing of observer costs for smaller vessels may be developed.

Workload Assessment -- Cost Recovery

Policy Development

Main Tasks

- developing a set of rules for assessing costs,
- developing a fee structure

The primary task would be to develop a policy specification for what will and will not be counted as program costs. Some of the issues which might be addressed include treatment of cost savings that result from the program, including existing funds that are reprogrammed to other uses as a result of the catch share program (e.g. if under the catch share program the West Coast Groundfish Observer Program reprograms Federal observers to increase sampling rates in other fisheries, how is this taken into account in determining catch share program costs).

The fee structure would likely be relatively simple and based on landings. The biggest uncertainty at this point is whether and how to take into account the situation of smaller vessels with respect to equitable sharing of costs (A-2.3.3.b).

Analysis

Main Tasks

- developing an example assessment of costs based on the rules,
- providing a quantitative assessment of the impacts of the fees using data from the 2009 or 2010 fishery and the initial QS distributions.

Given potential controversy it would be best to provide a fairly rigorous analysis.

Workload Products and Process

This issue would likely require a moderately sized document (e.g. 20-30 pages) with a moderate amount of quantitative analysis.

To develop options, the Council would likely need to provide some general policy guidance on issues like treatment of reprogrammed expenditures and fees for small vessels and rely substantially on NMFS personnel in developing methodology options for its review. The analysis would likely fall to NMFS and Council staff. A contractor might be used for the quantitative elements.

The issue may receive quite a bit of public comment and may get wrapped together with concern and discussion about the level and duration of Federal support.

2. Adaptive Management Quota Shares

In the spring of 2009, the Council and its advisors developed a number of reports on the issue of how the quota set aside for adaptive management might be used. At that time, the Council decided it would be best to framework the provision into the catch shares program and develop the specifics during the first two years of the program. During the first two years of the program, QP that would otherwise be used for adaptive management are being distributed to all QS holders, pro rata based on their QS holdings. The Council needs to develop a regulatory amendment to utilize the QS set aside for adaptive management.

Council policy on this issue, from Section A-3 of Appendix E to the groundfish FMP, is as follows:

Ten percent of the nonwhiting QS will be reserved to facilitate adaptive management in the shoreside nonwhiting sector. Therefore, each year 10 percent of the shoreside trawl sector nonwhiting quota pounds will be available for use in adaptive management (adaptive management QP). The set aside will be used to address the following objectives.

- Community stability
- Processor stability
- Conservation
- Unintended/Unforeseen consequences of IFQ management.
- Facilitating new entrants.

Years One and Two. During the first two years in which the IFQ program is in place, the method to be used in distributing QP in years three through five will be determined, including.

- The decision making and organization structure to be used in distributing the QP set aside¹
- The formula for determining community and processor eligibility, as well as methods for allocation, consistent with additional goals.
- The division of QP among the states.
- Whether to allow the multi-year commitment of QP to a particular project.

Years Three through Five. QP will be distributed through the organizational structure, decision process, formulas and criteria developed in years one and two and implemented through subsequent Council recommendation and NMFS rule making processes. Consideration will be given to the multiyear commitment of QP to particular projects (three year commitments).

Review and Duration. The set aside of QP for the identified objectives will be reviewed as part of the year five comprehensive review and a range of sunset dates will be considered, including 10, 15, 20 year and no sunset date options.

Workload Assessment – Adaptive Management

Policy Development

While considerable thought has already gone into this issue, difficult decisions still remain, which is part of the reason it was thought best to wait until the catch share program is implemented before more fully developing the provisions for use of the adaptive management quota it. The main issues to be addressed in policy development are

1. the decision making process,
2. the criteria for quota distribution,
3. geographic distribution of the quota among the states and
4. whether or not to make multiyear commitments of the quota.

¹ The following are three options for the sequences of agency involvement in decision making for the distribution of adaptive management QP after year 2..

1. NMFS
2. State → Council → NMFS
3. Council → NMFS

The decision making process and criteria for distribution are strongly interdependent. For example, if the criteria include evaluation of proposals a more intense decision process may be required. On the other hand, the criteria could be formulaic, for example based on the percent of deliveries made to the same port as in a previous year. The quota might also be designated for each state area and different criteria used depending on the needs within each state. Because adaptive management quota could potentially be allocated to Community Fishing Associations (CFAs) there may be some interaction between this issue and other Council deliberations involving CFAs (safe harbors for control rules).

Analysis

Analysis of this issue would likely be primarily qualitative in nature. The analytical tasks may vary greatly depending on the nature of the options developed. Because of the variety of ways the program could be implemented, substantial effort may be required to organize and portray the options in a manner that makes it easy for the Council and public to understand the tradeoffs.

Given potential controversy it would be best to provide a fairly rigorous analysis.

Work Products and Process

This issue would likely require a document of moderate size, depending on the number and complexity of the options. At this time, minimal quantitative analysis would be expected.

Option development may be time consuming process because of the many possible ways in which the program could be implemented. Because the program may be demanding on Federal and state agency resources, early input from these agencies about policy constraints would be important. For these reasons, and because there are many policy choices which are of particular interest to Federal and state agencies, the process would likely proceed most efficiently if there is significant agency involvement in option development. This may be an issue which would be most effectively handled by a special agency workgroup with input from the public.

There would likely be substantial public comment, including comment by those who would like to see the adaptive management quota continue to pass through indefinitely into the future. Additionally, potential interactions with the CFA issues and the variety of possible uses for this quota (including encouragement of gear switching) are likely to attract comment.

3. QS/QP Control Rules – Safe Harbors

The Council has attempted to establish very strict rules for the application of limits on QS/QP control. At the same time, the Council has been concerned that these limits not prevent certain types of activities which it considers beneficial to the fishery. These activities might include the formation of community fishing associations (CFAs), risk pools, and the financing of QS/QP purchases by financial institutions. It has been suggested that the Council establish very specific safe harbor exceptions to allow these types of beneficial activities.

CFAs: Prior to its final action on Amendment 20, the Council scoped possible provisions for CFAs. Entities are able to form community associations for a variety of purposes without Council action. For the Council the main issues are (1) should any special privileges be provided to such entities, and, if so, (2) what are the criteria such an entity would have to meet in order to qualify as one deserving of such privileges? Based on the Council's previous deliberations, it appears that the only special considerations that a CFA might need is an exception (safe harbor) with respect to the QS/QP control rule. If additional exceptions are identified, it might be appropriate to break the CFA issue out and provide a scoping category independent of the control rule issue.

Risk Pools. During the development of the program there has been much concern about how industry might organize itself to make best use of the limited amounts of overfished species QS/QP that may be available. One concept that received much attention was the possibility that fishermen might organize themselves into risk pools, with each member of the pool contributing toward the total amount of overfished species QS/QP in the pool. In a footnote to section A-2.2.3.e of Appendix E, the Council stated

It is the Council intent that control limits should not constrain the formation of risk pools to help the fishermen deal with overfished species constraints, so long as the pools do not undermine the effectiveness of the accumulation limits. A risk pool is one in which two or more people enter into an agreement whereby if one person does not have the QP the others would agree to provide the QP, if they have them. Whether these kinds of agreements are informal or formal, as other considerations and conditions are added to the agreements they may begin to constitute control. It is the Council intent to allow for these pooling agreements, so long as they do not become control.

Nevertheless, there is concern that QS/QP control rules could inhibit the formation of such pools either because of a clear conflict with the control rules or precaution due to uncertainty as to how the control rules might apply to risk pools. It has been proposed that provisions be added to create a clearly delineated safe harbor for those who may desire to form risk pools.

Financial Institutions. Concern was expressed that the control rules could inhibit financial institutions that might have an interest in QS/QP as loan collateral. This issue was also one addressed in public comment provided to NMFS on the proposed allocation rule. Modifications to the final allocation rule should be reviewed to determine the degree to which this issue might still warrant attention in the trailing amendment process.

Workload Assessment – QS/QP Control Rules – Safe Harbors

Policy Development

Safe Harbor for CFAs. There appear to be two main issues that would need to be addressed in policy development: (1) the appropriate level of the accumulation limits for CFAs, and (2) the criteria a CFA would have to meet in order to qualify for the safe harbor exception. With respect to the latter of these two issues, the greatest concern would likely be specifying criteria that cannot be exploited as a loop-hole by entities seeking to control more QS/QP than allowed under the control rules which apply outside the safe harbor.

Risk Pools and Financial Institutions. The challenges in developing safe harbor rules for risk pools and financial institutions would likely be similar to those identified for CFAs.

Analysis

Most of the analytical work would be associated with the challenges identified for policy development. Beyond policy development, the analysis would most likely be qualitative in nature and based on speculation as to the number and types of organizations that might utilize the safe harbor exceptions, the amount of QS that might be controlled under such exceptions, and the benefits to the industry and communities that might result from the exceptions.

Work Products and Process

This issue would likely require a document of moderate size, depending on the number and complexity of the options. At this time, the quantitative analysis would be expected to be relatively limited.

Some careful attention would be required during option development to ensure that options proposed achieved the desired ends without creating loop-holes which might be used by types of entities which are not intended to benefit from the safe harbor provisions. For this reason, the assistance of legal counsel and NMFS policy experts would be important. The most efficient forum for developing this policy might be the GAC with substantial assistance from agency experts or a special policy development workgroup with representation by agency experts and input from the public.

There might be a moderate amount of public comment by those who would benefit from the exceptions and those concerned about potential abuse of the safe harbors.

4. Reducing Observer Program Costs

It has been suggested that there may be opportunities to modify the observer program in a manner that would reduce costs. These suggestions have included

- a. Reduction of observer educational requirements
- b. Use of alternative technologies (e.g. cameras)
- c. Requiring less than 100% observer coverage

The observer educational requirements are at least partially influenced by national policy, which would have to be taken into account in developing alternatives for the west coast trawl catch share observer system. The Council may wish to set separate priorities for each of these potential uses of alternative technologies.

The issue of using alternative technologies should be evaluated separately for vessels fishing in the IFQ program with bottom trawl gear, those in the IFQ and co-op program fishing for whiting using midwater gear, and those fishing in the IFQ program using nontrawl gear (e.g. longline).

Developing a policy that requires less than 100% observer coverage would have to address assumed bycatch rates, assumed bycatch amounts for unobserved trips, and how catch on unobserved trips would be counted against the trawl allocation. The bycatch rate issue would be most critical for overfished species, which are expected to constrain harvest. There is some anecdotal information that indicates vessel fishing patterns with observers vary from those without observers and this might also need to be taken into account in establishing the assumed bycatch rates. The Council would have to make a determination as to whether additional precaution might be needed to account for uncertainty about bycatch on unobserved trips (e.g. assuming a higher than average bycatch rate or reducing allocations). Bycatch on the unobserved trips would either have to be deducted from the overall distribution of QP to all QS holders or, more likely, by deducting from the QP account of the vessel making the trip based on assumed bycatch rates, the amount of target species taken, and fishing area.

Workload Assessment – Reducing Observer Program Costs

Policy Development

The easiest issue to develop policy options for would be reduction of the observer minimum educational requirement. The other issues would require more extensive effort to develop viable options for Council consideration (with the possible exception of monitoring of trawl catch in the whiting fishery, for which cameras have already been used in the past, albeit under a different regulatory environment). For some applications of alternative monitoring technologies the process might end up being multisteped and involve experimental studies. The most complex options would likely be those which would allow less than 100% observer coverage. It seems possible that multiple options might be developed with varying levels of observer coverage and varying methods for accounting for bycatch on unobserved trips.

Analysis

Reduction of observer educational requirements would require working with NMFS to understand policy constraints but the impact analysis would otherwise be qualitative and relatively simple.

The use of alternative technologies would require an evaluation of existing studies of effectiveness and risk/cost tradeoffs. Relative to an allocational analysis, for example, the alternative technology analysis would be fairly straight forward.

Use of less than 100% observer coverage would likely be the most complex of the analyses under this topic. The analysis would likely focus on cost reduction, increased uncertainty of mortality on unobserved trips, the impact of reduced observer coverage on vessel incentives, and precautionary decisions the Council might make to account for the uncertainty.

Work Products and Process

The observer educational requirement might be handled in a relatively small document (e.g. 5-10 pages). The other issues are more difficult to evaluate. The alternative technologies issue could be handled in a small to moderately sized document depending on the scope of alternative technologies and applications considered. Similarly the observer coverage issue document size might range broadly depending on the number and complexity of the options.

The options to be developed would likely require important contributions from those with knowledge from a variety of areas including Federal policy constraints, observer program costs and methodologies, observer data summary methodologies, performance and costs of alternative technologies, enforcement, and fishing industry operations. It seems most likely that a special workgroup might be needed to develop policy options. This workgroup would likely include agency personnel with the expertise listed above as well as individuals who represent the Council's policy interests in exploring new monitoring approaches.

There may be a large amount of public comment because of the financial interest of those within the trawl sector and interests of those outside the trawl sector who may be have concerns about accurate catch accounting in the trawl sector.

5. Yelloweye QS Allocation

After the Council took final action on Amendment 20 in June of 2009, a number of concerns were raised by members of industry about the small amounts of some overfished species that would be allocated to some permits. The Council addressed the concern for canary by reverting to an earlier allocation option which provided all permits with an equal allocation based on the catch history of the permits purchased through the buyback program. However, concern over the yelloweye QS allocation was not raised until later in the process. Fishermen from the Fort Bragg area in particular expressed concerns about their yelloweye QS allocations which, in some cases, would convert to a few ounces of QP.² At its June meeting, the public made strong requests for the Council to look at this issue as something that might be addressed in a trailing amendment.

Workload Assessment – Yellow Rockfish QS Reallocation

Policy Development

On the one hand, if the Council chooses to consider yelloweye reallocation, development of new allocation options might be a challenging task requiring the guidance of some form of working group. On the other hand, if the Council limits options to those previously considered, e.g. equal allocation of an amount of QS determined based on buyback permits, or straight equal allocation³ not much additional effort would be required for option development.

Analysis

- Substantial quantitative assessments would likely be required with multiple comparisons between existing QS distributions and proposed distributions across a number of variables including total QS allocated to permits and geographic areas. If only previously considered options are considered, much of this analysis may already be done.
- A qualitative analysis would be included but the main emphasis would likely be quantitative.

Work Products and Process

The issue would likely require a moderately sized document and much of the analysis would be quantitative. The size of the document and workload would likely vary substantially based on the options developed.

Because the options are likely to be strongly reallocative nature, it seems most likely that a policy group such as the GAC or full Council would be most effective in developing options (as opposed to an advisory group composed of constituents). At the same time, industry input during option development process would be important. The GMT or Council staff might develop the analysis with quantitative elements developed by a contractor.

There would likely be a large amount of public comment because of the reallocative nature of the action.

² In response to this situation, for the first two years, (during the QS trading moratorium) NMFS specified in regulation that any allocation of QP that came to less than one pound would be rounded up to a pound. However, this did not and was not intended to address the Fort Bragg fishermen's overall concern that their yelloweye allocation was too low.

³ A straight equal allocation helps bracket a range of possible outcomes. Such an allocation would give each permit owner approximately 7 pounds a year for 2011-2012. An average yelloweye rockfish might weigh between about 5 and 6 pounds.

6. Widow Rockfish Quota Share Reallocation

Appendix E to the FMP states in Section A-2.1.6:

Reallocation With Change in Overfished Status: When an overfished species is rebuilt or a species becomes overfished there may be a change in the QS allocation within a sector (allocation between sectors is addressed in the intersector allocation process). When a stock becomes rebuilt, the reallocation will be to facilitate the re-establishment of historic target fishing opportunities. When a stock becomes overfished, QS may be reallocated to maintain target fisheries to the degree possible. That change may be based on a person's holding of QS for target species associated with the rebuilt species or other approaches deemed appropriate by the Council.

It is anticipated that widow rockfish will be rebuilt as of the start of the next biennial management cycle (2013). Reallocation on rebuilding is not required and the Council should decide whether or not it will consider a regulatory amendment to achieve such reallocation. If reallocation is to occur, it would be advantageous to have the reallocation in place by the end of 2012 because the two-year moratorium on QS trading will end starting in 2013.

Workload Assessment -- Widow Rockfish Quota Share Reallocation

Policy Development

Unless the Council simply chooses to reallocate widow rockfish QS based on the same formula it used to allocate nonoverfished species, then development of new allocation options might be a challenging task requiring the guidance of some form of working group.

Analysis

- Substantial quantitative assessments would likely be required with multiple comparisons between existing QS distributions and proposed distributions across a number of variables including total QS allocated to permits and geographic areas.
- A qualitative analysis would be included but the main emphasis would likely be quantitative.

Work Products and Process

The issue would likely require a moderately sized document and much of the analysis would be quantitative. The size of the document and workload would likely vary substantially based on the options developed.

Because the options are likely to be strongly reallocative nature, it seems most likely that a policy group such as the GAC or full Council would be most effective in developing options (as opposed to an advisory group composed of constituents). At the same time, industry input during option development process would be important. The GMT or Council staff might develop the analysis with quantitative elements developed by a contractor.

There would likely be a large amount of public comment because of the reallocative nature of the action.

7. Halibut Trawl Allocation Adjustment

The concern that has been expressed so far is whether the amount of halibut allocated to the trawl fleet is sufficient for their needs. The Council action on halibut allocation allows the trawl sector's allocation to be increased or decreased during the biennial specifications process. Any change before that time will require separate regulatory action and need to be in place before the start of 2012 in order for the appropriate amount of individual bycatch quota QP to be distributed at the start of 2012.

Workload Assessment -- Halibut Reallocation

Policy Development

Main tasks – Identification of alternative allocation splits. Some quantitative analysis might be needed to support development of options.

Analysis

Similar to the Amendment 21 analysis on the trawl halibut allocation.

- Some quantitative analysis using the 2009 or 2010 fishery and the initial QS allocations and comparisons to historic harvests.
- Qualitative analysis based on incentives and opportunities for bycatch reduction and experiences in other fisheries.

Work Products and Process

The issue would likely require a relatively small document with some quantitative analysis but less than for many issues. If in the first part of 2011 it becomes apparent that halibut IBQ is a major constraint, the rigor and length of the analysis may increase.

The Council would likely need to be in the lead in providing specific allocation amounts or targets around which options would be developed. The GMT or Council staff might develop the analysis using internal resources or a contractor for the quantitative elements.

The issue would likely be important to the northern fleet and may receive more comment than it did during Amendment 21 development because there would be fewer issues for the public to focus their attention on and less concern about delaying Amendment 20 implementation. Actual experience in the 2011 fishery may dramatically increase or decrease the amount of comment.

8. QP Deficits Lasting More Than 30 Days – Changing the Opt Out Requirement

Under Amendment 20, if a vessel has a deficit in its QP account it must stop fishing until the deficit is covered. If it has not covered the deficit at the end of 30 days it is subject to a violation, unless the overage is within the carryover provision. Under such circumstances, the vessel will not be considered in violation of the program so long as it does not resume fishing. The following is from Appendix E to the FMP.

A-2.2.1. Permit/IFQ Holding Requirement

1. Only vessels with LE trawl permits are allowed to fish in the trawl IFQ fishery.
2. For a vessel to use QP, the QP must be in the vessel's QP account.
3. All catch a vessel takes on a trip must be covered with QP within 30 days of the time that data or documentation from the trip shows there is an overage unless the overage is within the limits of the carryover provision (Section A-2.2.2.b), in which case the vessel has 30 days or a reasonable time (to be determined) after the QP for the following year are issued, whichever is greater.⁴
4. For any vessel with an overage (catch not covered by QP), fishing that is within the scope of the IFQ program (Section A-1.1) will be prohibited until the overage is covered, regardless of the amount of the overage. Vessels which have not adequately covered their overage within the time limits specified in paragraph 3, must still cover the overage before resuming fishing, using QP from the following year(s), if necessary. If a vessel covers its overage, but coverage occurs outside the specified time limit (paragraph 3), the vessel may still be cited for a program violation.
5. For vessels with an overage, the LE permit may not be sold or transferred until the deficit is cleared.

NMFS included in the implementing regulations, after consulting with the Council at its April 2010 meeting, a provision that specifies that a vessel carrying a deficit for more than 30 days must declare itself out of the fishery for the remainder of the year, if it is to avoid a program violation (assuming the deficit is within the carry over allowance). At the June Regulatory Deeming Workgroup meeting, several industry members voiced concern that declaring out of the fishery for the remainder of the year was unnecessarily restrictive. For example, while a vessel with an overage is unable to find reasonably priced QP to cover its overage within 30 days, later in the year the market might loosen up allowing the vessel to acquire the needed QP. The purpose served by not allowing the vessel to resume fishing once the deficit is covered was unclear to some members of the group. In its preamble to the proposed components rule, NMFS noted that the opt-out provision is needed to encourage vessels to resolve their overages within 30 days.

Workload Assessment – Fishing Prohibition for Vessels with a QP Deficit

Policy Development

The option(s) that are needed appear reasonably straight forward to develop.

Analysis

The analysis would be qualitative and relatively straightforward. One of the main issues would be evaluation of implications for program tracking, monitoring, and enforceability.

Work Products and Process

This issue would likely require a relatively small document. Option development might be on the Council floor, with advice from the GAP. A substantial amount of public comment would not be expected.

⁴ QP from a subsequent year may not be accessed until such QP have been issued by NMFS.

9. Mothership Processing Ownership Limits (application of individual and collective rule)

In the components rule, the individual and collective rule is applied to the mothership processing ownership limits based on Council guidance to NMFS provided at the June 2010 Council meeting. The Council used the individual and collective rule for the IFQ program control limits but applying the individual and collective rule to an ownership limit (and not a control limit) results in an important difference in the outcomes as compared to applying the rule to control. It may be determined that this topic can be handled through Council comment on Agenda Item I.5, but if not, the Council may want to address it here.

The Council set a mothership processing ownership limit of 45% with the intent of ensuring there would be at least three buyers available to catcher vessels while still allowing substantial consolidation in the processing sector. Applying the individual and collective rule to that ownership limit frustrates the Council's original intent. In the worst case, a single entity could own 51% of two entities which each receive 44% of all deliveries. Applying the individual and collective rule, that single entity would control 88% of the market ($2 \times 44\%$) and be still be within the 45% ownership cap ($2 \times 44\% \times 51\% = 44.9\%$). A single buyer could then service the remaining 12% of the deliveries, frustrating the Council intent to ensure vessels have at least three buyers to sell to. When the individual and collective rule is applied where control limits exist, then that control limit cannot be violated regardless of the outcome of the calculation from application of the individual and collective rule, i.e. in the above example the entity would be considered to control 88% of the market and therefore in violation of a 45% control cap.

Workload Assessment – Mothership Processing Ownership Limits

Policy Development

The options that are needed appear reasonably easy to develop. Option development could become more complex if alternative formulations are considered and developed through a reiterative process. For example, in previous Council discussion the idea of a 10% rule has been raised. Under a 10% rule, if a person owns 10% of an entity all of the allocation controlled by that entity counts toward that person's limit.

Analysis

If the Council only revisits whether or not to apply the individual and collective rule to the processing ownership cap, the analysis would be relatively straight forward and brief. If the Council instead considers whether the ownership limit should instead be a control limit, the complexity of the analysis may be somewhat increased.

Work Products and Process

This issue would likely require a relatively small document with some quantitative analysis.

Option development would likely be straight forward and occur on the Council floor, with advice from the GAP. Analysis would likely be conducted by Council staff.

There would likely be a relatively small amount of public comment which could become more extensive depending on the nature of the options developed.

10. Permit stacking

There is currently a prohibition on placing (stacking) a fixed gear and trawl permit on the same vessel at the same time. The issue here is whether to eliminate that prohibition. Such stacking was allowed until the fixed gear sablefish 3-tier stacking program went into place. At that time, as part of the implementing regulations, NMFS prohibited the stacking of a fixed gear permit on the same vessel with a trawl permit. The prohibition was not directly called for in the Council recommendations. When the prohibition was implemented, there may have been some utility in the restriction with respect to tracking and monitoring. However, with enhanced declaration procedures that regulation may no longer be necessary. Further, when the shoreside IFQ program was developed it was anticipated that vessels would have the flexibility to move between the limited entry fixed gear and trawl fishery relatively easily. The prohibition on stacking does not prevent such movement but requires that permits be transferred on and off vessels so that the trawl and fixed gear permits are never on the vessel at the same time. The need to transfer permits and a limit on the number of transfers per year restricts the flexibility that might otherwise be provided. Allowing the stacking of limited entry fixed gear and trawl permits would increase flexibility and not directly change the provisions of the IFQ program, i.e. in order to fish on trawl IFQ, a vessel would still need to have a trawl permit, declare into the IFQ fishery, carry an observer, etc.

Workload Assessment -- Permit Stacking

Policy Development

The issue seems to require only one relatively simple alternative to status quo. There may need to be some consultation with enforcement representatives to determine whether allowing stacking would create any problems that would require additional regulations.

Analysis

The analysis would likely be relatively simple, straight forward, and qualitative.

Work Products and Process

The issue would likely require a relatively small document with primarily qualitative analysis.

The option(s) would likely be developed on the Council floor based on advisory body reports. The Council staff would likely develop the analysis using internal resources.

Public comment on this issue would likely be relatively light though some moderate interest could be generated because of the implications for gear switching.

11. Double Filing of Co-op Reports (November and March)

During the deeming process, there was a question raised as to the utility of the requirement that the co-ops provide the NMFS and the Council a draft report for the November Council meeting and a final report in March. Changes to this procedure should take into account the decisions which would likely occur on a November agenda or need to be noticed for the March meeting, based on the preliminary co-op reports.

Workload Assessment -- Double Filing of Co-op Reports

Policy Development

Option development would likely be straight forward and simple.

Analysis

Analysis would be relatively simple and qualitative.

Work Products and Process

Overall, this would likely require a relatively small document, option development on the Council floor with advisory body input, and analysis by Council staff. Public comment would likely be limited.

12. Severability Of Catch History From The Mothership Catcher Vessel (MSCU) Permit

At the end of the Amendment 20 process, some members of industry stated that it had been their intent that the MSCV catch history be separable from the limited entry permit to which it is attached. One of their concerns is there are some MSCV permits with very small allocations. The amount of work required by the co-ops and the permit owners to maintain the permits as co-op members may be substantial relative to the benefits. If a permit owner chooses not to go through that process, some fish may end up unharvested.⁵ It would be more efficient for those concerned if the MSCV catch history could be severed from the permits and acquired by vessels more active in the co-op.

Workload Assessment – Severability of Catch History

Policy Development

The options that are needed appear reasonably easy to develop. However, if catch history severability is to be allowed, the increased flexibility would increase the likelihood of aggregation of ownership. The Council may want to have some discussion as to whether or not severability creates a need for stacking or accumulation limits, in addition to those already adopted for the program (a 20% ownership limit and 30% vessel use limit).

Analysis

The nature of the analysis would depend on whether the issue of control and usage limits would be reopened. If these issues are not opened the analysis would primarily be qualitative with a few tables describing the distribution of the initial allocations.

Work Products and Process

This issue would likely require a relatively small document, with size depending on whether the issue of accumulation limits would be revisited.

Option development might be on the Council floor, with advice from the GAP. Council staff would develop the analysis and might work with a contractor if the accumulation limit issue is revisited.

Public comment would likely be limited but somewhat more extensive if the accumulation limit issue is revisited.

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⁵ If a permit does not go into the co-op, its allocation would go to the non-co-op fishery and could go unharvested if no active vessels choose to fish in the non-co-op fishery. Alternatively, if there are a number of permits for which the small size of their allocation makes it not worthwhile to pursue co-op membership, the aggregate amount that ends up in the non-co-op fishery could provide an incentive for at least some vessels to opt out of the co-op system.