

APPENDIX C - DETERMINING ENVIRONMENTAL SIGNIFICANCE OF NOAA ACTIONS

NOAA 216-6 Guidelines

SECTION 6. INTEGRATING NEPA INTO NOAA LINE OFFICE PROGRAMS.

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

- a. "Major federal action" includes actions with effects that may be major and which are potentially subject to NOAA's control and responsibility. "Actions" include: new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by NOAA; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals. Refer to 40 CFR 1508.18 for additional guidance.
- b. "Significant" requires consideration of both context and intensity. Context means that significance of an action must be analyzed with respect to society as a whole, the affected region and interests, and the locality. Both short- and long-term effects are relevant. Intensity refers to the severity of the impact. The following factors should be considered in evaluating intensity (40 CFR 1508.27):
 1. Impacts may be both beneficial and adverse -- a significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.
 2. Degree to which public health or safety is affected.
 3. Unique characteristics of the geographic area.
 4. Degree to which effects on the human environment are likely to be highly controversial.
 5. Degree to which effects are highly uncertain or involve unique or unknown risks.
 6. Degree to which the action establishes a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
 7. Individually insignificant but cumulatively significant impacts.
 8. Degree to which the action adversely affects entities listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources.
 9. Degree to which endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973, are adversely affected; and
 10. Whether a violation of federal, state, or local law for environmental protection is threatened.
 11. Whether a federal action may result in the introduction or spread of a nonindigenous species.
- c. "Affecting" means will or may have an effect (40 CFR 1508.3). "Effects" include direct, indirect, or cumulative effects of an ecological, aesthetic, historic, cultural, economic, social, or health nature (40 CFR 1508.8).

- d. "Legislation" refers to a bill or legislative proposal to Congress developed by or with the significant cooperation and support of NOAA, but does not include requests for appropriations (40 CFR 1508.17). The NEPA process for proposals for legislation significantly affecting the quality of the human environment shall be integrated with the legislative process of the Congress (40 CFR 1506.8).
- e. "Human environment" includes the relationship of people with the natural and physical environment. Each EA, EIS, or SEIS must discuss interrelated economic, social, and natural or physical environmental effects (40 CFR 1508.14).

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

- a. The proposed action may be reasonably expected to jeopardize the sustainability of any target species that may be affected by the action.
- b. The proposed action may be reasonably expected to jeopardize the sustainability of any non-target species.
- c. The proposed action may be reasonably expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMP.
- d. The proposed action may be reasonably expected to have a substantial adverse impact on public health or safety.
- e. The proposed action may be reasonably expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species.
- f. The proposed action may be reasonably expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species.
- g. The proposed action may be expected to have a substantial impact on biodiversity and ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc).
- h. If significant social or economic impacts are interrelated with significant natural or physical environmental effects, then an EIS should discuss all of the effects on the human environment.
- i. A final factor to be considered in any determination of significance is the degree to which the effects on the quality of the human environment are likely to be highly controversial. Although no action should be deemed to be significant based solely on its controversial nature, this aspect should be used in weighing the decision on the proper type of environmental review needed to ensure full compliance with NEPA. Socioeconomic factors related to users of the resource should also be considered in determining controversy and significance.

APPENDIX D - FMP GOALS, OBJECTIVES AND NATIONAL STANDARDS

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Groundfish FMP Goals and Objectives

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

General FMP Goals and Objectives

2.1 Goals and Objectives for Managing the Pacific Coast Groundfish Fishery

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

Management Goals.

Goal 1 - Conservation. Prevent overfishing by managing for appropriate harvest levels and prevent any net loss of the habitat of living marine resources.

Goal 2 - Economics. Maximize the value of the groundfish resource as a whole.

Goal 3 - Utilization. Achieve the maximum biological yield of the overall groundfish fishery, promote year-round availability of quality seafood to the consumer, and promote recreational fishing opportunities.

Objectives. To accomplish these management goals, a number of objectives will be considered and followed as closely as practicable:

Conservation.

Objective 1. Maintain an information flow on the status of the fishery and the fishery resource which allows for informed management decisions as the fishery occurs.

Objective 2. Adopt harvest specifications and management measures consistent with resource stewardship responsibilities for each groundfish species or species group.

Objective 3. For species or species groups which are below the level necessary to produce maximum sustainable yield (MSY), consider rebuilding the stock to the MSY level and, if necessary, develop a plan to rebuild the stock.

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

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

Economics.

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

Objective 7. Identify those sectors of the groundfish fishery for which it is beneficial to promote year-round marketing opportunities and establish management policies that extend those sectors fishing and marketing opportunities as long as practicable during the fishing year.

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

Utilization.

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

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

Objective 11. Strive to reduce the economic incentives and regulatory measures that lead to wastage of fish. Also, develop management measures that minimize bycatch to the extent practicable and, to the extent that bycatch cannot be avoided, minimize the mortality of such bycatch. In addition, promote and support monitoring programs to improve estimates of total fishing-related mortality and

bycatch, as well as those to improve other information necessary to determine the extent to which it is practicable to reduce bycatch and bycatch mortality.

Objective 12. Provide for foreign participation in the fishery, consistent with the other goals to take that portion of the optimum yield (OY) not utilized by domestic fisheries while minimizing conflict with domestic fisheries.

Social Factors.

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

Objective 14. Minimize gear conflicts among resource users.

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

Objective 16. Avoid unnecessary adverse impacts on small entities.

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

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

[Amended; 7, 11, 13]

Amendment 6: License Limitation Goals and Objectives

14.1.2 Goals and Objectives for Groundfish Limited Entry

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

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

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

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

Economic

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

Management

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

Enforcement

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

Social

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

National Standards from the Magnuson-Stevens Act

EXCERPTS from

Public Law 94-265

As amended through October 11, 1996

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

(a) IN GENERAL.--Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management:

98-623

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such

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

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(5) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

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(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

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(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

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(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

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

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

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

Magnuson-Stevens Act 303(b)(6)

APPENDIX E - Ad Hoc Groundfish Trawl Individual Quota Committee

Membership:

Dave Hanson-PSMFC-Chair
Steve Bodner-Trawler
Ginny Goblirsch-Communities
Alan Hightower-Trawler
Marion Larkin-Trawler
Pete Leipzig-Trawl Rep
Brad Pettinger-Trawler
Richard Young-Trawler
Chris Garbrick-Whiting Trawler

Dave Jincks-Whiting Trawler
Jan Jacobs-Whiting Catcher-Processor
Dale Myer-Whiting Mothership
Joe Plesha-Whiting Processor
Jay Bornstein-Processor
Frank Dulcich-Processor
Steve Joner-Tribal
Dorothy Lowman-Environmental
Dayna Matthews -Enforcement

APPENDIX F - IQ CONTROL DATE

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

DEPARTMENT OF COMMERCE

National Oceanic and
Atmospheric
Administration
50 CFR Part 660

[Docket No.

031230329-3329-01;

I.D.120903B]RIN 0648-AR82

Fisheries Off West Coast
States and in the Western
Pacific; Pacific Coast
Groundfish Fishery; Advance
Notice of Proposed

Rulemaking regarding a Trawl
Individual Quota Program and
to Establish a Control Date

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

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

SUMMARY: The Pacific
Fishery Management Council
(Council) is considering
implementing an individual
quota (IQ) program for the
Pacific Coast groundfish
limited entry trawl fishery off
Washington, Oregon and
California. The trawl IQ
program would change
management of harvest in the
trawl fishery from a trip limit
system with cumulative trip
limits for every 2- month
period to a quota system
where each quota share could
be harvested at any time
during an open season. The
trawl IQ program would
increase fishermen's flexibility

in making decisions on when
and how much quota to fish.
This document announces a
control date of November 6,
2003, for the trawl IQ
program. The control date for
the trawl IQ program is
intended to discourage
increased fishing effort in the
limited entry trawl fishery
based on economic speculation
while the Pacific Council
develops and considers a trawl
IQ program.

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

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

FOR FURTHER INFORMATION CONTACT:

The Pacific Fishery
Management Council at
866-806-7204; or Bill
Robinson at 206- 526-6140; or
Svein Fougner at 562-
980-4000.

SUPPLEMENTARY

INFORMATION: The Pacific
Fishery Management Council
(Pacific Council) established
under section 302(a)(1)(F) of
the Magnuson- Stevens
Fishery Conservation and
Management Act (16 U.S.C.
1852(a)(1)(F)) is considering
implementing an individual
quota (IQ) program for the
Pacific Coast groundfish
limited entry trawl fishery off
Washington, Oregon and
California. The Pacific Coast
groundfish limited entry trawl

fishery is managed under the
Pacific Coast Groundfish
Fishery Management Plan
(FMP) approved on January 4,
1982 (47 FR 43964, October 5,
1982), as amended 15 times.
Implementing regulations for
the FMP and its amendments
are codified at 50 CFR part
660, subpart G. Additional
implementing regulations can
be found in the specifications
and management measures
for the Pacific Coast
groundfish fishery published
in the **Federal Register**, as
amended through inseason
actions. If the Pacific Council
recommends and NMFS
adopts a trawl IQ program,
the program would be
implemented through a
proposed and final
rulemaking, and possibly an
FMP amendment.

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

With the lapse of the
moratorium on new individual
fishing quotas (IFQs) in
October 2002, the Regional
Fishery Management Councils
may propose new IFQs and
the Secretary of Commerce
will review them for
consistency with the

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), in particular section 303(d).

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

Implementation of any management measures for the fishery will require amendment of the regulations implementing the FMP and may also require amendment of the FMP itself. Any action will require Council development of a regulatory

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

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

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

Dated: January 6, 2004.

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

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

BILLING CODE 3510-22-S

APPENDIX G - NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT

Billing Code 3510-22-S
DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 660
[I.D. 051004B]

Pacific Fishery Management Council; Notice of Intent

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

ACTION: Notice of intent to prepare an environmental impact statement (EIS); request for comments; preliminary notice of public scoping meetings.

SUMMARY: NMFS and the Pacific Fishery Management Council (Pacific Council) announce their intent to prepare an EIS in accordance with the National Environmental Policy Act (NEPA) of 1969 to analyze proposals that provide dedicated access privileges for participants in the non-tribal Pacific Coast groundfish trawl fishery.

DATES: Public scoping meetings will be announced in the Federal Register at a later date.

Written comments will be accepted at the Pacific Council office through August 2, 2004.

ADDRESSES: You may submit comments, on issues and alternatives, identified by [i.d. number] by any of the following methods:

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

FOR FURTHER INFORMATION CONTACT: Steve Freese, (Northwest Region, NMFS) phone: 206-526-6113, fax: 206-526-6426 and email: steve.freese@noaa.gov; or Jim Seger, Pacific Fishery Management Council, phone: 503-820-2280, fax: 503-820-2299 and email: jim.seger@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This Federal Register document is available on the Government Printing Office's website at: www.gpoaccess.gov/fr/index/html.

Description of the Proposal

The proposed alternatives to the status quo, which will be the subject of the EIS and considered by the Pacific Council for recommendation to NMFS, are programs that provide dedicated access privileges for participants in the non-tribal Pacific Coast groundfish trawl fishery. The main dedicated access privilege alternative the Pacific Council is considering is an individual fishing quota (IFQ) program for the Pacific Coast groundfish limited entry trawl fishery off Washington, Oregon and California. A trawl IFQ program would change management of harvest in the trawl fishery from a trip limit system with cumulative trip limits for every 2-month period to a quota system where each quota share could be harvested at any time during an open season. A trawl IFQ program would increase fishermen's flexibility in making decisions on when and how much quota to fish. Status quo (no action) will also be considered along with dedicated access privilege and other reasonable alternatives that may be proposed to address issues identified in the problem statement.

At the request of the Pacific Council, NMFS published an Advance Notice of Proposed Rulemaking regarding a Trawl Individual Quota Program and to Establish a Control Date (69 FR 1563, January 9, 2004). This control date for the trawl IQ program is intended to discourage increased fishing effort in the limited entry trawl fishery based on economic speculation while

the Pacific Council develops and considers a trawl IQ program. Although the control date notice discussed the development of the trawl IQ program, NMFS and the Pacific Council also plan to consider other dedicated access alternatives.

General Background

The Council implemented a Pacific Coast Groundfish Fishery Management Plan (FMP) in 1982. Groundfish stocks are harvested in numerous commercial, recreational, and tribal fisheries in state and Federal waters off the West Coast. The non-tribal commercial seafood fleet taking groundfish is generally regulated as three sectors: Limited entry trawl, limited entry fixed gear, and directed open access. Groundfish are also harvested incidentally in non-groundfish commercial fisheries, most notably fisheries for pink shrimp, spot and ridgeback prawns, Pacific halibut, California halibut, and sea cucumbers (incidental open access fisheries).

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

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

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

year. The ability to react to changing conditions is key to conducting an efficient fishery in a manner that is safe for the participants.

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

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

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

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

Preliminary Identification of Alternatives

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

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

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

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

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

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

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

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

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

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

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

Preliminary Identification of Environmental Issues

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

Related NEPA Analyses

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

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

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

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

Scoping and Public Involvement

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

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

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

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

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

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Galen R. Tromble,
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