

ISSUE SUMMARY: ACCUMULATION LIMITS, DIVESTITURE AND RELATED PROVISIONS

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Accumulation Limits - Final Preferred and Preliminary Preferred

At it’s March 2009 meeting the Council selected

1. a set of final preferred accumulation limits for non-overfished species individual fishing quotas (IFQ)
2. a set of preliminary preferred accumulation limits for overfished species (OFS) IFQ
3. a range of preliminary preferred accumulation limits for Pacific halibut IBQ

The limits selected are provided in Table 1. The limits for the groundfish species were based largely on recommendations from the Groundfish Advisory Subpanel (GAP). The options and some of the data that the GAP used in developing these recommendations (including Groundfish Management Team (GMT) recommendations) and the GAP rationale is provided in the Appendix to the document (Table 8 and Table 9).

Table 1. Control and vessel limit options: Council **preliminary preferred alternative** for overfished species and halibut, **preferred alternative** for all other species (from March 2009).

Species Category	Preliminary Preferred (overfished species and halibut) and Preferred Alternative (all other species)	
	Vessel Limit *	Control Limit
Nonwhiting Groundfish Species	3.2%	2.7%
Lingcod - coastwide	3.2%	2.5%
Pacific Cod	20.0%	12.0%
Pacific whiting (shoreside)	15.0%	10.0%
Pacific whiting (mothership)	30.0%	20.0%
Sablefish		
N. of 36° (Monterey north)	4.5%	3.0%
S. of 36° (Conception area)	15.0%	10.0%
PACIFIC OCEAN PERCH*	5.0%	3.3%*
WIDOW ROCKFISH*	3.8%	2.5%*
CANARY ROCKFISH*	7.8%	5.2%*
Chilipepper Rockfish	15.0%	10.0%
BOCACCIO**	10.0%	7.5%**
Splitnose Rockfish	15.0%	10.0%
Yellowtail Rockfish	7.5%	5.0%
Shortspine Thornyhead		
N. of 34°27'	9.0%	6.0%
S. of 34°27'	9.0%	6.0%
Longspine Thornyhead		
N. of 34°27'	9.0%	6.0%
COWCOD**	10.0%	10%**
DARKBLOTCHED*	3.0%	2%*
YELLOWEYE**	3.9%	2.6%**
Minor Rockfish North		
Shelf Species	7.5%	5.0%
Slope Species	7.5%	5.0%
Minor Rockfish South		
Shelf Species	13.5%	9.0%
Slope Species	9.0%	6.0%
Dover sole	3.9%	2.6%
English Sole	7.5%	5.0%
Petrale Sole	4.5%	3.0%
Arrowtooth Flounder	20.0%	10.0%
Starry Flounder	20.0%	10.0%
Other Flatfish	15.0%	10.0%
Other Fish	7.5%	5.0%
Pacific Halibut***		
Min	1.5%	1.0%
Max	10.0%	8.0%

* These overfished species control limits are to be set at the maximum initial allocation to a permit. These percentages are based on preliminary estimates of those values.

** Because the maximum initial allocations for these overfished species were so high, the control limits were set at one half the maximum initial allocations. These percentages are based on preliminary estimates of those values.

*** Halibut IBQ

- Analyze a control limit range for quota share from 1-8%
- Analyze a vessel usage limit equal to control, up to 1.5 times control with a maximum of 10%

Overfished Species Accumulation Limits

The Council adopted as preliminary preferred options overfished species limits based mainly on recommendations provided by the GAP but higher vessel limits than recommended by the GAP. The GAP recommended that control limits for each species be set at the highest amount of quota shares (QS) for that species allocated to any single permit. The estimates of the highest amounts were provided and adopted as part of the motion. These estimates have been updated since that time. The updates are provided in the Agenda Item G.10.b, GMT Report. The GAP also recommended that vessel limits be set to the same level as control limits but that the vessel limit be specified as an unused QP limit.

Unused QP Approach for Overfished Species Vessel Limits

One important element of the GAP's recommendations was the "Unused QP" provision for the overfished species vessel usage limits.

Two specific reasons have been identified for considering the unused QP approach

1. **Choosing the Right Limit for OFS.** The unused QP approach may diminish the effect of improperly matching the overfished species vessel limits to the target species vessel limits.
2. **Choosing a Lower Limit.** If maintaining a broader distribution of QP control is desirable (e.g. maintaining more participants in the market during the year), the unused QP approach may reduce the adverse effects of a smaller vessel limit, as compared to a similar sized limit using the standard limit (limit on the total used and unused QP).

Potential disadvantages of the unused QP approach for vessel limits are discussed below. Also discussed is the possibility of using an adaptive approach to setting both the level of the accumulation limits and the nature of the vessel limits (unused QP limits or total QP limits).

Choosing the Right Limit

If the overfished species limits are set too low relative to the amounts needed to access target species limits, they could inhibit vessels from taking the target species limits. While low limits could be set to encourage vessels to avoid overfished species, limits set too low could be unnecessarily constraining. On the other hand, limits set too high would allow some vessels to sequester large amounts of OFS QP as insurance against an unexpected bad tow.

Given the variety of target strategies along the coast and the variation of those strategies by geographic area, identifying a single value for a vessel limit that is appropriate for the entire coast is difficult. A low limit could automatically disadvantage certain areas of the coast while a higher limit might allow excessive concentration and control.

Setting the Limit Too Low

With an unused QP vessel limit, the system would be more forgiving of a limit that is set too low than with a standard total QP vessel limit. With an unused QP approach, a vessel which maxes

out its OFS limit will not be forced to stop fishing for the year but rather would have the opportunity to acquire the QP needed to cover its deficit and then resume fishing. Under a standard total QP limit a vessel would have to stop fishing once the overfished species limit is reached. While the vessel could then generate some revenue by selling its excess target species QP to other vessels there would still be a number of negative effects.

A vessel which must stop fishing because of an overfished species limit might not be able to recoup all of its consequent losses through the sale of its remaining target species QP and there might be adverse impacts on the local community. If a vessel uses target species QP itself, it earns revenue to pay captain and crew, cover other variable costs, cover some of its fixed costs, a reasonable profit, and an amount that reflects the market value of the QP (assuming well functioning markets). If it bumps against an overfished species limit and sells its excess target species QP onto the market the captain and crew would not receive pay for the QP sold,¹ the vessel would lose the associated revenue that would have otherwise have gone to its annual profits, and some of the vessel's fixed costs might not get covered (profitability would be further diminished to cover fixed costs). Additionally, suppliers of the inputs representing the other variable costs might lose income (depending on where the QP is sold to). Further, the vessel's ability to recoup some of its revenue from selling the target species QP might be substantially diminished if OFS QP are in short supply. Under such circumstances, much of the value of the target species QP may be captured by the price at which the OFS QP is traded.

Setting the Limit Too High

If the OFS limit is set too high, there is little difference between the unused QP approach and the standard total QP vessel limit. The higher the OFS vessel limits are set the more OFS QP a vessel will be able to acquire and sequester in its account. Vessels may desire to acquire more than their average need in order to insure their ability to cover greater than average bycatch rates. Any vessel will be able to carry more OFS QP than its average need by reducing the amount of target species QP it carries. However, the higher that limits are set the more OFS QP vessels will be able to hold in excess of their average need. If some vessels hold more than their average need until they are certain of their ability to take their target species then by implication² there may be other vessels which would carry less OFS QP than their average need. Vessels holding more than their average needs might drive OFS QP prices higher (though market dynamics may diminish this effect).³ In the mean time, other vessels that are short on the needed OFS QP could end up (1) being unable to fish until vessels with excess QP decide to release their unneeded QP, or (2) being forced to incur the loses that may be associated with selling their target species QP (as described in the previous paragraph).

¹ Unless the crew happens to also work the vessel to which the QP is transferred.

² Assuming that the amount of OFS available to the fishery is approximately what is needed given the amount of target species available.

³ A number of dynamics affect whether or not price seasonality would occur. Higher limits providing more opportunity to acquire and hold larger volumes of unused OFS QP may affect these dynamics. These are discussed below in the section "Potential for a Race."

Choosing a Lower Limit

The unused QP approach could be used to set a vessel usage limit lower than might be considered reasonable with a standard total QP limit. Setting a lower limit would keep more QP off vessels until it is needed and by keeping QP more dispersed, potentially increasing market availability. This discussion assumes there is no opportunity for QP to be accumulated other than in a vessel account (see section “Absence of an Entity QP Limit and Direct QP Transfer Requirement”). As an example, assume that the control limit for QS is set at the vessel limit for QP. If a vessel owner at the maximum QS limit for an OFS places all of its OFS QP on its own vessel, it would have to wait until some of its OFS QP is used before acquiring additional OFS QP. This could potentially leave more QP available on the market than if the vessel limits were higher.

Vessels will have incentives to secure access to OFS QP to diminish the risk that may be entailed in having to enter the OFS QP market to cover OFS catch. In this regard there are some tactics which may be employed that could diminish the effectiveness of an unused QP limit. For example, rather than immediately transferring its own QP to its vessel, a QS owner might acquire QP from others to put on its vessel. Then, as it uses QP acquired from others, it could transfer its own QP to the vessel. With this approach the QS owner/vessel could effectively control an amount of unused QP equal to the unused QP limit for vessels plus the amount of QP associated with the QS control limit. Another tactic would be for vessel owners to enter into contingency contracts for acquiring QP from other QS owners, effectively locking up the QP for when they need it. Those with the QP to sell would have to evaluate whether they are better off entering into such contracts or waiting to see what market prices develop. If an unused QP approach is used, the availability of these tactics may be reason to consider lower limits.

Concerns About the Unused QP Approach

Lack of an Ultimate Limit

With the unused QP approach there is not necessarily an ultimate limit on the amount of OFS QP a vessel could use. There may be concern that the absence of an ultimate limit could reduce the incentive to avoid overfished species and result in excessive accumulation of OFS QP by individual vessels as the vessels use up their QP and recharge their accounts. However, there is a strong incentive for vessels to avoid OFS so that they don't have to incur the expense of acquiring them and can generate revenue from selling their surplus QP. While there would still be incentives not to use OFS QP, the unused limit could potentially allow a fisherman who is less skilled in avoiding bycatch to acquire and use substantial amounts of OFS QP, adversely affecting OFS QP availability for the remainder of the fleet. Over the long run we would expect these fishermen to leave the fishery as they would be less profitable than others and do better by selling their assets rather than operating at lower levels of efficiency. However, if they have sufficient assets they might choose to remain because of non-financial rewards or lack of alternative opportunities. The opportunity for this to occur could be limited by placing a cap on the total amount of used and unused QP a vessel could have in its account.

Potential for a Race

Another concern that has been expressed is that an unused QP approach would lead to an early season race, that vessels concerned about the availability and price of OFS QP later in the year might front load their seasonal activity. However, even if a vessel uses this tactic, it would still have incentive to avoid OFS as much as possible.

The degree to which this issue is a concern depends on the degree to which there is seasonality in the price of OFS. Theoretically, the anticipation of higher prices later in the year should be self dampening. Those with OFS QP anticipating higher prices later in the year will be more likely to hold QP to sell late in the year. This dynamic will tend to make more QP available then, reducing the degree of the price rise. If enough people hold out hoping for a higher price, in the extreme there could be a late season glut and reduction in price. On the other end, if enough fishermen fish early in order to use their OFS QP and make room to acquire more, the early season demand will increase, increasing early season OFS QP prices. Together, these two dynamics would be expected to flatten out the initial expectation of a price swing during the year. In systems such as the New Zealand system, where there are constraining species in a multispecies fishery, strong late season increases in price are not typical.

Given that one of the main potential downsides of the unused QP approach is dependent on whether a strong seasonality develops in the markets, an adaptive approach might be taken. The Council could adopt (1) an unused QP approach with an unused QP limit and an ultimate vessel limit (maximum unused and used QP limit), and (2) framework a process by which it could suspend the unused limit if experience showed that the approach was generating a race for fish or other unintended negative consequences. Or a standard total QP limit could be adopted with the unused approach as a backup

Adaptive Approach for Setting Accumulation Limits

The accumulation limits are one of the provisions that will have the greatest effect on long term performance of this program. Because of this, the Council may want to take an adaptive approach, making adjustments to the accumulation limits as it gains experience with the program.

Note: Adaptive management is the “process of optimal decision making in the face of uncertainty, with an aim to reducing uncertainty over time via system monitoring.” The Council’s adaptive management set aside program specifies amounts of QP for use in adaptive management and other purposes. The Council may develop other adaptive management approaches outside of the adaptive management QP set aside program.

Relying on an adaptive approach has its own consequences as program participants will likely scale their business plans in accordance with the accumulation limits. A person’s QS holdings will be affected by the control limits, and the amount of physical capital investment will be affected mainly by the vessel usage limits but also by the control limits. Setting limits high and making downward adjustments to will impact investments made during the IFQ program. Additionally, if there is anticipation that limits are set too high and may be adjusted downward, that anticipation may result in more rapid consolidation by those hoping they will be grandfathered in at higher levels of control. Setting limits low with the intent of possibly making

upward adjustments will constrain initial rationalization benefits but raising the limits later might not have as significant a negative impact on investments made during the IFQ program (as compared to lowering a limit). The Council will always have an opportunity to change the IFQ program in a wide variety of manners (including abolishing the program). However, if the Council anticipates there is a reasonable probability that it may want to make adaptive adjustments to the size of the accumulation limits, it may want to consider explicitly noting that the accumulation limits, in particular, may be subject to adjustments both during the planned program reviews and potentially prior to that time.

Switching from an unused QP vessel limit to a standard total QP limit may be done with little immediate direct adverse impact on scale of operation, depending on where the standard total QP limits are set relative to the unused QP limits. Similarly, it would be possible to switch from the standard total QP vessel limit to an unused QP approach with little immediate direct adverse impact on scale of operation. Whichever approach the Council chooses to use, it may want to framework in the alternative approach to facilitate a more rapid adaptive response (potentially even changing in the second year of a biennial management cycle).

Pacific Halibut Individual Bycatch Quota (IBQ) Accumulation Limits

The Council requested the evaluation of a range of accumulation limits for halibut IBQ quota shares (IBQ-QS control limits) and IBQ quota pounds (IBQ-QP vessel limits). The directions provided were to evaluate control limits over a range from 1% to 8% and vessel limits that are 1.5 times control limits, not to exceed 10%. Using this guidance if the control limit is set at 6.66% or higher the vessel limit would max out at 10%.

Halibut Control Limits

Some of the main factors considered by the Council and advisors in setting target species control limits included:

1. the maximum initial allocation to a single permit
2. the maximum recent share of harvest by a single permit
3. the amount of harvest needed to achieve a given vessel income level with QS owned by the entity that owns the vessel.

Maximum Initial Allocation

Information on the expected maximum initial IBQ-QS allocation to a single permit is provided in Figure 1 (5.4%). The primary species with which halibut are most closely associated are Petrale and arrowtooth. Figure 1 shows the IBQ allocations per permit ordered along the horizontal axis according to the amount of QP allocation an entity would receive for Petrale and arrowtooth, the two species on which basis the halibut IBQ will be allocated. The IBQ-QS amount is indicated on the right hand vertical axis and the corresponding IBQ-QP amount, assuming 2008 conditions, is displayed on the left hand vertical axis.

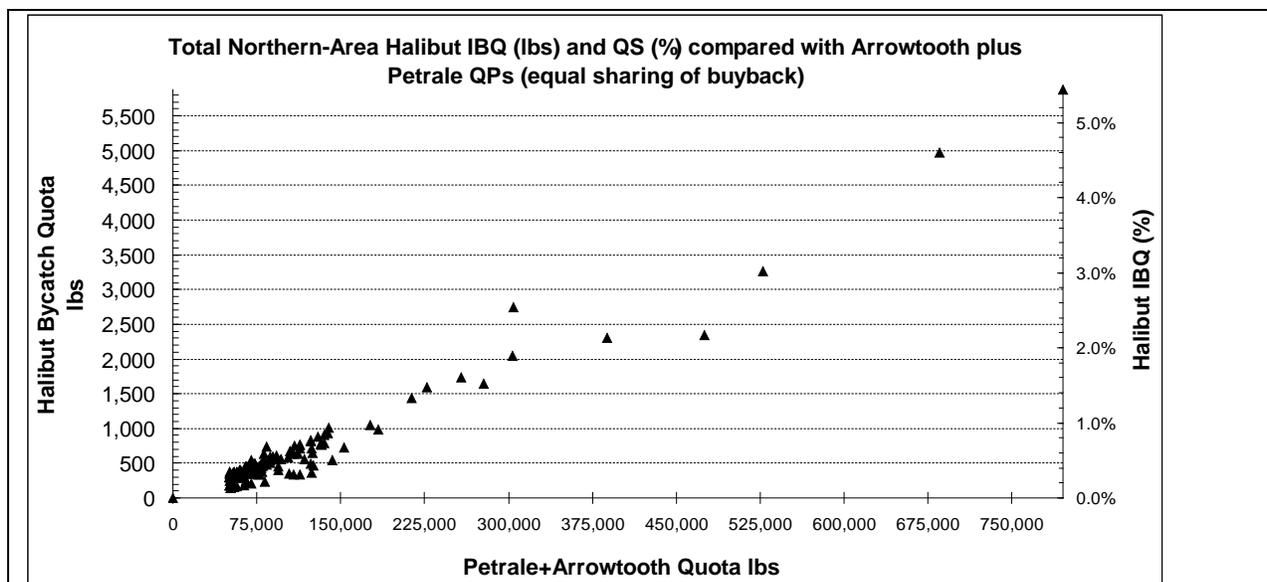


Figure 1. Amount of halibut IBQ quota pounds (left vertical axis) and quota shares (right vertical axis) by permit (permits are arrayed from the smallest to greatest based on amount of Petrale sole and arrowtooth quota pounds allocated assuming 2006 OY levels).

Maximum Recent Share of Harvest

There are not per permit data on maximum recent share of harvest or catch because retention of Pacific halibut is not allowed and there is not 100% observer coverage.

Achievable Income Levels

Halibut IBQ does not contribute directly to income because Pacific halibut is a prohibited species; however, a shortage of halibut IBQ could prevent a vessel from achieving the potential income levels allowed under the target species accumulation limits.

The initial allocation formulas offer some insight on the amount of halibut that may be necessary to achieve the Petrale and arrowtooth harvest levels allowed under the control limits specified for those species. The initial allocation formula for halibut allocates on the basis of permit specific logbooks and Petrale and arrowtooth QS allocations, combined with fleet average bycatch rates. Given this relationship between halibut and the initial allocation of target species QS in the allocation formula, the maximum initial allocation of halibut IBQ-QS might be a reasonable match for the maximum initial allocations of target species QS. However control limits were set about 60% and 75% above the initial allocations for arrowtooth and Petrale, respectively (Table 2). Given that the highest initial allocations of halibut is correlated more with arrowtooth allocations than Petrale allocations (Figure 3), if one were to set the halibut IBQ-QS control limit proportional to need with respect to target species control limit, one might want to emphasize the arrowtooth allocation and set a halibut IBQ control limit at 60% above the initial halibut IBQ QS allocation ($160\% \times 5.4\% = 8.6\%$).

Council Preferred Options	Vessel Limit	Control Limit	Maximum Initial QS Allocation	Maximum Share of Fleet Allocation	Maximum Share of Landings '04-'06
Petrale	4.5%	3%	1.7%	5.9%	8.0%
Arrowtooth	20%	10%	6.2%	8.3%	19.1%

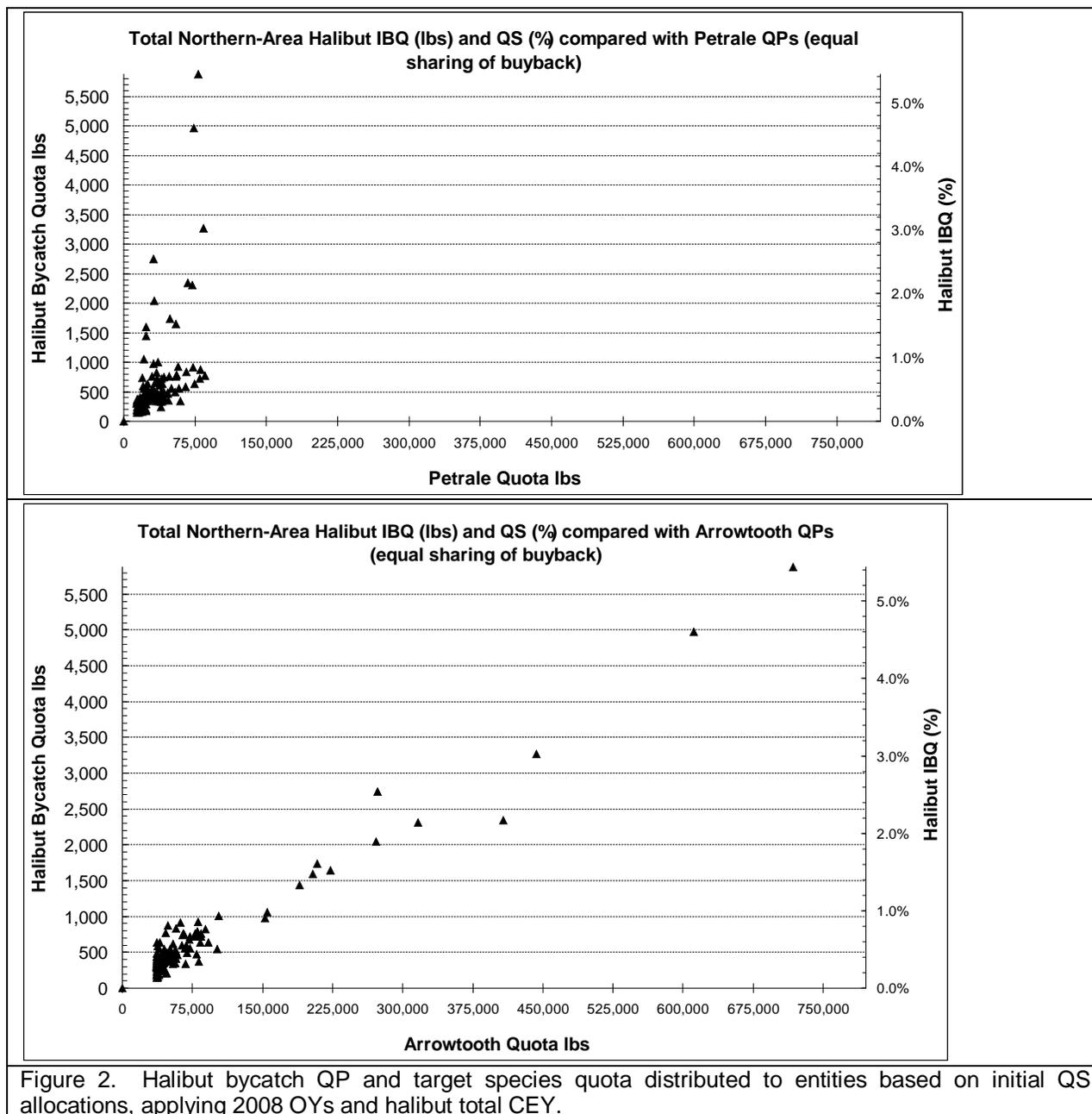


Figure 2. Halibut bycatch QP and target species quota distributed to entities based on initial QS allocations, applying 2008 OYs and halibut total CEY.

The amount of control over the fishery that would be potentially conveyed by a bycatch species control limit may be another consideration. With an 8.6% halibut IBQ-QS control limit, 12 individuals (100%/8/6%) could control all the halibut IBQ-QS while the Petrale QS would be

spread among at least 23 entities (100%/4.5%). If this balance between number of individuals needing Petrale and the number who could control all the halibut IBQ-QS is not acceptable, one could set lower halibut IBQ-QS control limits and rely on annual transfers to get the IBQ-QP to the vessels in need of it. Alternatively, vessels could avoid the need to acquire IBQ-QP from others if they can reduce their bycatch rates. Similar issues of balance between control limits for different species may exist anytime different control limits are set for species that are typically caught together.

Halibut Vessel Limits

To evaluate the vessel limits we will

1. Calculate the maximum pounds of a target species that can be harvested for each target species vessel limit.
2. Evaluate the amount of halibut that might be needed to achieve that target species catch.
3. Determine the percent of the total trawl bycatch represented the pounds of halibut needed.

This evaluation will be conducted using 2008 OYs for Petrale and arrowtooth, with the available halibut IBQ determined based on applying the Council’s Amendment 21 trawl halibut bycatch formula to the 2008 halibut total CEY (Table 3).

Table 3. OYs and halibut mortality limits based on 2008 fishery conditions.	
2008 Halibut Mortality Limits (Trawl)	Pounds (thousands)
a. Total 2008 CEY (Legals)	940
b. Trawl Bycatch Calculation: 15% of CEY	141
c. Trawl Bycatch Mortality Max (not more than 130,000)	130
d. The greater of b and c = amount available for legal and sublegal trawl bycatch (dressed weight total mortality)	130
e. Set Aside for South of 40 10 (5 mt) and At-sea (5 mt)	22
f. Trawl Halibut IBQ	108
2008 OYs	
Petrale OY	5,509
Arrowtooth OY	12,787
Petrale + Arrowtooth	18,296
2008 Catch	
Petrale OY	4,873
Arrowtooth OY	5,887
Petrale + Arrowtooth	10,761

The first calculation is to determine the pounds represented by each vessel limit. This value is provided in the first two columns of Table 4.

Table 4. Target species vessel limits and halibut needed to take those limits based on various assumed bycatch rates.

	Vessel Limit	Vessel Limit (thous pounds)	Assumed Lbs Halibut Mortality (Mty) /Target Species LB Caught	Halibut Mty Needed to Take Vessel Limit (thous pounds)	Halibut Needed as % of Available Halibut
Petrале	4.5%	248			
Minimum average bycatch rate strata.			0.017	4	3.8%
Closest to midpoint average bycatch rate strata.			0.039	10	8.9%
Maximum average bycatch rate strata.			0.065	16	14.8%
Average bycatch rate to achieve full target species harvest ^{a/ b/}			0.006	1	1.4%
Arrowtooth	20.0%	2,557			
Minimum average bycatch rate strata.			0.017	42	39.2%
Closest to midpoint average bycatch rate strata.			0.039	99	91.5%
Maximum average bycatch rate strata.			0.065	165	153.0%
Average bycatch rate to achieve full target species harvest ^{a/ b/}			0.006	15	14.0%
Total					
Total halibut required to take maximum vessel limits of Petrале and arrowtooth using assumed average bycatch mortality rate. ^{b/}			0.006	16	15.4%

a/ The rate of 0.006 represents the bycatch mortality rate that would need to be achieved for the fleet to take the entire Petrале and arrowtooth harvest in 2008. It is the total halibut that would have been available based on the Council's Amendment 21 recommendations (108,000 pounds) divided by the total Petrале and arrowtooth available (18,296,000 pounds).

b/ If a rate of 0.006 is achieved then a vessel would require the percent of the total trawl halibut IBQ indicated in the last column in order to take the vessel limits for this target species. The last rows of the table (total) shows the amount of halibut a vessel would need in order to take the vessel limit for both Petrале and arrowtooth.

The second step is to apply a bycatch rate to determine an amount of halibut needed. A number of bycatch rates can be assumed. In Table 4, a range is provided based on stratified observer data. Additionally, estimates are provided using the average bycatch rate (halibut/(Petrале+arrowtooth)) that would have to be achieved in order to fully harvest the target species OYs with the available halibut IBQ (0.006). The bycatch rates used were originally reported by the observer program in round pounds of legal and sublegal halibut catch per round pound of arrowtooth and Petrале catch. They have been converted to account for discard survival and measurement in dressed weight (Table 5). Figures illustrating the degree of variation in the bycatch rates are proved in an Appendix to this document.

Table 5. Observer program halibut bycatch rates by strata ((legal plus sublegal halibut lbs)/(Petrале + arrowtooth lb)) (2003-2006)

	North-South Area Strata	Depth Strata	
		<115 Fm	>115 FM
Catch Round	North of 47°05' N Lat	0.117	0.061
Discard Mortality (dressed wt)		0.065	0.034
Catch Round	South of 47°05' N Lat	0.07	0.03
Discard Mortality (dressed wt)		0.039	0.017

As an example using Table 4, if the Council believes that it is reasonable to expect vessels to achieve an average bycatch rate of 0.17, the Petrale vessel limit could be fully harvested if the halibut vessel limit is set at 3.8% and the arrowtooth vessel limit could be fully harvested if the halibut vessel limit is set at 39.2%. Neither of these assumed bycatch rates would allow either of the OYs to be fully harvested. Full harvest of the OYs would require average bycatch rates for both target species to be reduced to 0.006 pounds per pound of target species. At this assumed rate, a halibut vessel limit set at 1.4% would allow full harvest of the Petrale limit and a halibut vessel limit set at 14% would allow full harvest of the arrowtooth limit. From this it can be seen that there are two considerations,

1. If the vessel halibut limits is to be chosen to allow vessels to achieve the maximum target species limit, what level of bycatch should be assumed or required?
2. How should the halibut vessel limit be balanced between the limit necessary to take the Petrale vessel limit and that needed to take the arrowtooth vessel limit or should both be accommodated?

The value of the potential Petrale and arrowtooth harvest for which halibut IBQ is needed is shown in Table 6, OYs assuming 2008 prices. While the value of potential Petrale harvest to the fleet as a whole is much higher than that of the arrowtooth harvest, the arrowtooth harvest may be more important to particular vessels in particular areas.

Table 6. Exvessel value of the 2008 Petrale and arrowtooth OYs assuming 2008 prices and landing of the entire OY.

	Pounds (OY) (millions)	Price Per Pound	Exvessel Value (\$ millions)
Petrale	5.5	1.49	8.2
Arrowtooth	12.8	0.10	1.3

Finally, it should be noted here, as the GMT report notes for overfished species, that the halibut IBQ-QP vessel limit needed to fully harvest the target species limits will vary from year to year depending on the target species OYs and the amount of halibut IBQ-QP available for use to cover trawl bycatch.

Absence of an Entity QP Limit and Direct QP Transfer Requirement

Under the IFQ program, many different types of entities will be able to hold QS. Each year those entities will be issued QP for the QS they hold. In Figure 3, an entity with an IFQ account is represented by the box on the left. The shaded circle shows its QS holdings and the unshaded circle shows the QP it receives each year based on its QS holdings. In order to be used, the QP must be transferred to a vessel account. The vessel account is represented by the shaded circle on the right hand side of Figure 3. The Council’s March 2009 actions specified that control limits would apply only to QS, not QP, and that vessel usage limits would apply to QP. This left no limits on the amount of QP an entity can accumulate outside of the vessel account. In Figure 3, the lack of such a limit is indicated by the absence of shading in the circle representing the entity’s QP holdings. At present QP can be transferred between QS holders and to and between vessels, as indicated by the arrows in Figure 4. Additionally, nothing has been specified that would prevent an entity not holding QS from acquiring QP (as represented by Entity 3 in Figure 4).⁴

⁴ However, it should be noted that even if there were a provision requiring that QP holders be either QS holders or vessels, by purchasing some small amount of QS an entity could qualify as an eligible QP buyer and act primarily as a QP broker.

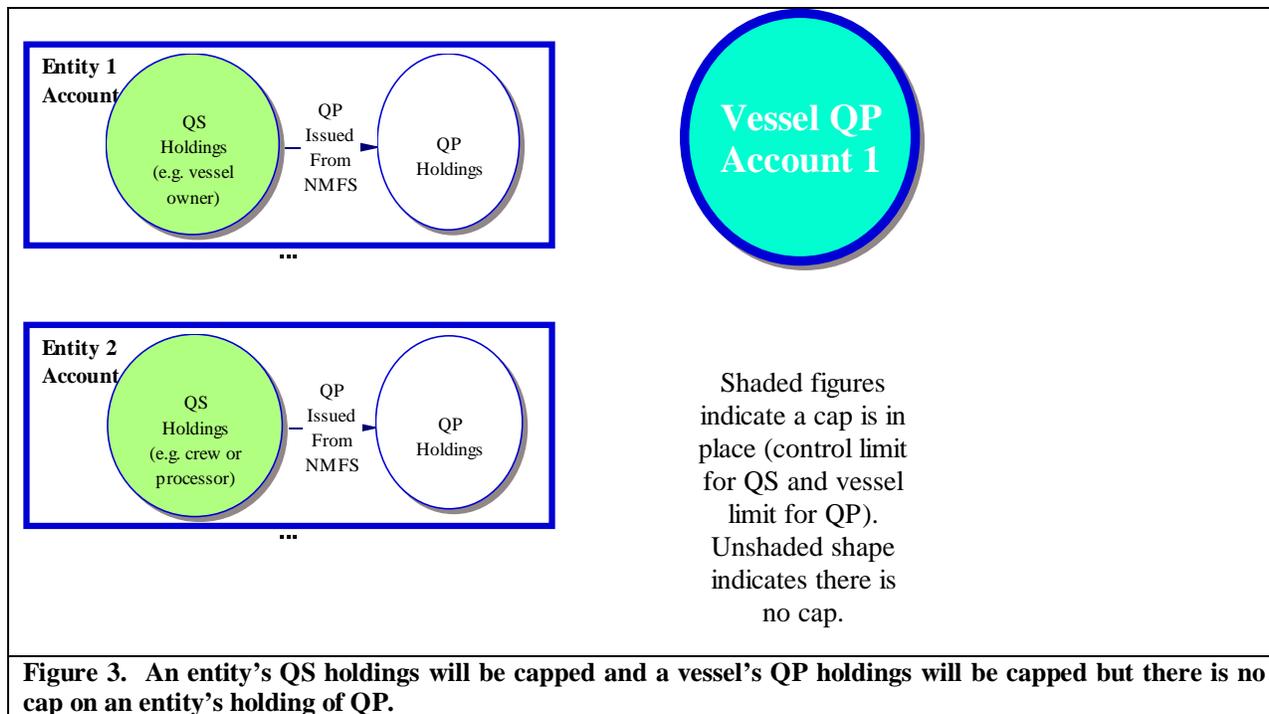


Figure 3. An entity's QS holdings will be capped and a vessel's QP holdings will be capped but there is no cap on an entity's holding of QP.

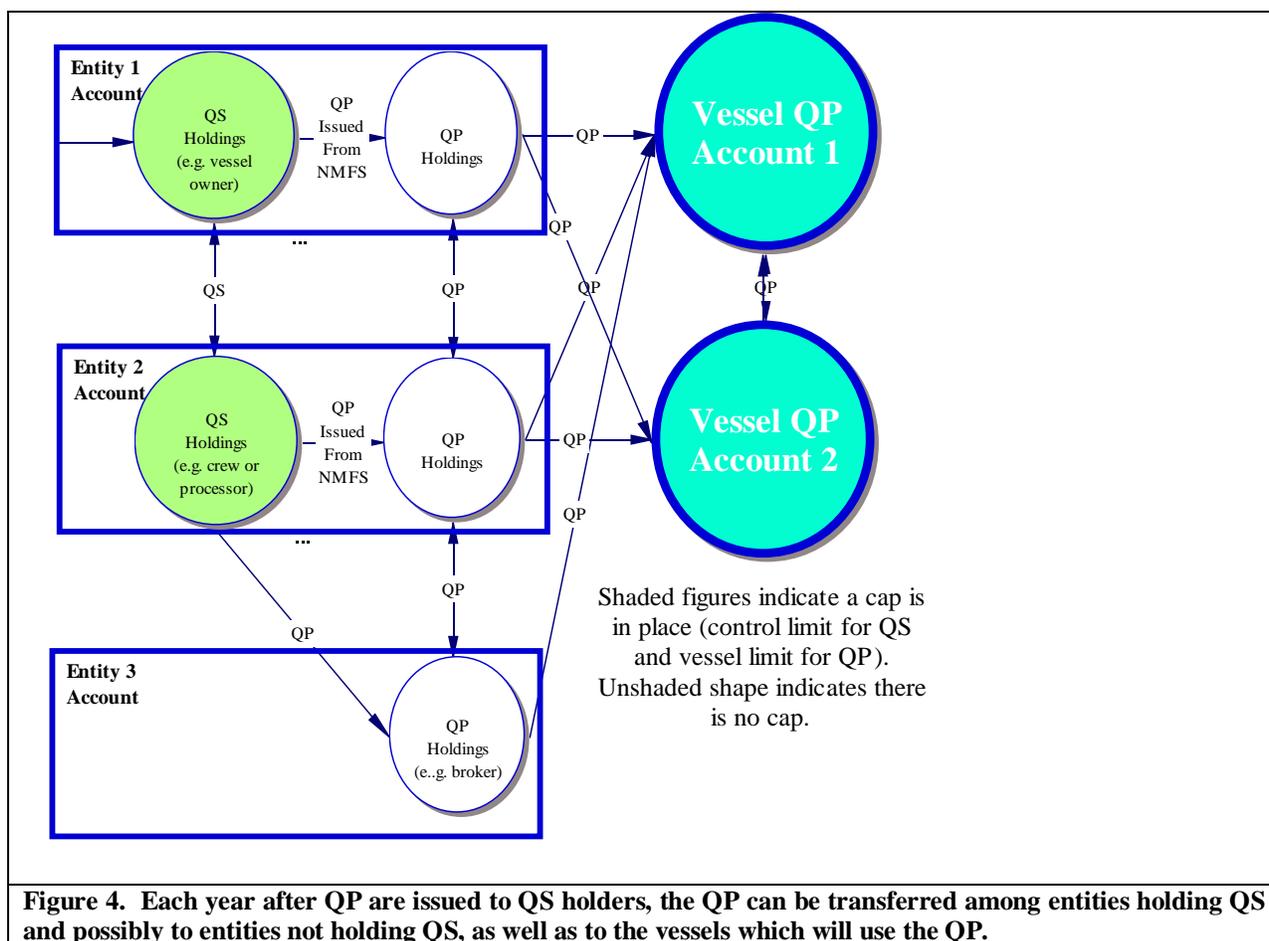


Figure 4. Each year after QP are issued to QS holders, the QP can be transferred among entities holding QS and possibly to entities not holding QS, as well as to the vessels which will use the QP.

This information was presented to the Groundfish Allocation Committee at its May 2009 meeting (GAC) along with the question of whether or not there should be an entity limit on QP holdings, i.e. is it a concern if during the year there is no limit on the amount of QP an entity can hold as long as it is not placed on a vessel? There are advantages to not having an entity limit. For example, it allows those wishing to reduce risk of being caught short to acquire more QP than is allowed under the vessel usage limits⁵ and allows communities and others to acquire and provide QP for activities of more than one vessel. There are also advantages to having an entity limit in that it reduces the opportunity to acquire QP in an attempt to gain market power and makes it more difficult to circumvent QS control limits.⁶

The GAC has recommended that an entity limit not be created but instead that QP transfers be allowed only to and among vessel accounts (i.e. eliminate all the “QP” lines between the boxes in Figure 4 but leave the lines to the vessel). This restriction would prohibit an entity from acquiring more QP than it receives each year based on its QS holdings⁷,

Divestiture

In its November 2008 action, the Council decided there would be no grandfather clause and that any QS that would go to someone in excess of control limits will instead be allocated to those below the limits, in proportion to their initial allocations of QS. In March 2009, the Council voted to consider at this meeting a motion that would instead allow everyone to receive their initial allocation but those receiving an initial allocation of QS in excess of accumulation limits would be given a period of time to divest themselves of that QS. The GAC reviewed this issue and has recommended three divestiture options for the Council to consider and contrast with continuation of the no divestiture provision.

Who is Affected

Those with multiple permits will be most strongly affected by the choice of whether or not to include a divestiture provision. The control limits were set to allow entities holding single permits to receive their entire initial allocations of all non-overfished species except sablefish south and starry flounder. For these two species the limits were set below the maximum expected initial allocation. The Council has not yet set the control limits for overfished species but has adopted preliminary preferred control limits for bocaccio and yelloweye that are below the maximum initial allocations for those species (preliminary control limits for other overfished species are set at the maximum initial allocation level). Those with a single permit will not be directly affected except with respect to these four species or others for which the Council chooses to set control limits below maximum initial allocations to a permit.

⁵ This would allow them to cover shortages without having to go to the QP markets when the shortage occurs. Vessels that catch more than the vessel use limits would be required to cover their overage with QP but may not resume fishing until the following year (unless the vessel limit is specified as a limit on unused QP).

⁶ If an entity QP control limit is desired and if the QP control limit is to be set lower than the vessel usage limit, this could be achieved by exempting the pounds in a vessel QP account from the entity QP control limit.

⁷ . . . , unless the QS owner also holds a vessel account. If it holds a vessel account then it will be able to acquire and place QP in that account up to the vessel usage limit.

Those with single permits⁸ will be indirectly affected by the choice as to whether or not to have a divestiture provision. Under the current no grandfather clause provision QS not allocated will be redistributed to those under the control limits. With a divestiture provision those under the limits would not benefit from such redistributions. However, without a divestiture provision many of those with multiple permits may sell their permits in advance of the initial allocation, diminishing the amount of QS that may be redistributed.

Nature of Effect On Multiple Permit Holders

With a divestiture provision, holders of multiple permits will be able to acquire all of the QS associated with the history of those permits and benefit from the divestiture of those shares. The primary benefits of divestiture may be twofold:

1. Revenue from the sale of the QS.
2. The sale of the QS to those with whom the seller may have a long term beneficial relationship.

Examples of this second type of benefit include a harvester selling OFS QS to someone with whom it expects to enter a risk sharing pool or a processor selling QS to someone from whom it expects to receive fish.

Without a divestiture provisions, many holders of multiple permits would likely sell permits prior to the initial allocation. By doing so they may be able to capture a substantial portion of the revenue associated with the value of the QS that will be eventually issued for those permits and will be able to direct the permits into the hands of those with whom they expect to have a long term beneficial relationship.

Prior to initial allocation uncertainty and less flexibility will likely diminish the level of benefits those selling permits would expect as compared to the sale of the permit and QS after initial allocation. Prior to initial allocation there may be uncertainty about whether and when the program will be implemented, its final form, the actual amount of history and quota share that will be assigned to a particular permit, the trading value of the QS, and whether or not the program will be successful and survive over the long term. These uncertainties are likely to result in a lower price for the permit prior to QS allocation than for the permit and QS after initial allocation and initial experience with the program. Additionally, prior to initial allocation a permit with its entire suite of QS must be traded as a lump to someone who may be more interested in some of the associated species than other species. After the initial allocation, the QS can be divided and sold separately to those who place the highest value on each particular species.

⁸ And those with multiple permits for which the total QS issued would be below the accumulation limits.

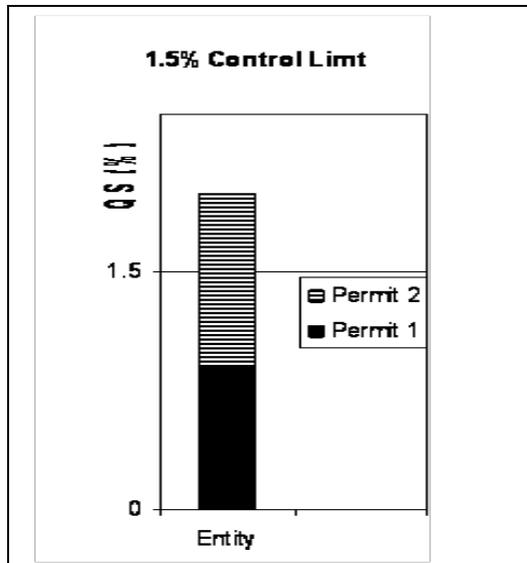


Figure 5. An entity with two permits selling one permit to get under the control limit may end up being far below the control limit.

If there is no divestiture provision, the opportunity to sell permits provides substantially less flexibility for a permit holder to get under the control limits than with divestiture after initial QS allocation. For example, if two permits put an entity over the limit, selling one permit might put them well under the limits, as illustrated in Figure 5.

Opportunity to Divest to CFAs and Others

With a divestiture provision it is possible that the Council could restrict to whom the divestiture is made. This has been suggested in public comment provided in Agenda Item E.11.

Additionally, the entities available to receive divestitures of QS may be different than those available to receive permit transfers, depending on trailing amendments the Council may recommend. One potential amendment might provide special

privileges to CFAs: higher accumulation limits. With a divestiture provision, entities holding multiple permits may have more opportunity to divest to CFAs because, if there is to be a trailing amendment to provide CFAs with higher accumulation limits, it is more likely that it will have been completed by the time divestiture is required.

Cutoff Date Needed?

If the Council decides to allow divestiture, it should also consider whether or not there needs to be a cutoff date on the acquisition of additional permits.

There are potential incentives for the accumulation of additional permits. For the reasons described above, it is possible that the value of the QS and permit after initial allocation will be higher than the value of the permit prior to initial allocation. This creates an opportunity for financial speculation. The more flexible opportunity afforded by divestiture to direct QS into the hands of those with whom a beneficial relationship is expected might also encourage some to accumulate additional permits prior to program implementation.

If the Council decides that accumulation of additional permits beyond some point in time is not desirable then a cut-off date might be considered. There are a range of dates the Council might choose. One possibility is the November 6, 2003 control date. *Federal Register* notices announcing that date are attached in the appendix to this document. During deliberations on the IFQ program there has always been an opportunity for a “no grandfather clause” option to be included. Such an option was first formally included by the Council in November of 2007. The Council adopted the no grandfather clause option as a preliminary preferred alternative in June of 2008 and its final preferred alternative in November 2008. With adequate supporting rationale any of these dates, including dates in between and those up to and after the June 2009 Council meeting, might be used as cut-off dates (if it is determined that such a cut-off date is desirable).

The number of entities with QS in excess of control limits is provided in Table 7 for three different points in time (the control limits used in the table are those adopted at the March 2009 Council meeting). For each point in time, the table shows the number of entities receiving some QS, the maximum QS given to any one entity, the number of entities that would receive QS in excess of the limits, and the amount of QS in excess that may be redistributed. It should be noted that the amount of QS subject to redistribution will be diminished if there is no QS divestiture opportunity and entities sell some of their permits in advance of the initial allocation.

Table 7. Number of entities expected to receive QS and amount of QS in excess of preliminary preferred overfished species control limits and Council preferred control limits for other species (evaluated based on available permit ownership information at three different points in time).

Species category	January 1, 2004					"Fall 2006"				January 1, 2008			
	Control Limit*	# Entities receiving QS	Max QS	# Entities Over the Limit	QS over the Limit	# Entities receiving QS	Max QS	# Entities Over the Limit	QS over the Limit	# Entities receiving QS	Max QS	# Entities Over the Limit	QS over the Limit
All nonwhiting groundfish (in aggregate)	2.70%	142	2.37%	-	-	121	4.79%	2	2.80%	120	4.79%	2	3.27%
Lingcod - coastwide c/	2.50%	142	2.64%	1	0.14%	121	4.49%	2	2.13%	120	4.49%	2	2.13%
N. of 42° N (OR & WA)	-	142	2.98%	-	-	121	4.21%	-	-	120	4.21%	-	-
S. of 42° N (CA)	-	142	4.17%	-	-	121	6.14%	-	-	120	6.14%	-	-
Pacific Cod	12.00%	142	9.02%	-	-	121	10.23%	-	-	120	10.23%	-	-
Pacific Whiting (shoreside)	10.00%	150	8.59%	-	-	129	8.59%	-	-	128	8.59%	-	-
Sablefish (Coastwide)	-	142	2.36%	-	-	121	6.15%	-	-	120	7.31%	-	-
N. of 36° N (Monterey north)	3.00%	142	2.67%	-	-	121	4.23%	1	1.23%	120	4.23%	1	1.23%
S. of 36° N (Conception area)	10.00%	142	13.50%	1	3.50%	121	28.91%	2	22.42%	120	35.11%	2	28.61%
PACIFIC OCEAN PERCH	2.80%	142	3.59%	4	2.70%	121	4.03%	5	3.94%	120	4.03%	5	3.94%
WIDOW ROCKFISH	1.86%	142	5.06%	6	4.89%	121	5.06%	7	5.98%	120	5.06%	7	5.98%
CANARY ROCKFISH	3.17%	142	3.55%	1	0.38%	121	4.39%	3	2.06%	120	4.39%	4	2.64%
Chilipepper Rockfish	10.00%	142	8.75%	-	-	121	8.75%	-	-	120	8.75%	-	-
BOCACCI	13.22%	61	13.22%	-	-	54	13.22%	-	-	53	13.22%	-	-
Splitnose Rockfish	10.00%	142	9.37%	-	-	121	9.37%	-	-	120	9.37%	-	-
Yellowtail Rockfish	5.00%	142	3.19%	-	-	121	5.71%	1	0.71%	120	5.71%	1	0.71%
Shortspine Thornyhead - coastwide	-	142	3.20%	-	-	121	4.04%	-	-	120	4.04%	-	-
Shortspine Thornyhead - N. of 34°27' N	6.00%	142	3.29%	-	-	121	4.06%	-	-	120	4.06%	-	-
Shortspine Thornyhead - S. of 34°27' N	6.00%	142	6.76%	1	0.76%	121	12.86%	2	7.62%	120	15.02%	2	9.78%
Longspine Thornyhead - coastwide	-	142	3.12%	-	-	121	4.17%	-	-	120	4.82%	-	-
Longspine Thornyhead - N. of 34°27' N	6.00%	142	3.12%	-	-	121	4.17%	-	-	120	4.82%	-	-
COWCOD - Conception and Monterey	17.71%	61	17.71%	-	-	54	17.71%	-	-	53	17.71%	-	-
DARKBLOTCHED	1.71%	142	4.48%	7	5.42%	121	4.48%	10	8.24%	120	4.48%	9	8.39%
YELLOWEYE	4.67%	137	4.67%	-	-	118	5.67%	1	1.00%	118	5.67%	1	1.00%
Minor Rockfish North													
Shelf Species	5.00%	142	3.87%	-	-	121	4.12%	-	-	120	4.12%	-	-
Slope Species	5.00%	142	3.63%	-	-	121	3.63%	-	-	120	3.63%	-	-
Minor Rockfish South													
Shelf Species	9.00%	142	7.06%	-	-	121	7.46%	-	-	120	7.91%	-	-
Slope Species	6.00%	142	6.95%	1	0.95%	121	11.96%	3	7.00%	120	13.00%	3	8.04%
Dover Sole	2.60%	142	2.72%	1	0.12%	121	4.46%	3	3.67%	120	5.32%	3	4.53%

Table 7. Number of entities expected to receive QS and amount of QS in excess of preliminary preferred overfished species control limits and Council preferred control limits for other species (evaluated based on available permit ownership information at three different points in time).

Species category	January 1, 2004					"Fall 2006"				January 1, 2008			
	Control Limit*	# Entities receiving QS	Max QS	# Entities Over the Limit	QS over the Limit	# Entities receiving QS	Max QS	# Entities Over the Limit	QS over the Limit	# Entities receiving QS	Max QS	# Entities Over the Limit	QS over the Limit
English Sole	5.00%	142	3.13%	-	-	121	6.78%	1	1.78%	120	6.78%	1	1.78%
Petrals Sole (coastwide)	3.00%	142	3.40%	1	0.40%	121	4.44%	3	1.91%	120	4.44%	3	2.20%
Arrowtooth Flounder	10.00%	142	5.61%	-	-	121	5.61%	-	-	120	5.61%	-	-
Starry Flounder	10.00%	142	27.44%	1	17.44%	121	27.44%	1	17.44%	120	27.44%	1	17.44%
Other Flatfish	10.00%	142	8.26%	-	-	121	8.26%	-	-	120	8.26%	-	-
Other Fish	5.00%	142	6.18%	2	1.92%	121	6.18%	2	1.92%	120	6.18%	2	1.92%

Allocations [Combined initial allocations to entities from participation in shoreside whiting (including whiting processing) and non-whiting fisheries]:

Non-whiting spp in non-whiting fishery (90% allocation to permits):

Non-OF spp: 1994-2003, relative lbs, drop 3 years, equal allocation of buyback permits' catch history.

OF spp: Alloc. based on finer area bycatch rates and 2003-2006 logbook target spp history (Average distribution was used in cases where logbook unavailable).

Whiting in shoreside fishery (80% allocation to permits, 20% to processors):

Permits: 1994-2003, relative lbs, drop 2 years, equal allocation of buyback permits' catch history.

Processors: 1994-2004 (at least 1 mt in any two years 1998-2003), relative lbs, drop 2 years.

Non-whiting in shoreside whiting fishery: allocated to permits in proportion to whiting QS, 90% allocation to permits.

**Control Limit" for OF spp is represented by maximum allocation to a permit using the new, finer-scale bycatch rate allocation method.

Control Limits and Cooperative Ventures

Some members of industry have expressed their intent to form risk sharing pools for overfished species. This raised the question of whether risk sharing pools could be developed without violating control limits. Also, one of the reasons for considering CFAs and providing them with higher limits is concern that control limits might prevent entities from working together cooperatively to use quota.

There are many different types of cooperative quota pooling arrangements that might be conceived. The following are a few examples.

- Overfished species insurance pool agreement:
 - contract among individuals (the contract is not a person and therefore not directly subject to a control limit)
 - individuals retain ownership of QS
 - individuals with the QS retain ownership of QP until the QP are transferred to the vessel account on an as needed basis under the terms of the contract
- Pool agreement among QS holders whereby QP for all species are shared but only one or a few entities operate a vessel, and as QP is “needed” it is transferred to that entity.
 - Backstop would be the vessel limit.
- Pool agreement among QS holders whereby QP is transferred to the accounts of vessels delivering to a certain processor on an as needed basis to insure that processor’s ability to sustain its processing activity.

The following are some examples of control that have been identified in the Amendment 20 EIS:

A person may be deemed to have control of an entity if the person

- Has the right to or does
 - direct business activities of an entity
 - direct the delivery of groundfish by an entity
 - replace an executive officer, member of the board of directors, a general partner or manager (in the ordinary course of business)
 - direct the sale or transfer of the entity’s QS/QP
 - restrict the day-to-day business activities and management policies through a loan covenant
 - control the management of the entity
- Absorbs all the costs and normal business risks associated with ownership and operation of the entity.

Grey areas that have been identified include:

- Employee or manager working for a harvesting or processing company.
- Someone leasing a vessel or plant.

Ultimately, the evaluation of possible control limit violations would be based on specific situational facts, regardless of the guidelines.

With respect to the formation of risk pools a question has been whether or not groups might work together via a contract without placing the QP into a single account and thereby avoid potential violation of control limits. Even if it were determined that such an arrangement in itself does not result in the counting of each individuals quota toward a control limit, specific situational facts could still lead to a determination that one party is in effective control of the quota of another party to the contract and that all QS of those parties should be counted toward a single limit. A Council discussion of its intent with respect to the application of control limits to groups of entities working together may be beneficial in developing the regulations.

Appendix

This appendix includes:

- Tables relating to the GAP recommendations provided at the March 2009 Council meeting and on which the Council action was largely based (*pages 23-26*)
- Figures from a NMFS Observer program report illustrating the range of variation and patterns in halibut bycatch rates (*pages 27-28*)
- Federal register notices related to the November 6, 2003 control date (*pages 29-34*)

Table 8. GAP recommendations together with GMT, GAC and Existing options and other information used to develop the GAP recommendations.

Species Category	Existing Option 1		Existing Option 2		GAC Option 1 ⁹		GAC Option 2		GMT	GAP Recommendation ¹⁰		Maximums Historic and Initial QS Allocation				
	Vess Lim	Cntrl Lim	Vess Lim	Cntrl Lim	Vess Lim	Cntrl Lim	Vess Lim	Cntrl Lim		Control Limits Identified in GMT Report	GAP Vessel Limit Option	GAP Control Limit Option	Max Annual Share of Trawl Fleet Allocation '04-'06	Max Initial Permit QS Allocations	Max Annual Share of Trawl Fleet Landings	
															'94-'03	'04-'06
Nonwhiting Groundfish Species	3.0%	1.5%	4.4%	2.2%	2.0%	1.0%	3.0%	1.5%		None	2.7%	1.8%	1.6%	4.1%	4.9%	
Lingcod - coastwide	10.0%	5.0%	15.0%	7.5%	3.6%	1.8%	4.4%	2.2%		3.8%	2.5%	1.1%	2.2%	9.0%	3.7%	
Pacific Cod	10.0%	5.0%	15.0%	7.5%	12.8%	6.4%	12.0%	6.0%	20.0%	20.0%	12.0%	7.2%	10.0%	22.7%	21.1%	
Pacific whiting (shoreside)	20.0%	10.0%	22.5%	15.0%	15.0%	10.0%	15.0%	10.0%		10.0%	15.0%	6.9%	8.6%	9.1%	7.3%	
Sablefish																
N. of 36° (Monterey north)	4.0%	2.0%	6.0%	3.0%	2.0%	1.0%	3.0%	1.5%	3.0%	4.5%	3.0%	4.3%	1.4%	2.4%	5.7%	
S. of 36° (Conception area)	10.0%	5.0%	15.0%	7.5%	20.0%	10.0%	20.0%	10.0%		15.0%	10%	22.0%	15.0%	38.4%	60.3%	
PACIFIC OCEAN PERCH	10.0%	5.0%	15.0%	7.5%	5.4%	2.7%	7.4%	3.7%		3.3%*	3.3%	3.1%	3.0%	7.3%	10.1%	
WIDOW ROCKFISH	6.8%	3.4%	10.2%	5.1%	9.0%	4.5%	12.0%	6.0%		2.5%*	2.5%	6.7%	5.4%	28.7%	31.9%	
CANARY ROCKFISH	10.0%	5.0%	15.0%	7.5%	7.0%	3.5%	7.6%	3.8%		5.2%*	5.2%	0.0%	2.8%	12.6%	45.7%	
Chilipepper Rockfish	10.0%	5.0%	15.0%	7.5%	12.4%	6.2%	20.0%	10.0%	10.0%	15.0%	10.0%	0.5%	9.6%	46.8%	26.5%	
BOCACCIO	10.0%	5.0%	15.0%	7.5%	20.0%	10.0%	20.0%	10.0%		15.0%	15.0%	0.0%	12.4%	78.9%	53.4%	
Splitnose Rockfish	10.0%	5.0%	15.0%	7.5%	11.4%	5.7%	20.0%	10.0%	10.0%	15.0%	10.0%	8.5%	9.2%	19.9%	26.9%	
Yellowtail Rockfish	10.0%	5.0%	15.0%	7.5%	5.6%	2.8%	10.4%	5.2%	5.0%	7.5%	5.0%	0.7%	3.7%	9.9%	11.5%	
Shortspine Thornyhead																
N. of 34°27'	9.6%	4.8%	14.4%	7.2%	2.6%	1.3%	4.4%	2.2%	6%-10%	9.0%	6.0%	4.0%	1.9%	5.0%	8.7%	
S. of 34°27'	9.4%	4.7%	14.2%	7.1%	8.4%	4.2%	17.6%	8.8%		9.0%	6.0%		3.3%	7.0%	16.0%	
Longspine Thornyhead																
N. of 34°27'	4.0%	2.0%	6.0%	3.0%	2.8%	1.4%	4.4%	2.2%	6%-10%	9.0%	6.0%	2.0%	1.3%	2.0%	8.7%	
COWCOD	10.0%	5.0%	15.0%	7.5%	20.0%	10.0%	0.0%	0.0%		20.0%*	20.0%	0.0%	44.4%	100.0%	0.0%	
DARKBLOTCHED	10.0%	5.0%	15.0%	7.5%	4.0%	2.0%	6.2%	3.1%		2.0%*	2.0%	3.7%	4.4%	15.8%	5.6%	
YELLOWEYE	10.0%	5.0%	15.0%	7.5%	18.8%	9.4%	20.0%	10.0%		5.2%*	5.2%	0.0%	6.0%	35.8%	35.5%	
Minor Rockfish North																
Shelf Species	8.0%	4.0%	12.0%	6.0%	5.8%	2.9%	4.4%	2.2%		7.5%	5.0%	3.1%	2.6%	30.6%	49.1%	
Slope Species	10.0%	5.0%	15.0%	7.5%	4.0%	2.0%	6.0%	3.0%	6%-10%	7.5%	5.0%	3.5%	2.4%	11.9%	15.7%	
Minor Rockfish South																
Shelf Species	10.0%	5.0%	15.0%	7.5%	12.2%	6.1%	20.0%	10.0%		13.5%	9.0%	1.7%	7.5%	46.6%	30.9%	
Slope Species	10.0%	5.0%	15.0%	7.5%	11.6%	5.8%	20.0%	10.0%	6%-10%	13.5%	9.0%	12.1%	6.4%	24.8%	21.7%	
Dover sole (total)	3.6%	1.8%	5.4%	2.7%	2.2%	1.1%	3.2%	1.6%	5%+	3.9%	2.6%	5.7%	1.3%	2.0%	5.6%	
English Sole	20.0%	10.0%	30.0%	15.0%	3.0%	1.5%	5.2%	2.6%	5%+	7.5%	5.0%	2.3%	3.5%	13.9%	7.7%	
Petrale Sole	5.8%	2.9%	8.8%	4.4%	2.8%	1.4%	4.6%	2.3%	3%	4.5%	3.0%	5.9%	1.7%	6.2%	8.0%	
Arrowtooth Flounder	10.0%	5.0%	15.0%	7.5%	3.8%	1.9%	6.4%	3.2%	10%+	20.0%	10.0%	8.3%	6.2%	25.5%	19.1%	
Starry Flounder	10.0%	5.0%	15.0%	7.5%	20.0%	10.0%	11.0%	5.5%	10%+	30.0%	15.0%	8.3%	30.5%	65.7%	54.5%	
Other Flatfish	20.0%	10.0%	30.0%	15.0%	2.6%	1.3%	4.0%	2.0%	10%+	15.0%	10.0%	1.6%	9.2%	16.4%	8.1%	
Other Fish	10.0%	5.0%	15.0%	7.5%	5.0%	2.5%	18.0%	9.0%		7.5%	5%	1.5%	3.9%	10.2%	21.3%	

⁹ Under the GAC option, the numbers provided for overfished species are for reference only and not part of the GAC option.

¹⁰ *The GAP recommended maximum initial allocations for overfished species. These values do not reflect the final calculation of that maximum initial allocation.

Table 9. Notes on from informal discussion with fishing industry representation on rationale related to the GAP statement.

Species	Vessel use limit	Control limit	Rationale for limits	Vessel/ Control Ratio (1.5:1.0) (+ =Yes)	Control Limit Greater than (+ =Yes)		In line with GMT Report (+ =Yes)
					Max share of fleet allocation ('04-'06)	Max Initial Permit QS Allocation	
Pacific Whiting	15.0%	10.0%	Similar to GAC recommendation	+	+	+	
Lingcod	3.8%	2.5%	Limits relatively low because it is a coast wide species the catch of which is widely distributed among the fleet.	+	+	+	
Pacific cod	20.0%	12.0%	Higher vessel limits because the distribution is geographically limited, participants few, and opportunities intermittent. Keep the control limits down to prevent excess control. On this basis provide vessel limits that are greater than the 1.5 to 1 ratio used for other species.	0	+	+	
Sablefish N	4.5%	3.0%	Control limit lower than max share because of high dependence on a coast wide basis. Vessel limit is high enough to allow the vessel to achieve the recent maximum share of allocation.	+	0	+	+
Sablefish S	15.0%	10.0%	Underutilized, very few vessels operating there now. Potential for gear switching. 10% control limit, in line with GAC 90th percentile recommendation.	+	0	0	
POP	3.3%	3.3%	*Overfished species rationale.	+	+	+	
WIDOW	2.5%	2.5%	*Overfished species rationale.	+	+	+	
CANARY	5.2%	5.2%	*Overfished species rationale.	+	+	+	
Chilipepper	15.0%	10.0%	On the higher end because its taken in a smaller area, its not a coast wide fishery, and its under harvested. Similar to GAC recommendations.	+	+	+	+
BOCCACIO	15.0%	15.0%	*Overfished species rationale.				
Splitnose	15.0%	10.0%	Rationale similar to chilipepper.	+	+	+	+
Yellowtail	7.5%	5.0%	Control limit quite a bit higher than initial allocation because it has not been fully utilized in recent years. However, limits should not be too large because the stock is widely distributed and used in a lot of strategies along the coast.	+	+	+	+

Table 9. Notes on from informal discussion with fishing industry representation on rationale related to the GAP statement.

Species	Vessel use limit	Control limit	Rationale for limits	Vessel/ Control Ratio (1.5:1.0) (+ =Yes)	Control Limit Greater than (+ =Yes)		In line with GMT Report (+ =Yes)
					Max share of fleet allocation ('04-'06)	Max Initial Permit QS Allocation	
Shortspine N	9.0%	6.0%	Control limits somewhat higher than for Dover and sablefish, for example, because it is underutilized but at the same time need to maintain widespread availability to provide opportunity for many vessels over the majority of the coast.	+	+	+	+
Shortspine S	9.0%	6.0%	The same as limits set for other thornyheads.	+	0	+	+
Longspine N	9.0%	6.0%	Similar to shortspine in the north.	+	+	+	+
COWCOD	20.0%	20.0%	*Overfished species rationale.				
DARKBLOTCHED	2.0%	2.0%	*Overfished species rationale.				
YELLOWEYE	5.2%	5.2%	*Overfished species rationale.				
Shelf Rockfish N	7.5%	5.0%	Control limit is twice the maximum initial allocation because the stock has been substantially underutilized in recent years. (Note: While the control limit is less than what is in the GMT report, the vessel limit is in the report's range.)	+	+	+	
Slope Rockfish N	7.5%	5.0%	Rationale similar to shelf.	+	+	+	
Shelf Rockfish S	13.5%	9.0%	South, limits slightly higher than northern rockfish because of fewer vessels participating.	+	+	+	
Slope Rockfish S	13.5%	9.0%	Rationale similar to shelf.	+	0	+	
Dover sole	3.9%	2.6%	Lower limit than for many species, because its widely distributed and caught by many vessels. A large control limit would creates opportunities for a few vessels with a relatively lower amount of QS to completely supply the limited market. Even though relatively lower, the control limit is still over twice the maximum initial allocation.	+	0	+	
English sole	7.5%	5.0%	Similar to Dover sole (widespread and soft markets) but it is underutilized and more important to a small subset of the fleet (beach boats). Therefore the limits are larger.	+	+	+	

Table 9. Notes on from informal discussion with fishing industry representation on rationale related to the GAP statement.

Species	Vessel use limit	Control limit	Rationale for limits	Vessel/ Control Ratio (1.5:1.0) (+ =Yes)	Control Limit Greater than (+ =Yes)		In line with GMT Report (+ =Yes)
					Max share of fleet allocation ('04-'06)	Max Initial Permit QS Allocation	
Petrale sole	4.5%	3.0%	The control limit is similar to sablefish and in line with the GMT report. The limit would constrain the maximum share, however, this maximum occurred in a year in which the OY was exceeded. similar to sablefish.	+	0	+	+
Arrowtooth	20.0%	10.0%	A larger vessel limit is needed because of the smaller number of vessels involved in the fishery and to allow for expansion of harvest on this underutilized species. Similar to Pacific cod, a control limits is needed that is lower than what is would be if the standard 1.5:1.0 ratio is applied.	0	+	+	+
Starry Flounder	30.0%	15.0%	Higher limits because it is one of the fisheries with the lowest number of participants. However, control limit is lower than the maximum initial allocation (30%) because that level would not accommodate enough of the beach druggers.	0	+	0	
Other Flatfish	15.0%	10.0%	This is a catch all category which includes sanddabs, rex sole, and true turbot. It has a fairly large aggregate OY. However, a larger control limit is recommended because of the need to specialize in single species within the complex.	+	+	+	
Other Fish	7.5%	5.0%	Lower end of the range of limits because this is a catch all category that everyone might need a little of.	+	+	+	

* Rationale for overfished species control and vessel limits: (1) Control limits are set at the maximum initial allocation (need to be adjusted based on a final determination of the maximum initial allocation). Of all the species, it is most important to minimize the chance of excessive control of the overfished species QS. The maximum initial allocation level is a reasonable level at which to set the control limit for this purpose. (2) There is significant incentive for vessels to avoid overfished species. The proposed rules for applying the vessel limits will allow any vessel to cover its catch regardless of the level at which the vessel limit is set, if it can find the QP to do it. Therefore, it is recommended that the vessel limit be set at the control limit.

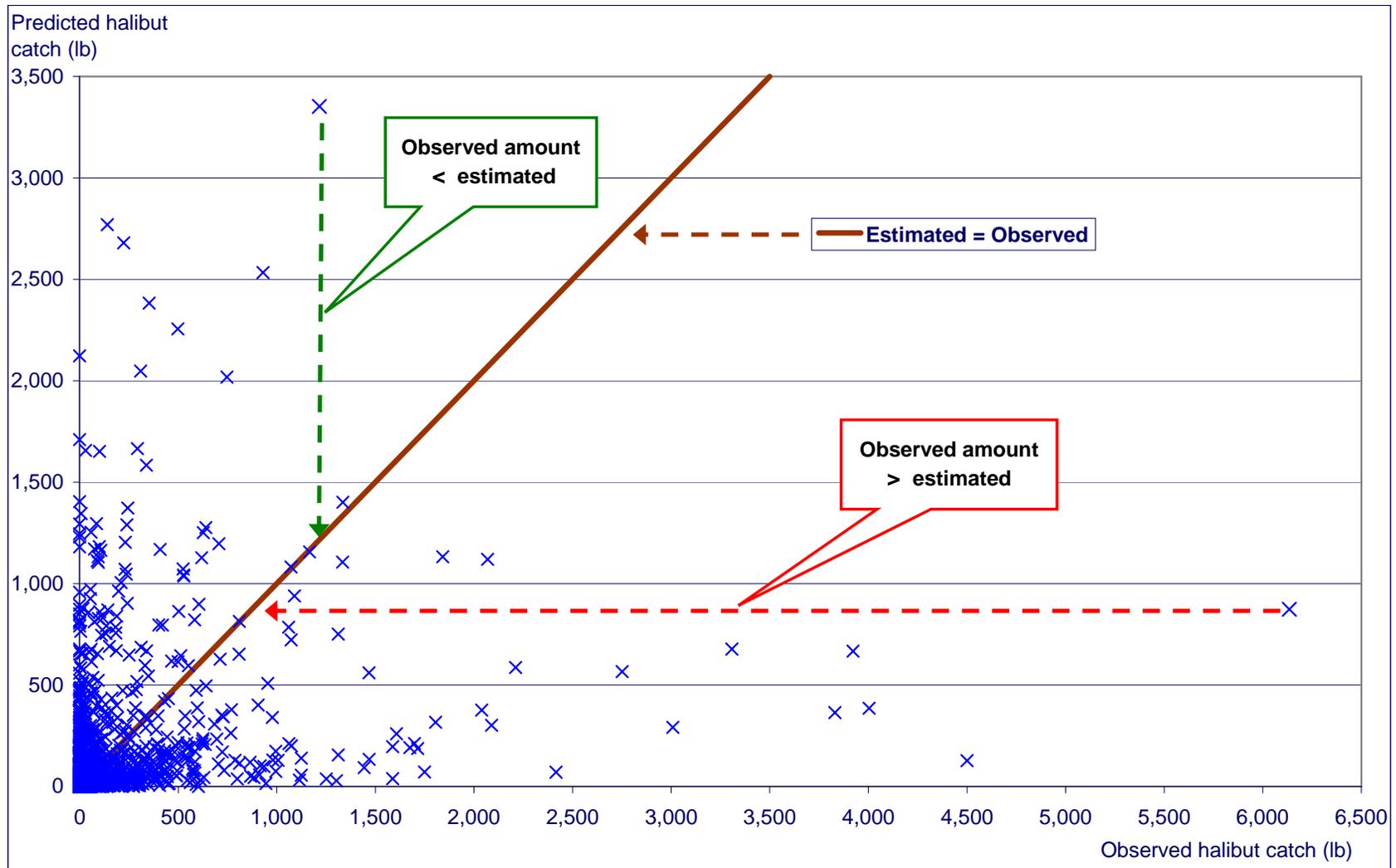


Figure 1. Plot of observed vs. predicted Pacific halibut catch, using the mean stratum rate of Pacific halibut pounds per pound of petrale sole and arrowtooth flounder caught in the area north of 47.5° N. lat. in depths less than 115 fathoms.

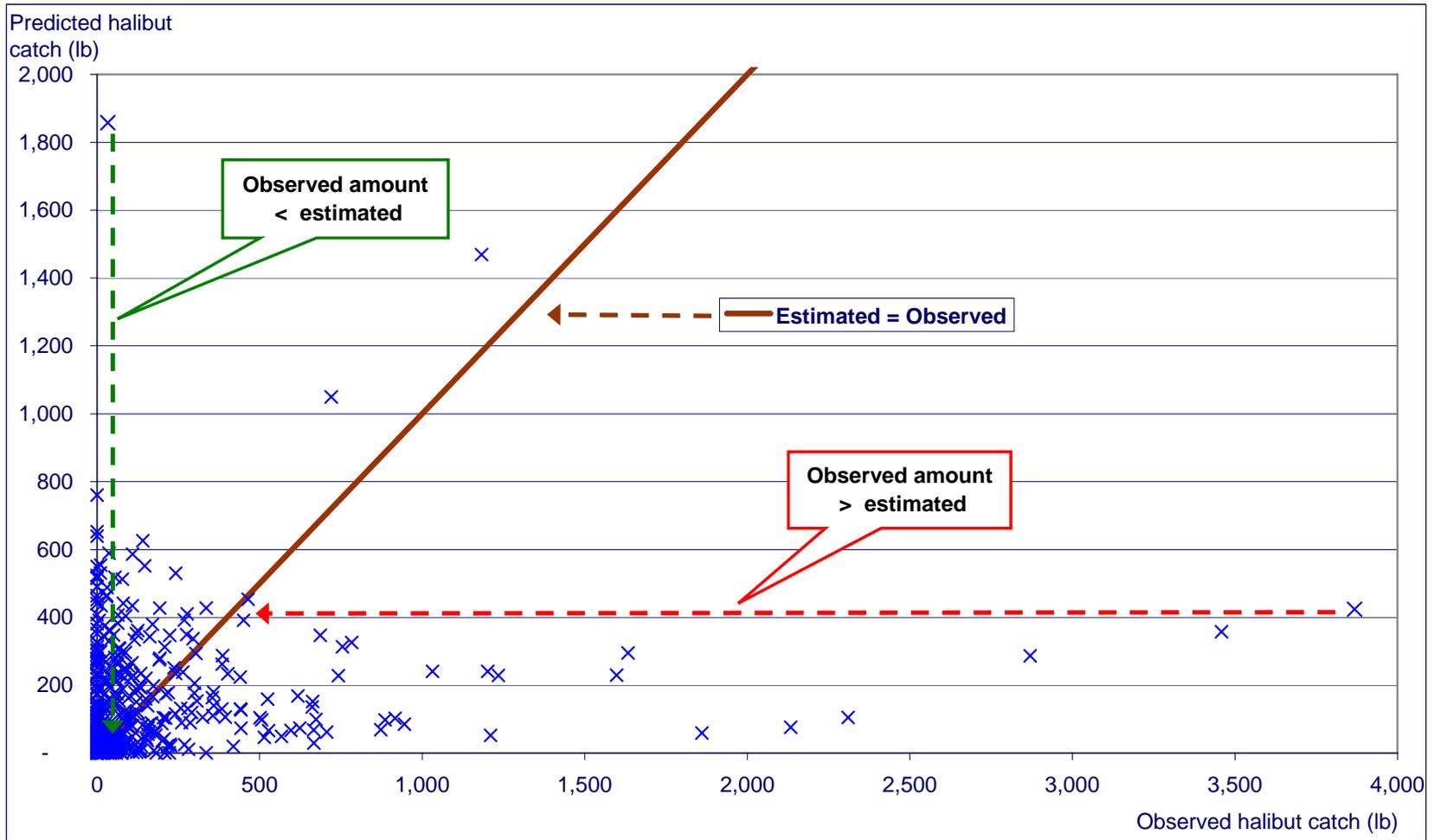


Figure 2. Plot of observed vs. predicted Pacific halibut catch using the mean stratum rate of Pacific halibut pounds per pound of petrale sole and arrowtooth flounder caught in the area north of 47.5° N. lat. in depths greater than 115 fathoms.

to lowest, would be Alternative 4, Alternative 2, Alternative 3, Alternative 4a, the preferred alternative, and finally, Alternative 1. As expected, the highest number of fleet DAS (Alternative 4) would have the greatest potential to ensure that vessels harvest the TAC, but at the expense of possibly exceeding the TAC.

According to section 8.8 of the Red Crab Specifications document, Alternative 1 would be expected to generate the lowest level of landings and revenue because it allocates 35 fewer fleet DAS than the preferred alternative. On the other hand, Alternatives 2, 3, and 4 would allocate more fleet DAS than the preferred alternative; 81, 60, and 94 more fleet DAS, respectively. The additional allocated DAS would enable each vessel to take extra trips, and the economic benefits would be expected to increase compared to FY2003 with more DAS available, depending on which alternative is selected. But each of these other alternatives would be more likely to result in exceeding the TAC. The opting out of one red crab vessel, however, means that the remaining four vessels will have 195 DAS each instead of 156 under the preferred alternative. This increase in individual DAS significantly increases the landings and economic benefits for these vessels, compared to FY2003. In balancing the FMP objectives of providing the fleet with the greatest number of landings without exceeding the TAC, the preferred alternative is considered to be the best. Section 5.0 of the FMP includes more detailed economic impact analysis of DAS measures.

Authority: 16 USC 1801 *et seq.*

Dated: January 6, 2004.

Rebecca Lent,

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

[FR Doc. 04-465 Filed 1-8-04; 8:45 am]

BILLING CODE 3510-22-S

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

(3) Fax: 202-493-2251.

(4) Delivery: Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(5) Federal eRulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on the Maritime Administration's proposed rule, call John T. Marquez, Jr., Maritime Administration, telephone 202-366-5320. If you have questions on viewing or submitting material to the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202-366-0271.

(Authority: 49 CFR 1.66.)

Dated: May 19, 2004.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 04-11656 Filed 5-21-04; 8:45 am]

BILLING CODE 4910-81-P

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.

• Federal eRulemaking Portal: <http://www.regulations.gov>.

•Fax: 503-820-2299.

•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 (intersector 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.*

Dated: May 18, 2004.

Galen R. Tromble,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04-11663 Filed 5-21-04; 8:45 am]

BILLING CODE 3510-22-S