PERMIT STACKING, SEASON EXTENSION, AND OTHER MODIFICATIONS TO THE LIMITED ENTRY FIXED GEAR SABLEFISH FISHERY

INCLUDING

AMENDMENT 14 TO THE GROUNDFISH FMP ENVIRONMENTAL ASSESSMENT, REGULATORY IMPACT REVIEW, AND INITIAL REGULATORY FLEXIBILITY ANALYSIS

Pacific Fishery Management Council
2130 SW Fifth Avenue, Suite 224
Portland, Oregon 97201
(503) 326-6352
http://www.pcouncil.org

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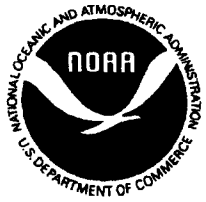

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LIST OF ACRONYMS AND ABBREVIATIONS

ABC	Acceptable Biological Catch
CFR	Code of Federal Regulations
CZMA	Coastal Zone Management Act
DTL	Daily Trip Limit
EA	Environmental Assessment
EEZ	Exclusive Economic Zone
EIS	Environmental Impact Statement
EO	Executive Order
ESA	Endangered Species Act
FMP	Fishery Management Plan
FONSI	Finding of No Significant Impact
IFQ	Individual Fishing Quota
IQ	Individual Quota
IPHC	International Pacific Halibut Commission
IRFA	Initial Regulatory Flexibility Analysis
ITQ	Individual Transferable Quota
LE	Limited Entry
Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act
MMPA	Marine Mammal Protection Act
mt	metric ton
nm	nautical mile
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NWR	Northwest Region, National Marine Fisheries Service
NWFSC	Northwest Fishery Science Center, National Marine Fisheries Service
OY	Optimum Yield
PBR	Potential Biological Removals
RFA	Regulatory Flexibility Act
RIR	Regulatory Impact Review
WOC	Washington Oregon and California

GLOSSARY OF SELECTED TERMS

Acceptable Biological Catch	An estimate of the amount of fish that could be taken from a stock at its current abundance without jeopardizing it. It is calculated by multiplying the calculated or assumed harvest rate that would produce the maximum sustainable yield, times the current biomass estimate.
Acquire	With respect to limited entry permits, to establish ownership or ownership-like control of a permit.
Blocked Quota Shares	Quota shares that must be transferred together, cannot be subdivided.
Cumulative Limit	The total allowable amount of a groundfish species or species group, by weight (or by percentage of weight of groundfish on board the vessel), that a vessel may take and retain, possess, or land during a period of time. Fishers may make as many landings of a species or species complex as they like so long as they do not exceed the cumulative limit that applies to the vessel or permit during the designated time period. For the fixed gear sablefish modified derby fishery, the duration of the cumulative limit period in recent years has been nine days.
Cumulative Limit Stacking	The association of cumulative limits with permits, rather than with vessels, and allowing a vessel with multiple groundfish limited entry permits to harvest multiple cumulative limits. "Cumulative limit stacking" is also referred to as "permit stacking." In this document "permit stacking" is used to refer to the stacking of fixed gear sablefish cumulative limits in the primary fishery and "cumulative limit stacking" is used to refer to the stacking of cumulative limits for other species.
Daily Trip Limit (DTL) Fishery	The daily trip limit allowed for the sablefish fishery, unless otherwise specified; 15% of the allocation of sablefish to the limited entry fixed gear vessels is taken in a fishery governed by daily trip limits and a cumulative limit of longer duration (e.g., one or two months)-daily trip limits are generally small, 300 to 500 pounds.
Endorsement	A designation on a groundfish limited entry permit that authorizes the use of the permit for a particular gear, length of vessel, or in a particular segment of the fishery.
- Gear	A designation on the groundfish limited entry permit indicating the gear(s) that a vessel may use in the limited entry fishery. Limited entry permits may be endorsed for one or more of the following gears: trawl, longline, and fishpot (trap).
- Length	A designation on the groundfish limited entry permit indicating the length overall of the vessel originally qualifying for the permit, or, where permits have been combined, a longer length based on the combined permits. . Permits may not be registered for use with vessels more than five feet longer (in length overall) than the length endorsed on the permit.
- Sablefish	A designation on the groundfish limited entry permit that authorizes fixed gear limited entry vessels to participate in the primary sablefish fishery and designates the tier level at which they participate.
- Size	Length endorsement.

Fixed Gear	Within the context of the limited entry fleet "fixed gear", longline and fishpot gear. Within the context of the entire groundfish fishery fixed gear includes longline, fishpot, and any other gear that is anchored at least at one end.
Individual Quota (IQ)	Fish harvesting quotas allocated to individuals or firms, specifying that a certain amount of fish or shellfish of a certain species may be caught in a specific area within a given time frame. Individual Transferable Quotas (ITQs), Individual Fisherman Quotas (IFQs), Individual Vessel Quotas (IVQs) are various types of individual quota programs.
Hail Weight	A fisher's estimate of the weight of fish a vessel will be landing on a particular day.
Length Requirement	The requirement that specifies permits may not be registered for use with vessels more than 5 feet longer (in length overall) than the length endorsed on the permit.
Modified Derby	Means a derby in which each vessel has a landing limit. A derby is a fishery of a few days' or weeks' duration during which fishers race to take as much catch as they can before the fishery closes. Under the modified derby, the catch of some vessels is constrained by the landing limit, while the catch of other vessels is constrained by the duration of the fishery. For vessels in the latter situation, the modified derby functions the same as a derby.
Mop-up Fishery	When the modified derby portion of the primary fixed gear sablefish fishery is completed, any remaining portion of the target harvest level is made available during a subsequent season called a "mop-up" fishery. As in the primary fishery, only sablefish-endorsed vessels may participate in the mop-up fishery. The mop-up fishery is generally managed using cumulative limits of two weeks to one month in duration.
Nontrawl	Within the context of the groundfish limited fleet, "nontrawl" and "fixed gear" are the same, i.e., longline and fishpot (trap) gear. Within the context of the entire groundfish fishery, nontrawl gear includes longline, fishpot, and any other that is not trawl gear (e.g., troll, gillnet, and vertical hook-and-line).
Open Access Fishery	The segment of the groundfish fishery for which entry is not controlled by the groundfish limited entry program.
Overhead	A measure the Council uses to distinguish cumulative limit management from individual quota management. Overhead is the amount by which the allocation to a fishery would be exceeded if every vessel took the available cumulative limit and is expressed as a percentage of the allocation. For the modified derby of the fixed gear sablefish fishery, the Council has tried to maintain an overhead of 25% to distinguish the cumulative limit management system from an individual quota management system.
Optimum Yield	The harvest guideline or quota which typically is a target below ABC intended to prevent overfishing, address rebuilding requirements, or achieve other goals and objectives. OY may be specified to include all sources of fishing mortality, including discard mortalities or to designate the landed portion of the catch.
Permit Cumulative Limit	A cumulative limit that applies to a permit rather than a vessel.

Permit Stacking	The registration of more than one groundfish limited entry permit for a single vessel where a vessel is allowed additional catch for each additional permit registered for use with the vessel. In this document, permit stacking refers primarily to the stacking of additional fixed gear sablefish cumulative limits (see "Cumulative Limit Stacking").
Primary Sablefish Fishery	The limited entry fixed gear sablefish fishery during which 85% of the sablefish allocated to the limited entry fixed gear vessels is taken. Each vessel must have a sablefish endorsement to participate in this fishery. Historically, federal regulations have referred to the primary fishery as including the "regular" (or derby) fishery plus the mop-up fishery.
Processing	The preparation or packaging of groundfish to render it suitable for human consumption, retail sale, industrial uses, or long-term storage, including , but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but not heading and gutting unless additional preparation is done.
Quota Shares	The amount of fish allocated to an individual fisher or vessel, typically expressed as a percentage of the total and designated as part of an assigned fishing privilege.
Register	With respect to a vessel, a particular permit is registered for use with a particular vessel when NMFS acknowledges the designation of the vessel for use with the permit.
Total Catch OY	The landed catch plus discard mortality.
Sablefish Tier	A group to which a sablefish endorsement is assigned. All vessels with sablefish endorsements are assigned to one of three groups, or tiers, based on their catch history. All vessels within a tier are authorized to take the same specified amount (cumulative limit) of sablefish. The ratio of cumulative limits for the tiers is 3.85:1.75:1.0 for tiers 1, 2, and 3, respectively.
Unendorsed Vessels	In the context of this analysis, limited entry fixed gear vessels without sablefish endorsements.

1.0 PURPOSE AND NEED FOR ACTION

Pacific Coast groundfish fisheries in the Exclusive Economic Zone (EEZ) (three to 200 nm offshore) off Washington, Oregon, and California are managed under the Pacific Fishery Management Council's (Council) Pacific Coast Groundfish Fishery Management Plan (FMP). The FMP includes the limited entry fixed gear sablefish fishery, a segment of the Pacific coast groundfish fishery north of 36°N latitude to the United States-Canada border. The Council is recommending permit stacking and related provisions limiting permit accumulation, extending the season length, requiring permit owners to be individuals and be on board during sablefish fishing operations, and restricting at-sea processing. The proposed action would restructure fishing regulations for the limited entry fixed gear sablefish fishery, addressing concerns in the current fishery related to safety, efficiency, and equity. The proposed action would be implemented through Amendment 14 to the groundfish FMP and other regulatory amendments. The specific amendments to the language of the FMP are provided in Appendix B to this document. This document meets requirements for an environmental assessment, regulatory impact review, initial regulatory flexibility analysis, other requirements of the Magnuson-Stevens Act, and requirements of other laws applicable to the groundfish FMP Amendment 14 and accompanying recommendations for regulatory amendments.

1.1 Background

Sablefish (*Anoplopoma fimbria*), also known as "blackcod," is one of the most valuable species in the groundfish fishery off Washington, Oregon, and California. Because its value per pound is high, sablefish is a desirable target species for many West Coast fisheries and gear groups. The Council has had to make several sablefish allocation decisions over the past 15 years to divide this desirable resource between different sectors of the fishery.

In 1987, an allocation of sablefish was established between trawl and nontrawl gears. Industry representatives of vessels participating in the nontrawl sablefish fisheries expressed their desire that the fishery be managed on a seasonal basis (as opposed to the year-round policy the Council pursued for most sectors of the groundfish fishery). The pursuit of seasonal management for the nontrawl segment of the sablefish fishery was a key decision that combined with a decline in sablefish abundance to ultimately result in the safety, efficiency, and allocational issues that this proposed action addresses.

The vast majority of the trawl and nontrawl sablefish harvest was placed under a license limitation program in 1994 (Amendment 6). Of the non-tribal commercial optimum yield of sablefish, 90.6% is allocated to the limited entry fishery, with the remainder (9.4%) allocated to the open access fishery. The limited entry sablefish allocation continues to be divided between the limited entry trawl sector (58%) and the limited entry nontrawl (fixed gear) sector (42%) and these two fisheries are managed with separate regulations and guidelines.

Longline and fishpots (or "traps") are the only gears allowed in the limited entry fixed gear fishery. Management for the fixed gear fleet is divided at the 36° N. lat. line with separate OYs for the northern and southern fisheries. While the coastwide trawl fishery takes sablefish as part of its year-round cumulative trip limit fisheries, the northern fixed gear fleet lands 85% of its allocation in a directed sablefish season and 15% of its allocation in daily trip limit fisheries. The southern fixed gear fleet lands all of its allowed harvest in daily trip limit fisheries. The directed season north of 36° N. lat. has become increasingly intense over the years, as vessel capacity and competition for landings have increased and amounts of fish available for harvest have decreased. Through 1996, the directed (or "primary") season was managed as an open competition derby ("derby"). Derby duration shortened each year, until the fishery was just five days long in 1996.

Fixed Gear Sablefish Directed Season North of 36° N. lat.		
Year	Season Length	Management
1992-1994	2-3 weeks	Derby
1995	7 days	Derby
1996	5 days	Derby
1997	9 days	Equal Limits/Modified Derby
1998	6 days	Tiered Limits/Modified Derby
1999	9 days	Tiered Limits/Modified Derby

Fixed Gear Sablefish Directed Season North of 36° N. lat.		
Year	Season Length	Management
2000	9 days	Tiered Limits/Modified Derby

Note: In 1998 there was a substantial but temporary decline in the allowed catch.

Numerous details of the fishery have been the subject of regulatory adjustments intended to maximize safety given the short duration of the fishery. These include: changing the time of year for the fishery, setting the fishery to coincide with good tidal conditions, closing the fishery during daylight hours, and closing the fishery at-sea (i.e., requiring that vessels stop pulling gear when the fishery closes, as opposed to the previous requirement that a vessel be in port).

In 1997, NMFS implemented Amendment 9 to the FMP, the sablefish endorsement program. Limited entry permit holders could be eligible for sablefish endorsements based on their permit history. Permits without sufficient sablefish landings history were not endorsed for future participation in the primary season, but could still be used in the daily trip limit fisheries.

Even with the sablefish endorsement, the fishery was expected to shorten to as few as three days in 1997. Therefore, in order to lengthen the season, equal limits were imposed on all qualified participants (sablefish endorsement holders). However, the extent to which the season could be lengthened was limited because a fishery would have been created in which a limited class of participants each had an amount of fish they would be allowed to harvest. This regulatory system would have been classified as an individual quota (IQ) program. In its 1996 re-authorization of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Congress had included a moratorium on implementing new IQ programs through October 1, 2000. The moratorium was interpreted to cover any program that would allow a vessel ample time and opportunity to catch a limit allocated specifically to that vessel. The moratorium has forced the Council to manage the primary season to a short duration that prevents many participants from fully taking their vessel-specific limits (a "modified derby"). To further assure that the cumulative limits would not be categorized as an IQ program, regulations were established to set a maximum season length of 10 days. Equal cumulative limits were viewed by the Council as being extraordinarily reallocative in nature, but for 1997 equal limits were the only option available to lengthen the season and begin to address safety issues.

The inequitable allocation system created by the equal cumulative limits was partially resolved with a "three tier" system that was established by regulatory amendment for 1998 and beyond. Under this "three-tier" system, sablefish endorsement holders were ranked into three different tiers based on their permit histories, with the lowest tier having the lowest qualification requirements. Annual management of the three-tier cumulative limit system requires that the allocation for this fishery be divided such that there are three different cumulative limits for the different tiers. Additional detail on the three tier system is provided in Section 3.3.3. While somewhat more equitable than the cumulative limit program, the three tier system still required some producers to make large cutbacks in their production levels while allowing others to expand (Council, 1998). The system provided little flexibility to operators to determine the manner in which their sablefish catch is harvested or to scale their harvest upward to match their pre-existing levels of capital investment. This lack of flexibility undoubtedly reduced efficiency, resulting in a lower net value from the harvest.

Even under the three-tier system, the fishery still had to be managed as a modified derby and the seasons have been too short to allow fishers to operate with care and safety. Short derby seasons are believed to result in accidents due to fisher fatigue and financial pressure to fish and transit under unsafe conditions.

The Magnuson-Stevens Act moratorium on new individual quota programs expired October 1, 2000. On December 21, 2000, Public Law 106-553, an appropriations bill for the NOAA, contained a continuation of the IQ moratorium through October 1, 2002 and an exception to that moratorium for a permit stacking program in the West Coast fixed gear sablefish fishery. This proposed plan amendment and regulatory package would implement a permit stacking program, in which more than one permit could be registered for use with a single vessel and that vessel would have access to the cumulative limits associated with each of those permits. Most importantly, the exception to the IQ moratorium for the fixed gear sablefish fishery would allow a longer season (up to 12 months), so that each vessel can fish against its limits at its own speed, and more than one permit per vessel so that multiple cumulative limits could be harvested by a single vessel.

1.2 Problem Summary

The regulatory response to capacity far in excess of available harvest (Council, 2000b) has led to seasons of extremely short duration. These short seasons are inherently unsafe, provide fishers with little operational flexibility, and are therefore are not conducive to extracting high value from the sablefish resource (i.e., are likely to be inefficient compared to longer more flexible fishing opportunities). Attempts to resolve safety concerns have resulted in detailed regulations and reallocations (Council, 1998) that have been viewed as inequitable. These reallocations have also resulted in a misalignment and dislocation of resources such that capital invested in larger producers goes unused while smaller producers increase their investment in order to take their allotted catch in a short season. In short, there is substantial opportunity for improving the performance of the fishery with respect to fishery management objectives (see Appendix C).

1.3 Legal Basis and Key Objectives

The legal basis for this proposal is the Groundfish Fishery Management Plan approved by the Secretary of Commerce under the authority provided by the Magnuson-Stevens Conservation and Management Act.

Permit stacking and the accompanying regulatory provisions are expected to help the Council address objectives related to National Standards 4 (fair and equitable allocation), 5 (consider efficiency), 6 (take into account variations and contingencies), 8 (take communities into account), 9 (minimize bycatch and bycatch mortality), and 10 (promote safety). Specifically it is expected to affect achievement of groundfish FMP Goals 2 (maximize the value of the resource as a whole) and 3 (achieve maximum biological yield) through impacts related to Objectives 4 (achieve greatest net benefit), 9 (reduce wastage), 11 (equitable sharing of conservation burden, minimize bycatch or bycatch mortality), 12 (minimize gear conflicts), and 13 (accomplish changes with minimum disruption). See Appendix C for the full text of these standards, goals, and objectives.

Key objectives related to this amendment and regulatory package may be more specifically stated as follows:

- **Rationalize the fleet and promote efficiency.** (Capacity reduction is one of the key elements of the strategic plan. The strategic plan generally approaches capacity reduction by reducing the number of fishing vessels. This reduction does not of itself imply the rationalization of the fleet or increased efficiency. It is possible that the most efficient fixed gear sablefish harvest could involve a greater number of vessels taking sablefish as bycatch in other fisheries. However, given the high degree of overcapitalization in the fishery, it is believed that a reduction in capacity will generally move the fishery toward greater efficiency, addressing National Standard 5 and FMP Objective 6.)

- **Maintain or direct benefits toward fishing communities.** (This objective relates to National Standard 8 on fishing communities and FMP Objective 17.)

- **Prevent excessive concentration of harvest privileges.** (This objective relates to National Standard 4 on allocation, National Standard 8 on fishing communities, and FMP Objective 16.)

- **Mitigate the reallocational effects of recent policies (3-tier system and equal limits).** (This objective relates to National Standard 4 on allocation and FMP Objectives 13 on equitable allocation and 15 on minimizing disruption.)

- **Promote equity.** (This objective relates to National Standard 4 on allocation and FMP Objective 13 on equitable sharing.)

- **Resolve or prevent new allocation issues from arising.** (This objective relates to National Standard 4 on allocation and FMP Objectives 13 on equitable sharing and 15 on minimizing disruption.)

- **Promote safety.** (This objective relates to National Standard 10 on safety and FMP Objective 18 on safety.)

- **Improve product quality and value.** (This objective relates to National Standard 5 on efficiency and FMP Objective 6 on net national benefits.)

- **Take action without creating substantial new disruptive effects.** (This objective relates to FMP Objective 15 on minimizing disruption.)

- **Create a program that will readily transition to a multimonth IQ program.** (This objective relates to capacity reduction recommendations in the strategic plan. Where individual quotas are transferable and divisible they address National Standard 6 by providing the fleet with substantial flexibility to respond to changing conditions in the fishery and National Standard 5 by taking efficiency into account. FMP Objective 6 is also addressed.)

Permit stacking would be part of the overall management program for the groundfish fishery. The overall program addresses National Standards 1 (prevent over fishing and achieve OY), 2 (use best available information), 3 (manage stocks as a unit and in close coordination with interrelated stocks), 6 (taking into account and allowing for variations and contingencies) and 7 (minimizing costs and avoiding duplication), in addition to the other national standards specifically covered by the above listed objectives. The permit-stacking program is based on the best available information (National Standard 2) and no regulatory duplication is believed to exist (National Standard 7). Cost minimization (National Standard 7) must be evaluated in the context of the objectives: "Are the objectives achieved at a minimum cost?" The stacking program would be intended to modify the economic and social impacts of the fishery management system in order to attain a more favorable result with respect to the entire suite of standards, goals, and objectives for management of the groundfish fishery.

2.0 ALTERNATIVES

2.1 Available Alternatives

Alternatives available for consideration include new proposals as well as past management methods and management methods that have been considered but rejected in the past. This section summarizes the major alternatives available for consideration and explains why only four alternatives are given detailed consideration.

The current problems in the fishery are an outgrowth of the regulatory response to growing capacity in the fixed gear sablefish fishery and reduced optimum yields. The regulatory response has been to control harvest (output) by limiting season duration. Alternative-output oriented regulatory responses would simply result in a different set of problems. For example, management of the fixed gear sablefish fishery as a year round fishery might limit harvest (output) and resolve safety concerns but would cause substantial disruption as a result of reallocation and would not necessarily move the fishery toward greater efficiency (and could, in fact, reduce efficiency). The Council previously managed the fishery as an unconstrained derby (derby without cumulative limits) and then, for 1997, as a modified derby with all vessels having equal cumulative limits. In June 1997, the Council considered these alternatives along with a year-round management alternative and determined that management of the fishery as a modified derby with three tiers was the superior alternative (Council, 1998).

The key problem to be addressed is excess capacity (input control). Capacity can be reduced through buyback program or individual quota (IQ) alternatives. Both of these alternatives have been under Council deliberation since it first considered a license-limitation program for the groundfish fishery (Amendment 6). Recent discussions of buyback programs have focused on industry-funded buyback programs. When a business plan for a buyback program for the West Coast groundfish fishery was developed, the fixed gear sablefish fishery representatives opted to exclude themselves from the business plan in hopes of developing a permit stacking or full ITQ program. In the context of the three-tier management system, representatives of the fixed gear fleet stated that permit stacking or IQs would be viewed as more equitable than a buyback program, as only those that directly benefitted from the consolidations of harvest privileges would pay. Amendment 8 to the FMP, which the Council never finalized, would have introduced an individual transferable quota (ITQ) program to the fishery. Although the Council expected that a sablefish IQ program would have lengthened the season duration and improved safety for participants, in 1995 the Council voted to table Amendment 8 in response to a Congressional request that the Council await national guidance. Subsequently, Congress enacted the IQ moratorium. In the Council's deliberations on the current regulatory package, the Council did not consider any IQ programs, other than permit stacking, because of the correct expectation that Congress would extend the current IQ moratorium and that any exception for the West Coast sablefish fishery would be limited.

Having considered a wide array of alternatives for managing the fishery, the Council narrowed its focus to various permit stacking alternatives. Permit stacking includes a number of related provisions. For almost all of the provisions, there are several options for specifying the provision. Different combinations of options combine to form an array of alternatives. Two of the major alternatives include permit stacking in combination with a short season (a non-IQ form of permit stacking) and permit stacking in combination with an extended season (an IQ form of permit stacking). These variations were developed so that: (1) even if the moratorium were not lifted, equity and efficiency might be partially addressed and preparation made for eventual implementation of an IQ-type stacking program; and (2) if Congress granted an exemption to the IQ moratorium for the fixed gear sablefish fishery, the Council and NMFS could be prepared to move quickly to a limited form of IQ program that would provide substantial relief. Coupled with the permit stacking are a number of other provisions intended to ensure that some of the objectionable aspects of a more flexible IQ program are avoided while Congress continues to develop national policies for IQ programs.

Thus, the major alternatives listed below have been considered by the Council. Council deliberations have narrowed the focus to status quo and the two major stacking alternatives listed. There are a number of permutations of the permit stacking alternatives in addition to the two listed in the table below based on variation provisions within the stacking proposal. Additionally, a number of provisions that are part of the stacking proposal could be implemented as stand-alone provisions. While these provisions may stand alone, the need for the provisions is more apparent within the context of the impacts expected from permit stacking. Bolded alternatives are those that are the primary focus of this document.

Major Alternatives Considered by the Council	History of Consideration
A Year-round Fishery Managed Through Monthly Cumulative Limits	Rejected as an option when 3-tier program was adopted (1997-1998)
A Derby Fishery	Previously used and rejected as option when 3- tier program was adopted (1997-1998)
A Modified Derby with Equal Cumulative Limits	Previously used and rejected as option when 3- tier program was adopted (1997-1998)
A Modified Derby with Tiered Cumulative Limits (Status Quo)	Explicitly analyzed and considered in this regulatory package. (Current management)
Capacity Reduction through Buyback	Considered during Council and advisory body deliberations over a limited entry permit buyback program and during the development of an industry business plan for permit buyback (2000)
Capacity Reduction through Individual Transferable Quotas	Ongoing consideration since 1991. A full-fledged ITQ program is not possible under the current Magnuson-Stevens Act moratorium on individual quota program (1991-present)
Permit Stacking (Provision 1) with a Lengthened Season (Provision 5a)	Explicitly analyzed and considered in this regulatory package. A form of limited individual quota program for which Congress has provided an exception to the current moratorium ((Current Package)
Permit Stacking (Provision 1) with a Short Season (Provision 5b)	Explicitly analyzed and considered in this regulatory package (Current Package)
Provisions of the Permit- Stacking Alternative That Could Be Implemented as "Stand-Alone" Measures Limit on Number of Permits Owned (Provision 3) Extended Season Length (Provisions 5 and 9) Prohibition on At-sea Processing (Provision 6) Owner-on-board Requirement (Provision 7) Foreign Control (Provision 10)	Explicitly analyzed and considered in this regulatory package (Current Package)

The following is a more detailed description of the status quo and permit-stacking alternatives. The rationales for the provisions of the permit-stacking alternatives and impacts are provided in Section 4.1, along with discussions of the physical, biological, economic, and social impacts. Section 4.2 summarizes impacts.

2.2 Main Alternatives for Detailed Analysis

2.2.1 Status Quo (No Action) Alternative

Under status quo, there will be no changes other than those that will occur from changes in capitalization, stock size, etc., under the current management regime. Within the current short season, vessels appear to be increasing their capacity or effort to take the available cumulative limits. Comparing by tier of vessels' best years for 1994-1996 (prior to cumulative limits) to their best years for 1997-1999 (after cumulative limits were implemented) shows a concentration of harvests toward the higher levels allowed under the tier limits in the latter years (Table 1). If the short season were to be maintained, continuation of this trend will require either the reduction of cumulative limits or a reduction in season length to maintain the fishery within its allocation.

The primary limited entry, fixed gear sablefish fishery will continue under the three-tier management program, with one permit associated with each participating vessel. The following are the major topics covered under the permit stacking alternatives and, with respect to each topic, those status quo measures that could be changed by the permit-stacking alternative (depending on which permit-stacking alternative is adopted).

The Status Quo Alternative

Topic	Status Quo
Permit Stacking	Not allowed.
Accumulation	No limit on the number of permits a owner may accumulate
Season Length	A maximum season length of 10 days, with season length generally set at nine days. The season length will likely continue to shorten over time. Limited entry vessels without sablefish endorsement may not fish during the derby opening of the primary season. No advance notice of landings is required. The fishery closes at sea (vessels are required to stop pulling gear when the season closes).
At-Sea Processing	At-sea processing is permitted
Permit-Ownership/Owner-on-Board	Any legal entity allowed to own a US vessel may own a permit. Permit owners are not required to be on board their vessels during fishing operations.
Foreign Control	Any legal entity allowed to own a US vessel may own a permit.

In order for the limited entry fixed gear sablefish fishery to avoid classification as an individual quota program subject to the Magnuson-Stevens act moratorium on such programs, the duration of the fishery had to be set such that not every vessel would be able to take the available cumulative limits. This policy involved a careful balancing between cumulative limits and season durations. To avoid the individual quota classification, cumulative limits were set such that if every vessel took its full cumulative limit, the fishery would run 25% over its harvest allocation. Then, to avoid the allocation overrun, the season length was reduced to ensure that the fishery take was at or below its target. This potential overrun is termed the "overhead," and the 25% overhead level is used as the standard to distinguish current management from an individual quota program. Any harvest allocation left after the main opening of the primary season (during which vessels fish on cumulative limits based on the tiers) is taken in a mop-up fishery under which every vessel has the same cumulative limit. In December 2000, after the Council took its final action, Congress exempted the West Coast fixed gear sablefish fishery from the individual quota moratorium. However, current regulations limit maximum season length for the first opening of the primary fishery to 10 days.

The 2000 fixed gear sablefish fishery was conducted under regulations that limit permit transfers of any kind (from one vessel to another or from one individual to another) to one per 365 day period. The limit on transfers is intended to reduce effort in the groundfish fishery by tying up permits on fixed gear sablefish vessels while

those vessels participate in nongroundfish fisheries. Under regulations adopted by the Council in November 2000, transfer of a permit from one vessel to another will be limited to one transfer per calendar year. Transfer of a permit from one owner to another will not be limited, as long as that permit remains registered to the same vessel.

2.2.2 Permit-Stacking Regime Alternatives [ADOPTED]

The following are the provisions and options considered by the Council for inclusion in the limited entry fixed gear permit-stacking alternative adopted in its final action in November 2000. Where an FMP amendment is required, the related amendment language is provided in Appendix B. For many of the provisions, options have been listed. Provisions/options adopted by the Council are indicated. The permit-stacking alternatives considered by the Council comprise mixes of options that fall under the following major topics.

The Permit-Stacking alternative	
Topic	**Provision**
Permit Stacking	1–Basic Provision: Allow permit stacking 2–Gear Usage: Specify the fixed gear a vessel may use 4–Unstacking Permits: Determine whether, once stacked, permits can be unstacked 8–Stacking Non-sablefish Limits and Sablefish DTLs: Determine whether nonsablefish cumulative limits and/or sablefish DTL limits can be stacked
Accumulation	3–Cumulation Limits: Determine whether there should be limits on the number of permits a person owns and/or limits on the number of permits associated with a vessel, and if so, determine the limits
Season Length	5–Season Duration: Determine the appropriate season length 9–Opportunities for Unendorsed Vessels: Determine whether, given other aspects of the stacking alternatives, adjustments are needed to the regulations specifying fishing opportunities for limited entry vessels not endorsed for sablefish 11–Advance Notice of Landings: Determine whether, given other aspects of the stacking alternatives, advance notice of landings should be required 12–Stacking Deadline: Determine whether a deadline for stacking should be imposed and, if so, specify the deadline
At-Sea Processing	6–Processing Prohibition and Freezer Vessel Endorsement: Determine whether, given other aspects of the stacking alternatives, there should be a prohibition on at-sea processing
Permit-Ownership/Owner-on-Board	7–Individual Ownership Only and Owner-on-Board Requirement: Determine whether, given other aspects of the stacking alternatives, permit ownership should be restricted to individuals and whether the owner should be required to be on-board the vessel during fishing operations
Foreign Control	10–US Citizenship Requirement: Determine whether, given other aspects of the stacking alternatives, additional constraints should be recommended on foreign ownership of permits

Provision 1: Basic Stacking [ADOPTED]

Participants in the limited entry fixed gear (longline and fishpot) primary sablefish fishery would be allowed to register multiple fixed gear sablefish endorsed permits for a single vessel (allowed to stack permits). A vessel would be allowed to take up to the full primary season fixed gear sablefish cumulative limit associated with each permit registered to the vessel. The primary fixed gear sablefish fishery includes the current directed sablefish fishery and the mop-up fishery.

Provision 2: The Base Permit and Gear Usage

When permits are stacked, one of the permits would be designated by the vessel owner as the base permit. The base permit would be required to have a fixed gear sablefish endorsement and meet the length requirement for that vessel. Permits of different fixed gear types (longline and fishpot) could be stacked together.

Options:

2a. When fishing in the primary fixed gear sablefish fishery, the vessel must fish fixed gear sablefish with the gear endorsed on the designated base permit.

2b. When fishing in the primary fixed gear sablefish fishery, the vessel may fish fixed gear sablefish with the gear endorsed on its base permit or any fixed gear endorsed on any of its stacked permits for which the length endorsement associated with the stacked permit is equal to or greater than that of the base permit. For example, a 45-foot longline permit could be stacked with a 55 -foot fishpot permit designated as the base permit and the longline permit tier endorsement would add to the cumulative limit for the 55-foot vessel, but the vessel could only use fishpot gear. On the other hand, if both the base permit and the stacked permit had length endorsements of 55 feet or greater, then the vessel could use either longline or fishpot gear.

2c. **[ADOPTED]** When fishing in the primary fixed gear sablefish fishery, the vessel may fish with any fixed gear endorsed on at least one of its stacked permits.

[ADOPTED] Additionally, if one of the stacked fixed gear sablefish endorsed permits includes an endorsement for trawl gear and the length endorsement is equal to or greater than that of the base permit, the vessel may continue to use trawl gear, but not in the fixed gear fishery. In such a case if the permit is stacked on a vessel that is more than five feet shorter than that specified by the size endorsement for the trawl gear permit, the requirement that the trawl-endorsed permit be downsized will be waived (Section 14.2.9 paragraph 3 of the FMP), unless permits are permanently stacked as specified in Options 4b and 4c.

Note: If Option 4a is adopted, there would be no need to designate a base permit under Options 2b or 2c.

Provision 3: Limits on Stacking and Ownership

Stacking: [ADOPTED] No more than three permits may be stacked on a single vessel.

The analysis includes discussion of other permutations such as limits on stacking two and four permits..

Ownership: The number of fixed gear sablefish permits owned by an individual will be restricted to the following options:

Ownership Options:

(a) two permits

(b) **[ADOPTED]** three permits

(c) four permits, or

(d) an amount with tier limits that add-up to 5% of the total sablefish allocated to the fixed gear primary season

Exceptions would be made for individuals currently holding permits in excess of the limit. These individuals would not be allowed to accumulate more permits. *The possibility of not limiting ownership is discussed in the analysis.* An individual's ownership would be calculated by either

Calculation Suboption (a): [ADOPTED] Summing the total permits ~~(or, for ownership option (d), percent harvest represented by a permit)~~ for which an individual holds some ownership interest, regardless of how small, or

Calculation Suboption (b): Summing the individual's percent interest in each permit to determine the number of permits held (or percentage harvest held).

For the purpose of grandfathering in concentrations in excess of proposed limits, the Council ADOPTED November 1, 2000, as the date for determining maximum ownership concentration.

Provision 4: **Unstacking Permits**

Options:

4a. **Permits May Be Unstacked. [ADOPTED]** Permits that are stacked would retain their original length, gear, fixed gear sablefish and tier endorsements and could be transferred to other vessels in the future (i.e., when unstacked stacked permits would not take on the gear and length endorsement of the vessel's designated base permit when unstacked).

4b. **Permits May Not Be Unstacked and Tier Endorsements Are Not Tradeable.** When permits are stacked on a single vessel, they would be reissued as a single permit that could not be unstacked (redivided); endorsements remaining on the permit would confer the fishing opportunities specified in Provisions 1 and 2. The length endorsement would be the length endorsement on the permit designated as the base permit.

4c. **Permits May Not Be Unstacked and Tier Endorsements are Tradeable Among the Endorsed Fleet.** Same as Option 4b except that tier endorsements could be transferred separate from the permit to another permit with a fixed gear sablefish endorsement. However, at least one tier endorsement must remain with the base permit. Permits would be limited to a maximum number of endorsements as specified in Provision 3.

Provision 5: **Fishery Duration**

Options:

5a. **The fishery would extend over a number of months (the initial recommended season is April 1 through Oct. 31). [ADOPTED]** For 2001, the fishery would start as soon as possible after April 1, 2000, in order to provide time for regulations to be put in place. *There would be no preseason and postseason closures and vessels would be required to make their final deliveries prior to closure of the season. There would be no mop-up fishery. No stacking deadline would be needed (Provision 12).* ***When transfers occur midseason, the seller (lessor, etc) will be responsible for providing copies of all sablefish fish tickets landed for the year, to date; and the buyer (lessee, etc.) would have to maintain such copies aboard the vessel.***

5b. **Current Situation: The fishery would continue to be managed as a modified derby followed by a mop up.** *The current preseason and postseason closures would continue to apply and vessels would be required to cease fishing upon closure of the fishery. Permits would have to be stacked before some deadline prior to the start of the seasons in order to provide analysts and the Council sufficient time to assess and recommend appropriate cumulative limits and season durations (Provision 12). The steps would include (1) setting the allocation in November, (2) making a preliminary estimate of season lengths and limits and setting season opening date in March, (3) a deadline for stacking of May 15, and (4) final season duration and limits set in June.* (Seasons would continue to be set short enough that many vessels would be unable to fully take the allowed catch. In recent years the season duration has been slightly more than one week. Maintenance of this abbreviated fishery has been necessary to prevent the program from being classified as an individual quota program. Such programs are currently prohibited under the Magnuson-Stevens Act.)

Provision 6: **At-Sea Processing**

Note that "processing," as defined under the West Coast groundfish FMP includes such activities as freezing but **excludes heading and gutting**.

Options:

6a. **Prohibit at-sea processing.** At-sea processing would be prohibited in the fixed gear sablefish fishery except for vessels that can demonstrate the landing of at least 2000 pounds of frozen sablefish in 1998, 1999, or 2000.

6b. **Current Situation: Allow at-sea processing.** At-sea processing would be allowed in the fixed gear sablefish fishery. (Note: At-sea processing has not played a significant role in the fishery in recent years because of the short seasons in place since 1996.)

6c. **Prohibit at-sea processing but include grandfather provision. [ADOPTED]** Same as Option 6a except provide that the temporary exemption for vessels able to demonstrate frozen sablefish landings would expire with the transfer of the permit to a different owner. For corporations and partnerships, changes in ownership are defined as a change in the identity of a corporation or partnership, as specified in Provision 7.

Provision 7: **Permit Ownership and Permit-Owner-on-Board Provisions**

Options:

7a. **Permit ownership. [ADOPTED]** Fixed gear sablefish permits could be transferred only to individual human beings (corporations and partnerships and other such business entities would not be allowed to acquire permits unless they already owned permits as of November 1, 2000). The requirement that the permit be owned by an individual would not restrict other aspects of the business operation from being organized as a partnership, corporation, or other type of legal entity ~~(Also see Provision 10)~~.

Grandfathered Corporations and Partnerships. The exemption for a particular corporation or partnership allowing it to own a permit would cease with a change in the identity of that corporation or partnership, as defined below.

Permit owner on board. [ADOPTED] The permit owner would be required to be onboard the vessel during fishing operations, with the exception of those falling under the following grandfather provision.

Grandfathered Absentee Owners: Corporations, partnerships, and individuals who hold sablefish endorsed permits as of November 1, 2000 will not be required to be onboard the vessel on which the permit will be used **[THE FOLLOWING WAS STRUCK FROM THE OPTION AT TIME OF FINAL ADOPTION]** ~~, so long as they also have~~

~~(a) 20% ownership interest in the vessel (the amount of ownership required might be at least 20% (as in the North Pacific IFQ program), or~~

~~(b) 100% ownership interest in the vessel.~~

~~(c) Some other value (specify)~~

~~The percent ownership required will be decided by the Council at the time it makes its final recommendations.~~ Grandfathered absentee owners may acquire additional permits to stack with the permits they own, subject to accumulation caps, and still maintain their exemption from the owner on board provision. ***This exemption from the permit-owner on board requirement will cease if there is any change in the identity of a corporation or partnership owning the stacked permits, as defined below.***

Emergency Exemption: NMFS may grant exemptions from the permit-owner-on-board provision for medical and personal emergencies beyond the control of the permit owner.

Definition: Changes in the Identity of Corporations or Partnerships: A change in the identity of the corporation or partnership will be deemed to occur with a change in the corporate or partner membership, except a change caused by the death of a member providing the death did not result in any new members. Additionally, membership is not deemed to change if a member becomes legally incapacitated and a trustee is appointed to act on his behalf, nor is membership deemed to have changed if the ownership of shares among existing members changes, nor is membership deemed to have changed if a member leaves the corporation or

partnership and is not replaced. Changes in the ownership of publicly held stock will not be deemed changes in ownership of the corporation.

7b. Current Situation: Any business entity eligible to own a US fishing vessel may own a limited entry permit and the permit owner would not be required to be on board the vessel during fishing operations.

7c. ~~Same as 7a, except that the onboard requirement would apply only when permits are stacked.~~ (NOTE: At its September 2000 meting, the Council voted to drop this option. The option number (7c) and discussion of the option will be retained in the analytical document in order to speed the release of the final document.)

Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits

Options:

8a. **[ADOPTED]** The stacking of permits with sablefish endorsements would not allow vessels to harvest more than one cumulative limit for nonsablefish groundfish species. Under the following suboptions for the limited entry sablefish DTL fishery, stacked permits would not convey any harvest opportunity in excess of the DTLs provided for vessels that do not stack permits. Suboptions: (1) Fixed gear sablefish DTL harvest opportunities would run concurrent with and be in addition to the sablefish cumulative limits associated with sablefish endorsed permits. (2) **[ADOPTED]** A vessel with a sablefish-endorsed permit would not be allowed to fish under the fixed gear sablefish DTL regulations until after its tier cumulative limit is exhausted. (3) A vessel with a sablefish-endorsed permit would not be allowed to fish under the fixed gear sablefish DTL regulations except when the primary fishing season is closed (prior to April 1 and after October 31, under Option 5a).

8b. When permits are stacked, some credit would be provided to allow the landing of additional nonsablefish groundfish species. The suboptions for the sablefish DTL fishery are the same as for Option 8a, except that under the 8b DTL suboptions vessels with stacked sablefish permits would be entitled to additional sablefish under the DTL regulations in some proportion to the number of permits stacked.

Provision 9: Vessels without Sablefish Endorsements

Options:

9a. Current Situation: The limited entry daily-trip-limit fishery for vessels without sablefish endorsements would be closed during the primary fixed gear sablefish fishery.

9b. **[ADOPTED]** The limited entry daily-trip-limit fishery (or other sablefish harvest opportunities) for vessels without sablefish endorsements would be allowed to run at the same time as the primary fixed gear sablefish fishery.

Provision 10: US Citizenship Requirement

Options:

10a. Only individual US citizens would be allowed to acquire fixed gear sablefish permits.

10b. **[ADOPTED]** Current situation: Individual human beings and other legal entities eligible to own a US fishing vessel may acquire fixed gear sablefish limited entry permits.

Provision 11: Advance Notice of Landing

Options:

11a. When making landings under stacked permits, fishers would be required to provide six hours' prior notice.

11b. Current situation. No advance notice is required.

11c. **[ADOPTED]** All limited entry fixed gear sablefish fishers would be required to provide six hours' notice when making landings during the primary season. As part of this advance notice, fishers may be asked to provide hail weights and location of landing.

Provision 12: Stacking Deadline (Required Only in Conjunction with Option 5b)

At its November 2000 meeting, the Council adopted Option 12b as a fall back in case an extended season (Option 5a) could not be implemented due to the IFQ moratorium. In December 2000, Congress exempted the West Coast fixed gear sablefish fishery from the IFQ moratorium. Provision 12 would not be needed under the Council recommended option.

Options:
- 12a. Fishers would be required to declare their intent to stack by June 30 in the year 2001 and by January 15 in all subsequent years; or
- 12b. **[ADOPTED]** All permit stacking would have to occur by June 30 in the year 2001 and by **May 15** in all subsequent years.
- 12c. Current situation: No notice of intent to stack would be required.

Options 12a and 12b are necessary only if a short season is to be maintained (Option 5b). For 2001, the final set of alternative season durations and cumulative limits will not be available until after the June Council meeting. A process will need to be established to allow NMFS to make the final determination of season duration and cumulative limits. This would be similar to the process established for setting the cumulative limits for the mop up that follows the initial opening of the primary fishery.

2.2.3 Non-stacking Modifications to the Primary Fixed Gear Sablefish Fishery

Any mix of the following provisions could be adopted independent of permit stacking. The provisions and options are described in detail under the permit-stacking alternatives in Section 2.2.2.

The Permit-Stacking alternative	
Topic	**Provision**
Accumulation	3–Cumulation Limits: Determine whether or not there should be limits on the number of permits a person owns
Season Length	5–Season Duration: Determine the appropriate season length 9–DTL Opportunities for Unendorsed Vessels–Determine whether, given the proposed season duration, adjustments are needed to the regulations specifying sablefish fishing opportunities for limited entry vessels not endorsed for sablefish
At-Sea Processing	6–Processing Prohibition and Freezer Vessel Endorsement: Determine whether there should be a prohibition on at-sea processing
Permit-Ownership/Owner-on-Board	7–Individual Ownership Only and Owner-on-Board Requirement: Determine whether permit ownership should be restricted to individuals and whether the owner should be required to be on-board the vessel during fishing operations
Foreign Control	10–US Citizenship Requirement: Determine whether additional constraints should be recommended on foreign ownership of permits

2.3 Decision Procedures

2.3.1 Required Procedures

Under the groundfish FMP, the proposal to allow the stacking of permits would likely be considered an allocative measure and therefore has to meet the requirements of Section 6.2.3 of the FMP (the socio-economic framework) and requires that the full rulemaking procedures be followed (Section 6.2[D] of the FMP) and/or the procedures for amending an FMP. These procedures require that analytical documents be developed, approved by the Council and released for public review prior to a final decision (see Appendix D for a more detailed description of the requirements).

The following table identifies which actions to implement the stacking alternatives require plan amendments and which require regulatory amendments. The no-action-needed column indicates that the specified option is part of the current regulations. Where a plan amendment is required, specific language is provided in Appendix B. **Bold italics indicate options selected by the Council on final adoption.**

Provision	No Action Needed (Provision/ Option)	Plan Amendment Required (Provision/Option)	Regulatory Amendment Required	
			Provision/Option	Authorizing Framework Language
1 Basic Stacking			***1 Basic permit stacking (stacking of tiered sablefish cumulative limits for the primary fixed gear sablefish fishery)***	FMP Sec 14.2.4, para 3
2 Base Permit and Fixed Gear Usage		***2 and 4a, Waiver of downsizing requirement for trawl vessels (FMP Sec 14.2.7 and 14.2.9 para 3).***	2a Gear is that on base permit 2b Gear is that on any stacked permit with sufficient length endorsement ***2c Gear is that on any stacked permit***	FMP Sec 14.2.4, para 3
3 Limits on Stacking and Permit Ownership			Stacking Limit: ***3 permit stacking limit*** Permit Ownership Limit: (a) 2 permits, ***(b) 3 permits,*** (c) 4 permits, (d) 5%. Ownership Calculation: ***(a) partial ownership of a permit counts as full ownership of the permit,*** (b) sum ownership percentages to determine total ownership	FMP Sec 14.2.4, para 3
4 Unstacking Permits		4c Permits may **not** be unstacked but tier endorsements are tradeable (FMP Sec 14.2.6, para 4)	***4a Permits may be unstacked*** 4b Permits may **not** be unstacked	FMP Sec 14.2.4, para 3
5 Fishery Duration	5b		***5a April 1-Oct 31 Fishery*** 5c Shorter fishery for vessels that stack	FMP Sec 6.2.2
6 At-Sea Processing	6b		6a At-sea freezing is prohibited ***6c At-sea freezing is prohibited except for vessels grandfathered in***	FMP Sec 6.2.3
7 Owner-on-Board	7b	***7a Owner-on-board required except for those grandfathered in (FMP Sec 14.2.12).*** ***7a*** and 7c ***Grandfather provision (FMP Sec 14.2.4 para 3)***	7c Owner-on-board requirement applies only when permits are stacked	FMP Sec 14.2.4, para 3
8 Non-sablefish Limits and Sablefish DTLs			***8a Specify how daily trip limit regulations will apply to vessels taking part in the extended primary fishery (Option 5a)*** 8b Provide some credit to allow retention of additional nonsablefish species and sablefish taken under DTL regulations when permits are stacked	FMP Sec 14.2.4, para 3

Provision	No Action Needed (Provision/ Option)	Plan Amendment Required (Provision/Option)	Regulatory Amendment Required	
			Provision/Option	Authorizing Framework Language
9 Season for Vessels without Sablefish Endorsements	9a	***9b Allow unendorsed vessels to fish sablefish under regulations for unendorsed vessels during the primary fishery (FMP Sec 14.2.6 para 1 and 14.2.8 para 6)***		
10 US Citizenship Requirement	***10b***	10a Limit permit owners to US citizens (FMP Sec 14.2.4 para 1)		
11 Advance Landing Notice	11b		***11a Advance landings notice required***	FMP Sec 6.2.2
12 Intent to Stack Declaration	12c		12a or 12 b, Notice of intent to stack required	FMP Sec 6.2.2

Note: See Appendices C and D for the text of the authorizing groundfish FMP language.

2.3.2 Council Process

The Council's consideration of this restructuring of the limited entry fixed gear fishery regulations was conducted in an open process with ample public notice of the alternative actions and issues being considered. Permit stacking would implement a kind of IFQ program. IFQ programs for the fixed gear sablefish fishery have been under consideration since 1991 when development of Amendment 8 (never adopted) was initiated. Provisions for such owner-on-board requirements and limits on total ownership were part of Amendment 8. Fixed gear permit stacking has been discussed frequently at Council meetings since 1998 and is a policy recommended for consideration in the Groundfish Strategic Plan sent out for public review in June 2000 and adopted by the Council at its September 2000 meeting. At its June 2000 meeting, the Council made consideration of permit stacking a high priority, and at its September 2000 meeting, approved the draft options and analysis for public review. Final action was taken at the Council's November 2000 meeting. A public hearing on the issue and analysis was held during the Council meeting.

3.0 DESCRIPTION OF THE FISHERY AND AFFECTED ENVIRONMENT

The purpose of this section of the document is to describe the existing fishery and the resources affected by the action, including all relevant physical, biological, social, and economic features of the human environment. The physical environment is addressed in Section 3.1, the biological characteristics of the groundfish stocks and a description of other species affected by the fishery are addressed in Section 3.2, and the human (socio-economic) environment is addressed in Section 3.3.

3.1 Physical Environment

Sablefish (*Anoplopoma fimbria*) is a component of the groundfish fishery that occurs in the US EEZ from three to 200 nautical miles off the coasts of Washington, Oregon, and California (WOC). The offshore ocean comprises a diverse habitats, including rocky and non-rocky shelf regions, deep submarine canyons, and continental slopes and basins. A comprehensive description of the essential fish habitats in the WOC region can be found in Amendment 11 to the Pacific Coast Groundfish Fishery Management Plan and the final Environmental Assessment/Regulatory Impact Review prepared for that amendment.

Sablefish are abundant in the north Pacific, from Honshu Island, Japan, north to the Bering Sea, and southeast to Cedros Island, Baja California. Large adults are uncommon south of Point Conception. In the north Pacific,

sablefish is considered an inner-continental shelf-bathybenthal species. Adults are found as deep as 1,900 m, but are most abundant between 200 and 1,000 m. Survey data for the north Pacific indicate that almost all sablefish were taken at depths <700 m. However, off southern California, sablefish were abundant to depths of 1500 m.

3.2 Biological Environment

3.2.1 Sablefish

This document deals with the fixed gear sablefish fishery north of 36°N latitude to the US-Canada border (the Monterey through US-Vancouver management areas). This area is also referenced as the area north of the Conception management area. Life history and habitat needs for sablefish under the groundfish FMP are detailed in the EFH Appendix to Amendment 11, which is available online at http://www.nwr.noaa.gov/1sustfsh/efhappendix/page1.html.#3.0

As a deepwater species, sablefish is commonly caught in the trawl fisheries with Dover sole, longspine thornyheads, and shortspine thornyheads. In the longline fisheries, sablefish is commonly caught with continental shelf and slope rockfish.

Sablefish compete with many other co-occurring species for food, mainly Pacific cod and spiny dogfish. Sablefish larvae prey on copepods and copepod nauplii. Pelagic juveniles feed on small fishes and cephalopods (mainly squids). Demersal juveniles eat small demersal fishes, amphipods, and krill. Adult sablefish feed on fishes such as rockfishes and octopus. Larvae and pelagic juvenile sablefish are preyed heavily upon by sea birds and pelagic fishes. Juveniles are eaten by Pacific cod, Pacific halibut, lingcod, spiny dogfish, and marine mammals, such as Orca whales.

The 2001 Acceptable Biological Catch (ABC) for the area north of the Conception management area (7,661 mt) is based on an F45% fishing rate. The total catch OY (6,895 mt) is based on the Council's "40-10" harvest policy, in which stocks at abundances less than 40% of the estimated unfished biomass are managed more conservatively than those at abundances greater than 40% of the estimated unfished biomass. This stock is estimated to be at 37% of its unfished level, but there is substantial uncertainty in the biomass estimate. (For further discussion of the "40-10" policy, see Amendment 11 to the FMP.)

Sablefish ABCs for recent years north of Conception, metric tons.								
1993	1994	1995	1996	1997	1998	1999	2000	2001
7,000	7,000	7,000	8,700	8,700	5,200	9,692	9,692	7,661

In 2000 and prior years, an estimate of 10% discard had been taken off the top of the sablefish total catch OY before allocating the remaining catch between sectors. For 2001 fisheries, the Council recommended first allocating the total catch OY between fishery sectors, and then applying sector-appropriate discard rates to each sector. Tribal sablefish longline fisheries[1/] were allocated 10% of the total catch OY (690 mt), and then were discounted 3%of that allocation for discard mortality, for a landed catch allocation of 669 mt. Tribal sablefish fisheries occur primarily in the spring, separate from the non-tribal fisheries for sablefish. The remaining 90% (6,205 mt) of the total catch OY was discounted 24 mt for research, then divided between the open access (9.4% of the non-tribal OY, or 581 mt) and limited entry fisheries (90.6% of the non-tribal OY, or 5,600 mt). There is little to no recreational fisheries interest in sablefish.[2/] Open access sablefish fisheries are primarily hook-and-line daily trip limit fisheries, with an estimated discard rate of 8%, making the open access landed catch allocation 535 mt. The limited entry allocation is divided between the trawl sector (58%, or 3,248 mt) and the fixed gear sector (42% or 2,352 mt). Data from the 1995-1998 Oregon Department of

1/ Washington coast treaty tribes (Makah, Quileute, Hoh, and Quinault).

2/ Sablefish are not commonly fished recreationally, mostly because they live at depths too great for most kinds of recreational fishing gear.

Fish and Wildlife Enhanded Data Collection Program (EDCP) provided a trawl sector discard estimate of 22%, reducing the trawl landed catch allocation to 2,533 mt. Historically, the limited entry, fixed gear fishery has landed most of its sablefish in a brief derby with few sablefish discard opportunities, similar to the tribal sablefish fisheries. Thus, the limited entry, fixed gear sablefish discard estimate is also 3%, reducing the allocation for that sector to 2,281 mt. The Council agreed to revisit the discard rate for this fishery if a longer season were adopted for 2001.

Within the limited entry fixed gear catch allocation (2,281 mt), 85% of the allocation is reserved for the primary fishery (regular derby + mop-up) and 15% is reserved for the daily trip limit fisheries. These fixed gear fisheries and their management are described below. There is no allocation between open-access, limited entry trawl, and limited entry nontrawl gear in the Conception area.

3.2.2 Endangered Species

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the groundfish fishery on chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal, Oregon coastal), chum salmon (Hood Canal, Columbia River), sockeye salmon (Snake River, Ozette Lake), steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south-central California, southern California), and cutthroat trout (Umpqua River, southwest Washington/Columbia River). The biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS has re-initiated consultation on the Pacific whiting fishery associated with the Biological Opinion issued on December 15, 1999. During the 2000 whiting season, the whiting fisheries exceeded the chinook bycatch amount of 11,000 specified in the Biological Opinion's incidental take statement's estimates by approximately 500 fish. The re-initiation will focus primarily on additional actions that the whiting fisheries would take to reduce chinook interception, such as time/area management. NMFS expects that the re-initiated Biological Opinion will be complete by May 2001. During the re-initiation, fishing under the FMP is within the scope of the December 15, 1999, Biological Opinion, so long as the annual incidental take of chinook stays under the 11,000 fish bycatch limit. The biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. This action is within the scope of these consultations.

3.2.3 Marine Mammals

Under the Marine Mammal Protection Act (MMPA), marine mammals whose abundance falls below the optimum sustainable population level (usually regarded as 60% of carrying capacity or maximum population size) can be listed as "depleted." Populations listed as threatened or endangered under the ESA are automatically depleted under the terms of the MMPA. Currently the Stellar sea lion population in the WOC is listed as threatened under the ESA and the fur seal population is listed as depleted under the MMPA. Incidental takes of these species in the Pacific coast fisheries are well under the annual Potential Biological Removal (PBR) levels.

Section 118 of the MMPA requires that NMFS publish, at least annually, a list of fisheries that places all US commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals in each fishery. Definitions of the fishery classification criteria for Category I, II, and III fisheries are found in the implementing regulations for Section 118 of the MMPA (50 CFR part 229). Under the MMPA, the WOC groundfish fisheries are considered a Category III fisheries where the annual mortality and serious injury of a marine mammal stock by the fishery is less than or equal to 1% of the PBR level.

3.2.4 Seabirds

Impacts of human activities on seabirds occur through direct mortality from 1) collisions with vessels, 2) entanglement with fishing gear, 3) entanglement with discarded plastics and other debris, and 4) shooting. Indirect impacts include 1) competition with fisheries for food, 2) alteration of the food web dynamics due to commercial and recreational removals, 3) disruption of avian feeding habits resulting from dependency on fish wastes, 4) fish-waste-related increases in gull populations that prey on other bird species, and marine pollution and changes in water quality.

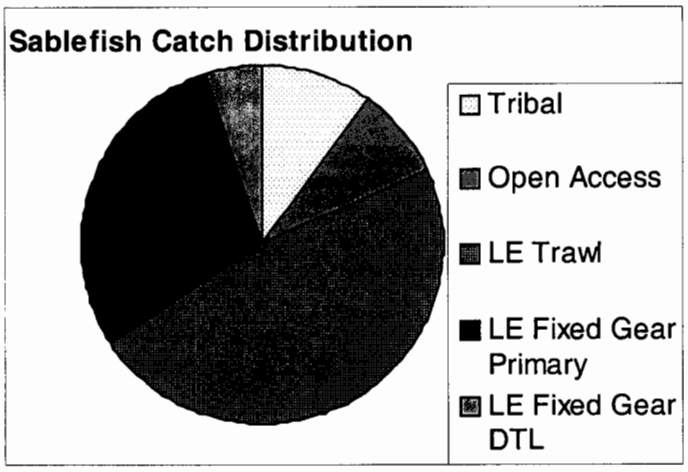
Seabirds are caught incidentally to all types of fishing operations, but the vulnerability of bird species to gear types differ with feeding ecology. Fishing gear used in the groundfish fishery includes trawl, hook-and-line, pot, and setnet. Hook-and-line gear occasionally catches surface-feeding seabirds that are attempting to capture bait as the line is being set; some birds are caught on hooks and drown. Trawl gear appears to catch surface-feeding and diving birds that are feeding and scavenging while the net is being hauled. Pot gear does not commonly catch birds, though there are rare reports of dead diving and surface-feeding birds connected with pot gear. Setnet gear, which is legal only in certain California waters, has also been documented to adversely effect seabirds (Wohl et al. January, 1998).

3.3 Human (Socio-Economic) Environment

3.3.1 Affected Fisheries

Sablefish supports an important commercial fishery off the West Coast. Bottom trawling, fishpots (traps), and longlines have been the primary methods of capture. Sablefish are not commonly fished recreationally, mostly because they live at depths too great for most kinds of recreational fishing gear.

The vast majority of the groundfish fishery is managed under a license-limitation program. There are approximately 274 limited entry permits for trawl vessels and 230 permits for fixed gear vessels (Table 2). Of the 230 fixed gear permits, 32 have fishpot gear endorsements and 202 have longline endorsements (four permits are endorsed for both gears). Of the 230 fixed gear permits, 164 received sablefish endorsements under Amendment 9 to the groundfish FMP, including all 32 permits for which fishpot endorsements are held.



The proposed management measures that would be implemented by Amendment 14 primarily affect the limited entry, fixed gear sablefish fishery. Other fleets that take sablefish, mentioned above, would be minimally affected by Amendment 14. The major effect that the limited entry, fixed gear primary fishery has on other gear and interest groups is that the short fishery period overloads the market with sablefish during and directly after the primary fishery. Sablefish harvesters who do not participate in this fishery try to schedule their own sablefish deliveries so that they are not affected by the drop in sablefish prices that results from the primary fishery market glut. One of the major fisheries that affects the primary sablefish season is the at-sea whiting fishery, which begins May 15 and may extend into August or September. Whiting catcher-processors or motherships that process whiting at sea will discard whiting offal during processing. This at-sea whiting processing can interfere with directed sablefish fisheries because sablefish will feed on whiting offal rather than on baited hooks and pots. Under an extended season, fixed gear sablefish harvesters could time their fishing activities to avoid grounds conflict with the at-sea whiting processors. There may be indirect impacts on other fisheries if the proposed measures cause vessels to leave the limited entry fixed gear sablefish fishery (giving up their permits) and search for opportunities in other fisheries.

3.3.2 History of Management

The sablefish harvest was first divided between trawl and other gears in 1987. From 1987 through 1996, the nontrawl fleet (primarily fixed gear) took most of its sablefish allocation in an unrestricted, open competition fishery. In the early years of this unrestricted fishery, most of the sablefish target fishing occurred in the spring and summer, with the season beginning in January and closing at the end of the summer. The Council used season length restrictions to prevent the fishery from going over its quota. The Council managed the nontrawl allocation so that there was just enough sablefish available for bycatch to other fisheries in the months after the closure of the unrestricted, primary fishery, available as trip limits of 250-500 lb.

Over time, new entrants were attracted to the nontrawl sablefish fishery as a consequence of rising prices and restrictions in other fisheries such as salmon. In 1994, the Pacific Coast groundfish limited entry plan (Amendment 6 to the FMP) went into effect controlling access to the vast majority of the groundfish harvest for trawl, longline, and fishpot vessels. For sablefish, after setting aside 10% for the tribes, 90.6% was allocated to the limited entry fishery to be split 42% to groundfish trawl gear and 58% to fixed gear vessels (longline and fishpot). The remaining 9.4% was allocated to the open-access fishery to be taken by exempted gears (including longline and fishpot vessels without permits). Although the limited entry program limited the number of participants for much of the groundfish fishery, it did not address the problem of the increasingly frenetic primary sablefish fishery. In fact, many fishers who had qualified for limited entry permits based on landings of groundfish other than sablefish began to turn to sablefish to supplement and then support their incomes.

Limited entry fixed gear sablefish allocations, 1995-2001 (mt).

1995	1996	1997	1998	1999	2000	2001
2,754	2,754	2,754	1,652	2,516	2,430	2,352

In 1995, the regular fishery had shortened to a derby of seven days in duration. A derby fishery is a short, intense open competition with no trip or cumulative landings limits. The history of this fishery had followed the classic pattern of unrestricted fisheries, with intensifying effort by each participant and by the fleet as a whole, leading to a brief season when the fleet landed the bulk of the year's allocation in just a few days. The only trip limit during the open competition of the derby fishery was for small sablefish less than 22 inches (56 cm) in length. Beginning in 1996, the Council separated the primary season into a "regular" season of short duration and no cumulative limits, and a cumulative limit "mop-up" season to take any quota not taken in the regular season. The fishery lasted only five days in 1996. Bycatch opportunities were allowed outside of the regular and mop-up seasons in a daily trip limit fishery. The daily trip limit fishery allows small and incidental sablefish harvesters to take sablefish up to a certain daily limit (usually 300 lb) and up to a cumulative monthly or two-month limit.

Immediately following its 1991 decision to recommend a license limitation program (implemented in 1994), the Council began work on an IQ program for the fixed gear sablefish fishery. An IQ program (or Individual Fishing Quota, IFQ program) is an allocation "of fish harvesting quotas to individuals or firms, specifying that a certain amount of fish or shellfish of a certain species may be caught in a specific area within a given time frame" (NRC, 1999). An individual participant in an IQ or IFQ program would hold "quota shares," a percentage or quantity share that is a part of the overall allocation of the managed species. The Council's 1994 draft IQ program was intended as Amendment 8 to the FMP. Council discussions on Amendment 8 were long and divisive, mainly because the Council could not get agreement from within the industry on how heavily catch history should be weighted in calculating initial quota shares. After several delays, the Council postponed action on Amendment 8 partly because of the controversy of the program, and partly in response to a request to do so from some members of Congress. This congressional intervention into policies specific to the West Coast was followed by nationwide moratoriums on IQ programs, first in NOAA funding legislation and then in the 1996 reauthorization of the Magnuson-Stevens Act.

Although the Council could not implement an IQ program, it still had to address the safety problems of the derby-style regular fishery. To reduce potential participation in that fishery, the Council first crafted a sablefish endorsement program (Amendment 9 to the FMP) that restricted participation in the fishery to permit owners

meeting a minimal historic landings level (16,000 lb in any one year between 1984 and 1994). There are currently 230 limited entry, fixed gear permits, 164 of which have sablefish endorsements. Within the limited entry, fixed gear fleet, all 32 of the pot permits (including 4 combination pot and longline permits) have sablefish endorsements and 132 of the 198 longline permits have sablefish endorsements. Sablefish endorsements were first required for the 1997 fishery.

Even with the sablefish endorsement, the fishery was expected to shorten to as few as three days in 1997. Therefore, in order to lengthen the season, equal limits were imposed on all qualified participants (sablefish endorsement holders). However, the extent to which the season could be lengthened was limited because a fishery would have been created in which a limited class of participants each had an amount of fish they would be allowed to harvest. This regulatory system would have been classified as an individual quota program. In the 1996 re-authorization of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Congress had included a moratorium on implementation of new IQ programs through October 1, 2000. The moratorium was interpreted to cover any program that would allow a vessel ample time and opportunity to catch a limit allocated specifically to that vessel. The moratorium has forced the Council to manage the primary season to a short duration that prevents many participants from fully taking their vessel-specific limits (a "modified derby"). To further assure that the cumulative limits would not be an IQ program, regulations were established to set a maximum season length of 10 days. Equal cumulative limits were viewed by the Council has being extraordinarily reallocative in nature, but for 1997 equal limits were the only option available to lengthen the season and begin to address safety issues.

At this time there was also increasing competition in the daily trip limit fishery. To prevent the increasing harvest early in the year from continuing to erode the primary fishery, the Council set aside 15% of the limited entry fixed gear allocation for the sablefish daily trip limit fishery with the remaining 85% going to the primary fishery.

The inequitable allocation system created by the equal cumulative limits was partially resolved with the "three-tier system that was established by regulatory amendment for 1998 and beyond. Under this system, sablefish endorsement holders were ranked into three different tiers based on their permit histories, with the lowest tier having the lowest qualification requirements and being allocated the lowest amount of fish per vessel.

3.3.3 Management Under the Three-Tier Program

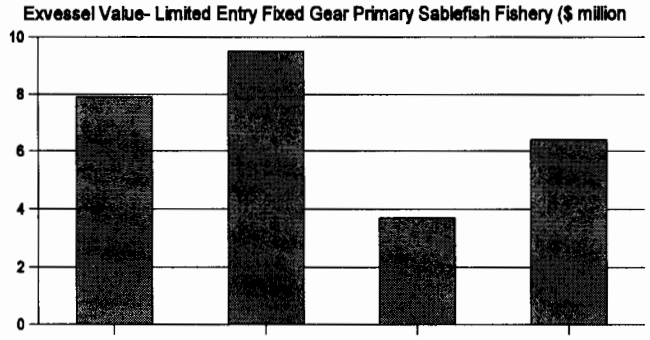
Annual management of the three-tier cumulative limit system requires that the fishery allocation be divided such that there are three different cumulative limits for the different tiers. Cumulative limits for the vessels in each tier (Tiers 1, 2, and 3) are set with the ratio 1:1.75:3.85, respectively (Table 3). The lowest tier is Tier-3, for which 94 vessels qualified; the next tier is Tier-2, for which 43 vessels qualified; and the highest tier is Tier-1 for which 27 permits qualified. In 2000, the cumulative limits for the tiers were: Tier-3 21,000 pounds; Tier-2 37,000 pounds; and Tier-1 81,000 pounds.

Even under the three-tier system, the fishery has been managed as a modified derby to avoid classification as an individual quota program subject to the Magnuson-Stevens Act moratorium on such programs. Because of the moratorium, since 1997 cumulative limits have been set such that if every vessel took its full cumulative limit, the fishery would run 25% over its harvest allocation. To avoid the allocation overrun, the season length is then reduced to ensure that the fishery take is at or below its target. This potential overrun is termed the overhead and the 25% overhead level is used as the standard to distinguish current management from an individual quota program. The result is the modified derby in which some vessels are constrained by the cumulative limits and others by the season duration. Thus, for many vessels the seasons have continued to be too short to allow fishers to operate with care and safety. The short seasons are believed to result in accidents caused by fisher fatigue and financial pressure to fish and transit under unsafe conditions.

The Magnuson-Stevens Act moratorium on new individual quota programs expired October 1, 2000. On December 21, 2000, Public Law 106-553, an appropriations bill for the NOAA, contained a continuation of the IQ moratorium through October 1, 2002, and an exception to that moratorium for a permit-stacking program in the West Coast fixed gear sablefish fishery.

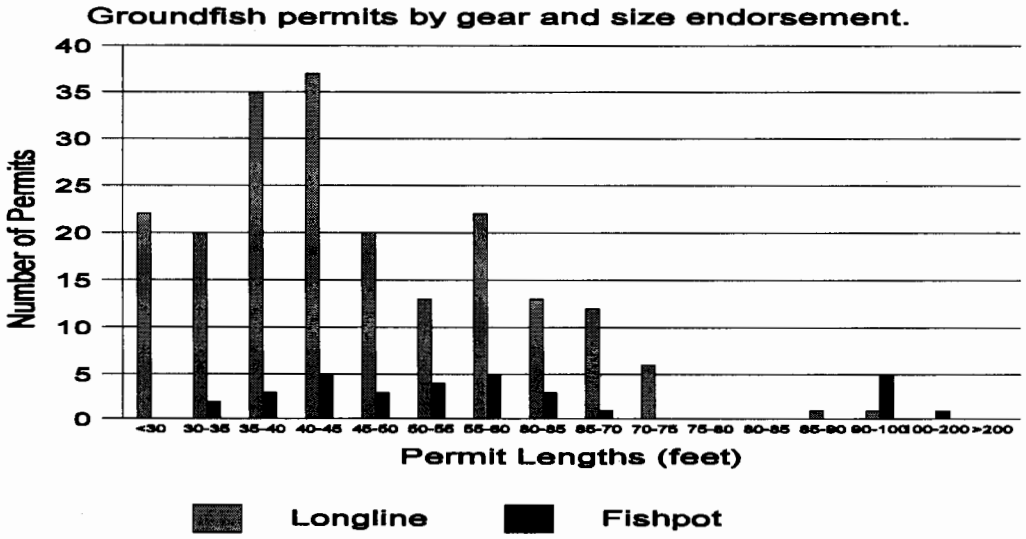
3.4 The Limited Entry Fixed Gear Fleet

3.4.1 Exvessel Value of Landings



The exvessel value of the primary fixed gear sablefish fishery has varied substantially in recent years. The lowest recent value occurred in 1998 when both the allocation to the fishery and the exvessel prices were down (Table 4).

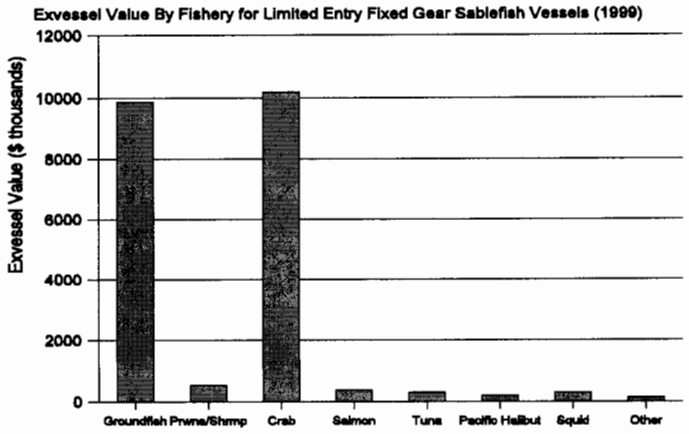
3.4.2 Vessel Length, Gear, and Sablefish Endorsements



Fixed gear vessels appear to have a somewhat bimodal length distribution with both longline and fishpot gear vessels having modes in the 40- to 45-foot and 55- to 60-foot categories (see accompanying bar graph and Table 2).

All 32 limited entry pot vessels are endorsed for sablefish, whereas 66 of 202 longline permits are not (Table 2). Most of the sablefish- endorsed pot vessels qualified for Tier-1 endorsements and most of the sablefish-endorsed longline vessels qualified for Tier- 3 endorsements. Tier-1 fishpot vessels appeared to be distributed among a variety of length categories while Tier-1 longline endorsements tended to be for 55- to 65-foot vessels. Tier-2 longline endorsements appeared to be relatively evenly distributed among length categories, while Tier-3 longline permits appeared to be concentrated in the 35- to 50-foot range (Table 5, at the end of the report).

3.4.3 Seasonal Cross-Fishery Participation by Sablefish-Endorsed Vessels



In addition to groundfish species, sablefish-endorsed vessels also rely on crab followed in order by prawns/shrimp, salmon, tuna, squid, and halibut (Table 6, at the end of the report). After crab and tuna, "Other" is the next most important nongroundfish fishery in Washington. After crab and prawns/shrimp, squid is the next most important nongroundfish category in California. In terms of volume of landings by weight, squid was the second largest category in California in 1999 (Table 7). These values are based on West Coast landings receipts (see bar graph to the right). Landings by West Coast vessels in other regions, such as Alaska, are not included.

The crab fishing starts in December and tails off in January (Table 8). The salmon fishery tends to peak in the late spring, the shrimp/prawn fishery peaks in the late spring/early summer, Pacific halibut is primarily a July fishery, tuna tends to be a late-summer fishery, depending on when the fish show up. The squid fishery has tended to be highly variable of the last three years.

3.4.4 Permit Ownership and Participation in the Current Fishery

The current fishery is generally characterized by individual owner-operator fishing operations.

The limited entry fixed gear fleet was surveyed in 1997. Of 234 fixed gear permit owners, 133 responded to the survey for a response rate of 57%. During the 1995 and 1996 derby fisheries, 82% and 84% of permit owners who responded to the survey said they were on board their vessels 100% of the time. During the 1996 mop-up fishery , 76% of responding owners were on-board 100% of the time, and during other fixed gear groundfish fisheries in 1996, 75% of the owners were on-board 100% of the time. Between 13% and 15% of responding permit owners were never on board their vessels for the derby fisheries; 20% were never on-board for the mop-up fishery; and 17% were never on-board for other fixed gear groundfish fisheries. In the responding group, 64% of the permits were owned by single individuals (including single individuals organized as Chapter S Corporations) and 28% of the permits held by respondents were held jointly by two individuals. The remaining 8% of the permits were owned by three or four individuals. If the respondents are representative of the fleet, 92% of the limited entry fixed gear permits on the West Coast are held by single individuals or partners.

An examination of a 1999 list of permit owners from the limited entry office showed 36 of the 164 sablefish endorsed permits are held under business names and 45 permits were held in the name of two individuals (the vast majority of whom appeared to be husband and wife). The remaining 83 permits were owned under the name of an individual. It is possible that some in some cases - where only one individual is listed as an owner- the individual is organized as a Chapter S corporation.

3.4.5 Leasing of Permits

Option 7a effectively prevents the leasing of permits. A recent examination of permit files at the limited entry office showed that 59 of 164 permits were leased out for the 1999 fixed gear sablefish season. Based on the names on the leases, six appeared to be leases between different legal entities within the same fishing business, and five of the leases appeared to be between family members. There was at least one instance where permits appeared to have been exchanged between fishers through the use of a lease and at least one situation where the same individual leased out the permit he owned and leased another permit. There were 14 business names listed as lessors and 15 business names listed as lessees (based on data provided by the NMFS NWR Limited Entry Permit Office). In mid-2000, 45 permits were leased out.

For its income, the limited entry fixed gear sablefish fleet relies, in order, on sablefish, crab, other groundfish, halibut (West Coast and Alaska), tuna, and other species (based on West Coast landings receipts, excluding Alaska landing). The contribution of tuna to fleet income has depended on its availability of tuna and the timing of the primary opening of the limited entry fixed gear sablefish season.

3.5 Sablefish Buyers

There are numerous buyers of fixed gear sablefish (Table 9) but only a few are large buyers. Large buyers tend to handle sablefish in large proportions compared to other species handled. There are multiple buyers in every port area except Ilwaco and Bodega Bay (Table 10).

3.6 Coastal Fishing Communities

In 1999, the port areas with the greatest exvessel revenue from the primary fixed gear sablefish fishery were northern Puget Sound, Astoria, Newport, and Coos Bay (Table 10). In the early 1990s, some smaller ports showed significant dependence on sablefish (Neah Bay, La Push, Florence, Winchester Bay, Port Orford, Gold Beach, and Newport Beach, Figure 1).[3/] In Washington, the ports that serve as primary ports for the most sablefish-endorsed vessels are Westport, Bellingham, and Port Angeles (Table 11). In Oregon, the ports that serve as primary ports for the most sablefish-endorsed vessels are Astoria, Westport, Bellingham, and Port Angeles. In California, the ports that serve as primary ports for the most sablefish-endorsed vessels are Crescent City, Eureka, Fort Bragg, San Francisco, and Moss Landing. By region, the most Tier-1 endorsements are concentrated along the northern and southern Oregon coast and Tier-3 permits tend to be concentrated along other areas of the coast to the north and south (Table 3). The greatest excess capacity also appears to be concentrated along the Oregon coast (Table 3).

4.0 IMPACT ANALYSIS

An environmental assessment (EA) as described by the National Environmental Policy Act (NEPA) of 1969 is used to determine whether a proposed action will result in significant impact on the human environment. If the action is determined not to be significant based on an analysis of relevant factors, the EA and resulting finding of no significant impact (FONSI) will be the final environmental documents required by NEPA. If the analysis concludes that the proposal is a major federal action significantly affecting the human environment, an environmental impact statement (EIS) must be prepared. This section of the document also provides (1) an analysis to meet the requirements for a fishery impact statement (as required under the Magnuson-Stevens Act), (2) a regulatory impact review to meet the requirements of the EO 12866, and (3) the information on small business impacts for the purpose of meeting the requirements of the Regulatory Flexibility Act. Other public laws addressed in this document include the Endangered Species Act (Section 6.3) and the Marine Mammal Protection Act (Section 6.4).

3/ Note the Newport Beach is outside of the scope of this management action.

The following analysis uses scientific and analytic methods to compare each management provision and the alternatives. The probable effects of each provision on the physical, biological, social, and economic environments are addressed to the extent possible. The biological and economic impacts of the stacking provisions may vary depending on the amount of stacking that would actually occur. In many areas, the lack of fishery and economic data limited the analysis to a qualitative discussion.

The biological and economic impacts of the stacking options may vary depending on the amount of stacking that would actually occur. The more constraints placed on stacking, the less stacking is likely to occur. Examples of such constraints include limits on the number of permits which can be stacked (Provision 3), requiring permits to be permanently stacked (Provision 4) and requiring the permit-owner to be on-board provision (Provision 7). Stacking is substantially more likely with an extended season (Option 5a, the Council's preferred option) than with continuation of shortened seasons (Option 5b) under which there is a greater risk that a vessel may not be able to fully take the harvest allowed by its stacked permits. Ultimately, the magnitude of permit stacking effects is highly uncertain given the difficulties in predicting the number of permits that are likely to be stacked (Appendix A). Prediction of the number of permits that might be stacked and the geographic areas where stacking is more and less likely would require detailed information about fish harvesting firms' cost structures, not only in the sablefish fishery but also in all other fishing and income producing opportunities available to the firm. The vessel operators' areas of fishing expertise and, more broadly, the opportunity costs of the owners and operators are important determinants of which firms are likely to stack.
The first part of the analysis assesses the impacts of the permit-stacking provisions, provision by provision (Section 4.1), then impacts are summarized in Section 4.2 by type: physical, biological, and social and economic.

4.1 General Description, Rationale, and Impacts of the Options

4.1.1 Provision 1: Basic Stacking

Participants in the limited entry fixed gear (longline and fishpot) primary sablefish fishery would be allowed to register multiple fixed gear sablefish endorsed permits for a single vessel (allowed to stack permits). A vessel would be allowed to take up to the full fixed gear sablefish cumulative limit associated with each permit registered to the vessel. The primary fixed gear sablefish fishery includes the current directed sablefish fishery and the mop-up fishery. The target harvest for the primary fishery is 85% of the limited entry fixed gear sablefish allocation.

Rationale

Background on the groundfish limited entry program, sablefish endorsements, tiered cumulative limits, and the primary fixed gear sablefish fishery is provided in Sections 1.1 and 3.3. Groundfish permit owners must identify, to the NMFS limited entry office, the vessel with which a permit is to be used (register the permit for use with a particular vessel). For most of the groundfish fishery, cumulative limits are associated with the vessel, not with the permit. The basic stacking provision would associate the fixed gear sablefish cumulative limit for the main opening of the primary sablefish fishery with the permit and allow more than one permit to be registered for use with a vessel. The fixed gear sablefish cumulative limit for the main opening of the primary fishery would be the cumulative limit determined by the tier for which the permit is endorsed (see Section 3.3.3). Thus a single vessel would be allowed to harvest the cumulative limits associated with a number of permits (i.e., permits would be "stacked" on a single vessel and, for the main opening of the primary fixed gear sablefish fishery, the vessel would be allowed to harvest the cumulative limits associated with each permit). Cumulative limits for the mop-up portion of the primary fishery would continue to be on a per-vessel basis rather than a per- permit basis (i.e., cumulative limits would not be stacked for the mop-up fishery). A mop-up fishery will only occur if the Council continues to manage using the modified derby (Option 5b).

Permit stacking would facilitate a certain amount of voluntary fleet reduction in the West Coast limited entry fixed gear groundfish fishery. Fishers would voluntarily arrange among themselves for multiple permits to be assigned to a single vessel. This would provide some recovery opportunity for those that experience substantial harvest reduction with the imposition of the three-tier system. It would also be expected to reduce capacity in the fishery, possibly leading to an increase in efficiency.

Physical Impacts

None.

Biological Impacts

There are no direct biological impacts expected from permit stacking alone. However, there may be indirect impacts depending on complementary provisions adopted with permit stacking. The biological impacts of the complimentary provisions are discussed in this section under the appropriate provision.

Social and Economic Impacts

Excess Capacity and Efficiency

It is generally believed that a reduction in the number of vessels in the fishery is likely to increase efficiency within the fixed gear sablefish segment because there are substantially greater numbers of vessels than required to take the available harvest (Council, 2000a). With permit stacking, total utilized sablefish capacity would remain the same, and the percent of sablefish capacity utilized for vessels that stacked permits would increase as the harvest is consolidated among fewer vessels. In contrast to an ITQ program with divisible quotas, there would not be an opportunity for the sablefish harvest rights to be divided into smaller units and spread among more vessels, as would perhaps be appropriate if the most efficient way to harvest sablefish were as incidental catch to efforts targeted on other species. If permits are stacked, it will likely be that it is because fishers find some advantage to permit stacking, either through direct financial remuneration or as a result of values fishers place on less tangible aspects of the organization of their fishing efforts. Under an extended season (Option 5a), more efficient vessels-those turning a greater profit-are more likely to stack permits, increasing the average efficiency in the fleet. Under a continued short season (Option 5b), faster harvesters (not necessarily more efficient) are likely to stack permits. Even if the consolidation of permits among fewer harvesters is more efficient than the current distribution of harvest, consolidation could be suboptimal compared to a system that would allow disaggregation of harvest. Adoption of an option allowing for the disaggregation of harvest is not possible at this time due to the limited scope of the moratorium exemption Congress provided for the West Coast limited entry fixed gear sablefish fleet.

Because limits for other groundfish species would not accumulate (Option 8a, **[ADOPTED]**) with the stacking of permits (or would not be 100% additive, Option 8b), there may be some reduction in latent capacity available to target on nonsablefish groundfish species (see Provision 8 for additional discussion).

An increase in season length (Provision 5) will have more effect on reducing capacity than the permit-stacking provision (see Section 4.1.5).

Allocation and Equity

Permit stacking would allow businesses able to obtain additional permits to increase their harvest. For operations that lost harvest as a result of the reallocation entailed in implementing the three-tier system, there would be an opportunity to move back toward previous harvest levels. Operations that had invested in equipment when the three-tier system was created but had not scaled-up their harvest operations on time to qualify for a Tier-1 endorsement would also have an opportunity to stack permits in order to more fully utilize their investments. When the three-tier system was imposed, it was projected that 24% of the harvest would be reallocated among vessels. Of the 164 vessels with endorsed permits, 51 were expected to lose harvest opportunity, while 113 vessels were expected to gain harvest opportunity (Council, 1998).[4/] As discussed in

4/ 36 longline vessels with longline permits lost 10% of the fleet's total harvest and 15 pot vessels lost 14% of the fleet's total harvest. 91 longline vessels picked up 19% of the fleets total harvest and 16 pot vessels picked up 3% of the total harvest. An additional 2% was gained by vessels that had not participated recently in the fixed gear sablefish fishery.

the section on permit capacity, there would be no opportunity for vessels to scale down their harvest except as that opportunity currently exists (i.e., by switching from a higher-tier permit to a lower-tier permit or leaving part of the tier limit unharvested).

Windfalls

Windfall profits are an issue closely linked to perceptions of equity. The term "windfall profits" is often used when one group of citizens experiences unanticipated profits at the expense of others as a result of a shift in the economy or governing rules and regulations. When individual quota programs were considered by the Council in the early 1990s, the generation of windfall profits was a major concern for a segment of the public and a number of Council members. In the current situation, limited entry permits have been issued and those permits have been assigned to tiers that determine the maximum amount of fixed gear sablefish that may be harvested with the permit. In general, there will be a profit windfall as a result of any provision that increases the value of a permit and a windfall loss as a result of any provision that decreases the value of a permit.

Permit values will generally follow changes in net value of the harvest associated with permits. For fixed gear groundfish permits endorsed for sablefish, it may be that the expected net value of the sablefish harvest will drive permit prices in much the same way that the value for permits to whiting catcher-processor vessels drove the price of groundfish trawl permits just after the groundfish limited entry program was implemented. In general, regulations that provide more flexibility while attaining the primary regulatory objectives[5/] will generate more net value and those that provide less flexibility will result in less net value. Permit stacking may increase demand for fixed gear sablefish permits, increasing permit prices and generating a windfall for those selling permits.

Entry and Exit

The permit-stacking proposal would differ from many individual quota programs, in which crew members and in some cases local jurisdictions and corporations can acquire quota without needing to control an entire license for access to a particular fishery (in this case the fixed gear groundfish fishery).

In general permit stacking will have little effect on the current situation for those wishing to enter or exit the fishery. Higher permit prices as a result of an expectation of increased profits could result in a greater barrier to entry. In economic theory, with well-functioning capital markets, the increased profit potential of the fishery that the permit prices reflect should enable those wishing to purchase a permit to overcome the barrier that might otherwise be presented by higher permit prices. However, higher permit prices may mean a greater barrier to entry for some because of imperfections in the way markets actually function. For those wishing to exit the fishery, higher permit prices may ease their transition. To the extent that higher permit prices raise the barrier to entry, other aspects of the proposed alternatives that raise permit prices also raise the barrier to entry. For the remaining provisions, impacts on permit prices are discussed in sections entitled "Windfall." Some provisions may have a negative influence on permit prices, lowering the barrier to entry.

Income and Employment

Under permit stacking, permit values would be expected to increase, reflecting an increase in profits and therefore an increase in income. See the section on windfall for additional discussion of impact on permit values. As compared to basic permit stacking with an extended season, there would be less increase in permit value with a shorter season.

Relative Bargaining Strength

Stacking permits will allow the consolidation of permits among fewer vessels. There is also likely to be some consolidation of ownership. This will reduce the number of employers for crew and the number of alternative sellers for processors. Accumulation limits (Provision 3 **[ADOPTED]**) will limit the degree of consolidation.

5/ For example, a regulation that did not meet conservation objectives might diminish permit prices over the long term.

Regulatory Complexity and Reporting Requirements

Permit stacking will create a greater variety of allowed harvest levels for vessels within the fleet. Basic permit stacking alone will not generate any new reporting requirements, however, complementary provisions that are part of this alternative may add substantially more to regulatory complexity and reporting requirements.

Enforcement

There will be some additional enforcement complexity associated with the greater variety of harvest levels that may be allowed for vessels in the fleet. However, the enforcement complexity generated by permit stacking alone is likely to be negligible. Complementary provisions that are part of this alternative may add substantially more to the enforcement burden.

Administrative Costs

There may be some relatively minor initial administrative costs associated with modification of permit office databases to implement the basic stacking provisions (Provisions 1, 2, and 4).

Fishing Communities

Over time, the consolidation of permits among fewer vessels through permit stacking could result in the consolidation of permits in ports with lower costs or higher exvessel values, giving fishers in the port the opportunity to outbid individuals from other geographic areas in the competition to purchase permits. The degree of consolidation is expected to be substantial only with a lengthening of the season. Data are not available that can be used to predict which ports may offer residents a competitive advantage in bidding for permits, so little prediction can be made of the geographic redistributions that may occur. However, some insight may be gained by examining estimated capacity with respect to the year 2000 cumulative limits. Those vessels with the greatest demonstrated excess capacity might be most likely to stack. Table 3 shows that the vessels with the most capacity in excess of the cumulative limits (60,000 pounds) tend to land along the Oregon coast (bottom half of the right most column). Conversely, those vessels with the least demonstrated capacity (less then 70% of their 2000 cumulative limits) tend to land in Puget Sound, along the Washington coast, and in California south of Bodega Bay. If a short season were maintained (Option 5b), there may be a tendency over the short term for permits to migrate to the Oregon coast from areas to the north and south. Individuals who, whether for social or economic reasons, have located their fishing operation along the Oregon coast may be more likely to obtain permits in order to utilize unused capacity. Over the long term, the relative efficiencies between ports within the constraint of the race for fish will determine the distribution of permits. With a long season (Option 5a **[ADOPTED]**), most vessels would be expected to be capable of landing multiple times their cumulative limits. With limits in place on the number of permits stacked per vessel (Provision 3) and a long season, it becomes more difficult to make statements about likely short- or long-term tendencies for geographic redistribution of permits. With longer seasons there will be substantial utilizable pre-existing capacity along all areas of the coast. The costs of fishing out of the individual ports and local exvessel prices will become more of a factor in determining geographic redistribution of permits than relative amounts of pre-existing capacity.

Impact on Other Fisheries

Overall, the sablefish harvest and harvest of other nonsablefish groundfish fishes would be consolidated among fewer vessels with the owners of newly surplus vessels attempting to increase their revenues from other fisheries, reducing their total fishing revenue, or tying up at the dock. If, for example, 50% of the permits in each tier were stacked and the stacked permits came evenly from vessels that fully utilized and under utilized the limits associated with the permits, the reduced sablefish revenue for vessels that divested themselves of their permits may total about **$3.2 million (based on 50% of the 1999 exvessel value of sablefish landings).** Because vessels that currently underutilize the sablefish tier limits are more likely to offer their permits for stacking than those that fully utilize their permits, this value probably represents an upper bounds. Additionally, vessels divesting themselves of permits may also lose access to some portion of their revenue associated with other groundfish species. Vessels divesting themselves of permits will move from the limited entry to the open-access fishery. In 1999, limited entry longline and fishpot vessels took a total of about **$3.6 million** of

nonsablefish groundfish. Under the 50% stacking scenario, half of this value would represent an upper bounds on the amount of nonsablefish groundfish revenue vessels might give up access to when divesting themselves of permits. Vessels with substantial harvest of nonsablefish groundfish species would be less likely to divest themselves of permits than vessels that do not take part in the harvest of nonsablefish groundfish species. Harvest foregone by vessels divesting themselves of permits would be taken up by vessels still holding permits. The divesting vessels may try to make up a portion of their revenue reduction by switching to or intensifying their effort in other fisheries. The most likely fisheries in which to expect an increase in effort are those fisheries in which members of the fleet already participate (Table 6).

Council Workload and Process

Permit stacking alone is likely to have little affect on Council workload. Extension of the season length will have a more substantial effect.

Council Decision

The Council is recommending permit stacking. Permit stacking will provide fishers with some additional economic flexibility that may result in a more efficient fishery. It will also allow fishers to adjust for the substantial shifts in the allocation of sablefish between vessels that occurred when the three-tier program was implemented.

4.1.2 Provision 2: The Base Permit and Gear Usage

When permits are stacked, one of the permits would be designated by the vessel owner as the base permit. The base permit would be required to have a fixed gear sablefish endorsement and meet the length requirement for that vessel. Permits of different fixed gear types (longline and fishpot) could be stacked together.

Options :
- 2a. When fishing in the primary fixed gear sablefish fishery, the vessel must fish fixed gear sablefish with the gear endorsed on the designated base permit.
- 2b. When fishing in the primary fixed gear sablefish fishery, the vessel may fish fixed gear sablefish with the gear endorsed on its base permit or any fixed gear endorsed on any of its stacked permits for which the length endorsement associated with the stacked permit is equal to or greater than that of the base permit. For example, a 45-foot longline permit could be stacked with a 55-foot fishpot permit designated as the base permit and the longline permit tier endorsement would add to the cumulative limit for the 55-foot vessel, but the vessel could only use fishpot gear. On the other hand, if both the base permit and the stacked permit had length endorsements 55 feet or greater then the vessel could use either longline or fishpot gear.
- 2c. **[ADOPTED]** When fishing in the primary fixed gear sablefish fishery, the vessel may fish with any fixed gear endorsed on at least one of its stacked permits.

[ADOPTED] Additionally, if one of the stacked fixed gear sablefish endorsed permits includes an endorsement for trawl gear and the length endorsement is equal to or greater than that of the base permit, the vessel may continue to use trawl gear, but not in the fixed gear fishery. In such a case if the permit is stacked on a vessel that is more than five feet smaller than that specified by the size endorsement for the trawl-gear permit, the requirement that the trawl-endorsed permit be downsized will be waived (Section 14.2.9 paragraph 3 of the FMP), unless permits are permanently stacked as specified in Options 4b and 4c.

Note: If Option 4a is adopted there would be no need to designate a base permit under Options 2b or 2c.

Rationale

The main issue this provision deals with is the gears that would be usable on a vessel with stacked permits. The options revolve closely around the length endorsements. Length has been used as a proxy for capacity in the groundfish fishery. It is assumed that vessels of similar length using the same gear have similar capacity-an admittedly rough assumption (Robinson and Hastie, 1993). Under the current limited entry

program, if permits are combined in order to create a permit with a larger length endorsement, any gear endorsements that do not match between the permits being combined are not carried over to the new permit.[6/] The gear endorsements are not carried over because there is a greater variation in capacity when gear is changed in addition to length; therefore, if gear and length change, it becomes more difficult to ensure that the combination of permits into a single permit for a larger vessel does not result in an increase in total capacity. The analysis will qualitatively demonstrate that capacity increases resulting from changes in the length for vessels using fishpot and longline gear are less of a concern in the context of current management.

Under Provision 2, at a minimum, a vessel would be allowed to stack permits with fixed gear endorsements that do not match (fishpot and longline) and take the sablefish harvest associated with all sablefish tier limits on permits registered for use with the vessel. The ability to cross gear types is suggested in part as a matter of equity as there would be relatively little stacking opportunity for the **28** fishpot-only permits as compared to the **132** longline-only permits (there are four permits with both fishpot and longline endorsements). Similarly, requiring that all stacked permits have length endorsements that match or exceed the vessel size would substantially limit the ability of larger vessels to stack permits (see size distribution of permits in Section 3.4.1). Outside of the sablefish season, vessels would be allowed to use only the gear designated on permits with a length endorsement adequate for the vessel, as specified in Amendment 6.[7/]

An option not given significant consideration here would be to require that a vessel harvest each tier limit with the gear specified on the stacked permit. Thus a vessel stacking one Tier-2 longline permit and one Tier-2 fishpot permit, might be able to harvest 37,000 pounds with longline gear and 37,000 pounds with pot gear. Such a requirement would prevent changes in the gear types used to harvest sablefish. However, the requirement would also be very difficult to track and enforce and would be relatively easy to circumvent by misreporting gear types on the fish ticket.

If longline gear turned out to be the highest profit gear to use in the context of the harvest costs and revenues, the structure of the access rights system, and the manner in which the fishery is managed, all 28 permits endorsed only for fishpot gear could easily be stacked on the 136 permits endorsed for longline gear (four of which are also endorsed for pot gear). On the other hand, if fishpot gear turned out to be the highest profit gear, given a three-permit-per-vessel stacking limit (Provision 3, **[ADOPTED]**), the 32 fishpot permits could stack a maximum of only 64 of the 132 permits endorsed only for longline gear.

There are only five permits with endorsements for both trawl and fixed gear (longline or fishpot). However, should one of these permits be involved in a stacking situation, Provision 2 recommends waiving the requirement that trawl permits be downsized when used on a vessel more than five feet shorter than specified on the permit. This waiver would be recommended to encourage consolidation in the fishery and would apply only if unstacking of the permits is allowed (Options 4a **[ADOPTED]**).

Physical Impacts

None.

Biological Impacts

Sablefish

As discussed for Provision 1, permit stacking will redistribute the utilization of fixed gear sablefish capacity among the vessels in the groundfish fleet while leaving the total amount of sablefish harvest unchanged. Option 2a and 2b provide vessels with less opportunity to switch between gear types in that the size of the

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6/ For example, if two permits were combined to form a single permit with a greater size endorsement, if one permit was endorsed for longline gear and another for longline and trawl gear, the resulting permit would be endorsed only for longline gear.

7/ Under Amendment 6, the size specified on the permit size endorsement can be no less than five feet less than the length overall of the vessel

permit must meet the requirements for the size of the vessel in order to allow the vessel to use the gear specified on a permit. Under Option 2a, in order to change gears a vessel with a permit for each gear type, where both permits have the proper size endorsements, would have to contact NMFS to change the designated base permit. Under Option 2b, the vessel could change between gears at will, so long as it had at least one permit for each gear with a size endorsement sufficient for the vessel. Option 2c provides the most opportunity for a shift in the fixed gear used because use of a gear on a stacked permit would not require that the size endorsement be adequate for the vessel. In terms of total retained sablefish catch, maintaining the gear distinctions between pot and longline vessels may have little effect. However, there may be other differences between the gear types (e.g., differences in the size distribution of sablefish taken and the mortality rates of discards).

The size selectivity of longline gear and fishpot gear are somewhat different but not enough to have a significant effect on stock assessments and not as great as the difference between trawl gear and the limited entry fixed gear (personal communication with Dr. Richard Methot, NMFS NWFSC, February 2001).

Given sufficient financial incentive to highgrade (see Section 4.1.5), vessels will forego harvest of smaller sablefish in order to retain larger sablefish. Larger sablefish are more valuable on a per pound basis. The term "highgrading" is generally used when vessels discard smaller sablefish in order to increase the proportion of larger sablefish in their landing. Adjustment of the fishing method (location, gear configuration, timing, etc.) may also be used to influence the mix of sizes in the catch. Both pot and longline vessels have some ability to influence the size composition of their catch by adjusting their fishing methods. Pot vessels may have more opportunity to influence the harvest by adjusting their gear, e.g., changing the escape panels or mesh sizes. This reduces the need to discard in order to increase the proportion of large fish in the catch. When highgrading occurs through discard, it is often perceived that longline gear, because of the external wound, has a higher discard mortality rate than fishpot gear. Some of information suggests a possibility that the discard mortality rates may be higher for pot gear than for hook and line gear. This information derives from the survival rates for sablefish caught for use as hatchery brood stock by pot and longline gear. The results, however, are far from conclusive. The importance of the result here is just to suggest the possibility of a differential in discard mortality rates between the gears. Information is not adequate to determine the size or direction of the differences.

Other Groundfish Species

With respect to other groundfish species, whether or not the distinction between pot and longline gear is maintained may have some impacts. For example, fishpot vessels generally target primarily on sablefish and land little incidental catch of other species while longline vessels tend to land more other species with sablefish (Table 12). Observer data are not available from this fishery to determine whether the catch mix varies from what is landed.

If a fishpot vessel stacks a longline permit and is then allowed to use longline gear, the fishpot vessel using longline gear may have greater capacity to take incidental nonsablefish groundfish along with the sablefish that would have otherwise been harvested by fishpot gear. Under current management, cumulative limits for groundfish species are low enough that vessel size does not usually constrain capacity. A vessel's ability to take nonsablefish groundfish species is related more to the gear used than to the vessel size. Thus whether longline or fishpot gear is used is more relevant than whether harvests are taken from a 60-foot vessel or a 40-foot vessel. Movement of permits from use with fishpot to use with longline gear will likely increase the incidental take of nonsablefish species. On the other hand, movement from longline gear to fishpot gear will likely decrease incidental harvest. From a biological point of view, the most important issue is ensuring that incidental take and any discard mortality is adequately measured and taken into account in managing the incidentally harvested species.

Evidence from Canada indicates that ,given the flexibility to change gears, a move from longline to fishpot gear may be more likely than a move from fishpot to longline gear. However, in order to provide a bounds for the possible impacts, it is useful to consider the maximum amount of sablefish harvest that could be switched from fishpot to longline gear. Based on the number of pot permits and their tier levels, pot vessels currently have access to about 25% of the harvest opportunity in the primary sablefish fishery. During the modified derby fishery, annual incidental harvest rates for fishpot gear ran from 0.5% to 1.3% from 1997 to 1999 and longline

incidental harvest rates were four to nine times the fishpot level in any given year. For the slower paced mop-up fishery, annual incidental harvest rates for fishpot gear ran from 1.1% to 4.9% from 1997 to 1999, and longline incidental harvest rates were seven to 17 times the fishpot level in any given year. Incidental catch rates may not vary substantially between the derby and the mop-up fishery as much as the rate of retention of the incidental catch. During the faster paced modified derby fishery, there is a greater opportunity cost for retaining incidental catch, as compared to the slower paced modified derby. Under an extended season (Option 5a **[ADOPTED]**), there will likely be greater retention of incidental catch than under a continuation of the modified derby fishery (Option 5b). For a rough calculation of a reasonable worst case scenario, assume a four-million-pound sablefish harvest, 25% (one million pounds) of which is taken by fishpot gear with a 2% incidental harvest rate. Total incidental harvest would be 20,000 pounds. Now assume the fishpot permits are all used with longline gear. Assuming a longline incidental harvest rate of 15 times the fishpot incidental harvest rate, for the one million pounds associated with the fishpot permits that would then be used with longline gear, the incidental harvest would be 300,000 pounds. Again, this is something along the lines of a worst-case scenario, and the actual trend could be a move from longline to fishpot gear, in which case there may be a reduction in the incidental harvest.

Social and Economic Impacts

Excess Capacity and Efficiency

Option 2c **[ADOPTED]** would provide vessels with the greatest opportunity to switch between the two types of fixed gear during sablefish operations, and Option 2a would provide vessels with the least gear flexibility. Market mechanisms should result in some tendency for permits to move toward the most efficient gear type, given regulatory constraints and taking into account the bundle of groundfish fishing opportunities (sablefish and nonsablefish) conveyed by the permit. The effectiveness of market mechanisms in achieving this function depends on there being sufficient numbers of transactions to establish market prices. The more the market is subdivided by gear and vessel size, the less potential there is for establishing reasonable market prices for permits. The options under this provision would essentially aggregate all fixed gear sablefish permit transactions into a single market with Option 2c providing the most integration and Option 2a and 2b maintaining the greatest separation based on gear type and endorsed size of the base permit.

Gear flexibility implies an opportunity for greater efficiency but could also result in higher or lower incidental catches depending on whether vessels move toward or away from gear with higher incidental catch rates. If the increased gear flexibility results in higher incidental harvest rates for nonsablefish groundfish species, management measures for the incidental harvest species could become more restrictive. With several species in overfished condition, the level of impacts on certain nongroundfish species can be constraining on other sectors of the fishery, reducing fisher opportunity to harvest multispecies complexes that include stronger stocks along with the weaker overfished stocks. In this regard, absent an IQ program covering a broader segment of the fisheries, impacts on efficiency will depend on the Council's ability to discern the segments of the fishery that will be able to generate the greatest net value from mortalities related to the weakest, or limiting, stock over the short and long term. Over the long term, ability to discern the greatest net value includes proper assessment of bycatch and discard mortality rates.

Another specification contained in this provision is the waiving of the requirement that a trawl permit be downsized when transferred to a vessel more than five feet less than the size specified on the trawl permit's size endorsement. On the one hand, the current downsizing requirement creates a disincentive for stacking combination trawl/fixed-gear permits, as the permit owner would face a financial loss from the reduction of the size endorsement on the trawl permit. On the other hand, downsizing would create some capacity reduction for the trawl fleet, if the consolidation incentive for fixed gear sablefish was sufficient to induce stacking of a combination fixed-gear/trawl-gear permit. There are **five** combination trawl/fixed-gear permits to which this downsizing waiver might apply.

Allocation and Equity

The motivation for this provision is largely an equity concern for different gear types and different sizes of vessels. If there were ample numbers of permits of each gear type and for a variety of size ranges, there might be enough transaction opportunities that markets would function and effectively determine permit prices. There

would also then be sufficient opportunity for vessels of different sizes and gear types to increase the scale of their operations. Given the limited number of fishpot permits and the limited number of permits in each size category, cross-vessel-size and cross-gear type transfers are being considered to provide opportunity for all participants to benefit from the permit stacking regulations by adjusting the scale of their operations and gear used.

Windfalls

The concept of windfall profits and the reason they are a social concern is first discussed in Section 4.1.1. Windfall profits (or losses) are generated by changes in permit prices. In general, regulations that provide more flexibility while attaining the primary regulatory objectives will generate more net value and result in higher permit values. In Provision 2, all options would increase the flexibility for use of a permit with different gears and so may increase the value of some permits. Provision 2, Option 2c **[ADOPTED]** provides the greatest flexibility.

Entry and Exit

Increases in permit prices may increase the difficulty of entering the fishery, and decreases in permit prices may decrease the degree of difficulty. See Section 4.1.1 for a discussion of these relationships. See "Windfalls" for a discussion of the impacts of this provision on permit prices.

Income and Employment

Changes in income would be expected to correlate with changes in permit values. See the section of this provision on windfall for additional discussion of impact on permit values.

Regulatory Complexity and Paperwork Burden

Option 2a would require the formal designation of a base permit. The base permit would determine which gear type could be used. Declaration of a base permit could be submitted at the same time that the other paperwork is submitted necessary to register an additional permit(s) for a single vessel. The additional reporting burden would be insignificant. However, redesignating the base permits in order to change the gear used would require a paperwork burden roughly similar to the burden required to transfer a permit under the system as it stands now.

While the language for Options 2b and 2c is couched in terms of designation of a base permit, the options would perform the same whether or not a base permit is formally designated. For Option 2b, the vessel is allowed to take its sablefish cumulative limit with any gear for which it holds a permit with a size endorsement sufficient to allow the vessel to participate under the Amendment 6 limited entry program. For Option 2c, the vessel is allowed to take its sablefish cumulative limit with any fixed gear for which it holds a permit. Therefore either option could be implemented and enforced without the paperwork burden that would accompany formal designation of a base permit.

Enforcement

Some enforcement difficulties may be created under Options 2b or 2c **[ADOPTED]**, which would allow a vessel to choose between gears when fishing for sablefish. The problem for enforcement would be greatest under the extended season (Option 5b **[ADOPTED]**). For example, it may be difficult to determine if a fishpot vessel using longline gear to target sablefish is in fact using the longline gear to target other species of groundfish. For enforcement purposes (as well as to encourage fishers to accurately report the gear type used), it may be simplest to interpret Option 2c as allowing a vessel with both longline and fishpot permits to use either gear type during the primary sablefish opening (i.e., suspending the distinction between fixed gear endorsements for the duration of the primary fishery). Outside of the primary sablefish season, vessels would be restricted to using the gear specified on permits that have a size endorsement that meets the requirements for the vessel (as specified in Amendment 6).

Administrative Costs

There may be some minor administrative costs associated with the tracking of the base permit under Option 2a.

Impact on Other Fisheries

Other fisheries may be impacted if the amount of capacity targeting sablefish with longline gear increases, increasing the amount of incidentally caught species, where harvest of the incidental species is limited by a numeric optimum yield. In such a situation, there may be an allocational competition with other fisheries for the opportunity to catch the incidental species, particularly where the incidental species are overfished or endangered. There is additional discussion of this impact in the section on excess capacity and efficiency.

Council Action

After weighing public testimony and evaluating the analysis, the Council recommended Option 2c. This option will provide fishers with greater flexibility to adapt their fishing practices to changing conditions. Sablefish is the primary target species for longline and fishpot gears. With the tiered limits in place, there is no threat of increasing sablefish capacity with movement of permits between different fixed gears or vessels of different sizes. These positives balance out the downside that there may possibly be some increase in incidental harvest of other species, particularly if permits are transferred from fishpot to longline vessels. On the other hand, if there is a net transfer of harvest from longline to fishpot gear, incidental harvest may decline. The degree of the downside would be diminished by the Council recommendation not to give vessels with stacked permits an opportunity to increase their harvest of nonsablefish groundfish species (Option 8a **[ADOPTED]**, Section 4.1.8).

4.1.3 Provision 3: Limits on Stacking and Ownership

Stacking: No more than three permits may be stacked on a single vessel. *The analysis will include discussion of other permutations such as two and four permit-stacking limits as well as the option of not limiting stacking.*

Ownership: The Council will consider restricting the number of fixed gear sablefish permits owned by an individual to

Ownership Options:
- **(a)** two permits
- **(b)** three permits **[ADOPTED]**
- **(c)** four permits, or
- **(d)** an amount with tier limits that add-up to 5% of the total sablefish allocated to the fixed gear primary season

Exceptions would be made for individuals currently holding permits in excess of the limit. These individuals would not be allowed to accumulate more permits. *The possibility of not limiting ownership is discussed in the analysis.* An individuals ownership would be calculated by either:

Calculation Suboption (a) **[ADOPTED]**. Summing the total permits ~~(or percent harvest represented by a permit)~~[8/] for which an individual held some ownership interest, regardless of how small, or

Calculation Suboption (b). Summing the individual's percent interest in each permit to determine the number of permits held (or percentage harvest held).

For the purpose of grandfathering in concentrations in excess of proposed limits, the Council adopted November 11, 2000, as a date for determining ownership concentration.

8/ At the time of final adoption of Provision 7a, the Council struck language that would have required permit owners to also have an ownership share in the vessel for which the permit was registered.

Rationale

Permit stacking increases the opportunity for concentration of harvest onto fewer vessels and into the hands of fewer owners. Permit stacking would facilitate concentration of harvest because, at current levels of allowed harvest, it is easier to manage a single vessel to harvest more fish than it is to manage multiple vessels.

The Council has adopted a November 1, 2000, control date and recommended that it be published in the *Federal Register* as an advance notice of proposed rule-making with respect to the proposed ownership limit. The Council was concerned that once its recommendation to limit concentration of ownership was finalized, individuals would begin acquiring ownership interest in additional permits in order to circumvent the limit prior to publication of the final rule. The advance notice is intended to discourage such activity and provide notice to those who might otherwise innocently accumulate additional permits prior to the time final regulations are promulgated.

Stacking Limit

The amount of permit stacking that is likely to occur will depend on the season length (Provision 5). If short seasons are to be maintained, then the amount of stacking will be limited by the short time fishers will have to take their full limits. Based on estimates of current levels of excess capacity within the constraints of the modified derby fishery it is projected that, with stacking and a continuation of the modified derby, only about 30 vessels would be capable of taking a full additional limit if they were able to stack permits (Hastie, 2000). If the season is extended to seven months (Option 5b, **[ADOPTED]**), absent a stacking limit, it is conceivable that the equivalent of five or more Tier-1 permits would be stacked on a single vessel (given current allocations to the fixed gear fishery). Five tier-1 permits would represent 7% of the total harvest privileges for fixed gear sablefish (Table 13). Without a limit on stacking, it is reasonably conceivable that the current fleet of 164 vessels could be reduced to 15, 10, or fewer vessels. Reduction of the fleet to a relatively few vessels would risk concentration of the sablefish fleet, and the channeling of harvest benefits, into a relatively few coastal communities and processors. Substantial disruptive effects may result from the transition to the new allocational distribution.

Ownership Concentration Limit

While limits on permit stacking may increase the minimum number of vessels on which harvest will be concentrated, it does not limit concentration of ownership. In particular, absent a restriction otherwise, those who retain the opportunity to harvest without being present on board the vessel (are exempted by Provision 7a, grandfathering **[ADOPTED]**) may acquire an unlimited number of permits and fish those permits on different vessels, so long as they do not violate antitrust laws (note: at the time of final adoption of Provision 7a, the Council struck language that would have required permit owners to also have an ownership share in the vessel for which the permit was registered). Concentration of ownership may bear some of the same problems as concentration of permits on fewer vessels, i.e., greater probability of reducing the geographic scope off benefits flow from the fishery to only a few communities and processors. Such concentration would also run counter to the Council intent of maintaining a fleet dominated by owner-operator vessels, one of the current socioeconomic characteristics of the fleet.

One of the objectives for the proposed management measures is to create a program that will readily transition into a multimonth IQ program (Section 1.3). Under an extended season, Option 5a **[ADOPTED],** the permit stacking program would function much like an ITQ system with blocked quota shares. The current license-limitation program relies on anti-trust law to prevent excessive accumulation of harvest rights. Experiences suggest that with respect to IFQ programs, antitrust law and procedures are not sufficient to prevent excessive share problems referred to in the Magnuson-Stevens Act (NSF, 1999). The NSF report on ITQs recommends that vertical integration, monopolization, and regional aggregation of quota shares be addressed through setting upper limits on concentration and transferability between regions. In this provision, the Council considers only limits on concentration of harvest privileges.

Over the long term, as those exempt from the owner-on-board requirement (Provision 7a, **[ADOPTED]**) leave the fishery, the practicality of accumulating ownership in an excessive number of permits will be reduced. Given the stacking limit, it would be difficult for permit owners to hold permits substantially in excess of the per-

vessel stacking limit and be on-board all the vessels to which they might register their permits during the vessels' sablefish operations. Although, as mentioned below in the discussion on enforcement and monitoring, there are means by which individuals can control permits other than direct ownership.

Options for Evaluating Ownership Concentration

Two methods were considered for determining total ownership for the purpose of applying a limit on ownership. Under the first method, if an individual owned any share of a permit, the entire permit (or the full harvest percentage represented by the permit) would be counted toward determining the number of permits (or percent harvest privileges) owned by the individual. Under the second method, an individual's share in the ownership of a permit would be accounted for in determining the total harvest rights owned by an individual. Thus, if an individual owned two-thirds of one permit and one-third of another permit, he or she would be considered to own one entire permit (one-third plus two-thirds). On the other hand, using the first formula described, the individual would be considered to own two permits.

Physical Impacts

None.

Biological Impacts

None.

Social and Economic Impacts

Excess Capacity and Efficiency

The Council could establish permit stacking and leave the degree of permit stacking and degree of reduction of capacity in the fixed gear sablefish fishery to be determined by the market place. The resulting redistribution of harvest privileges would likely be the most economically efficient solution available, given the manner in which the harvest privileges embodied by a West Coast limited entry fixed gear permit are bundled. However, the Council has other concerns and objectives relative to the manner in which the harvest is taken (Section 1.3). These other objectives have to do largely with the distribution of benefits. To the degree that limits on permit stacking and limits on the concentration of ownership prevent transfers that would have otherwise occurred, gains in efficiency available from market-dictated transactions will be moderated by the limits imposed to achieve other objectives.

Allocation and Equity

Stacking Limit: The stacking of permits may result in a reallocation of harvest mediated by the market for permits. For permit owners, the reallocation related to stacking would be voluntary in nature. The greatest changes are likely to occur if permit stacking is allowed along with an extended sablefish season (Option 5a, **[ADOPTED]**). In a six-month season, larger capacity vessels could easily harvest over a half-million pounds. Some simple calculations based on year 2000 limits (adjusted downward to account for the elimination of overhead)[9/] show that, given unlimited stacking, harvest may be consolidated on 10 or fewer vessels.

9/ See Section 3.3.3 or the allocation and equity discussion in Section 4.1.5. for an explanation of overhead and the reasons for a drop in cumulative limits with an extended season.

	Tier 1	Tier 2	Tier 3	Total
Number of Endorsements	27	43	94	164
Year 2000 Limits (Pounds) Reduced Limits under an Extended Season	81,000 64,800	37,000 29,600	21,000 16,800	
Number of permits To Be Stacked To Reach Approximately 500,000 Pounds	8	17	30	
Number of 500,000-pound Harvesters That Could Be Supported Given Unlimited Stacking	4	3	3	10

Limits of two, three, and four permits would have different implications for the minimum fleet size and the maximum harvest per vessel. In general, even if three Tier-1 permits were stacked on a vessel, there would be many vessels still unable to harvest at close to their historic levels (see Section 2.2.1).

	Limit on Number of Permits Stacked		
	2	3	4
Minimum Number of Vessels (Assuming Maximum Amount of Stacking)	82	55	41
Maximum Harvest for a Vessel (Based on Stacking 3 Tier-1 Limits of 64,800 Pounds)	129,600	194,400	259,200
Number of Vessels Believed Capable of Harvesting the Above-Specified Maximum During a 6-month Fishery	Most	Most	Most

Another alternative would be to vary the stacking limit depending on whether or not a Tier-1 permit was included among the stacked permits:

	Limit on Number of Permits Stacked		
	3-permit limit	3 if a Tier 1 is included; 4 if no Tier-1 Permit is Stacked	3 if a Tier 1 is included; 5 if no Tier-1 Permit is Stacked
Minimum Number of Vessels (assuming maximum amount of stacking)	55	44	38
Maximum Poundages if Only Tier 1-permits Are Stacked	194,400	194,400	194,400
Maximum Poundages if Only Tier 2-permits Are Stacked	88,800	118,400	148,000
Maximum Poundages if Only Tier 3-permits Are Stacked	50,400	67,200	84,000

Note: Maximum poundage estimates are based on the extended season cumulative limits.

Because of the small number of Tier-1 permits available, these options would provide some intermediate opportunities for more vessels to scale up to larger operations while still limiting the maximum degree of consolidation of the fleet.

Ownership Limit: The Council considered limiting ownership to two, three **[ADOPTED]**, or four permits or 5% of the total harvest rights. Those holding in excess of the limit would be allowed to keep their current harvest rights but would not be allowed to acquire additional permits. Currently, only one owner holds in excess of 5% of all harvest privileges, two owners hold four or more permits, five owners hold three or more permits, and 19 owners hold two or more permits (Table 14). These estimates of ownership are based on the registered addresses for the permit owners. The estimates may be high-if multiple permit owners use the same address-or low if one permit owner uses more than one address. The estimates of current ownership

concentration do not reflect the degree of ownership that may be held. For example, a single individual may hold minority interests in permits that are registered at different ownership addresses. A program that allows individuals to accumulate additional permits up to levels similar to most of those grandfathered in with their existing ownership levels is likely to be viewed as more equitable than one that prevented such accumulations.

Even if permit stacking were not recommended by the Council, there may be reason to establish ownership limits at this time. Failure to so, could result in the development of vested interests with concentrations of harvest privileges in excess of those that might be desirable with a transition to a full ITQ program. This would make development of ownership concentration limits more difficult. Grandfather clauses would likely be used to allow ownership levels in excess of any cap to continue. The more individuals allowed to continue high ownership levels under the grandfather clause, the more inequitable the program may be viewed by individuals who cannot accumulate permits in excess of the ownership cap.

Windfalls

The concept of windfall profits and the reason they are a social concern is first discussed in Section 4.1.1. Windfall profits (or losses) are generated by changes in permit prices related to changes in the net value of harvest. In Provision 3, limits on stacking and ownership **[ADOPTED]** would tend to reduce flexibility and exert a downward influence in permit prices relative to stacking with no accumulation limits.

Entry and Exit

Increases in permit prices may increase the difficulty of entering the fishery, and decreases in permit prices may decrease the degree of difficulty. See Section 4.1.1 for a discussion of these relationships. See "Windfalls" for a discussion of the impacts of this provision on permit prices.

Income and Employment

Changes in income would be expected to correlate with changes in permit values. See the section of this provision on windfall for additional discussion of impact on permit values.

Foreign Control

Extension of season duration (Option 5a, **[ADOPTED]**) may increase foreign interest in acquiring control over fixed gear sablefish permits. Permits may be controlled through means other than ownership (see Enforcement and Monitoring). Limits on the number of permits owned by one individual will increase the number of arrangements that would have to be made for a foreign interest to gain control over a substantial portion of the harvest, and hence the cost and uncertainty of gaining that control. Absent an extended season or absent a stacking program, concern over foreign ownership and therefore the benefits of the restriction would be diminished.

Relative Bargaining Strength

Without accumulations limits, market power of some quota holders may be unduly strengthened vis-a-vis labor and processors, particularly in isolated communities. Accumulation limits should maintain a more competitive environment in terms of such things as the number of alternative employers for crew and the number of alternative sellers for processors. Absent an extended season or absent a stacking program, concern over excessive accumulation of permits diminish and therefore the benefits of the restriction would be diminished.

Regulatory Complexity and Reporting Requirements

A limit on the number of permits per vessel is not expected to create any additional regulatory burden related to reporting requirements.

If an ownership limit is adopted, paperwork burden on industry will be increased by the need to submit ownership information detailed down to the individual living people who hold ownership interest in any entity owning a permit. This information will also be required to implement the grandfather clause of Provision 7a.

The degree of burden for reporting permit ownership will depend on the complexity of permit ownership. In a 1997 survey of the fixed gear fleet, of the responding permit owners (59% of the population), a single individual owned the permit 59% of the time, 22% of the permits were owned in partnerships, and 19% of the permits were owned by corporations (including Chapter S corporations or limited partnerships). For 64% of the respondents, a single individual owned the permit (including those individuals organized as Chapter S corporations). Thus, at the time of the survey, most permit ownership appeared to be fairly simple in structure. For simple ownership situations, the burden to industry for reporting ownership structure and the costs of tracking ownership will be substantially lower than for more complex ownership situations where there may be numerous layers of ownership.

Enforcement and Monitoring

Limits on the number of permits per vessel will be straightforward to administer and enforce.

Under sections analyzing the regulatory burdens and administrative costs of this provision, the monitoring system for permit ownership is described as a data intensive reporting and tracking system. This approach would present the lowest cost from the perspective of enforcement entity budgets. Alternatively, the limits on ownership could be implemented in the regulations and individual cases investigated as suspicious ownership situations are identified or reported. Such an approach might result in lower compliance or would require higher expenditures by enforcement agencies. Adequate enforcement of fishery regulations is needed to instill public confidence in the management system. A passive enforcement and monitoring approach may lead to the spread of noncompliance behaviors.

While enforcement of the vessel cap would be relatively straightforward, circumvention of the ownership cap would not be impossible. For example, a person already owning the limit in terms of number of permits, could acquire control over additional permits by establishing a long-term lease under a private contract or providing the financing for another individual to acquire a permit. With this financial control, the owner at the permit ownership limit may control and direct the operations of fishing activities in excess of that intended under the proposed regulations. While imperfect, the limits imposed by regulation will impose some additional costs and uncertainty for those who desire to accumulate control of harvest privileges in excess of the limit. These additional burdens will likely reduce the circumvention such that the degree of concentration of control, while in excess of that desired by the Council, will be less than what might have occurred absent the provisions.

Ownership calculation Suboption (a) would make controlling permits in excess of the three-permit ownership cap more difficult. For example, under method (b), entities allowed to hold permits as corporations or partnerships might acquire a 25% share in 12 permits and be at the three permit limit. While on paper an individual may have only a 25% share, financing or other agreements may give them effective majority control over the permit. Under method (a), if an individual has any share in the ownership of a permit, the whole permit counts toward the limit. Thus, method (a) is more restrictive and may be simpler to enforce and administer.[10/]

Administrative Costs

Little additional administrative cost is expected from limits on the number of permits per vessel.

The experience in the north Pacific sablefish and halibut individual quota programs has been that tracking ownership information is an administratively expensive propositional. By that model, the administrative system would have to track information on ownership submitted by permit owners. The north Pacific IFQ program requires the submission of all contracts for the sale of permits along with information about permit prices. In addition to the burden of submitting the information, databases would need to be created to compile and analyze the results.

10/ Under Option 7(a), those not qualifying under the 7(a) grandfather clause would be required to own the permit as an individual human being. For these persons, there would be little difference between calculation options (a) and (b).

Fishing Communities

To rely on the market to redistribute permits, potentially reducing capacity and increasing efficiency, is to rely on a voluntary means of reallocation (i.e., those who surrender their fishing privileges do so under their own initiative). However, if the result of the transfers is a geographic reallocation of harvest activities, there are members of the local community who may experience a reduction in income or other fishery-related benefits and who do not voluntarily take part in the reallocation. Limiting the concentration of harvest, both on the vessel and under a given ownership, will likely slow the redistribution of harvest. By maintaining a larger number of harvesting entities, there is a greater probability that those entities may be more dispersed among coastal communities. However, if a particular community is able to provide economic advantages not present in other communities (e.g., lower port costs, closer location to high CPUE fishing grounds, higher exvessel prices, etc.), over time there may still be a tendency for geographic redistribution and concentration of harvest, even with the limits proposed under this provision. For permit stacking with a continued modified derby or for accumulation limits independent of permit stacking, accumulation is less likely, and therefore the benefits of the accumulation limits would be less.

Council Action

Stacking Limit

The three-permit ownership limit adopted by the Council allows others to accumulate permits up to levels similar to those who have already acquired multiple permits, is consistent with the limit on number of permits per vessel, and is consistent with policies to encourage continuation of the owner-operator mode of fishing (Option 7a **[ADOPTED]**). Limits on the number of permits stacked per vessel would be would be intended to encourage continuation of the organization of the fleet as one oriented around small businesses and dispersed among coastal communities.

Ownership Limit

The Council adopted a three-permit-stacking limit. The three-permit limit strikes a balance that accommodates stacking by most of those who already own multiple permits (see Table 14 and the preceding discussion) without unduly concentrating harvest in the fleet. If the ownership limit were in excess of the stacking limit, absentee permit ownership would be encouraged. An ownership limit less than the stacking limit would require multiple permit owners to work together to take full advantage of any efficiencies to be gained by higher levels of harvest (Option 7a **[ADOPTED]**). Limits on concentration of ownership combined with owner-on-board provisions would be intended to encourage local ownership of small businesses and a connection between the fishing fleet and local coastal communities.

Ownership Calculation

The Council adopted ownership calculation method (a). This method would be somewhat easier to track than the alternative and is consistent with the approach taken for determining number of blocked shares owned in the north Pacific IFQ program. In many respects, permit stacking of sablefish limits will function like the blocked shares of the north Pacific Program. Method (a) also makes it more difficult to circumvent the intended limits on controlling permits.

4.1.4 Provision 4: Unstacking Permits

Options: 4a. **Permits May Be Unstacked.** Permits that are stacked would retain their original length, gear, fixed gear sablefish endorsements and tier endorsements and could be transferred to other vessels in the future (i.e., stacked permits would not take on the gear and length endorsement of the vessel's designated base permit when unstacked).

4b. **Permits May Not Be Unstacked and Tier Endorsements are Not Tradeable.** When permits are stacked on a single vessel, they would be reissued as a single permit that could not be unstacked (redivided), and endorsements remaining on the permit would confer the fishing opportunities specified in Provisions 1 and 2. The length endorsement would be the length endorsement on the permit designated as the base permit.

4c. **Permits May Not Be Unstacked and Tier Endorsements are Tradeable Among the Endorsed Fleet.** Same as Option 4b except that tier endorsements could be transferred separate from the permit to another permit with a fixed gear sablefish endorsement. However, at least one tier endorsement must remain with the base permit. Permits would be limited to a maximum number of endorsements as specified in Provision 3.

Rationale

The stacking issue involves a balance between the incentive to stack and the degree to which consolidation is permanently locked in. Option 4a would allow permits to be unstacked, reducing a disincentive for permit stacking but not guaranteeing that any consolidation would be permanent. Option 4b would permanently link any stacked permits, making any consolidation in the fleet permanent. Option 4c would steer an intermediate course, making consolidation in the fleet permanent but providing operators with the opportunity to scale their sablefish harvest activity up and, if appropriate, back down.

Physical Impacts

None.

Biological Impacts

No direct impacts. However, because this provision may have a substantial impact on the degree of permit stacking that occurs, the impacts of other permit-stacking provisions described in this analysis may be intensified or diminished depending on the degree to which this provision encourages or discourages permit stacking.

Social and Economic Impacts

The following are the two areas of direct social and economic impacts that were identified for the options of this provision.

Excess Capacity and Efficiency

Consolidation of permits would help achieve the fleet reduction objective identified in the Council's strategic plan. If permits cannot be unstacked (Options 4b and 4c), any reduction in the number of permits will be permanent. If permits can be unstacked (Option 4a), any progress toward the strategic plan objective of reducing the size of the fleet could potentially be reversed.

In general the more flexibility fishers have to adjust their level and organization of fishing effort to changing conditions, the more efficient the management system will be over the long run. If permits cannot be unstacked (Option 4b and 4c), individuals who stack permits would likely have to own the permits. As compared to freely stacking and unstacking (Option 4a), inability to unstack permits (Option 4b and 4c) would reduce future options for reorganizing business operations or liquidating some fishing privileges (i.e., impose a higher opportunity cost for stacking). While any gains from fleet consolidation would be permanently captured under a permanent stacking rule, the incentive for permit stacking would be less and hence the degree of consolidation less than if unstacking were allowed. Because the cumulative limits with an extended season will eliminate the incentive for increasing harvest capacity with respect to fixed gear sablefish, it is primarily the nonsablefish portion of the groundfish fishery that would benefit from intentional/forced permanent consolidation of the fleet and reduction of capacity. Under a short season, the impacts of a reduction in the number of permits/vessels on the sablefish fishery will depend on whether the sablefish cumulative limits associated with the permits are more fully utilized after stacking. If more fully utilized, the season length will decline or the cumulative limits will decline. However, the cumulative limits would not decline as much as would result from the adoption of a longer season (Provision 5 **[ADOPTED]**) independent the Provision 4 options chosen. If permits are less fully utilized after stacking, season length or cumulative limits will increase. In either case, if some vessels that target the nonsablefish segments of the groundfish fishery divest themselves of permits, leaving the limited entry groundfish fishery, there may be a benefit from the reduction in number of vessels in the fishery.

Some flexibility could be preserved if permits were stacked permanently but tier limits could be traded separately (Option 4c). This would make the system more like an ITQ program with sablefish trading in large blocks. Any gains in capacity reduction for nonsablefish species (see Provision 8) would be locked in while flexibility in sizing the sablefish operations and expanding or contracting participation would be maintained. Additionally, the sablefish fleet could not be expanded because a minimum of one sablefish tier would have to remain with each permit. Thus a person with an unstacked permit could not sell the sablefish endorsement off the permit. When one permit is stacked with another, the number of sablefish endorsed permits would decline and the sablefish tier endorsements could be traded only to one of the remaining permits with sablefish endorsements. Some consolidation of the sablefish harvesters would be locked in. Option 4c does not appear to be within the scope of the IQ moratorium exception granted to the West Coast limited entry fixed gear sablefish fishery.[11/]

Windfalls

The concept of windfall profits and the reason they are a social concern is first discussed in Section 4.1.1. Windfall profits (or losses) are generated by changes in permit prices. In general, regulations that provide more flexibility while attaining the primary regulatory objectives will generate more net value and result in higher permit values and regulations that provide less flexibility will tend to reduce permit value. Not allowing permits to be unstacked (Option 4b or 4c) would likely tend to result in lower permit values than Option 4a **[ADOPTED].**

Entry and Exit

Increases in permit prices may increase the difficulty of entering the fishery, and decreases in permit prices may decrease the degree of difficulty. See Section 4.1.1 for a discussion of these relationships. See "Windfalls" for a discussion of the impacts of this provision on permit prices.

Income and Employment

Changes in income would be expected to correlate with changes in permit values. See the section of this provision on windfall for additional discussion of impact on permit values.

Other Social and Economic Impacts

Because this provision may have a substantial impact on the degree of permit stacking that occurs, the impacts of other permit stacking provisions described in this analysis may be intensified or diminished depending on the degree to which this provision encourages or discourages permit stacking. For example, if more stacking occurs as a result of action taken under this provision, the impacts on other fisheries, discussed in Section 4.1.1, will likely be increased.

Council Action

The Council adopted Option 4a. There was extensive Council discussion on this issue. Option 4a was seen as superior in the flexibility it provided for small vessels and individual owners. Using the halibut IFQ program as an example, it was suggested that there would be consolidation even if owners are free to accumulate and disperse shares. Moreover, it is expected that the consolidation will occur more rapidly if there is a possibility to unstack in the future. Many participants are involved in other nongroundfish fisheries and it may benefit them to put their permit on someone else's boat, eliminating the vessel from the sablefish fishery as well as the

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11/ Public Law 105-553 passed on December 21, 2000. This law included an amendment to the Magnuson-Stevens Fishery Conservation and Management Act extending the moratorium on individual quota programs through October 1, 2002. However, the Conference Report on HR 4577 also stated "the Pacific Fishery Management Council may recommend and the Secretary of Commerce may approve and implement any fishery management plan, plan amendment, or regulation, for fixed gear sablefish subject to the jurisdiction of such Council, that-(1) allows the use of more than one groundfish fishing permit by each fishing vessel; and/or (2) sets cumulative trip limit periods, up to twelve months in any calendar year, that allow fishing vessels a reasonable opportunity to harvest the full amount of the associated trip limits."

rockfish and other groundfish fisheries. If permits cannot be unstacked, the transfers for stacking would become forced sales. This would tend to reduce the amount of stacking. The Council discussed revisiting this issue at some future time if the desired goal of reducing capacity by 50% is not achieved.

4.1.5 Provision 5: Fishery Duration

Options: 5a. **The fishery would extend over a number of months (the initial recommended season is April 1 through Oct. 31). [ADOPTED]** For 2001, the fishery would start as soon as possible after April 1, 2000, in order to provide time for regulations to be put in place. *There would be no preseason and postseason closures and vessels would be required to make their final deliveries prior to closure of the season. There would be no mop-up fishery. No stacking deadline would be needed (Provision 12).* ***When transfers occur midseason, the seller (lessor, etc) will be responsible for providing copies of all sablefish fish tickets landed for the year, to date; and the buyer (lessee, etc.) would have to maintain such copies aboard the vessel.***

5b. **Current Situation: The fishery would continue to be managed as a modified derby followed by a mop-up.** *The current preseason and postseason closures would continue to apply and vessels would be required to cease fishing upon closure of the fishery. Permits would have to be stacked before some deadline prior to the start of the seasons in order to provide analysts and the Council sufficient time to assess and recommend appropriate cumulative limits and season durations (Provision 12). The steps would include (1) setting the allocation in November, (2) making a preliminary estimate of season lengths and limits and setting season opening date in March, (3) a deadline for stacking of May 15, and (4) final season duration and limits set in June.* (Seasons would continue to be set short enough that many vessels would be unable to fully take the allowed catch. In recent years the season duration has been slightly more than one week. Maintenance of this abbreviated fishery has been necessary to prevent the program from being classified as an individual quota program. Such programs are currently prohibited under the Magnuson-Stevens Act.)

Rationale

The driving concern for an extension of the current season is one of safety. Other concerns include increasing the economic value generated from the fishery. As is evident from the following discussion of impacts, extension of the season is the provision with the single most far-reaching impacts among all the provisions in the permit-stacking alternative. Extension of the season could be implemented alone (without permit stacking) and achieve the Council's safety objective. From 1995 through December 2000, extension of the season has not been an option because of a moratorium imposed by the Magnuson-Stevens Act. While the moratorium has been extended through October 1, 2002, an exception has been made for the West Coast fixed gear sablefish fishery.

Physical Impacts

None.

Biological Impacts

Highgrading

When there is a price-per-pound differential between different sizes of fish, there may be incentive to highgrade. For sablefish, highgrading involves discarding small sablefish in order to retain larger sablefish. The degree to which this presents a biological problem is related to the discard mortality rate and the degree to which discard mortalities are not accounted for in the management process and stock assessments. If discard mortality is properly estimated and allowed harvest properly adjusted and controlled, the highgrading problem is more one of economic wastage than conservation. Providing a longer season increases the opportunity (decreases the opportunity cost) for highgrading. To adjust for the change in discards expected under a lengthened season (Option 5a), an 8% discard mortality rate may be applied to the catch. The assumed discard mortality for the modified derby (Option 5b) is 3%.

Under the current short seasons, some vessels are able to easily take their cumulative limit in the time allotted by the regular opening of the primary fishery and most vessels can easily take their cumulative limits in the time allotted for the mop-up fishery. If a short season had to be maintained to avoid the IFQ classification, season length would likely be reduced as compared to status quo (see Appendix A). This would reduce the amount of excess time for any vessels that do not stack permits, reducing the opportunity for highgrading. Similarly, vessels that stack permits under continued short seasons would spend more time catching their limits and have less time for highgrading. For these openings and vessels, highgrading may already be occurring. If the season is extended (Option 5a), most vessels would likely have ample opportunity to harvest their limits within the allotted time, even for vessels that stack permits. Highgrading would be expected to increase if it is economically viable and provides more net revenue than the next best fishing opportunity.

Highgrading has been reported for some fisheries (e.g., IFQ in New Zealand) and appears to be minimal for other fisheries (e.g., halibut and sablefish fisheries in Alaska) (NRC, 1990). An economic calculation using IPHC data from the halibut fishery indicated that highgrading the smallest halibut out of a 75,000 pound catch would increase revenues by $5,300 (3.7%). Achieving this additional $5,300 of revenue would require catching an additional 18,217 pounds of halibut to replace the 14,600 pounds of small fish discarded (NRC, 1991). This is the equivalent to extending the length of a trip and incurring related effort costs in order to harvest a fish that would bring $0.296 per pound ($5,300/18,217) at a CPUE similar to that in the halibut fishery. A similar analysis conducted for this Council in 1994 showed that highgrading sablefish would yield gross revenues similar to catching a fish that would bring between $0.20 and $0.27 per pound dockside, depending on the price differential between size categories (Council, 1994).[12/] Whether or not highgrading is worthwhile depends on expected net revenue from alternative fishing opportunities as opposed to highgrading. The net revenue from highgrading depends on the price spreads between different size categories of sablefish and the ratios in which different sized fish are caught. If time constraints and grounds crowding are relieved, fishers may be better able to target on larger sablefish (reduce the proportion of small sablefish in their catch); there would be an increase in the gross revenue per pound of fish caught to replace discarded fish. In the 1994 Council analysis, a one-third reduction in the extra small category (from 54% to 36% of the catch) increased the expected gross revenue per additional pound caught from the $0.20 to $0.27 range to a $0.28 to $0.38 range. In order to determine whether these incentives to highgrade are significant, the question to be answered is whether once out on the grounds would fishers deploy some additional gear if there were an opportunity to harvest additional fish in the price ranges just discussed. Data needed for a complete economic analysis to answer this question are not available.

Fishery evidence shows that, at a minimum, the average size of fish landed is substantially greater in slower paced West Coast fixed gear sablefish fisheries (Table 15 and following).

Sablefish size composition during different portions of the 1999 limited entry fixed gear fisheries for sablefish.[a/]

	Daily-Trip-Limit Fishery		Three-Tiered Fishery		Mop-Up Fishery	
Large	22.0%	63.6%	11.0%	43.1%	22.2%	61.2%
Medium	41.7%		32.0%		39.1%	
Small	30.1%	36.4%	42.0%	56.9%	32.8%	38.8%
Extra-small	6.2%		14.9%		6.0%	

a/ Distribution of sablefish sizes after distribution of "unspecified grade" fish using average price for all landings of the same condition and size, based on data from the 1999 fishery.

Increasing the portion of large fish in the catch may be achieved either through discarding from the deck/side or by targeting on larger fish that may be caught in certain geographic locations or in complexes with other species. The most important conservation issue is whether highgrading results in discard mortality and if so whether that discard mortality is properly accounted for in the management process. It has been suggested that (1) pot vessels may highgrade by adjusting the mesh size in the panels, (2) fishers may have more ability

12/ This analysis used size composition reported by Washington port samplers in the early 1990s and prices from 1991-1993.

to target larger size fish when there is less competition on the fishing grounds and (3) that discard mortality rates for sablefish taken in the fixed gear sablefish fishery are believed to be low relative to many other groundfish species (primarily rockfishes) because sablefish do not have swim bladders. If highgrading for larger fish can be achieved with little or no discard mortality, the reduction of the amount of smaller fish in the harvest could increase the average annual growth rate of the sablefish biomass as well as the average value per pound harvested.

Sablefish Discard Mortality Rates and Interaction with Gear Usage Provision (Provision 2)

The proportions of fish caught with each gear type by the limited entry fixed gear sablefish fleet may shift under the rules allowing individual vessels to stack permits endorsed for different gear types and use a single fixed gear to take the associated limits (see Provision 2). If (1) one gear type is more conducive to unmeasured discard mortality from highgrading than the other gear type, and (2) an extension of the season length (Option 5a) increases discards, Provision 2 and 5 may interact. If Provision 2 increases use of a gear with higher discard mortality rates, then the degree of increased mortality associated with extension of the season will be amplified. If Provision 2 increases use of a gear with a lower discard mortality rate, then the degree of increased mortality associated with extension of the season will be moderated.

Sablefish Discards in the Daily Trip Limit (DTL) Fishery

Discards of sablefish in excess of the DTL may come either as a result of sablefish taken incidentally to effort directed toward other groundfish species or as a result of targeted sablefish effort.

Currently limited entry fixed gear vessels targeting on nonsablefish species may catch sablefish in the complex of species which they target. If such sablefish catch is in excess of the DTL limits, the sablefish must be discarded. Expansion of the fixed gear sablefish season length (Option 5a) would increase the amount of sablefish that might be retained by sablefish-endorsed vessels when they target segments of a stock complex that include both sablefish and nonsablefish groundfish. This might reduce sablefish discards.

When sablefish are targeted under DTL regulations, discards may result from fisher attempts to ensure that the full DTL is taken. Given that once a fisher is on the grounds and deploying gear there is a low additional cost for each additional unit of effort, there may be economic incentive for fishers to deploy excess gear in order to assure that, in a large majority of the trips, the amount of sablefish caught is at least equal to the daily trip limit. Using this strategy, it is inevitable that overages and discards will occur.

Under the extended season, sablefish-endorsed vessels would not be constrained by DTL regulations until they had fully taken the cumulative limit associated with their tier. While the extended season will likely reduce the amount of endorsed-vessel fishing subject to the DTL, once a vessel has exhausted its cumulative limit it may continue to fish under the DTL regulations, with the attendant discard problems just described.

When the season is extended in combination with permit stacking, the amount of DTL fishing will likely go down because there will be fewer vessels participating and it will take the vessels with stacked permits longer to exhaust their cumulative limits.

Unreported and Underreported Sablefish Landings

Unreported or underreported landings can result in harvest in excess of target harvest levels, resulting in conservation problems for the stock.

Under cumulative limit fisheries, the incentive and opportunity for cheating is greatest when a vessel has not yet fully taken its cumulative limit. In such a situation, the window of highest vulnerability to detection is relatively brief: the period of time between completion of the landing paperwork and when fish are mixed with other landings of sablefish in a plant or shipped out of the landing area. The sablefish in a plant may include fixed gear, open access and trawl landings. For plants handling large volumes of sablefish, cheating by some vessels may be hidden as slightly higher than average recovery rates.

Under the modified derby (status quo management) many vessels have capacity far in excess of that needed to take the available cumulative limits during the season. Such vessels may gain an advantage by underreporting the vessel's first landing(s) so that more fish may be landed later in the season; however, the opportunity for making additional landings is very brief in the current short season. Additionally, the short season makes it easier to concentrate enforcement efforts on monitoring the fishery.

Incentives and opportunities for cheating under an extended season would be similar to those for other groundfish species under the current cumulative limit managements system. The additional harvest opportunity gained by underreporting a particular landing would be available over several months. The primary difference in incentives for the fixed gear sablefish fishery as compared to other groundfish fisheries managed under cumulative limits is that the fixed gear sablefish is more valuable on a per pound basis than most other groundfish species, hence there may be a greater incentive for underreporting.

If permits are stacked but the modified derby is retained, the season would be expected to shorten for those vessels that stack. Vessels that stack would have less time to harvest the additional fish needed to take advantage of underreporting their landings. Thus with stacking and continued short seasons, the incentive for underreporting would diminish.

While extending the season length may provide substantial opportunity for underreporting or not reporting harvest, a requirement for six hours' advance notice of landing (Options 11a or 11c) may substantially increase the deterrence for not reporting a landing. Field enforcement officers discovering an offloading activity for which no advance notice had been given could immediately issue a citation on that basis alone. See the analysis of Provision 11.

Collection of Biological Samples

An increase in at-sea dressing (heading and gutting) would make it more difficult to collect biological samples. Increased dressing at sea might be expected if the fishing season were extended, giving vessels more time to harvest their allotted limits (Option 5a). Table 16 shows that, in 1996, landings for which condition was reported had more at-sea dressing during the daily-limit-fishery and mop up than during the regular derby season (however, it should be noted when fish with unreported condition of landing are included in the calculation, the proportion of dressed fish increases during the derby season). Allowing the stacking of permits without relieving the individual quota constraint (Option 5b or 5c) may shorten the season, focusing more attention on completely harvesting the vessel limits than spending time dressing fish. Additionally, under a short season there would be less time for highgrading, resulting in landings composition for which biological information from the sablefish component more accurately represents the portion of the population recruited to the fishery.

The six-hour advance notice proposed for enforcement purposes (Option 11a) would also help increase the efficiency of the port sampling program. See the analysis of Provision 11.

Discards of Nonsablefish Groundfish

Landings of other groundfish species along with fixed gear sablefish tend to be larger and more frequent in the daily-trip-limit and cumulative limit mop-up fishery than during the main opening of the primary fishery (the modified derby fishery) (Table 12). This indicates that other groundfish species may be being discarded during the modified derby. Extending the season (Option 5a) will relieve the time pressure on fishers to complete all the landings allowed under cumulative limits of the modified derby. This would be expected to increase the economic incentive for the landing of other fish caught along with sablefish, reducing discards. Whether or not permits are stacked, vessels would be able and more likely to land their nonsablefish species limits along with their sablefish, an improvement over the current situation where it is more likely that these other species will be discarded. See Provision 8 for additional discussion of this issue.

Lost Gear

In the modified derby (Option 5b), there is a tendency for gear to be lost at a higher rate than in longer fisheries with less intense fishing pressure. While fishpots are required to have biodegradable cotton webbing, which dissolves if the pot soaks too long, thus allowing fish to escape through a hole and reducing mortality levels associated with lost gear. Lost line gear may become an entanglement hazard for larger marine species. Under a longer season, vessels will be more likely to fish under conditions where gear is less likely to be lost and there will be lower opportunity costs associated with efforts to immediately relocate and recover lost gear.

Social and Economic Impacts

Fishery duration will be one of the most important features determining the impacts of permit stacking provisions. If permit stacking is allowed and the current short seasons must be maintained to avoid individual quota classification (Option 5b), the amount of stacking will be less and new, more complicated preseason procedures will have to be established. At expected levels of stacking, seasons would have to be shortened and more vessels would be pressed to harvest their limits in the allotted time, decreasing safety and increasing other concerns related to short seasons. It has been projected that only 30 vessels would be able to stack permits and take their full additional limit at current season lengths and harvest levels. If there would be a sufficient amount of stacking, seasons could lengthen. However, even if 50% of the permits were stacked (82 permits), the season would only lengthen by one day (Hastie, In Press).

Excess Capacity and Efficiency

Capital Equipment Costs: The primary economic benefit that might be expected from permit stacking would be through the reduction in capacity in the fishery (and hence a reduction in the long-term capital equipment cost of harvest). The SSC report on capacity (Council, 2000b) notes that capacity reduction achieved through permit stacking can be expected to erode over the long term. This is particularly true for options such as Option 5b (a short sablefish season). Under Option 5b, a modified derby would be maintained and those vessels not able to harvest their allocated cumulative limits in the allotted time may increase capital investment in equipment in order to do so. However, with permit stacking, the opportunity to move harvest privileges between vessels may diminish the degree of incentive to increase capital investment in order to take additional harvest. Those vessels able to easily take the harvests allotted under their permits would be most likely to buy or lease additional permits to stack. Slower harvesters may sell or lease out their permits rather than undertake the investment needed to increase capacity to take their full cumulative limits, knowing that, as they and others increase capacity, the season would continue to shorten, increasing risks and the amount of investment required. Permits may be transferred to realign harvest opportunity with existing harvest capacity. Thus, under a continued short season with permit stacking, some of the incentive to invest may result in a redistribution of harvest privileges rather than investment in additional fishing capacity. In contrast, under Option 5a (long seasons), for the fleet as a whole there would be little incentive for a net increase in harvest capacity. Every vessel would likely have more than enough time to harvest their allotted sablefish limits, even after permits have been stacked. Reductions in capacity within the sablefish fishery are not likely to erode over time because there would be no incentive to increase capacity for the purpose of harvesting sablefish more rapidly. Profits in the sablefish fishery would be expected to increase for reasons discussed below, providing fishers the opportunity to increase investment in other fisheries, other sectors of the economy, or in consumer purchases.

Operation Costs: Given a longer fishery (Option 5a), vessel owners would have more opportunity to harvest sablefish at times or in manners that minimize their costs. For example, fishers would have more opportunity to vary the time and location of the fishing activity to increase their CPUE or attain a higher proportion of large sablefish in their catch. Crowding and competition on the most desirable fishing grounds would be decreased. Sablefish harvest costs might also be reduced by using sablefish cumulative limits to retain bycatch in fisheries targeted on other stocks. Opportunity costs may be reduced by timing sablefish harvest to reduce conflict with other fishing opportunities (e.g., tuna or salmon). Continuation of the short fishery (Option 5b) provides fishers with little flexibility in the timing of their harvest, and harvest location may be dictated by short-term considerations, such as weather, or the need for short travel time between the fishing grounds and the port of landings. The impacts of Options 5a and 5b on operation costs are largely independent of permit stacking. If permit stacking is allowed along with an extension of the season, there will be some tendency for vessels

with lower harvest costs to obtain additional permits, to the degree that the lower harvest costs translate to greater net revenues and so long as expansion of the vessels' harvest can be carried out without substantially increasing marginal costs.

Exvessel Value: The exvessel value of retained product may be increased by means such as improved handling of the product, highgrading or selectively targeting for larger fish, or harvesting at a time of year when prices tend to be higher. Highgrading may have impacts that are either positive or negative in an economic and biological sense, depending on the accompanying discard mortality (see discussion of biological impacts). Vessels may also receive higher exvessel prices for sablefish by being in a better position to negotiate price among a greater number of processors in different ports. This type of increase in "value" may represent more of a transfer of benefits between harvesting and processing sectors than an actual increase in benefits to the nation from the fishery.

Processor Efficiency: Under the current short season (Option 5b), processors can schedule their labor and marketing activities well in advance of sablefish deliveries. The most significant problem for processors may be scheduling processing activities during a long sablefish season (Option 5a). Larger volume processors handling a relatively continuous flow of product from various fisheries may be able to process and ship sablefish that are delivered on a somewhat irregular schedule, absorbing the additional product into existing production schedules. For processors that must open a plant or bring on extra crew to handle large sablefish deliveries, variability in product flow and uncertainties about exact vessel delivery times may add to the expense of handling sablefish, as compared to the current abbreviated seasons (Option 5b).

As the large Japanese winter demand for sablefish continues to dominate the markets, processors may incur some additional storage costs if some sablefish are delivered in the spring (Option 5a). However, price signals will influence the timing of sablefish harvest. Processor demand will include considerations such as cold storage costs and any seasonal differences in flesh quality and average sizes. Harvester supply will take into account processor demand for sablefish as well as potential revenues in alternative fisheries at different times of year. The structure of the daily trip limit fishing opportunities may significantly influence the timing of fishery deliveries. The provision that sablefish-endorsed vessels cannot harvest against the DTL fishery limits until they have exhausted their tier limits will likely provide incentive for some vessels to deliver fish earlier in the season rather than later (see Provision 8).

Safety

Safety-related problems under status quo management (the modified derby, Option 5b) include:

- fishing in poor weather or unsafe mechanical situations in order to take part in the primary sablefish harvest opportunity for the year;
- operating under high stress and at a high speed, with a lack of rest, in order to maximize the primary sablefish harvest opportunity for the year;
- fishing with less than optimal safety-related maintenance due to financial pressures associated with overcapacity in the fishery; and
- difficulty in enforcing at-sea closures that were implemented to make the fishery safer.

Under permit stacking all of these problems would continue unless the season is lengthened (Option 5a). There appear to be few options for relief from the current situation other than creating a system that would be classified as individual quota management (currently prohibited under the Sustainable Fisheries Act moratorium), implementing a buyback program (funding not available), or imposing involuntary capacity reduction measures (highly controversial and potentially inequitable). Option 5b would extend the season duration, creating an individual quota program within the parameters of the exception authorized by Congress for the West Coast sablefish fishery. If short seasons had to be retained, it is unlikely that voluntary permit stacking would be sufficient to result in a lengthening of the season. Stacking of half the permits would increase season length by only one day (Hastie, In Press). With the relief provided from the moratorium for the West Coast sablefish fishery, the Council could adopt a short season and not be forced to shorten the season if permits are stacked-if the Council considered it desirable to do so.

Due to a lack of reliable data and methodological problems, it is hard to quantify the linkages between vessel safety and other factors, such as management practices. In Fishing Vessel Safety, Blueprint for a National Program, the National Research Council notes that commercial fishing has one of the highest mortality rates of any occupation and that safety has largely gone unregulated. While attributing a large portion of the safety issues to the actual vessel (e.g., its structure, equipment and crew), the authors did consider fishery management practices to be one of three major external influences on vessel safety. They assert that the current fishery council structure has not been effective in resolving allocation conflicts and that has "resulted in a highly competitive operating environment in which fishers may take unnecessary risks to maintain their livelihood." The extremely short and inflexible halibut and salmon openings off the West Coast and Alaska were specifically mentioned as examples of management practices that had forced fishers to work under "extremely adverse environmental conditions or not at all."

Allocation and Equity

Option 5a (lengthened seasons) will initially shift harvest toward smaller producers (vessels that tended to not harvest their full cumulative limits under the modified derby). These vessels will have a greater opportunity to harvest their limits under an extended season. Under status quo, seasons are set short enough that vessels with small capacity relative to their cumulative limits are unable to take all of their cumulative limits in the allotted time. If every vessel fully harvested its cumulative limit, harvest would exceed the amount allocated to the limited entry fixed gear primary fishery by an amount that has been termed "overhead." The target overhead has generally been set at 25% of the expected harvest. The lengthened season under Option 5a provides opportunity for every vessel to take its full cumulative limit, thus cumulative limits would have to be reduced (overhead eliminated) so that the allocation to the fishery is not exceeded. Cumulative limits would decline by about 20%. This would imply a reduction in harvest opportunity for vessels able to take close to their full cumulative limits under the short status quo seasons and an increase in harvest opportunity for vessels that harvest substantially below their cumulative limits during the status quo season. However, it is not apparent that this result would be substantially different from the status quo. Section 4.1.1 points out that there appears to be a trend for vessels to increase their capacity or effort to take their full available limit. The Council could address this trend by shortening the season. However, with the relief of the constraint of the moratorium and the Council's concerns over safety, if it were to recommend maintaining a short season, the more likely action would be to reduce the cumulative limits. Following this course, over time, a reallocation would occur similar to that projected for the extended season. Adoption of permit stacking (Provision 1, Section 4.1.1) along with the extended season will allow vessels experiencing a reduced limit to more than regain their lost harvest through acquisition and stacking of permits. Additionally, the harvest flexibility provided by the extended season is likely to provide some vessels opportunity to increase net value per unit of harvest.

With an extended season (Option 5a), vessels with sablefish endorsements that participate in the sablefish daily trip limit fishery may experience some reduction in opportunities in that fishery. All fish harvested by these vessels will count against their cumulative limits until they are reached. After that, vessels will be able to continue fishing in the DTL fishery. Unless vessels with sablefish endorsements exhaust their cumulative limits quickly at the beginning of the sablefish season, those that participate in the DTL fishery experience some decrease in fishing opportunity. This impact is discussed further in the analysis of Provision 8 (Section 4.1.8).

Under Option 5b, short seasons would be maintained. Vessels able to take additional harvest quickly with sufficient net profit will likely stack permits, gaining a greater share of the total harvest. Over time, as vessels increased capacity in order to fully access available cumulative limits, cumulative limits would have to be lowered to ensure that fishery quotas are not exceeded, or the fishery would have to be shortened further to avoid lowering cumulative limits. These regulatory actions would result in ongoing indirect reallocations of harvest.

Windfall

The concept of windfall profits or losses and the reason they are a social concern is first discussed in Section 4.1.1. Windfall profits or losses would be generated by changes in permit prices related to changes in the net value of the harvest privileges conveyed by the permit. The factor most likely to have the greatest influence over permit prices is the season length option. With a lengthened season (Option 5a **[ADOPTED]**), maximum gross sablefish revenues for every permit will decrease by about 20% (see the above section on Allocation and

Equity for a more complete discussion). This will tend to put downward pressure on the price for permits. On the other hand, a lengthening of the season will reduce the risk that a vessel will be unable to harvest its available harvest. This increased certainty of harvest would have an upward influence on price along with a number of other factors likely to increase the value of the sablefish harvest opportunity. For example, a longer season would allow fishers to schedule their sablefish harvest activity between other fishing opportunities, avoid crowded fishing grounds, harvest larger higher quality fish, and possibly negotiate higher market prices.

Privatization of a Public Resource

Extension of the season length such as would occur under Option 5a **[ADOPTED]** would essentially turn the current management system into an individual quota program in which quota is traded in large blocks of three different sizes (reflecting the current three-tier program). Concern is often expressed that limited entry and individual quotas in particular go against the "free enterprise system" and represents the privatization of a public resource- the creation of a private "property right." While what would be allocated are fishing "privileges," rather than "rights," these "privileges" are beneficial to the economy to the degree that they emulate private property "rights" and support market-based-decision incentives. The basis for the strength of this system is that individuals who own resources will husband them to achieve the greatest good for themselves and, in pursuit of that personal benefit, will be guided to use the resources to produce the greatest value for society.

Failings of the free enterprise system generally occur when property rights systems are not in place, so that the individual does not bear the full cost and benefit from his or her use of a resource. For example, wastes are released into the air and water, in part, because the person creating the waste bears only a very small portion of the costs of the pollution created. Fisheries constitute another area in which property rights are not assigned to a resource. License limitation and IQs are attempts to rectify the economic failures result lack of property rights (e.g., overcapitalization) by assigning access privileges which behave in some ways like property rights. Because of the fugitive nature of the fisheries resources, the rights to specific fish cannot be assigned. Therefore there is not full emulation of a private property system. For example, individual may find it in their best interest to highgrade to earn more per pound of quota because any negative effect highgrading has on productivity of the resource is shared by all users.

The fishery is a public resource held as common property by the people of the United States. Statements in the groundfish limited entry program indicate that rather than a "right," a fishing permits constitute fishing "privileges" which may be revoked or modified by an amendment to the groundfish plan. At present, when permit values are increased or decreased through actions under the groundfish management plan, the sale of permits can result in capital gains or losses against which taxes are assessed. Thus, changes in the value of the access rights can be passed on to the general public in the form of changes in amounts of tax revenue collected.

Entry and Exit

Increases in permit prices may increase the difficulty of entering the fishery and decreases in permit prices may decrease the degree of difficulty. See Section 4.1.1 for a discussion of these relationships. See "Windfalls" for a discussion of the impacts of this provision on permit prices.

Foreign Control

Concern has been expressed that transferable harvest privileges, especially IQ or IQ-like privileges, may be subject to foreign purchase and control. Extension of the season length would make the management system for fixed gear sablefish more like an IQ program.

In response to past concerns about foreign control the Council has specified provisions in the license-limitation program to require anyone who acquires control of a permit to be eligible to own a US fishing vessel. Despite this provision, there is concern by some that the exertion of foreign control in a fishery is possible through a broad number of mechanisms running from part ownership of a business or parent business, to exclusive marketing agreements, to the provision of financing for acquisition of harvest rights. There is an inherent risk to foreign enterprises that try to achieve control over US firms because of differences in business culture. This risk is amplified when the domestic firm participates in an inherently variable and risk-prone industry. When

an industry becomes more stable through practice or a change in the business environment, there may be a tendency for foreign interests to seek additional vertical integration in the domestic economy in order to seek control of the resource base. Thus, an extension of the fixed gear sablefish season, by reducing the uncertainty of achieving target harvests, may encourage foreign interests to seek more control in the industry.

While extension of season duration (Option 5a, **[ADOPTED]**) may increase foreign interest in acquiring control over fixed gear sablefish permits, a number of the complementary provisions of the stacking alternative may serve to limit or reduce that interest. Limits on the number of permits owned by one individual will increase the number of arrangements that would have to be made for a foreign interest to gain control over a substantial portion of the harvest (Provision 4, ownership Option (a), **[ADOPTED]**). Requirements that the owner be on board the vessel during fishing operations may also make the exertion of control by foreign interests more difficult (Option 7a **[ADOPTED]**). This does not eliminate the opportunity for control through exclusive marketing or financing agreements, but does make control more difficult and less certain. The Council also considered whether more direct limits on foreign control might be imposed (Provision 10). More direct limits were not adopted. Extension of the season without allowing permit stacking would likely attract less foreign investment interest than extension of the season with permit stacking. Without permit stacking, foreign investors would have to create or rely on a greater number of somewhat more complex business relationships in order to control a given number of permits. For example, if a foreign firm arranged financing for one individual to buy three permits, those permits would have to be put on separate vessels and illegal harvest activities by any of the vessels could jeopardize the permits.

Relative Bargaining Strength

The main change in relative bargaining strength would occur if the season for fixed gear sablefish were extended (Option 5a). An extended season would give harvesters more delivery alternatives, increasing the pressure on processors during price negotiations.

Income and Employment

In general, a system which generates more efficient use of resources to generate the same amount of production will lead to an increase in income for the nation as a whole. Income may, however, be redistributed. If the season is lengthened (Option 5a), efficiency of sablefish harvest is expected to increase, increasing and redistributing income (see above section on allocation).

If the season is extended there may be fewer jobs for crew members, however, the jobs may last longer and provide a higher level of income per crew member. A Council survey of the fixed gear fleet showed that the 1996 vessel owners who responded to the survey employed an average of about 4.25 people per vessel during the derby fishery and an average of 3.37 crew per vessel during the mop-up fishery, a difference of about one crew member per permit. Assuming that the survey respondents are representative of the endorsed fleet, that the entire endorsed fleet participated every year, and that per-vessel employment under the tiered limits is about the same as per-vessel employment during the 1996 derby, employment under an extended season would decline from about 700 to about 550 crew positions(a net decrease of 150).[13/]

If permit stacking is combined with the extended season and it assumed that half the fleet stacked permits and that per-vessel employment under the tiered limits is about the same as per-vessel employment during the 1996 derby, employment under permit stacking would decline by an additional 275 positions. Under these very rough assumptions, the number of crew positions would decline from about 700 during the derby to about 275 during an extended season with permit stacking.

Under Option 5b, short seasons would be maintained. On the one hand, fleet efficiency might decrease as vessels continue to increase capacity in order to take the entire available harvest. On the other hand, the stacking of some permits could result in an increase in efficiency for a portion of the harvest. Permit stacking

13/ This assumption may be biased in that larger vessels employing a larger number of crew members may opt not to participate in the mop-up fishery for which harvest opportunities were substantially smaller than for the derby fishery.

will likely decrease the number of crew members employed during the fishery. It is estimated that 30 permits might be stacked under a short season. Assuming the permits are stacked from the average vessel, the number of crew positions would be reduced by 4.25 for each permit stacked for a total reduction of about 130 crew positions.

In addition to the impacts on harvest employment, some vessels may attempt vertical integration (i.e., take on some processing functions to gain more income), using crew member labor to replace labor that would have been provided by workers in shore plants. Under Provision 6, limits would be placed on a vessel's ability to shift into at-sea processing.

Fisher Job Satisfaction and Life Style

If short seasons are maintained (Option 5b), permit stacking alone will likely affect fisher job satisfaction and lifestyle only to the degree that fishers stack permits and expand their harvest to the limit that can be taken in the short openings that would be provided in Option 5b. Risks of not taking the harvest in the allotted time will increase as will the pressure to operate in conditions that might be otherwise considered unsafe. This pressure may be felt particularly if there is a need to pay off expenditures made on the permits that have been stacked. Those who stack permits while seasons are short will be taking a risk. Additionally, those who do not stack permits will face some additional risks if seasons are shortened as a result of permit stacking (see Appendix A). Some studies show that there are many similarities in the characteristics of fishers and gamblers (McGoodwin, 1990).

If the season is lengthened so that all vessels are able to easily take their cumulative limits (Option 5a) **[ADOPTED]**, the importance of skill in the speed of catching fish to ensure maximum gross returns may be replaced by the importance of skills in handling and maintaining quality. Skills in locating fish may not be important so much for the greater harvests such skills bring as for their value in reducing harvest cost and increasing the amount of large fish in the catch. As the importance and measures of various skills change, there may be some disruption in the job satisfaction generally experienced by individuals in the profession. With a lengthened season, a reduction in the hazards imposed by recent derby-like fisheries may reduce some aspects of stress for both fishers and their families.

While the changes discussed above may be significant for many fishing operations, sablefish harvesting may be only a small portion of the overall fishing operations of many vessels. To the degree that this is true for a particular operation, there will be less reduction in the risky nature of the activity if seasons are lengthened. However, as more fisheries come under fleet rationalization programs, it is likely that the mark of the successful fisher businessman will be ability to maintain, accumulate, and manage access privileges, and maximizing the net value of the harvest opportunities imbued by those access privileges.

Gear Conflict

On the one hand, there may be reduction in grounds pre-emption and other types of on-grounds competition between fixed gear vessels if seasons are lengthened. On the other hand, an extended season will increase the probability of fixed sablefish/mobile-gear encounters during the period of the extended season. Under the condensed season of recent years, mobile gear vessels had short periods of time during which they could either remain off the water to avoid conflict or simply exercise a heightened awareness of the probability of interaction with fixed gears. While the potential for fixed-gear/mobile-gear conflict may increase with a lengthened season, the situation will not be much different from that of the mid- and late-1980s when the fixed gear sablefish season was nearly a year-round fishery.

Regulatory Complexity and Paperwork Burden

With permit stacking and a continued shortened season (Option 5b), preseason procedures would be more complicated than those with an extended season. Cumulative limits would have to be determined by the amount of stacking and season length. In order for fishers to know whether they wanted to stack permits, they would have to be provided with initial estimates of the cumulative limits and season length. These initial

estimates would then have to be adjusted after the amount of stacking is determined. With the IQ moratorium exemption, managers would not need to adjust both season length and cumulative limits; however, sufficient adjustments of one or the other would need to be made to ensure that the fixed gear segment of the fishery does not exceed its allocation.

Under the longer season (Option 5a), every vessel would be assumed capable of fully taking its cumulative limit, and, therefore, cumulative limits would not need to be adjusted. Moreover, the preseason openings and closures that affect all fixed gear vessels would no longer be required. For short seasons, these closures were needed to ensure that all vessels had a fair start and that the fishery could be closed at-sea (vessels cease fishing at the closure time but do not have to be in port).

Under an extended season, midseason permit transfers may occur. Limits on the number of transfers allowed per permit per year will continue to apply. If midseason transfers occur, situations may arise where vessels separately fish under the amount allotted by the permit. This would create a situation in which the buyer (transferee) of a permit would be relying on the seller (transferor) to inform him or her about the poundage already taken on the permit during the year. Questions arise as to which owner would be held responsible for the overage and whether a permit buyer would be held responsible if a permit seller had not properly reported the amount of fish landed to date at the time of sale. To reduce the risk in this "buyer-be-ware" situation, the Council's recommendations for an extended season length include a provision requiring a seller (transferor) to accurately report to the permit office and the buyer (transferee) the pounds of sablefish caught against the permit's cumulative limit, together with a copy of all relevant landings receipts. To assist enforcement, the permit buyer (transferee) would be required to keep all landing receipts on board the vessel, including copies of the receipts submitted by the permit seller (transferor).

Enforcement and Monitoring Costs

Enforcement and monitoring costs will be affected by changes in the season length. Derby fisheries are among the simplest fisheries to regulate (Option 5b). The current modified derby, capped with cumulative limits, presents some enforcement problems because of the difficulty of determining if the amount of fish on board a vessel is within the vessel's limits and is being properly reported. The problem is similar to that for other groundfish managed under cumulative limits, however, under the short season (Option 5b), the enforcement problem and opportunities to benefit from underreporting are restricted to a relatively few days. Additionally, the incentives for underreporting for sablefish would be substantially greater than for most other groundfish managed under cumulative limits because sablefish bring a substantially higher price per pound. Under an extended season (Option 5a **[ADOPTED]**), the enforcement problem would be protracted over a number of months. On the other hand, some of the enforcement problems associated with the derby fishery would be eliminated: preseason and postseason closures would not be needed and at-sea closures would not be necessary. However, overall, the enforcement burden would be expected to increase with an extended season. There is additional discussion of the nonreporting and underreporting issue under the analysis of biological impacts of Provision 5.

Administration

Stacking under a shortened sablefish season (Option 5b) would add to NMFS and Council workload. As outlined in Option 5b, a tentative set of cumulative limits and season lengths would be identified, a period allowed for fishers to decide whether or not to stack permits, and then a final set of limits and season lengths would be specified. This process would be needed to maintain overhead (if the fishery had to be managed under the IQ moratorium) or, under the current exemption, to ensure the fixed gear sablefish allocation is not exceeded. Under Option 5a (long seasons), there would be a single specification of cumulative limits and it would be generally assumed that all vessels would easily take their limits. Even if the season were lengthened without permit stacking, the annual setting of sablefish cumulative limits would be simplified substantially. There would be no need for attempts to estimate capacity and set season length to generate overhead.

Fishing Communities

Geographic redistribution of landings may result from a lengthening of the season (Option 5a **[ADOPTED]**) and the consolidation of permits. The longer season allows vessels the opportunity to take their harvest to

preferred ports of landings, which may be more distant from the fishing grounds. For example, Figure 1 shows that as the season shortened in the early 1990s, sablefish landings moved from inside Puget Sound to coastal ports. A lengthening of the season may reverse this redistribution.

Over time, the consolidation of permits among fewer vessels (Provision 1, permit stacking, **[ADOPTED]**) could result in the consolidation permits in ports where there are lower costs or higher exvessel values, giving fishers in the port the opportunity to outbid individuals from other geographic areas in the competition to purchase permits. The degree of consolidation is expected to be substantial only with a lengthening of the season. Data are not available that can be used to predict which ports may offer residents a competitive advantage in bidding for permits, so little prediction can be made of the geographic redistributions that may occur.

Adjacent Council Fisheries (Alaska Fisheries)

There is an inverse correlation between harvest in the West Coast fixed gear sablefish fishery and harvest in the Alaskan fishery. Alaska harvest usually drops in August, when the West Coast fishery is usually in progress, and then rebounds (Figure 2). This relationship could result from either a switch in harvesting effort from Alaska to the West Coast or a temporary decrease in processor demand in Alaska as a result of the increased availability of fish from the West Coast. Additional analysis of the vessels participating in the Alaska and West Coast fisheries would shed some light on this issue, however, West Coast analysts are not allowed to access individual vessel landings information for Alaskan fisheries.

Council Recommendation

The Council recommended opening the season as soon as possible after April 1 in 2001 and opening on April 1 in subsequent years. The season would close October 31st. Despite some potential negative biological impacts, the Council believed that the positive impacts on safety and economic efficiency warranted the action. Potential negative biological impacts can be controlled by appropriate monitoring and compensating conservation actions. For example, it has been recommended that with the extension of the season the assumed discard mortality rate be increased from 3% to 8% in order to take into account expected highgrading. There may also be some positive biological impacts as a result of reduction in gear loss.

4.1.6 Provision 6: At-Sea Processing

Note that "processing," as defined under the West Coast groundfish FMP includes such activities as freezing but **excludes heading and gutting**.

Options: 6a. **Prohibit at-sea processing.** At-sea processing would be prohibited in the fixed gear sablefish fishery except for vessels that can demonstrate the landing of at least 2000 pounds of frozen sablefish in 1998, 1999, or 2000.

6b. **Current Situation: Allow at-sea processing.** At-sea processing would be allowed in the fixed gear sablefish fishery. (Note: At-sea processing has not played a significant role in the fishery in recent years because of the short seasons in place since 1996.)

6c. **Prohibit at-sea processing but include grandfather provision [ADOPTED].** Same as Option 6a except provide that the temporary exemption for vessels able to demonstrate frozen sablefish landings would expire with the transfer of the permit to a different owner. For corporations and partnerships, changes in ownership are defined as a change in the identity of a corporation or partnership, as specified in Provision 7.

Rationale

Vessels generally deliver their catch to shoreside processors iced but not frozen. It is reported that in the 1980s there were some freezer-pot vessels and freezer-longline vessels that took sablefish along the West Coast. These vessels are said to have not participated in the abbreviated seasons that generally characterized the fishery in the 1990s. Fisheries landings data collected by the states have not recorded whether landings were landed fresh/iced or frozen. At the September 2000 Council meeting, it was reported that some vessels have invested in equipment to freeze sablefish and have begun landing frozen product. There are news reports

that some Alaska seiners and other vessels have been refitted for freezing capacity. The reported incentive for this refitting is to handle product harvested from Alaska sablefish and halibut IFQ fisheries (Haig-Brown, 2000a and 2000b).

If the fishing season is extended (Option 5a, **[ADOPTED]**) and permits can be stacked (Provision 1, **[ADOPTED]**), the extended and more flexible fishing opportunities may increase the probability that at-sea processing activity will occur (or expand). Processor vessels may be typical harvesting vessels using the harvesting crew as processor labor or they may be larger processors (catcher-processors and motherships) drawing their workers from noncoastal and coastal communities. This may result in the relocation of processing jobs and income from coastal communities and shore-based processors to the processor vessels and the offloading ports. In the past, large freezer operations are said to have typically offloaded their catch in major city-ports such as Los Angeles. Such relocation of activities could have an adverse effect on coastal communities dependent on fisheries.

Provision 6a would limit increases in at-sea processing and Option 6c would limit the increase and eventually eliminate such processing. Provision 6a and 6c would allow some vessels to act as processors but this provision. Other provisions of the permit-stacking alternative (such as Option 7a) would effectively prevent processors from becoming catcher vessels.

The Council has recommended that an advance notice of proposed rule-making be published in the *Federal Register* to put vessel owners on notice that the Council would likely recommend a limitation on new at-sea freezing activities.

Physical Impacts

None.

Biological Impacts

Processing at-sea may make it more difficult to collect biological samples. There may be some opportunity to collect samples at-sea under the recently approved observer program. However, given the low level at which the program is currently funded, observer coverage is likely to be low. Therefore Options 6a and 6c, limiting the development of at-sea processing, may make it easier to collect biological samples as compared to the situation if at-sea processing were allowed to expand (Option 6b). Under stacking and the continued short season, the likelihood of permit stacking would be similar to that in the modified derby. With a lengthening of the season (no permit stacking) the likelihood of at-sea processing would increase as compared to the status quo and permit stacking with the modified derby. Therefore, the impacts of Options 6a and 6c would be greater under the long season than with permit stacking and a continued short season. Similarly, with a lengthened season and permit stacking the likelihood of at-sea processing would increase further, further increasing the impacts of Options 6a and 6c.

Social and Economic Impacts

The following are the five categories of social and economic impacts for which impacts were identified.

Efficiency

The lengthened sablefish season will reduce the time constraint on harvesting. At sea-processing may increase, if a fish harvesting operation can generate more net revenue by processing its own fish than by selling unprocessed fish to a processor. Part of the determination of whether more net revenue is generated by processing will depend on whether additional time required for processing sablefish (if any) reduces the harvesting operation's opportunity to participate in other fisheries. Option 6a, by limiting the expansion of at-sea processing, and Option 6c by limiting and eventually phasing out such processing, would limit potential gains in efficiency, assuming that at-sea processing is more efficient. If at-sea processing is as efficient or less efficient than shoreside processing, Options 6a or 6c would have no net effect on efficiency. Option 6b would not constrain at-sea harvesting and so, absent the race for fish, would allow efficiency factors to play more of a role in determining where processing would occur.

Allocation and Equity

With relief of the time constraint on harvesting, shoreside processing operations may have to "compete" with the harvesting vessel's own processing capabilities. In essence, if a vessel can generate positive net revenue by doing its own processing (appropriately taking into account all opportunity costs), then a processor will need to offer a high enough price for the fish such that the vessel earns as high or higher net profits (including a risk factor) by delivering to the processor than by doing its own processing. If at-sea processing opportunities result in processors offering higher prices than would otherwise be the case, there will likely be a net redistribution of income from processors to harvesters. Option 6a would limit the degree of at-sea processing of fixed gear sablefish, and Option 6c would limit and eventually phasing it out entirely. Option 6b would allow the development of at-sea processing.

Options 6a and 6c will limit the development of at-sea/shoreside allocation controversies such as occurred with Pacific whiting, by limiting the development of an at-sea processing sector. These provisions limit not only catcher-processor opportunities but also prevent mothership processors from entering the fishery.

Windfalls

The concept of windfalls and the reason they are a social concern is first discussed in Section 4.1.1. Windfall profits (or losses) are generated by changes in permit prices. In general, regulations that provide more flexibility while attaining the primary regulatory objectives will generate more net value and result in higher permit values and those that provide less flexibility will generate less net value. Any provision that restricts how the sablefish will be harvested would reduce the value of the permit and sablefish harvest rights from what they would have been. In Provision 6, limiting at-sea processing (Option 6a and Option 6c **[ADOPTED]**) is likely to exert a downward influence on permit prices from what they would have been if at-sea processing were allowed.

Income and Employment

At-sea processing could result in the redistribution of income and employment from shoreside-processing-focused firms to harvesting-focused firms. Shifts to at-sea processing would be most likely under an extended season with permit stacking followed in order by an extended season (no permit stacking), stacking with the modified derby, and status quo management. The additional time available for harvest and additional harvest volume per vessel makes at-sea processing more likely under the extended season with permit stacking than under other options. Options 6a and 6c would prevent (Option 6a), or limit and phase out (Option 6c), any shift to at-processing.

Changes in income would be expected to correlate with changes in permit values. See the section of this provision on windfall for additional discussion of impact on permit values.

Entry and Exit

Increases in permit prices may increase the difficulty of entering the fishery and decreases in permit prices may decrease the degree of difficulty. See Section 4.1.1 for a discussion of these relationships. See "Windfalls" for a discussion of the impacts of this provision on permit prices.

Regulatory Complexity and Paperwork Burden

Fishers interested in qualifying for at-sea processing under either Options 6a or 6c will have to submit evidence of the requisite landings of frozen sablefish. The state fish landing ticket systems have not recorded whether landings have been made in fresh or frozen form. Each permit owner applying may have to identify and collect unique evidence that the requisite landings have been made. Time to collect and document the evidence may vary between permits. For Option 6c, in order to determine when endorsements expire, ownership information will have to be submitted similar to that required for Provisions 3 and 7.

Administrative Costs

Issuance of at-sea processing endorsements will require the modification of databases, the generation of application materials, and the development of consistent criteria for evaluating vessel qualification for at-sea processing endorsements. While the PacFIN data system has a conditions code for frozen landings, there are no frozen landings of sablefish recorded in the data system. It appears that state fish tickets have not been coded with this information. Therefore, it will not be possible to use the fish ticket system to determine whether vessels meet the landings requirement specified in Option 6a or 6c. Other evidence of such landings will have to be submitted by permit owners. Evaluation of such evidence in a consistent and nonarbitrary fashion may be the largest administrative burden created by Provision 6.

Fishing Communities

At-sea freezing or other at-sea processing may result in the reallocation of processing jobs from coastal communities to the catcher-processor vessels, or motherships, and a shift in the offloading ports. Processing vessels may draw their workers from many noncoastal and coastal communities and in the past are said to have typically offloaded their catch in major city-ports such as Los Angeles. Sufficient cost data are not available to determine the likelihood of processor vessel entry into the fishery and the degree to which jobs might be relocated from coastal communities. Nevertheless, the potential for the relocation of jobs is a public concern in coastal communities.

Council Recommendation

Prohibition of at-sea processing (with grandfather provisions, Option 6c **[ADOPTED]**) would reduce the potential for relocation of processing jobs and income away from fishery dependent coastal communities and limit on-shore/off-shore allocation disputes, such as those in the whiting fishery. However, if at-sea freezing is the most efficient way to harvest and process sablefish, the provision would also result in the loss of some economic benefit to the nation. Option 6b would have allowed vessels to expand into processing activities while other provisions of the stacking alternative would make it difficult for processors to become catchers (see Provision 7). Option 6c is viewed to be most equitable in that over time it would result in the phase out of at-sea processing, thus creating a clear line between processors and catcher vessels, limiting the ability of either to expand into the activities of the other. The Council viewed the benefits of preventing negative impacts on coastal communities and the equity and simplification that would result from establishing a clear line between processors and catcher vessels as outweighing potential efficiency concerns that may result for the adopted options.

4.1.7 Provision 7: Permit Ownership and Permit-Owner-on-Board Provisions

Options: 7a. **Permit ownership. [ADOPTED]** Fixed gear sablefish permits could only be transferred to individual human beings (corporations and partnerships and other such business entities would not be allowed to acquire permits unless they already owned permits as of November 1, 2000). The requirement that the permit be owned by an individual would not restrict other aspects of the business operation from being organized as a partnership, corporation or other type of legal entity ~~(Also see Provision 10)~~.

> **Grandfathered Corporations and Partnerships.** The exemption for a particular corporation or partnership allowing it to own a permit would cease with a change in the identity of that corporation or partnership, as defined below.

Permit owner on board. [ADOPTED] The permit owner would be required to be onboard the vessel during fishing operations, with the exception of those falling under the following grandfather provision.

> **Grandfathered Absentee Owners:** Corporations, partnerships, and individuals who hold sablefish endorsed permits as of November 1, 2000 will not be required to be onboard the vessel on which the permit will be used **[THE FOLLOWING WAS STRUCK FROM THE OPTION AT TIME OF FINAL ADOPTION]** ~~, so long as they also have~~

- ~~20% ownership interest in the vessel (the amount of ownership required might be at least 20% (as in the North Pacific IFQ program), or~~
- ~~100% ownership interest in the vessel.~~
- ~~Some other value (specify)~~

~~The percent ownership required will be decided by the Council at the time it makes its final recommendations.~~ Grandfathered absentee owners may acquire additional permits to stack with the permits they own, subject to accumulation caps, and still maintain their exemption for the owner on board requirement. ***This exemption from the permit-owner on board requirement will cease if there is any change in the identity of a corporation or partnership owning the stacked permits, as defined below.***

Emergency Exemption: NMFS may grant exemptions from the permit-owner-on-board provision for medical and personal emergencies beyond the control of the permit owner.

Definition: Changes in the Identity of Corporations or Partnerships: A change in the identity of the corporation or partnership will be deemed to occur with a change in the corporate or partner membership, except a change caused by the death of a member providing the death did not result in any new members. Additionally, membership is not deemed to change if a member becomes legally incapacitated and a trustee is appointed to act on his behalf, nor is membership deemed to have changed if the ownership of shares among existing members changes, nor is membership deemed to have changed if a member leaves the corporation or partnership and is not replaced. Changes in the ownership of publicly held stock will not be deemed changes in ownership of the corporation.

7b. Current Situation: Any business entity eligible to own a US fishing vessel may own a limited entry permit and the permit owner would not be required to be on board the vessel during fishing operations.

7c. ~~Same as 7a, except that the onboard requirement would apply only when permits are stacked.~~ (NOTE: At its September 2000 meting, the Council voted to drop this option.)

Rationale

The recent NSF review of IFQ programs (NSF, 1999) found that if goals such as protecting an owner-operator mode of fishing, preventing absentee ownership, or protecting coastal communities are more important than achieving maximum efficiency as quickly as possible, then it may be necessary to restrict transferability in a number of different ways including between "bonafide" fishers and others.

Permit-owner-on-board requirements were first discussed by this Council when a program was being developed for sablefish individual quotas. Concern had been expressed that ability to buy and sell individual quotas would result in economic incentives that would potentially shift valued socio-economic characteristics of the fishery. The intent of the permit-owner-on-board requirements is to reduce the chance that control of the fishery might fall into the hands of absentee owners who are not part of the traditional fishing communities and reduce the chance the income would leave fishery dependent communities.[14/] Fishers voiced concern that those in the profession would become "share croppers" instead of having the opportunity to be independent fishers. The concern was that wealthy individuals would accumulate fishing privileges and not be willing to sell the privileges at prices fishers could afford, given the fishers' levels of wealth, liquidity, and available collateral. These concerns may be more prominent in situations such as that proposed here where access rights can be acquired only in large lumps (the tier levels associated with limited entry groundfish permits).

Requiring that the permits be owned only by individuals would be intended to ease the enforcement of the owner-on-board provision and increase the probability that harvest privileges will remain or come under the ownership of individuals who are members of local fishing communities. The provision that a single individual would be registered as a permit owner with NMFS would not prevent that individual from organizing other aspects of his or her business in a partnership or corporate form.

In developing the single-individual-owner and owner-on-board provisions the Council was concerned about disrupting existing businesses practices in the fishery. Therefore, "grandfather provisions" were created to allow existing corporations and partnerships to continue permit ownership and to allow those already in the fishery to continue to hire skippers to fish their vessels or use their fishing rights. In order to prevent

14/ Lost income includes not only the direct loss of owner income but also induced effects related to where the owner spends his or her income.

corporations and partnerships from maintaining the grandfather status indefinitely through changing the ownership without changing the identity of the legal entity, the grandfather clause was defined to expire with a change in ownership of the business entity. A change in ownership was defined to occur with a change in the composition of those owning the business that owned a permit (with the exception of publicly-owned companies). The Council was concerned that some might seek to exploit this exemption by transferring permits and establishing ownership interest in other permits prior to the time the final rules are published. Therefore, the Council adopted November 1, 2000, control date and recommended that it be published in the *Federal Register* in order to discourage this kind of activity and provide notice to those who might otherwise innocently participate in an ownership change prior to the time final regulations are promulgated.

Another possible way that the owner-on-board requirement might be circumvented for extended periods of time was through the long-term leasing of permits. Long-term leases could essentially convey the exemption from the permit-owner-on-board requirement from the owner to a long-term lease holder. Therefore, a clause was considered requiring that, in order to be exempt from the owner-on-board provision, the fishing privilege owner also had to own the vessel, essentially preventing leasing of the fishing rights. The degree of ownership required in the Council's initial language was unspecified. Ultimately this provision was not adopted.

The option of requiring the permit owner to be on board only when permits are stacked (Option 7c) would have limited the potential for growth in absentee ownership for those accumulating permits for stacking while maintaining business organization options for owners that did not choose to stack permits. At its September 2000 meeting, the Council eliminated this option, leaving on the table for consideration only the option of requiring the single-owner and owner-on-board provisions for all vessels in the fleet (Option 7a) or for none of the vessels (Option 7b). This action implied a policy that favors an owner-operated fishery, independent of the permit stacking issue. Individual owner and owner-on-board provisions could be implemented independently of permit stacking (Alternative 3).

Biological Impacts

If an owner cannot be on-board a vessel during fishing operations that take sablefish during the primary season, any sablefish taken would have to be discarded (unless the owner is exempt under the grandfather provision). Owners would be unlikely to send their vessel's out to target on sablefish unless they could be on-board. It is more likely that a vessel may target on other groundfish species where sablefish is taken as incidental catch when the permit owner is not on board. The issue is more one for the extended season (Option 5a **[ADOPTED]** than for the modified derby (Option 5b). During the modified derby most vessels will be targeting on sablefish.

Social and Economic Impacts

Excess Capacity and Efficiency

In general, regulations that reduce flexibility reduce efficiency (net benefits). The owner-on-board and single-owner provisions are intended to address social values not generally reflected in the traditional cost-benefit analysis, in this case increasing the probability that control of the fishery and fishery benefits will be distributed to local fishing communities and that the fishery will maintain its current status as one dominated by owner-operated businesses.

Safety

Owner-operation as would be required in Option 7a **[ADOPTED]** helps enhance interest in safety by the individual owner, to the benefit of both the owner and crew.

Allocation and Equity

The permit-owner-on-board requirements would temporarily create two classes of owners: (1) those grandfathered in who could own permits under their current form of business operation (including partnerships and corporations) and would be allowed to designate skippers to use their permits either in response to temporary conditions (e.g., sickness, injury, vacations, conflicting business activities) or in order to be absentee

owners; and (2) those who must own permits as an individual and be on board their vessel at all times while their permit is being used in the primary fixed gear sablefish fishery, except when excused for unspecified personal emergencies by the NMFS. Any corporation, partnership, or individual exempted under the grandfather clause will be able to buy more permits and vessels, hire skippers, and generally operate free of the permit-owner-on-board requirement, within the limits of the caps recommended under Provision 3. The individual-owner and owner-on-board requirements would provide less operational flexibility for new entrants as compared to pre-existing permit owners, placing the new entrants at somewhat of a competitive disadvantage. With respect to the restriction's effect on business organization, the requirement that owners be on-board the vessel would not constrain other aspects of the business from being organized as a corporation or partnership, nor would it prevent the encumbrance of a permit to such corporations or partnerships by a private contract.

Windfalls

The concept of windfall profits and the reason they are a social concern is first discussed in Section 4.1.1. Windfall profits (or losses) are generated by changes in permit prices. In general, regulations that provide more flexibility while attaining the primary regulatory objectives will generate more net value and result in higher permit values. Any provision that restricts how the sablefish will be harvested would reduce the value of the permit and sablefish harvest rights from what they would have been. In Provision 7, requiring the permit owner to be on board the vessel and limiting ownership to individuals (Option 7a **[ADOPTED]**) will reduce flexibility and exert a downward influence on permit prices.

Entry and Exit

The provisions of Option 7a would prohibit local governmental jurisdictions as well as other business entities that are not individual human beings from gaining new entry to the fishery (acquiring limited entry permits for the first time.)

At the time of final adoption by the Council, the part of Option 7a that would have prohibited vessel leasing by permit owners exempted from the owner-on-board requirement was deleted. Traditional fishing practices have involved a certain amount of leasing and absentee interests in vessels and permits (Section 3.4.4). These practices provide flexible business conditions that can facilitate gradual transitions into or out of the fishery or adjustment to other changing circumstances of the fishing business. Leases provide access to capital and, for those who lease assets out, the leasing may provide an important part of the income for their overall fishing operations. The Council rejected the aspect of the provision that would have prohibited permit owners exempted from the owner-on-board requirement from leasing vessels.

All permit owners will be allowed to continue to fish their permit on leased vessels. If a permit is leased out, the permit owner would have to be present during fishing operations. This will result in fewer permits being available for lease and will make gradual entry or exit from permit ownership status in the fishery more difficult. There were 59 permits leased out for the 1999 primary fishery and 45 permits leased out in mid-2000. There are 164 total permits.

Foreign Control

Extension of season duration (Option 5a, **[ADOPTED]**) may increase foreign interest in acquiring control over fixed gear sablefish permits. Requirements that the owner be on board the vessel during fishing operations may make the exertion of control by foreign interests more difficult (Option 7a **[ADOPTED]**). One way to reduce the risk of foreign (or corporate) control may be to require the owner(s) of the harvest privileges to be on board the vessel during fishing operations. This does not eliminate the opportunity for control through exclusive marketing or financing agreements, but does make control more difficult and less certain.

Income and Employment

Changes in income would be expected to correlate with changes in permit values. See the section of this provision on windfall for additional discussion of impact on permit values.

Regulatory Complexity and Paperwork Burden

Under Option 7a, the owner of the permit would have to be on board the vessel during sablefish fishing operations, unless the owner is exempted as a pre-existing owner under a grandfather clause. Additionally, records of permit ownership would have to be submitted, possibly on an annual basis. The burden of submitting the records would depend on the complexity of the ownership structure (see Section 3.4.3). Over time, as those qualifying under the grandfather provisions leave the fishery, the burden imposed by the ownership reporting requirements would decline. The ownership-reporting requirements would be similar to those needed to implement the recommendations under Provision 3 (limits on concentration of ownership **[ADOPTED]**).

Enforcement and Monitoring

Owner-on-board requirements present the following additional enforcement tasks: (1) determining whether or not the owner is required to be on board the vessel, and (2) determining who the owner is. Had the Council adopted the language that prohibited leasing, determination of whether the owner was required to be on board would also have involved an evaluation of the vessel ownership (the grandfather clause exempting pre-existing owners would have applied only if the permit owner also owned the vessel). However, permit ownership will still need to be evaluated under Provision 3. Enforcement would likely obtain information needed for these enforcement tasks from the limited entry permit office. Some additional enforcement effort may be necessary to ensure that the ownership information submitted is accurate.

Administrative Costs

One of the more significant administrative costs of the permit-stacking alternatives may be associated with tracking and documenting permit ownership changes for the purpose of implementing the grandfather clause that provides an exception to the owner-on-board requirement (Options 7a). These information needs would be similar to those for monitoring ownership for the purposes of limiting the accumulation of permit rights (Option 3). Given that the dominant form of ownership in the fishery is single owner or two owner permits and owner-operated vessels, the number of complex ownership situations that may need to be tracked by the limited entry office may be small and the administrative burden less substantial than for the north Pacific IFQ programs. Additionally, there are hardship exceptions to the owner-on-board provisions on which the permit office would likely be asked to advise the regional director.

Fishing Communities

The provisions of Option 7a are expected to encourage control of the harvesting activities by members of local communities. However, the same provisions would rule out the acquisition of sablefish harvest privileges by municipalities or other non-fishing entities for the purpose of stabilizing local economic activity.

Council Decision

The Council recommended Option 7a noting that concerns addressed by this option were more social than economic. Option 7a is expected to preserve the current status of the fishery as one dominated by owner-operators. This is desirable for the promotion of safety and the maintenance of connection between the fishing industry and local communities. The provision also continues the separation between harvesters and processors, effectively preventing most processing operations from bidding for permits against harvesters in the open market.

4.1.8 Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits (DTL)

Options: 8a. **[ADOPTED]** The stacking of permits with sablefish endorsements would not allow vessels to harvest more than one cumulative limit for nonsablefish groundfish species. Under the following suboptions for the limited entry sablefish DTL fishery, stacked permits would not convey any harvest opportunity in excess of the DTLs provided for vessels that do not stack permits. Suboptions: (1) Fixed gear sablefish DTL harvest opportunities would run concurrent with and be in addition to the sablefish cumulative limits associated with sablefish-endorsed permits.

(2) **[ADOPTED]** A vessel with a sablefish-endorsed permit would not be allowed to fish under the fixed gear sablefish DTL regulations until after its tier cumulative limit is exhausted. (3) A vessel with a sablefish endorsed permit would not be allowed to fish under the fixed gear sablefish DTL regulations except when the primary fishing season is closed (prior to April 1 and after October 31, under Option 5a).

8b. When permits are stacked, some credit would be provided to allow the landing of additional nonsablefish groundfish species. The suboptions for the sablefish DTL fishery are the same as for Option 8a except that under the 8b DTL suboptions vessels with stacked sablefish permits would be entitled to additional sablefish under the DTL regulations in some proportion to the number of permits stacked.

Rationale

This provision covers two aspects of the groundfish fishery that lie outside stacking of primary fixed gear sablefish tier endorsements: (1) the fishing regulations for all groundfish species other than sablefish, and (2) the daily trip limit (DTL) fishing regulations for sablefish.

Harvest rates in nearly every segment of the West Coast groundfish fishery are controlled with cumulative limit management. Limited entry permits provide vessels the opportunity to harvest under per vessel limited entry cumulative limits. The limited entry cumulative limits are generally more liberal than the open-access cumulative limits. Under Provision 8b, the stacking of nonsablefish cumulative limits might be provided year round or just during the primary sablefish fishery.

One reason to consider the stacking of nonsablefish cumulative limits along with the sablefish cumulative limits might be to prevent the need for a vessel to discard increased nonsablefish harvest taken incidental to its sablefish harvest. In the current fishery, there is little incidental catch landed during the modified-derby fishery (Table 12). Thus the stacking of sablefish cumulative limits would not be expected to substantially increase the incidental harvest of nonsablefish species. During a longer season (Option 5a **[ADOPTED]**), retention of true incidental harvest would be expected to increase as compared to the modified derby. During the longer season, with the stacking of sablefish cumulative limits, the ratio of the sablefish limits to the nonsablefish groundfish limits will increase, unless some provision is made to expand the nonsablefish groundfish limits when permits are stacked (Option 8b). If sablefish limits per vessel are increased through permit stacking without increasing the nonsablefish limits, and the amount of incidental nonsablefish catch increases to a level that exceeds the nonsablefish trip limits, discards may be increased.

Another reason to consider the stacking of nonsablefish cumulative limits is that permits confer the rights to harvest all groundfish, not just sablefish. If sablefish cumulative limits are to be stacked with the stacking of permits, for those that also target on nonsablefish species, there is a sense of fairness in the proposition that nonsablefish cumulative limits also be stacked. Additionally, the stacking of nonsablefish cumulative limits along with sablefish community limits would increase the incentive for stacking permits and reducing the number of vessels in the fishery.

Relatively small amounts of sablefish are taken by limited entry fixed gear vessels in the sablefish DTL fishery (Table 12). This sablefish daily trip limit fishery allows the landing of small amounts of incidental sablefish harvest and the direct targeting of sablefish at very low levels. For some smaller harvesters, particularly those in Tier 3, a significant portion of their sablefish harvest may be drawn from the DTL fishery. Two issues need to be addressed with respect to the DTL regulations: (1) will vessels that stack permits have higher DTLs than vessels that do not stack permits (Options 8a and 8b), and (2) with an extended season, will fixed gear sablefish vessels have an opportunity to fish under DTL regulations during the primary fishery (Suboptions (1), (2) and (3) under Options 8a and 8b)?

Under Option 8a, the stacking proposal would allow the stacking of limits only for sablefish taken during the primary season. For vessels that stack permits, Option 8a would not provide an increase in limits for nonsablefish species or for sablefish taken as part of the DTL fishery. Because sablefish is so lucrative, it is expected that permits would be stacked even if stacking does not confer the opportunity to harvest more cumulative limits for other species. This would be similar to what happened in the whiting fishery when catcher-processors bought permits just for their value in harvesting whiting, effectively removing from the fishery latent

capacity that might be targeted on other groundfish species. When permits are stacked, Option 8b would confer additional harvest opportunity for groundfish species other than sablefish and for sablefish taken under daily trip limit regulations.

Options 8a and 8b provide a range from which the Council could craft other alternatives, for example, allow stacking for the nonsablefish cumulative limits but no for the sablefish DTL limits.

Physical Impacts

None.

Biological Impacts

Providing additional limits for nonsablefish species when permits are stacked (Option 8b) might provide more opportunity to retain incidental catch in sablefish directed fisheries or to target on nonsablefish groundfish species. Because of the lack of logbook or observer data, the amount of incidental catch in sablefish directed fisheries is uncertain. However, some incidental catch levels may be implied through landing information (Table 12). In the longline segment of the 1999 modified-derby fishery, only 4.9% of the catch was nonsablefish species, while in the slower paced mop-up fishery, 39.0% of the catch was nonsablefish species. In the sablefish daily trip limit fishery, 62% of the catch was nonsablefish species. During the 1999 DTL fishery, 25% of the 632,000-pound sablefish DTL harvest was taken in trips where sablefish comprised less than 50% of the landing. It appears that to some extent sablefish harvest may be incidental to the harvest of other species, rather than other species being incidental to sablefish harvest.

Under the current short season, the landing of incidental catch is minor. Ability to stack nonsablefish cumulative limits associated only with the primary sablefish season would not be expected to increase landings of incidental species.

Extension of season length alone (Option 5a **[ADOPTED]**) will likely increase incidental landings as compared to the current modified derby where most incidental catch is either avoided or discarded. In the context of the extended season, the stacking of nonsablefish cumulative limits would allow the retention of even more incidental catch, possibly reducing discards further than in Option 5a. Whether the stacking of nonsablefish limits would reduce discards more than extending the season alone depends on the true incidental catch rates. With the extended season, on the one hand, stacking nonsablefish cumulative limits may allow the retention of incidental harvest that might be otherwise be discarded, on the other hand, the additional revenue opportunity presented by allowing the stacking of nonsablefish cumulative limits might induce increased targeting of nonsablefish groundfish species.

If stacked permits are allowed to land multiple limits of nonsablefish species both within and outside the primary sablefish season, then regardless of whether the primary sablefish season is extended, the opportunity to stack nonsablefish cumulative limits would be expected to induce more permit stacking and more targeting on nonsablefish species. More capacity would be brought to bear on nonsablefish groundfish species. Permits that are currently dormant with respect to nonsablefish groundfish species (not currently used for groundfish other than sablefish) could be activated. If expanded effort results in the increased take of weak, overfished, or endangered species, conservation and management difficulties in other segments of the groundfish fishery could be exacerbated. With respect to the biological impacts, the main issue is ability to monitor harvest-related mortalities and adjust fishing activities to achieve desired mortality levels.

The two Provision 8 options include a number of ways for handling the DTL regulations under an extended season. The primary potential for a biological effect would occur with Suboption (3). This suboption would not allow vessels to fish against the daily trip limits during the period of the primary fishery. Once a vessel had reached its cumulative limit, any sablefish incidental catch taken in pursuit of other species during the primary sablefish fishery would have to be discarded. This would present a conservation problem to the degree that discard mortality is not accurately taken into account when allowable harvests are determined.

Social and Economic Impacts

Excess Capacity and Efficiency

If nonsablefish cumulative limits cannot be stacked (Option 8a) and some permits are stacked from vessels that fish nonsablefish groundfish, there may be a reduction in nonsablefish groundfish harvest pressure from the fixed gear sablefish fleet. This could increase nonsablefish cumulative limits. However, major changes in this direction appear unlikely. Latent nonsablefish groundfish capacity in the limited entry fixed gear segment is very large. It is somewhat more likely that permits that are stacked will come from vessels that target only on sablefish rather than those that target on both sablefish and other groundfish species. If stacked permits confer no additional landing opportunities for nonsablefish groundfish species (Option 8a, **[ADOPTED]**), the transfer of a permit from a vessel that targets sablefish and non-sablefish groundfish species is less likely than the transfer from a vessel that targets primarily sablefish. As an example, assume two vessels (A and B) harvest similar amounts of sablefish with similar net profits. If Vessel A profits from the harvest of nonsablefish groundfish species (in addition to its sablefish harvest) while Vessel B profits only from its sablefish harvest, Vessel B is more likely to sell its permit at a given price than Vessel A (Vessel A must be compensated for its profits from sablefish as well as other groundfish while Vessel B need only be compensated for its sablefish harvest). Therefore, under Option 8a it is more likely that permits transferred for stacking purposes will come from a vessel that more exclusively targets on sablefish than from a vessel that also targets other groundfish species. This will dampen the reduction of effort targeted on nonsablefish groundfish that might be expected from permit stacking. However, to the degree that permits used to target sablefish and nonsablefish species are stacked together or stacked on vessels that will only fish sablefish, there would be some decline in capacity targeting nonsablefish groundfish under Option 8a.

Option 8b would make stacking more lucrative than Option 8a because of the potential for increasing the nonsablefish landings limits. However, Option 8b may also activate latent capacity. The stacking of cumulative limits for nonsablefish species would be likely to activate substantial latent capacity. Stacking within the tiered sablefish-endorsement system takes some account of differing production levels among fixed gear limited entry vessels. First, the fleet is divided into sablefish participants and nonparticipants (sablefish endorsement holders and those without such endorsements). Nonparticipants cannot use their permits to participate in the primary sablefish fishery. Then the fleet that participates is divided into tiers with different quantities of harvest opportunity available for members of each tier. Through these policies, latent capacity in the fixed gear sablefish fishery has been reduced. The stacking of fixed gear sablefish permits is not likely to allow the activation of substantial latent capacity within the sablefish fishery without inactivating a similar amount of capacity. Because this subdivision and tiering has not occurred for nonsablefish species, there is more unused permit capacity associated with the nonsablefish groundfish species than with sablefish. Stacking of nonsablefish cumulative limits where every permitted vessel has an equal cumulative limit, many of which go unused, could result in substantial expansion of catch rates as permits flow from less active to more active vessels, activating latent capacity.

In summary, Option 8a will likely result in less permit stacking but may reduce to some degree the amount of capacity targeted on nonsablefish groundfish species. Option 8b would likely result in more stacking but could potentially activate more capacity targeted on nonsablefish groundfish species, decreasing limits and increasing competition with other segments of the groundfish fishery.

The options provided for the DTL fishery will result in a similar set of impacts with respect to the 15% of the limited entry fixed gear sablefish allocation generally taken in the DTL fishery. The more opportunity provided (e.g., Option 8(b) and Suboption (1) ability to stack sablefish DTLs and participate in the DTL fishery at the same time as participating in the primary fishery), the more stacking is likely to occur. However, with this stacking, catch rates in the DTL fishery would likely increase causing further restrictions in the DTL fishery until a balance is achieved between the catch rates and the amount of fish available.

The efficiency outcomes for Option 8(a) and 8(b) with respect to nonsablefish groundfish are uncertain and depend in part on the relative efficiencies of harvest taken in other segments of the groundfish fishery and nongroundfish fisheries as compared to the primary fixed gear sablefish fishery. As discussed with respect to the biological impacts, if expanded effort resulted in the increased take of weak, overfished, or endangered

species, conservation and management difficulties in other segments of the groundfish fishery could be exacerbated. Reaching an efficient outcome could depend on the Council's ability to discern which fisheries will generate the greatest benefit from the allowable amount of mortality for at risk stocks.

With respect to the sablefish DTL fishery, Suboption (2) **[ADOPTED]** may have some negative effect on efficiency. Under Suboption (2) and an extended season vessels that would participate in the DTL fishery will have more sablefish fishing opportunity if they fish out their tiered cumulative limits quickly so that they can benefit from the opportunities provided by the DTL fishery. The opportunity cost of missing the DTL fishery will diminish the importance of incentives that might otherwise encourage a later harvest. Possible efficiencies from delaying harvest might include lower storage costs between time of harvest and the primary marketing period (winter) and differences in the quality and availability of sablefish in the ocean. Under Suboptions (1) and (3) a vessel's timing of its harvest for the primary fishery would not affect its opportunity to participate in the DTL fishery.

Allocation and Equity

One of the consequences of stacking nonsablefish cumulative limits (Option 8b) could be a decline of such limits for vessels that do not stack permits, including vessels without sablefish endorsements. Holders of fixed gear permits without sablefish endorsements would not be able to recover from limit reduction through the stacking of permits under the provisions currently specified. To address this concern, the Council could specify that if additional harvest control is required, limits be reduced first for stacked permits. This would increase analytical and regulatory complexity. Focusing initial reductions on stacked permits could create a situation where stacked permits would take the brunt of the conservation burden for nonsablefish groundfish species and nonsablefish groundfish limits for stacked permits might be reduced to zero. Thus, while starting with Option 8b, over the long run Option 8a would be implemented.

On the one hand, allowing vessels to fish multiple sablefish DTLs when they stack permits (Option 8b) or allowing vessels to fish DTLs at the same time that they fish their tiered cumulative limits (Suboption (1) under either Option 8a or 8b) would likely increase participation in the DTL fishery. With increased participation, the DTL regulations would have to be made more restrictive to keep the fishery within its target harvest, impacting both vessels that stack and do not stack. On the other hand, under an extended season (Option 5a, **[ADOPTED]**) not allowing vessels to participate in the DTL fishery during of the primary sablefish season (Suboption (3) under either Option 8a or 8b) would reduce overall participation, and likely increase the DTLs. Allowing vessels without sablefish endorsements to harvest sablefish during the primary fixed gear season (Option 9b **[ADOPTED]**), while sablefish-endorsed vessels are restricted from doing so until the end of the season (Suboption (3)) or until their sablefish tier limits are taken (Suboption (2)), may result in some reallocation from the sablefish-endorsed DTL vessels to the DTL vessels without sablefish endorsements. In an April through October fishery, complete inability to participate in the sablefish daily trip limit fishery (Suboption (3)) could constitute a substantial reduction in sablefish harvest opportunity for bottom-tier vessels.

Windfalls

The concept of windfall profits and the reason they are a social concern is first discussed in Section 4.1.1. Windfall profits (or losses) are generated by changes in permit prices. Option 8b would likely increase the value of permits by associating more harvest opportunity with permits when they are stacked. Suboption (1) (under either Option 8a or 8b) would provide more harvest opportunity for sablefish-endorsed permits, thus increasing the value of the permits.

Entry and Exit

Increases in permit prices may increase the difficulty of entering the fishery, and decreases in permit prices may decrease the degree of difficulty. See Section 4.1.1 for a discussion of these relationships. See "Windfalls" for a discussion of the impacts of this provision on permit prices.

Income and Employment

Changes in income would be expected to correlate with changes in permit values. See the section of this provision on windfall for additional discussion of impact on permit values.

Enforcement and Monitoring

Allowing vessels with stacked permits to land more than one limit of nongroundfish species would not add substantially to the complexities of enforcement. In order to enforce sablefish limits, enforcement personnel will already need to determine the number of permits associated with a vessel. For situations where permits have been stacked, enforcement will need to make additional calculations to determine the vessel limits for nongroundfish species.

Allowing vessels to fish against sablefish daily trip limits at the same time they are fishing on their cumulative limits (Suboption (1) would create some additional monitoring and enforcement complexities. Rules would have to be established to determine which portion or type of landing would count against the sablefish daily trip limit and monthly cumulative limits associated with the daily trip limit and which portion or type of sablefish landing would count against the vessels tier limits.

Effects on Other Fisheries

The primary effect would be on the nonsablefish segment of the West Coast groundfish fishery. Under Option 8a, the stacking of permits among fewer vessels will not change the capacity utilized in primary West Coast sablefish fishery but may reduce capacity available to target on other West Coast groundfish and in the sablefish daily trip limit fishery. Under Option 8b, latent capacity may be activated and fixed gear fleet effort targeted on nonsablefish groundfish increased. If expanded effort results in the increased take of weak, overfished, or endangered species, conservation and management difficulties could be exacerbated in other segments of the groundfish fishery, or nongroundfish fisheries taking groundfish. Impacts on other fisheries would depend on the decision on how to allocate the limited harvest impacts.

Council Decision

The Council recommended Option 8a, no stacking of cumulative limits for species other than sablefish, and Suboption (2), vessels participate in the sablefish daily trip limit fishery only after their cumulative limits are exhausted. Option 8b would have allowed an expansion of latent capacity that could target on nonsablefish groundfish species. Under Option 8a, because of the extended season, vessels will be likely land more incidental catch than is currently the practice.

Suboption (3) could have induced the discard of incidental sablefish harvest from the time a vessel finished its sablefish cumulative limit until the end of the season. Suboption (1) would likely have increased participation in the sablefish DTL fishery by vessels mainly drawn in by opportunities in the primary fishery. The likely result would be a reduction in the DTL fishery limits for all limited entry fixed gear vessels. Suboption (2) is intermediate between suboptions (1) and (3) and its main negative impact is the opportunity cost it imposes for vessels that delay harvest (the opportunity cost is the lost opportunity to participate in the DTL fishery until the vessel exhausts its tier limit).

4.1.9 Provision 9: Vessels without Sablefish Endorsements

Options: 9a. Current Situation: The limited entry daily-trip-limit fishery for vessels without sablefish endorsements would be closed during the primary fixed gear sablefish fishery.
9b. The limited entry daily-trip-limit fishery for vessels without sablefish endorsements would be allowed to run at the same time as the primary fixed gear sablefish fishery.

Rationale

The original prohibition on harvest by fixed gear limited entry vessels during the primary fixed gear sablefish fishery was an attempt to simplify the situation for enforcement. Given the brevity of the primary fishery and

that the daily-trip-limit fishery was managed with two-month cumulative limits, there was plenty of opportunity for limited entry fixed gear vessels without sablefish endorsements to make up fishing time lost during a closure for the primary fishery. The effort to simplify enforcement was not entirely successful because the open access daily-trip-limit fishery was allowed to run during the primary fishery. If the season length is extended to seven months (Option 5a **[ADOPTED]**), the limited entry fixed gear vessels without sablefish endorsements would be prohibited from fishing during the period when most of their catch is taken. In addition to the allocational implications, if these vessels target on complexes in which sablefish is taken as an incidental limit the prohibition on their retention of sablefish might create discards.

Physical Impacts

None.

Biological Impacts

Under Option 9a, vessels without sablefish endorsements would be forced to discard any incidental harvest of sablefish during the lengthened fixed gear sablefish primary fishery (Option 5a **[ADOPTED]**). For the status quo short primary seasons lasting only a few days in recent years (Option 5b), the inability to land sablefish during the primary season has not been viewed as a substantial problem. The main issue of biological concern is whether discard mortalities are properly accounted for in management of the fishery.

Social and Economic Impacts

Allocation and Equity

The current primary fishery lasts less than 10 days (Option 5b). Prohibiting vessels without sablefish endorsements from taking sablefish during the primary season has minimal effect on catch. If the season length is extended (Option 5a **[ADOPTED]**), the limited entry fixed gear vessels without sablefish endorsements would be prohibited from fishing during the period when most of their catch is taken. The result would be an indirect reallocation to sablefish-endorsed vessels that participate in the DTL fishery and to unendorsed vessels able to fish the DTL fishery from November through March. DTLs would likely increase in response to the reduced summer DTL harvest.

Enforcement

When the fixed gear limited entry fleet was first subdivided into those with and without sablefish endorsements, rules were set out that restricted unendorsed vessels from fishing for sablefish during the openings of the primary sablefish season. While this may have provided some relief for enforcement, fixed gear open access vessels were allowed to continue to harvest sablefish during the limited entry primary fishery. Thus enforcement still had to deal with distinguishing between participants in the primary fishery and those in the open-access fishery. Option 9b **[ADOPTED]** would allow fixed gear limited entry vessels without sablefish endorsements to continue to fish during the primary season. The open-access fleet is already allowed to fish sablefish DTLs during the primary season. The 164 members of the sablefish-endorsed fleet would be allowed to fish these DTLs once they have taken their limits (Provision 8, Suboption (2). The new burden on enforcement would be to monitor an additional 66 vessels (limited entry vessels not endorsed for sablefish). Under status quo management (Option 9a), these 66 vessels would be allowed to be on the water fishing but would not be allowed to retain sablefish. Under Option 9b, sablefish retention would be allowed and enforcement would need to ensure that DTLs are not exceeded.

Council Decision

The Council decided to allow unendorsed vessels to fish under DTL regulations during the primary fixed gear sablefish fishery. This is expected to present minimal additional enforcement burden and will prevent a reallocation of sablefish harvest away from unendorsed vessels that would otherwise occur with the extension

of the primary sablefish season (Option 5a **[ADOPTED]**) combined with status quo regulations requiring closure of the DTL fishery for unendorsed vessels.

4.1.10 Provision 10: US Citizenship Requirement

Options: 10a. Only individual US citizens would be allowed to acquire fixed gear sablefish permits.
10b. **[ADOPTED]** Current situation: Individual human beings and other legal entities eligible to own a US fishing vessel may acquire fixed gear sablefish limited entry permits.

Rationale

Concerns over foreign ownership with respect to fisheries have been categorized as follows (NRC, 1999):

1. Fear of foreign economic domination of the maritime industry and fisheries.
2. Difficulties in regulating foreign-owned businesses.
3. Threats to the social values of US fishing communities.
4. Loss of potential economic benefits.

Currently, US flag fishing vessels must be owned 50% by US citizens. In response to the American Fisheries Act, the US Coast Guard has proposed that the US citizenship requirement be increased to 75% for vessels under 100 feet in length. Congress has expressed an interest in mechanisms to prohibit from holding IFQs persons who are not eligible to be deemed citizens of the United States for the purposes of operating a vessel in the coastwise trade under US maritime statutes.

Provision 10 and Provision 7 interact strongly. Option 7a would allow only individual human beings to acquire permits (with the exception of those grandfathered into the fishery). If Option 7a **[ADOPTED]** is implemented, then Option 10a and Option 10b would essentially perform identically for new entrants. If Option 7b were implemented along with Option 10a, the result would be nearly the same as if Option 7a had been implemented. If Option 7b is implemented along with 10b, the result is to maintain the status quo allowing any individual human being or other legal entity to acquire a permit if that individual or other business entity is eligible to own a fishing vessel. Essentially, combinations of 7a and 10a, 7a and 10b, and 7b and 10a all perform about the same because they restrict acquisition of permits to individual human beings that are US citizens. These three combinations of options would function as if Option 7a had been implemented. The combination of 7b and 10b would not restrict ownership more than it is restricted in the current groundfish limited entry permit program. Thus, together, Options 7b and 10b represent status quo with respect to the types of entities that may own permits and US citizenship requirements.

Impacts

The options under Provision 10 would have no physical or biological impacts. As indicated by the discussion under rationale, options of Provision 10 do not create any policy choices or impacts that are not presented by the choice between Option 7a and 7b. Option 10a would mainly reinforce the Council's intent with respect to the restrictions on foreign ownership that would be imposed by Option 7a and status quo citizenship requirements. The main difference is that Option 10a may partially conflict with and negate the grandfather provisions of Option 7a by immediately imposing a requirement that anyone acquiring an additional permit be an individual US citizen. Option 7a would allow business entities that are not individual human beings and that already own a permit to continue to acquire additional permits (up to the limits specified in Provision 3). With Option 10a, any existing owner who did not meet the Option 10a standards would be able to continue to hold any permits they already owned, but would not be allowed to acquire new permits.

Council Decision

The Council recommends not changing the status quo situation. The intent that foreign control of US fishing permits be constrained to the maximum extent allowable under the law is specified in Amendment 6 to the groundfish FMP.

4.1.11 Provision 11: Advance Notice of Landing

Options: 11a. When making landings under stacked permits, fishers would be required to give six hours' prior notice.

11b. Current situation. No advance notice is required.

11c. **[ADOPTED]** All limited entry fixed gear sablefish fishers would be required to provide six hours' notice when making landings during the primary season. As part of this advance notice, fishers may be asked to provide hail weights and location of landing.

Rationale

Advance notice and hail weight provisions were considered as part of the part of the sablefish IFQ program (Amendment 8) tabled by the Council in 1994.

Extension of the primary fixed gear sablefish season (Option 5a, **[ADOPTED]**) is the primary reason for considering an advance notice of landing requirement. Under the current modified derby fishery, it is relatively easy for enforcement and port samplers to plan their activities to intercept fixed gear vessels making sablefish landings. With the extension of the season to seven months, this task becomes more difficult. Like individual quotas, cumulative limits that apply over an extended period provide an incentive for not reporting or underreporting landings. Any landing or portion of a landing not reported increases the harvesters opportunity to make an apparently "legal" landing at a later time. Option 11a would require only those vessels that stack permits to provide advance notice. The main need for an advance notice requirement comes more from the extension of the season than from whether or not permits are stacked. Therefore, Option 11c would require advance notice of landing for all participants in this segment of the fishery, not just those who stack permits. If the advance notice requirement is adopted, vessels would be able to enter port but not be allowed to begin offloading until the six-hour notice requirement is met.

The issue for underreporting/unreported landings is a concern for nonsablefish groundfish species landed managed under cumulative limits as well sablefish, however, no advance notice landing requirements have been proposed for other segments of the fishery. Sablefish are one of the more valuable segments of the fishery. This value combined with the long season may provide greater incentive for underreporting sablefish than for other groundfish species.

Physical Impacts

None.

Biological Impacts

Complete Mortality Accounting

By assisting in enforcement, the advance notice requirement will help to ensure that fishing mortality is held to desired levels.

Collection of Biological Samples

Declining fishing opportunities have reduced the number of landings, making it difficult for port samplers to collect the needed biological data in many segments of the groundfish fishery. In the primary fixed gear sablefish fishery the problem has been somewhat lessened by the concentration of harvest in an abbreviated season. The expansion of harvest from a less than 10-day season to a seven-month season may create difficulties for port samplers trying to collect the biological data needed for stock assessments. An advance notice requirement may make it easier to ensure that the needed data is collected.

Social and Economic Impacts

Excess Capacity and Efficiency

No effect on capacity is expected. There will be some increased operational costs for harvesters (discussed in the next section).

Regulatory Complexity and Paperwork Burden

The requirement for notice would place an additional burden on private business and require the completion of Paperwork Reduction Act filings and procedures before the provision could be put into place.

With current technologies, reporting an intent to land, location, and hail weight is not likely to require substantial time or expense. Perhaps a maximum of five to 10 minutes might be required to estimate the hail weight and make the needed contacts. The number of such calls will depend on the number of landings fishers take to land their tiered cumulative limits. A vessel that targets only on sablefish may takes its entire cumulative limit in only a few trips and few advance notices may be required. If a vessel spreads its harvest over many trips, perhaps using its tier limit to take sablefish incidental to the harvest of other groundfish, more effort will have to be made to provide the needed advance notices. There were 316 landings in the modified derby in 1999 (Table 12). The average landing was about 10,000 pounds. In the 1999 modified derby the average landing was less than 1,000 pounds. It is difficult to project the number of landings that might occur in an extended fishery. Based on 1999 data, the number of landings would likely be well within a range of between 300 and 3,000 landings. The main costs would be associated with delays if a landing location were to change at the last minute or if an operator forgot to make the advance notice. In order to be effective in achieving the intended objectives of this provision, there will have to be either a time window for offloading reported along with the other landing information or a maximum placed on the amount of advance notice that can be given. If there is a last-minute change in the landing location or a delay in landing such that a time window will be missed or maximum advance notice exceeded, another notice may need to be provided and there may be a delay while vessels wait for the six hour advance notice requirement to be met. This delay may be exacerbated if a landing is being coordinated with a plant or other location that is not ready to receive landings at any hour of the day. For example, if there were a last-minute change in landing locations such that a planned 2 p.m. landing had to be delayed until 6 p.m. to meet advance notice requirements and a crew to offload was not available at 6 p.m., offloading might be delayed until sometime the next morning.

As currently drafted, the option would also apply to sablefish-endorsed vessels making DTL landings during the primary fishery. NMFS may want to get further advice from the Council on whether the extension of this requirement to DTL landings by sablefish-endorsed vessels was intended.

Enforcement and Monitoring

Enforcement costs may be reduced if all fixed gear permit holders are required to provide advance notice of landings Option 11c. Such advance notice, particularly when combined with a requirement that hail weights be provided, would increase deterrence and increase the efficiency of enforcement efforts. Vessels offloading limited entry fixed gear sablefish without having provided advance notice would be immediately subject to citation. Vessels that regularly landed less than their hailed weight would be targeted for investigation of underreporting. Without an advance notice (Option 11b), a vessel could make its landing, determine the likelihood that the landing had been observed and then, if unobserved, underreport or not report the landings. Underreporting or not reporting a landing would require collusion with the fish receiver. For fish receivers buying sablefish from a number of sources (trawl, open-access, and other fixed gear limited entry vessels), it could be relatively easy to hide underages reported for one or two vessels as variations in the recover rates for the entire plant. This type of activity might occur where there are close ties between the fish receiver and the vessel making the landing.

The advance notice could be required only for those who stack permits (Option 11a), however, the increased monitoring costs that the reporting requirement would mitigate apply to all vessels with fixed gear sablefish endorsements and are associated with the increased length of the season, not whether a vessel has stacked permits.

Administration

Administrative costs would be associated with the requirement that vessels provide six hours' advance notice of their intent to land. A system would have to be established to receive and record the advanced notice and disseminate the information to enforcement to agents in the field and port samplers. The dissemination system may have to include the issuance of verifications numbers. Such a system could be largely automated with most of the expense incurred in the initial development of the system.

Council Decision

The Council decided to require advance notice of landing. The primary objective for the advance notice of landings is to increase deterrence and make cumulative limits under the extended season more enforceable.

4.1.12 Provision 12: Stacking Deadline

Options: 12a. Fishers would be required to declare their intent to stack by June 30 in the year 2001 and by January 15 in all subsequent years; or
12b. All permit stacking would have to occur by June 30 in the year 2001 and by **May 15** in all subsequent years.
12c. **[ADOPTED]** Current situation: No notice of intent to stack would be required.

Options 12a and 12b are necessary only if a short season is to be maintained (Option 5b). For 2001, the final set of alternative season durations and cumulative limits will not be available until after the June Council meeting. A process would need to be established to allow NMFS to make the final determination of season duration and cumulative limits. This would be similar to the process established for setting the cumulative limits for the mop-up that follows the initial opening of the primary fishery.

Rationale

A stacking deadline **is needed** to assist in establishing cumulative limits and season durations **only if** the length of **the fishery is not extended** (Option 5b). Actual stacking (Option 12b) or a declaration of intent to stack (Option 12a) may meet the need. For the year 2001, regulations to allow stacking may not be in place until June 2001. Additionally, the prohibition on transfers more than once every 365 days may make actual stacking impossible for permits that were transferred after June 30, 2000, and before the start of the 2001 season. Such vessels would benefit from a provision that allows declaration of intent to stack (Option 12a) rather than a requirement to stack.

If a short season length were to be maintained, on the one hand, managers would need to know how much stacking is going to occur to estimate the season length and cumulative limits. On the other hand, fishers need to know season lengths and cumulative limits in order to decide whether or not to stack permits. The intent of the stacking deadline is to provide fishers the opportunity to view the preliminary estimates of cumulative limits and season duration before making a commitment to stack their permits. The commitment to stack would have to be made with the understanding that it is likely that cumulative limits and season durations will vary somewhat from the preliminary estimates.

The options listed here create a range from which the Council can develop final recommendations. It may be that final action will be some combination of the options, for example: ***"Fishers would be required to declare their intent to stack by June 30 in the year 2001 and would have to complete stacking by May 15 in subsequent years."***

If intent to stack can be declared (or actual stacking occur) up to June 30, 2001, then some mechanism would be needed to establish season duration and actual cumulative limits after the June 2001 Council meeting.

Physical Impacts

None.

Biological Impacts

None.

Social and Economic Impacts

Excess Capacity and Efficiency

Requiring actual stacking (Option 12b), rather than just a declaration of intent to stack (Option 12a), would reduce flexibility in the system. Any reduction in flexibility is likely to reduce incentive for stacking and its attendant benefits.

Allocation and Equity

Management of short seasons (Option 5b) without knowing the amount of stacking likely to occur (Option 12c) would be difficult and would likely require a greater level of conservativism (resulting in the setting of shorter seasons and /or lower cumulative limits). More conservative cumulative limits in the main opening of the primary fishery would likely result in greater unharvested allocation at the end of the main opening, leaving more fish for the mop-up fishery. Since the mop-up fishery is managed under equal cumulative limits, rather than the tiered limits of the main opening, there would be a reallocation from larger to smaller harvesters. For Option 5a (a long season, **[ADOPTED]**), there is no need to determine the amount of stacking in advance of the season.

A declaration-of-intent requirement (Option 12a) may provide some equity for fishers who cannot stack because of the limit on number of transfers per year (particularly for the year 2001). However, requiring the declaration rather than actual stacking (Option 12 b) would create more uncertainty since it is possible that fishers would not follow through on their declaration of intent.

The January 15 deadline in Option 12a would not provide industry the opportunity to review estimates of cumulative limits and season length based on the previous years data. A full set of the previous year's data would not be available at that time.

Regulatory Complexity and Paperwork Burden

The requirement for advance notice would place some additional burden on private business and the procedures of the Paperwork Reduction Act may apply such that between four and six months are required to establish the notice provision. Filing advance notice of intent to stack might require 15 to 20 minutes. The forms would likely be sent out with renewal notices to all permit holders. The amount of information to be provided would likely be fairly limited (e.g., permit numbers to be stacked, base permit, and vessel on which permits will be stacked).

Administration

For Option 12a, a system would have to be established to receive the advanced notice of intent to stack. The database work would be fairly limited and would need to cover the 164 fixed gear permits endorsed for sablefish. For Options 12b and 12c, no advance notices would be required.

Council Decision

Since the Council is recommending an extended season, no advance notice of landing is required.

4.2 Summary of Physical Biological, Social and Economic Impacts

This section summarizes the impacts for three main alternatives to status quo as outlined in Section 2.1: (1) permit stacking (Provision 1) with a lengthened season (Provision 5a); (2) permit stacking (Provision 1) with a short season (Provision 5b); and (3) provisions of the permit-stacking alternative that could be limited as "stand-alone" measures. Comparisons are to status quo management. The fundamental elements of status

quo management are listed in Section 2.2.1. The provisions of the permit-stacking alternatives are summarized here by topic category as first outlined in Section 2.2.2.

The Permit-Stacking Alternative	
Topic	**Provision**
Permit Stacking	1–Basic Provision: Allow permit stacking 2–Gear Usage: Specify the fixed Gear a vessel may use 4–Unstacking Permits: Determine whether, once stacked, permits can be unstacked 8–Stacking Non-sablefish Limits and Sablefish DTLs: Determine whether nonsablefish cumulative limits and/or sablefish DTL limits can be stacked
Accumulation	3–Cumulation Limits: Determine whether or not there should be limits on the number of permits a person owns and/or limits on the number of permits associated with a vessel and, if so, determine the limits
Season Length	5–Season Duration: Determine the appropriate season length 9–DTL Opportunities for Unendorsed Vessels: Determine whether, given other aspects of the stacking alternatives, adjustments are needed to the regulations specifying sablefish fishing opportunities for limited entry vessels not endorsed for sablefish 11–Advance Notice of Landings: Determine whether, given other aspects of the stacking alternatives, advance notice of landings should be required 12–Stacking Deadline: Determine whether a deadline for stacking should be imposed and, if so, specify the deadline
At-sea Processing	6–Processing Prohibition and Freezer Vessel Endorsement: Determine whether, given other aspects of the stacking alternatives, there should be a prohibition on at-sea processing
Permit-Ownership/Owner-on-Board	7–Individual Ownership Only and Owner-on-Board Requirement: Determine whether, given other aspects of the stacking alternatives, permit ownership should be restricted to individuals and whether the owner should be required to be on-board the vessel during fishing operations
Foreign Control	10–US Citizenship Requirement: Determine whether, given other aspects of the stacking alternatives, additional constraints should be recommended on foreign ownership of permits

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
PHYSICAL IMPACTS			
	No impacts for any provision.	No impacts for any provision.	No impacts for any provision.
BIOLOGICAL IMPACTS			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)			
Provision 1: Basic Permit Stacking			
	No direct impacts. Impacts of permit stacking are derived primarily from other aspects of the permit stacking provisions.	Same as for the long season.	No permit stacking.
Provision 2: Base Permit and Gear Usage			
	No change in total sablefish harvest.	No change in total sablefish harvest.	No permit stacking.
	All options increase the opportunity for harvest to shift between gears as compared to status quo. Option 2a will hold harvest by gear the closest to the current distribution, followed by Options 2b and 2c.	There will be less permit stacking, hence probably less shifting between gears for a short season, as compared to an extended season.	
	Whether permit stacking will result in more use of longline gear or more use of pot gear is uncertain.		
	Longline gear is considered to be less selective than pot gear. A shift toward longline gear may increase incidental harvest of other species. See Table 12.		
	There is relatively little difference in size selectivity for the two gears. A shift between gears will have little impact on fish size.		
	It is uncertain which of the gears might result in higher discard mortalities.		
	Discard mortalities related to highgrading is more of a concern with longer seasons. If one gear has a lower discard mortality rate or can "highgrade" using selective fishing technique, a shift toward use of that gear may reduce biological impacts from highgrading.	Between- gear differences with respect to sablefish discards, and highgrading by use of more selective fishing techniques, are likely to be less important for the short seasons than for extended seasons. There is substantially less opportunity to highgrade during short seasons.	

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
BIOLOGICAL IMPACTS			
	A shift toward the harvest of sablefish with longline gear would likely increase the **catch and retention** of incidental harvest, given that cumulative limits for the other groundfish are not exceeded. A shift toward pot gear will likely decrease incidental take.	A shift toward the harvest of sablefish with longline gear will likely increase the **catch and discard** of incidental harvest. A shift toward pot gear will likely decrease incidental take.	
Provision 4: Unstacking Permits–No impacts of note in this category.			
Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits (DTLs)			
Nonsablefish Species	The biological impact of allowing (Option 8b) or not allowing (Option 8a) the stacking of cumulative limits for nonsablefish groundfish species depends on the sablefish-to- nonsablefish species catch ratios and the degree to which fishers can control the ratios. Extension of the season length will likely reduce the discard of incidental catch during the primary fishery. Allowing the stacking of nonsablefish cumulative limits may further reduce discards, or increase the incentive for targeting on nonsablefish species. The main issue of biological concern is whether discards are properly accounted for and mortality rates reasonably estimated.	A significant amount of nonsablefish is not landed during the modified-derby fishery. Given that nonsablefish species are not retained to the extent allowed by current cumulative limits, whether the stacking of nonsablefish cumulative limits is allowed during the modified derby fishery will likely not change the situation. If, under Option 8b, stacking of nonsablefish cumulative limits is allowed outside the time of the primary sablefish fishery, harvest rates may increase, exacerbating conservation and management difficulties. The main issue of biological concern is whether discards are properly accounted for an mortality rates reasonably estimated.	
Sablefish DTL Fishery	Suboption (3) is the only option that may have biological impacts. Once sablefish-endorsed vessels exhaust their sablefish tier limits, there would be no allowance (no DTL) to use to land sablefish caught incidental with other groundfish harvest. Such sablefish harvest would have to be discarded. The main biological concern is properly accounting for mortality.	The modified derby is short enough that biological impacts will differ little between the suboptions.	

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
BIOLOGICAL IMPACTS			
TOPIC: ACCUMULATION (PROVISION 3)–No impacts of note in this category.			
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, 12)			
Provision 5: Season Duration			
	Highgrading–The degree to which highgrading presents a biological problem depends on the degree to which discards are accounted for and an appropriate discard mortality rate applied.		
	Substantial highgrading is expected under an extended season.	Time constraints limit the degree of highgrading under the modified derby.	Substantial highgrading is expected under an extended season.
	Discards in the DTL Fishery–Discards occur in the DTL fishery from exceeding the DTL limit and taking sablefish in excess of the DTL as incidental catch in fishing directed toward nonsablefish groundfish species. (Highgrading is also believed to be a problem in the DTL fishery.)		
	With permit stacking and an extended season, the harvest rates in the DTL fishery may decline. Part of the decline would result from fewer vessels participating. Additionally, those vessels that stack permits will take longer to exhaust their tier cumulative limits. The reduction in DTL fishing for stacking and an extended season would be greater than for an extension of the season alone or permit stacking and a short season.	Permit stacking with a continued modified derby may reduce the number of vessels participating in the DTL fishery.	Under the extended season, vessels would not be constrained by the DTL until they had fully taken their tier limits.
	Unreported and Underreported Landings–Unreported and underreported landings can result in harvest in excess of target levels		
	An extended season would provide more incentive and opportunity for misreporting landings.	Continuation of the current modified derby with permit stacking would not be expected to make a substantial change in the incentive or opportunity for misreporting landings.	An extended season would provide more incentive and opportunity for misreporting landings.
	Collection of Biological Samples–In the current modified derby, at-sea processing and highgrading appear to occur with less intensity than during slower paced fisheries. The primary season sablefish harvest is concentrated in a short period making it relatively easy for port samplers to intercept harvest.		

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
BIOLOGICAL IMPACTS			
	An extended season may result in an increase in at-sea processing, making it more difficult to collect biological samples. Increased highgrading will make it more difficult to collect representative biological samples. Spreading landings out for a longer period will make it more difficult for port samplers to intercept landings. Advance notice of landings procedures (Provision 11) may mitigate the latter impact.	Little change would be expected as compared to status quo.	Impacts would be substantially the same as extension of the season with permit stacking.
	Discards of Nonsablefish Groundfish–There are strong indications that incidental catch of nonsablefish species is discarded during the modified derby fishery.		
	An extended season would likely increase the retention of incidental catch of nonsablefish groundfish during the primary sablefish fishery.	Little change in the discard of incidental catch is expected, as compared to status quo.	Impacts would likely be the same as for an extended season with permit stacking.
	Lost Gear–Time pressures in the modified derby result in lost gear that may ghost fish or entangle marine life.		
	Gear loss would likely occur less frequently under an extended season.	Little change is expected, as compared to status quo.	Impacts would likely be the same as for an extended season with permit stacking.
Provision 9: DTL Opportunities for Unendorsed Limited Entry Vessels			
	Option 9a. Fixed gear limited entry vessels without sablefish endorsements would be forced to discard any sablefish taken incidentally during the 7 months of the extended primary fishery. The main issue of biological concern is whether discard mortalities are properly accounted for in management of the fishery. Option 9b. Little change expected, as compared to status quo.	Options 9a and 9b. Little change expected, as compared to status quo.	Impacts would likely be the same as for an extended season with permit stacking.
Provision 11: Advance Notice of Landing			
	Advance notice of landings would provide a biological benefit by helping to ensure a complete accounting of mortality. Under an extended season it may be more difficult to monitor and enforce complete accounting of landings.	Little difference between the options because the season is so short.	Impacts would likely be the same as for an extended season with permit stacking.

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
BIOLOGICAL IMPACTS			
	Advance notice of landings would help port samplers intercept landings in order to collect biological data needed for management.	Little difference between the options because the season is so short.	Impacts would likely be the same as for an extended season with permit stacking.
	Option 11a advance notice would be required only for vessels that stack permit, therefore, impacts would accrue only as a result of advance notice for those vessels. Option 11b no advance notice would be required so none of the listed impacts would accrue. Option 11c advance notice would be required of all sablefish-endorsed vessels, therefore, impacts would accrue only as a result of advance notice for those vessels.		
Provision 12: Stacking Deadline –No impacts of note in this category.			
TOPIC: At-Sea Processing (PROVISION 6)–At-sea processing makes the collection of biological samples more difficult.			
	Option 6a would prohibit at-sea processing and Option 6c would phase out any processing now occurring. Both of these options would prevent difficulties that might develop for the collection of biological samples if at-sea processing were allowed to develop.		
	Greater likelihood of at-sea processing than for short season. Therefore, options prohibiting at-sea processing will have greater impact.	Likelihood of at-sea processing similar to status quo.	More likelihood of at-sea processing than with short seasons and stacking; less likelihood of at-sea processing than with long seasons and permit stacking.
TOPIC: Permit Ownership and Owner-on-Board (PROVISION 7)			
	If during the primary season, a sablefish-endorsed vessel is targeting nongroundfish species and sablefish are taken as incidental catch, the incidental catch would have to be discarded if the permit owner is not on board.	The primary sablefish season is very abbreviated. It is unlikely that vessels will target anything but sablefish during the modified derby and the permit owner will be on board so the vessel can land its sablefish.	Impacts would likely be the same as for an extended season with permit stacking.
TOPIC: Foreign Control (Provision 10)–No impacts of note in this category.			
SOCIAL AND ECONOMIC IMPACTS			
EXCESS CAPACITY AND EFFICIENCY			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)			
Provision 1: Basic Permit Stacking			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
EXCESS CAPACITY AND EFFICIENCY			
	Sablefish: Capacity likely to be consolidated within the fixed gear sablefish fishery.	Sablefish: Low amount of capacity consolidation because short seasons are unlikely to allow vessels to substantially expand capacity, and short seasons impose a greater risk that vessels would not be able to take their full additional limits.	No permit stacking.
	More efficient vessels are more likely to obtain permits for stacking.	Faster harvesters, not necessarily more efficient, are likely to obtain permits for stacking.	

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
EXCESS CAPACITY AND EFFICIENCY			
Provision 2: Base Permit and Gear Usage			
	There will be some flexibility to redistribute capacity between gear types.		No permit stacking.
	Capacity will likely redistribute toward the most efficient gear.	Capacity will likely redistribute to the most efficient gear that can take the allowed harvest within the time constraints of the modified derby.	
	Option 2a provides the least flexibility for moving between gears and Option 2c the most.		
	If the longline harvest increases, impacts on nonsablefish groundfish species will likely increase. Increased mortality of nonsablefish groundfish may result in competition with other fisheries for the opportunity to impact (catch and retain, or catch and discard) the nonsablefish species. The problem is likely to be particularly acute when the incidentally harvested species are overfished or endangered. In this situation, absent an ITQ program of broader scope, the impacts on efficiency will depend on the Council's ability to discern the segments of the fishery able to generate the greatest net value from mortalities related to the weakest, or limiting, stock.		
	Trawl Downsizing Waiver: There are five combination trawl/fixed gear permits for which the trawl permit downsizing provision would be waived for the purpose of fixed gear permit stacking. This waiver would increase the incentive to stack trawl/fixed gear combination permits onto smaller vessels with an increase in the attendant impacts. The waiver also foregoes a possible chance to downsize the combination trawl/fixed gear permits, if by chance they would have been stacked in a situation where no waiver was provided.		
Provision 4: Unstacking Permits			
	Consolidation of permits would help achieve the fleet reduction objective identified in the Council's strategic plan. Option 4a would allow permits to be stacked and unstacked while Option 4b and 4c would lock in any reduction in the number of permits, and hence number of vessels, operating in the fixed gear sablefish fishery.		
	Option 4a would provide harvesters with the greatest operational flexibility to adjust their level and organization of fishing effort in response to changing conditions. In general, more flexible systems allow greater improvements in efficiency.		
	Option 4b by not allowing permits to be unstacked would be substantially less flexible and would reduce the incentive for the consolidation of permits. However, this option would lock in any consolidation that occurs.		

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
EXCESS CAPACITY AND EFFICIENCY			
	Option 4c by allowing the transfer of tier endorsements between permits, would provide more flexibility than Option 4b while at the same time locking in a reduction in the number of permits, whenever permits were stacked. However, Option 4c is probably not within the scope of the West Coast fixed gear sablefish exception to the IQ moratorium.		
	With an extended sablefish season, benefits from a reduction in the number of permits/vessels would primarily accrue for nonsablefish fisheries.	With a short sablefish season, the effects of a reduction in number of permits for the sablefish fishery will depend on whether the permits are more fully or less fully used after stacking. The nonsablefish groundfish fisheries may benefit from a reduction in the number of fixed gear permits/vessels.	
Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits (DTLs)			
Nonsablefish Species	Option 8a: Some reduction of capacity targeting on nonsablefish groundfish species. Option 8b: Increased stacking and activation of latent capacity targeting on nonsablefish species.	Option 8a and 8b: Little impact if the stacking of nonsablefish limits is restricted to the modified derby. Most vessels are fully occupied taking sablefish during the modified derby fishery. If the stacking of nonsablefish limits is allowed outside the time of the primary sablefish fishery, under Option 8b there would be substantial activation of latent capacity.	
	The efficiency outcomes for Option 8(a) and 8(b) with respect to nonsablefish groundfish are uncertain and depend in part on the relative efficiencies of harvest taken in other segments of the groundfish fishery and nongroundfish fisheries as compared to the primary fixed gear sablefish fishery.		
Sablefish DTL Fishery	Suboption (2) may have some negative effect on efficiency as vessels would be encouraged to fish out their tier limits early in order to minimize the loss of their DTL opportunities.	There would be little difference in the performance of the different suboptions.	

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
EXCESS CAPACITY AND EFFICIENCY			
TOPIC: ACCUMULATION (PROVISION 3)			
	An extended season is expected to provide ample incentive for the stacking and ownership of permits to concentration levels in excess of the limits proposed in this provision.	Short duration of the modified fishery is expected to limit the number of permits stacked per vessel. The per-vessel stacking limit will mainly impact those who might stack multiple lower-tier permits.	Only the ownership limit would apply under this alternative. The estimate is that there are currently 2 owners with permits in excess of the 3-permit cap adopted by the Council.
	To the degree that limits on permit stacking and limits on the concentration of ownership prevent transfers that would have otherwise occurred, gains in efficiency available from market-dictated transactions will be moderated by the limits imposed to achieve other objectives.		
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length			
	Capital Costs–Under status quo management, the number of vessels in the fishery is limited but vessels continue to invest in more gear in order to ensure that they can take the tier limits within the time allotted by the modified derby fishery.		
	Consolidation of harvest among fewer vessels may reduce overcapitalization over the long term (over the short term there would be dislocational effects as vessels move between fisheries).	Permit stacking is expected to be limited. Capacity reduction is expected to be temporary as vessels gear up to ensure that they can take stacked limits within the time allotted by the modified derby fishery.	Extension of the season alone would diminish the incentive for vessels to increase their investment in gear in order to ensure that they can take their tier cumulative limit during the season. Under this alternative, there would not be a reduction in the number of vessels participating.
	Tier levels function as "blocked" quota shares. Stacking of these shares may lead to a more efficient organization of harvest. While more efficient, the organization may still be suboptimal. Subdivision is not possible, even though harvest among more vessels could potentially be more efficient.	Tier levels function as blocks of relative harvest opportunity, not absolute quotas. Subdivision not possible.	With extended season, tier levels function as "blocked" quota shares. No opportunity to improve efficiency by scaling up harvest levels. Subdivision not possible.
	No incentive to increase investment in sablefish harvest capacity. Reduction in investment incentive should result in reduction of West Coast fishing capacity over the long term. Over the short term, capacity will remain and may be diverted to other fisheries.	Continued incentive for smaller producers to invest in order to take entire tier limit.	Impacts would likely be similar to the extended season with permit stacking.

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
EXCESS CAPACITY AND EFFICIENCY			
	Operation Costs–The need to take harvest during a very short season does not provide much operational flexibility.		
	Speed of harvest is less of a constraint. More flexibility to harvest at times and in a manner that reduces harvest costs.	Speed of harvest would continue to be a constraint, reducing opportunities to decrease cost per pound landed.	Impacts would likely be similar to the extended season with permit stacking.
	Exvessel Revenue		
	Speed of harvest is less of a constraint. More flexibility to harvest at times and in a manner that increases harvest revenue per pound landed. Possible revenue increasing activities include: at-sea processing, highgrading, transiting to a different port to get a higher price.	Speed of harvest would continue to be a constraint, reducing opportunities to increase revenue per pound landed.	Impacts would likely be similar to the extended season with permit stacking.
	Processor Efficiency–Under the current short season processors can schedule their labor and marketing activities in advance of sablefish deliveries.		
	Variable product flow and uncertainty about timing of deliveries may add to processor costs compared to the status quo modified derby.	Same as status quo.	Impacts would likely be similar to the extended season with permit stacking.
Provisions 9, 11, and 12:–No impacts of note in this category.			
Provisions 12: Stacking Deadline			
	A stacking deadline would serve no purpose.	Less flexibility will likely result in lower efficiency. Option 12 b (required stacking before a deadline) provides less flexibility than Option 12a (requiring notice of intent to stack). Option 12c would create a great deal of uncertainty regarding likely harvest levels and season durations, reducing efficiency.	A stacking deadline would serve no purpose.
TOPIC: AT-SEA PROCESSING (PROVISION 6)			
	Under an extended season, at-sea processing would likely develop only if it were a more efficient way to move sablefish to market. Prohibitions on at-sea processing would prevent these efficiencies from being realized.	At-sea processing is not likely to develop further under the modified derby.	Impacts would likely be similar to the extended season with permit stacking.

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)

SOCIAL AND ECONOMIC IMPACTS			
EXCESS CAPACITY AND EFFICIENCY			
TOPIC: PERMIT OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)			
	In order to achieve social objectives, Option 7a would impose restrictions that reduce flexibility. Actions that reduce flexibility generally reduce efficiency from what might otherwise be achieved. Option 7b would operate similar to status quo.		
TOPIC: FOREIGN CONTROL (PROVISION 10)–No impacts of note in this category.			

SOCIAL AND ECONOMIC IMPACTS			
SAFETY			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)–No impacts of note in this category.			
TOPIC: ACCUMULATION (PROVISION 3)–No impacts of note in this category.			
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length–The current modified derby encourages unsafe fishing practices.			
	With ample time to harvest available limits, there would be a substantial improvement in safety.	The safety situation would be similar to status quo.	Impacts would likely be similar to the extended season with permit stacking.
Provisions 9, 11, and 12:–No impacts of note in this category.			
TOPIC: AT-SEA PROCESSING–No impacts of note in this category.			
TOPIC: PERMIT OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)			
	Requiring the owner to be on board (Option 7a) will enhance the interest of the owner in the safety of the vessel. Option 7b impacts would be similar to status quo.		
TOPIC: FOREIGN CONTROL (PROVISION 10)–No impacts of note in this category.			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
ALLOCATION AND EQUITY			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)			
Provision 1: Basic Permit Stacking			
	Allows larger producers to obtain more harvest opportunity, potentially rectifying the losses they incurred when the tier system was established.	Continued short season will limit larger producers ability to recover to previous harvest levels.	No permit stacking.
Provision 2: Base Permit and Gear Usage			
	Given the limited number of fishpot permits and the limited number of permits in each size category, cross-vessel-size and cross-gear-type transfers are being considered to provide opportunity for all participants to benefit from the permit stacking regulations by adjusting the scale of their operations and gear used. Option 2a and 2b restrict the vessel to using gears on permits that have size endorsements sufficient for their vessel. Option 2a forces the vessel to designate a gear, while option 2b allows the vessel to switch between gears at any time. Option 2c allows a vessel to use any gear (longline or fishpot) designated on a stacked permit (regardless of the permit's size endorsement).		No permit stacking.
Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits (DTLs)			
Nonsablefish Species	Option 8a: Minor possibility of reduced effort targeted on nonsablefish species and an increase in the nonsablefish groundfish species limits. Option 8b: Increased effort may occur in the nonsablefish groundfish fisheries. Cumulative limits may decline and as a result there may be an indirect harvest reallocation from vessels that don't stack to vessels that stack.	If stacking of nonsablefish limits is allowed only within the modified derby fishery, there will be little difference in performance between the options. If stacking is allowed outside the modified derby, the allocational impacts of Option 8a and 8b will be similar to those described for the extended season.	No permit stacking.

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
ALLOCATION AND EQUITY			
Sablefish DTL Fishery	Option 8a: Some possibility of a reduction in the number of vessels taking part in the DTL fishery and an increase in the DTL limits. Option 8b: Increased effort may occur in the DTL fisheries. DTL limits may decline and, as a result, there may be an indirect harvest reallocation from vessels that don't stack to vessels that stack. Suboption (1) would exert an upward influence on participation in the DTL fishery, decreasing the DTLs. Suboptions (2) and (3) would exert a downward influence on participation in the DTL fishery, increasing DTLs. Suboption (3) would likely reduce participation more than Suboption (2).	Application of Options 8a and 8b to fisheries outside the modified derby fishery would perform substantially the same as Options 8a and 8b for the extended fishery. Within the modified derby fishery there would be little impact from allowing vessels to stack DTLs along with the tier limits on sablefish-endorsed permits nor would there be substantial variation in the performance of Suboptions (1), (2) or (3).	No permit stacking.
TOPIC: ACCUMULATION (PROVISION 3)			
	Stacking and ownership limits of 2, 3, or 4 permits would prevent some fishers from reestablishing harvest at their levels previous to the reallocation that occurred with implementation of the 3-tier program. No limits on stacking would allow vessels and owners to fully reestablish previous harvest levels through voluntary market-driven transactions.	The limit on stacking will be less constraining under an abbreviated season because, in many cases, the short time available for harvest will likely constrain stacking sooner than the stacking limit.	Currently there is a relatively low level of ownership concentration in the fishery. If the Council intends to move to an IQ program in the future that includes a cap on ownership, establishing such limits at this time could prevent the development of vested interests with concentrations of harvest privileges in excess of those that might be desirable with a transition to a full ITQ program.
	Some may view the grandfather clause allowing the continuation of pre-existing ownership in excess of the proposed limit to be inequitable. A program that allows individuals to accumulate additional permits up to levels similar to most of those grandfathered in with their pre-existing ownership levels is likely to be viewed as more equitable than one that prevents such accumulations. The 3-permit limit will accomplish this result as there are believed to be only two owners with more than 3 permits.		

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
ALLOCATION AND EQUITY			
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length			
	Initially there would be a regulatory-induced shift of harvest toward vessels that did not take full cumulative limits during the modified derby. More efficient vessels with sufficient capacity would likely stack permits. As stacking occurs, a shift in harvest would occur toward those vessels. This reallocation would be mediated largely by market transactions.	The most efficient vessels with sufficient capacity to take additional limits during the short season would likely stack permits. As stacking occurs, a shift in harvest would occur toward those vessels. There would be substantially less stacking than under an extended season. Over time, as vessels gear up to ensure they can take their limits, cumulative limits would decline or the season would be shortened in order to ensure that the allocation to the fixed gear fishery is not exceeded. These regulatory actions would have indirect reallocative effects.	There would be a regulatory-induced shift of harvest toward vessels that did not take full cumulative limits during the modified derby.
Provision 9: DTL Opportunities for Unendorsed Vessels			
	Option 9a. Fixed gear limited entry vessels without sablefish endorsements would have reduced opportunity to harvest under the DTLs. There would be a reallocation from these vessels to sablefish-endorsed vessels and possibly open access vessels. Option 9b. Little change expected, as compared to status quo.	Option 9a or 9b. Little change expected, as compared to status quo.	Impacts would likely be similar to the extended season with permit stacking.
Provisions 11: Advance Notice of Landing–No impacts of note in this category.			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
ALLOCATION AND EQUITY			
Provision 12: Stacking Deadline			
	A stacking deadline would serve no purpose.	Option 12c (no advance notice of stacking) would require more conservative management of the modified derby, resulting in more fish left over for the equal limit mop-up fishery. This would cause an indirect reallocation from higher-tier vessels to lower-tier vessels. Option 12a (declaration of intent to stack) provides flexibility for those that can't stack well prior to the season because of the limit on transfers per year (or for other reasons) but also creates more uncertainty about the final amount of stacking that will occur. Option 12b (requiring actual stacking) would create more certainty about the amount of stacking that will occur and hence more certainty about appropriate season durations and cumulative limits. w w	A stacking deadline would serve no purpose.
TOPIC: AT-SEA PROCESSING (PROVISION 6)			
	If at-sea processing develops under an extended season, there would be a reallocation of income from shoreside processors to vessels. Allocation controversies would likely ensue. Options 6a and 6c, by prohibiting or limiting the development of at-sea processing, would inhibit the development of an allocation battle.	At-sea processing is not likely to develop further under the modified derby because of time constraints.	Impacts would likely be similar to the extended season with permit stacking.
TOPIC: PERMIT OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)			
	Option 7a. Over the short term two classes of owners would be created: those able to own their permit under their current business organization and able to be absent during fishing operations, and those required to own their permits as individuals and who must be present during fishing operations. Over the long term, all owners would move into the latter category.		
TOPIC: FOREIGN CONTROL (PROVISION 10)–No impacts of note in this category.			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
WINDFALLS			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)			
Provision 1: Basic Permit Stacking			
	Permit value expected to increase, increasing any windfall profit from selling permits.	Less increase in value as compared to basic permit stacking with an extended season. More risk that stacked cumulative limits will not be taken.	No permit stacking.
Provision 2: Base Permit and Gear Usage			
	In Provision 2, all options would increase the flexibility for use of a permit with different gears and so may exert an upward influence on the value of some permits. Option 2c **[ADOPTED]** provides the greatest flexibility.		No permit stacking.
Provision 4: Unstacking Permits			
	Not allowing permits to be unstacked (Option 4b or 4c) would likely tend to exert a downward influence on permit values than Option 4a **[ADOPTED].**		No permit stacking.
Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits (DTLs)			
	Allowing the stacking of nonsablefish cumulative limits and sablefish DTLs would exert an upward influence on the value of permits.		
TOPIC: ACCUMULATION (PROVISION 3)			
	Accumulation limits would tend to reduce flexibility and exert a downward influence on permit prices, relative to stacking with no accumulation limits.	Reduction in flexibility would be less than with an extended season because of the limited opportunity to increase harvest under the modified derby.	Impacts of limits on concentration of ownership would be similar to those for stacking and a long season.

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
WINDFALLS			
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length			
	Reduction in cumulative limits as a result of the increased season length would exert a downward influence on permit prices.	Season length would be similar to status quo, possibly shorter. Cumulative limits would be similar to status quo.	Impacts of limits on concentration of ownership would be similar to those for stacking and a long season.
	Reduced risk that a vessel will be unable to take its available harvest and increased flexibility of operations will exert an upward influence on permit price.	When permits are stacked, there would be a higher risk that a vessel will not be able to take the stacked limit (as compared to status quo).	Reduced risk that a vessel will be unable to take its available harvest and increased flexibility of operations will exert an upward influence on permit price.
Provisions 9, 11, and 12:–No impacts of note in this category.			
TOPIC: AT-SEA PROCESSING (PROVISION 6)			
	In Provision 6, limiting at-sea processing (Option 6a and Option 6c **[ADOPTED]**) is likely to exert a downward influence on permit prices from what they would have been if at-sea processing were allowed.	At-sea processing is not likely to develop substantially further under this alternative than status quo because of time constraints.	Impacts would likely be the same as for an extended season with permit stacking.
TOPIC: PERMIT OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)			
	Option 7a: Requiring the permit owner to be on board the vessel and limiting ownership to individuals will reduce flexibility and exert a downward influence on permit prices. Option 7b would not impose these requirements and would have impacts similar to status quo.		
TOPIC: FOREIGN CONTROL (PROVISION 10)–No impacts of note in this category.			

SOCIAL AND ECONOMIC IMPACTS
PRIVATIZATION OF A PUBLIC RESOURCE
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)–No impacts of note in this category.
TOPIC: ACCUMULATION (PROVISION 3)–No impacts of note in this category.

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
PRIVATIZATION OF A PUBLIC RESOURCE			
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length–Some hold the social concern that individual quotas create a private property interest in a resource owned by the public.			
	Extending the season would turn the management program into a form of individual quota. Statements in the groundfish program characterize the fishing opportunity granted as a "privilege" rather than a "right."	This alternative would not create an individual quota program.	Same as for extending the season with permit stacking.
Provisions 9, 11, and 12:–No impacts of note in this category.			
TOPIC: AT-SEA PROCESSING (PROVISION 6)–No impacts of note in this category.			
TOPIC: PERMIT-OWNERSHIP AND OWNER-ON BOARD (PROVISION 7)–No impacts of note in this category.			
TOPIC: FOREIGN CONTROL (PROVISION 10)–No impacts of note in this category.			

SOCIAL AND ECONOMIC IMPACTS
ENTRY AND EXIT
Higher permit prices may result in more of a barrier to entry to the degree capital markets do not function in the theoretical ideal. Impacts of the provisions on permit prices are discussed in the section on windfalls.
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)
Provision 1: Basic Permit Stacking–See "Windfalls"
Provision 2: Base Permit and Gear Usage–See "Windfalls"
Provision 4: Unstacking Permits–See "Windfalls"
Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits (DTLs)–No impacts of note in this category
TOPIC: ACCUMULATION (PROVISION 3)–See "Windfalls"
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11 &12)–See "Windfalls"
TOPIC: AT-SEA PROCESSING (PROVISION 6)–See "Windfalls"

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)

SOCIAL AND ECONOMIC IMPACTS	
ENTRY AND EXIT	
TOPIC: PERMIT OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)–Also see "Windfalls"	
	Option 7a would prohibit local governmental jurisdictions as well as other business entities that are not individual human beings from gaining new entry to the fishery (acquiring limited entry permits for the first time.) Option 7b would be similar to status quo.
	Option 7a would require that permit owners be on board the vessel. This will likely reduce the number of permits available for lease, making transitions into and out of the fishery more difficult. Option 7b would be similar to status quo.
TOPIC: FOREIGN CONTROL (PROVISION 10)–No impacts of note in this category.	

SOCIAL AND ECONOMIC IMPACTS			
FOREIGN CONTROL			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)–No impacts of note in this category.			
TOPIC: ACCUMULATION (PROVISION 3)			
	Limits on the number of permits owned by one individual will increase the number of arrangements that would have to be made for a foreign interest to gain control over a substantial portion of the harvest, and hence the cost and uncertainty of gaining that control.	Absent an extended season, concern over foreign ownership diminishes and therefore the benefits of the restriction with respect to concern over foreign harvest would be diminished as compared to the extended season with permit stacking.	Extension of the season without a stacking program would likely create some interest by foreign investors but not as much as for extension of the season with permit stacking. Therefore the benefits of the ownership limits with respect to concern over foreign control would be less than for extension of the season with permit stacking.
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length–Risk of foreign efforts to control harvest privileges may increase with increased stability of an industry.			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
FOREIGN CONTROL			
	Extension of the season length would create an IQ program that would substantially stabilize the value of harvest privileges. Ownership limits (Provision 3, **[ADOPTED]** and owner-on-board requirements (Provision 7 **[ADOPTED]** would make it more difficult for foreign interests to establish control.	Continuation of the modified derby would not provide significant added stability for the primary sablefish harvest and would therefore be less likely to attract substantial new foreign investment interest, as compared to permit stacking with an extended season.	Extension of the season alone would stabilize the value of the sablefish harvest privileges associated with a permit. This would likely create some interest by foreign investors but not as much as for extension of the season with permit stacking.
Provisions 9, 11, and 12:–No impacts of note in this category.			
TOPIC: AT-SEA PROCESSING (PROVISION 6)–No impacts of note in this category.			
TOPIC: PERMIT OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)			
	Option 7a would increase the difficulty and risk for foreign firms to attempt to control sablefish-endorsed permits. Option 7b would not respond to the risks of foreign control described in Provision 5.	Option 7a would increase the difficulty and risk for foreign firms to attempt to control sablefish-endorsed permits, however, with a continued modified derby fishery the risk of foreign control would not be expected to increase substantially as compared to status quo. Option 7b would be similar to status quo.	Same as for extending the season with permit stacking.
TOPIC: FOREIGN CONTROL (PROVISION 10)			
	Option 10a would immediately restrict permit ownership to individual human beings that are US citizens. In doing this Option 10a conflicts with the grandfather provisions of Option 7a. Other than this area conflict, Option 10a mainly reinforces, by restating, the status quo policy that would be in effect under Option 10b.		

SOCIAL AND ECONOMIC IMPACTS
INCOME AND EMPLOYMENT
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)–Main impacts occur under Provision 1.
Provision 1: Basic Permit Stacking

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
INCOME AND EMPLOYMENT			
	Permit value expected to increase, reflecting an increase in profits and therefore an increase in income.	Less increase in value as compared to basic permit stacking with an extended season. More risk that additional cumulative limits will not be taken.	No permit stacking.
Provisions: 2, 4 and 8			
	To the degree that permit values increase or decrease under these provisions, income associated with the fishery would be expected to increase or decrease (see section on Windfalls).		
TOPIC: ACCUMULATION (PROVISION 3)			
	To the degree that permit values increase or decrease under these provisions, income associated with the fishery would be expected to increase or decrease (see section on Windfalls).		
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length			
	Increased income, possible redistribution of employment. Fewer crew jobs that last longer. Based on very rough estimates and assumptions (including an assumption that 50% of the permits are stacked), crew employment might decline from about 700 individuals to about 275. If at-sea processing increases, at-sea labor may replace shoreside labor (this would be limited by Provision 6).	Minor opportunity for a small increase in income. Some reduction in the number of crew positions, little change in the duration of the employment. Based on very rough estimates and assumptions (including the assumption that 30 permits are stacked and the stacked permits are representative of the average), crew employment might decline by about 130 positions out of 700 positions.	Some increase in income associated with greater efficiency from more flexible harvest opportunities. Based on some very rough estimates, crew employment might decline by about 150 positions out of 700 positions.
Provisions 9, 11, and 12:–No impacts of note in this category.			
TOPIC: AT-SEA PROCESSING (PROVISION 6)			
	To the degree that permit values increase or decrease under these provisions, income associated with the fishery would be expected to increase or decrease (see section on Windfalls).		

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
INCOME AND EMPLOYMENT			
	Absent a restriction (Options 6a or 6c) some shift in income and employment from shoreside processing focused firms to harvesting focused firms is most likely under this alternative.	Absent restrictions, a shift to at-sea processing would be more likely than under status quo but less likely than under other alternatives.	Absent restrictions, a shift to at-sea processing would be more likely than under status quo and the modified derby with permit stacking, but less likely than under an extended season with permit stacking.
TOPIC: PERMIT-OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)			
	To the degree that permit values increase or decrease under these provisions income associated with the fishery would be expected to increase or decrease (see section on Windfalls).		
TOPIC: FOREIGN CONTROL (PROVISION 10)–No impacts of note.			

SOCIAL AND ECONOMIC IMPACTS			
FISHER JOB SATISFACTION AND LIFE STYLE			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)–No impacts of note.			
TOPIC: ACCUMULATION (PROVISION 3)–No impacts of note.			
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)–No impacts of note for provisions 9, 11, & 12.			
Provision 5: Season Length			
	A shift in the relative importance of various fishing skills. Reduced importance of skills that contribute to the speed of catching fish and increased importance of skills that contribute to economic efficiency.	Potential increase in stress and risk.	Same as for an extended season with permit stacking.
Provisions 9, 11, and 12:–No impacts of note in this category.			
TOPIC: AT-SEA PROCESSING (PROVISION 6)--No impacts of note in this category.			
TOPIC: PERMIT-OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)--No impacts of note in this category.			
TOPIC: FOREIGN CONTROL (PROVISION 10)--No impacts of note in this category.			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
GEAR CONFLICT			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)–No impacts of note in this category.			
TOPIC: ACCUMULATION (PROVISION 3)–No impacts of note in this category.			
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)–No impacts of note in this category for provisions 9, 11, & 12.			
Provision 5: Season Length			
	Decreased conflict among fixed gear vessels, increased conflict between fixed gear and mobile gear vessels.	Little change from status quo.	Same as for an extended season with permit stacking.
Provisions 9, 11, and 12:–No impacts of note in this category.			
TOPIC: AT-SEA PROCESSING (PROVISION 6)– No impacts of note in this category.			
TOPIC: PERMIT-OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)– No impacts of note in this category.			
TOPIC: FOREIGN CONTROL (PROVISION 10)– No impacts of note in this category.			

SOCIAL AND ECONOMIC IMPACTS			
RELATIVE BARGAINING STRENGTH			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)–Main impacts associated only with basic permit stacking (Provision 1).			
Provision 1: Basic Stacking	There is also likely to be some consolidation of permits among vessels and owner. This consolidation will reduce the number of employers for crew and the number of alternative sellers for processors.	There will be less consolidation under the modified derby.	No permit stacking.
Provisions 2, 4, and 8–No impacts of note in this category.			
TOPIC: ACCUMULATION (PROVISION 3)			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
RELATIVE BARGAINING STRENGTH			
	Accumulation limits should maintain a more competitive environment in terms of such things as the number of alternative employers for crew and the number of alternative sellers for processors. Currently the only control on concentration of ownership is anti-trust laws.	Absent an extended season or absent a stacking program, concern over excessive accumulation of permits diminishes and, therefore, the benefits of the restriction would be diminished.	
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length			
	An extended season would give harvesters more delivery alternatives, increasing the pressure on processors during price negotiations. This alternative would provide the fewest number of positions for crew on vessels, as compared to the other alternatives including status quo (see "Income and Employment").	Processors may have fewer vessels to buy from than under status quo. An estimated 134 compared to 164 under status quo. Fewer vessels for crew to work on (see "Income and Employment").	Same as for an extended season with stacking except that processors would have more vessels to buy from and there would be the same number of vessels for crew to work on as under status quo, but fewer positions (see "Income and Employment").
Provisions 9, 11, and 12:–No impacts of note in this category.			
TOPIC: AT-SEA PROCESSING (PROVISION 6)– No impacts of note in this category.			
TOPIC: PERMIT-OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)– No impacts of note in this category.			
TOPIC: FOREIGN CONTROL (PROVISION 10)– No impacts of note in this category.			

SOCIAL AND ECONOMIC IMPACTS			
REGULATORY COMPLEXITY AND PAPERWORK REQUIREMENTS			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)			
Provision 1: Basic Permit Stacking			
	Little increase in complexity.	Little increase in complexity except for that as discussed in Provision 5 for maintaining a short season.	No permit stacking.

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
REGULATORY COMPLEXITY AND PAPERWORK REQUIREMENTS			
Provision 2: Base Permit and Gear Usage			
	Option 2a would require fishers stacking permits to formally designate a base permit. There would be a slight amount of associated paperwork burden. Option 2b and 2c could be implemented without requiring the paperwork required for base permit designation.		No permit stacking.
Provision 4: Unstacking Permits–No impacts of note in this category.			
Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits (DTLs)–No impacts of note in this category			
TOPIC: ACCUMULATION (PROVISION 3)			
	The limit on concentration of ownership will impose a regulatory burden on permit owners regardless of whether or not they stack permits. The reporting requirement will be relatively simple for the approximately two-thirds of the permits that are owned by a single individual. More complex ownership arrangements will create greater reporting burdens.		Same as for stacking options.
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length			
	Simplified procedures for setting seasons and cumulative limits and for opening and closing the seasons. Some increased requirements for transferring landings information along with permits when they are transferred midseason.	Substantially more complex processes for setting seasons and cumulative limits. Fishers would need to make advance declarations of their intent to stack (see Provision 12). More uncertainty for fishers deciding whether and when to stack permits.	Same as for an extended season with permit stacking.
Provision 11: Advance Notice of Landing			
	The time required for harvesters to provide the advance notice is not expected to create a substantial burden to industry. However, with the advance notice requirement, an unanticipated delay in landing, and the need for the vessel to reissue an advance notice could result in problems with the coordination of offloading logistics that cause substantial delays in offloading. For Option 11a this burden applies only to vessels with stacked permits, for Option 11b it would not apply to any vessels, for Option 11c **[ADOPTED]** it would apply to all vessels with sablefish endorsements landing during the primary fisher. As currently drafted, the option would also apply to sablefish-endorsed vessels making DTL landings during the primary fishery. The Council provided no guidance on the maximum advance notice or a time length for the landings window to limit the duration of the validity of the advanced notice.		
Provisions 9: DTL Opportunities for Unendorsed Vessels –No impacts of note in this category.			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
REGULATORY COMPLEXITY AND PAPERWORK REQUIREMENTS			
Provisions 12 : Stacking Deadline			
	A stacking deadline would serve no purpose.	Only Option 12a would impose a paperwork burden. Forms for advance notice of intent to stack could be sent out with permit renewal notices. Time required to fill out and send in the form might be 15 to 20 minutes.	A stacking deadline would serve no purpose.
TOPIC: AT-SEA PROCESSING (PROVISION 6).			
	Options 6a and 6c: Each permit owner applying may have to identify and collect unique evidence that the requisite landings have been made. Time to collect and document the evidence may vary between permits. For Option 6c, in order to determine when endorsements expire, ownership information will have to be submitted similar to that required for Provisions 3 and 7.		

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)

SOCIAL AND ECONOMIC IMPACTS	
REGULATORY COMPLEXITY AND PAPERWORK REQUIREMENTS	
TOPIC: PERMIT OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)	
	Under Option 7a, records of permit ownership would have to be submitted, possibly on an annual basis. The burden of submitting the records would depend on the complexity of the ownership structure. Ownership structure for the majority of West Coast permits is relatively simple, involving only one or two individuals. Over time, as those qualifying under the grandfather provisions leave the fishery, the burden imposed by the ownership reporting requirements would decline. Under Option 7b, no additional records would have to be submitted.
TOPIC: FOREIGN CONTROL (PROVISION 10)—No impacts of note in this category.	

SOCIAL AND ECONOMIC IMPACTS			
ENFORCEMENT AND MONITORING			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)			
Provision 1: Basic Permit Stacking			
	Minor additional complexity related to the greater variety of limits that may apply to a particular vessel.	Minor additional complexity related the greater variety of limits that may apply to a particular vessel.	No permit stacking.
Provision 2: Base Permit and Gear Usage			
	If vessels are allowed to switch between gears only for the purpose of harvesting sablefish, over an extended season it may be difficult to identify whether a vessel is targeting sablefish or other groundfish (Options 2b and 2c). The issue is most significant for Option 2c where the stacked permit that allows the use of a different gear may be for a smaller size vessel. Allowing the gear of the smaller permit to be used to target nonsablefish groundfish on a larger vessel may represent a capacity increase for the gear type of the stacked permit.	For a short duration fishery, vessels will generally be targeting only sablefish. Few enforcement uncertainties with respect to gear usage would be expected.	No permit stacking.
Provision 4: Unstacking Permits–No impacts of note in this category.			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
ENFORCEMENT AND MONITORING			
Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits (DTLs)			
Nonsablefish Species	Little difference between Options 8a and 8b.		
Sablefish DTL Fishery	Little difference between Options 8a and 8b. Suboption (1) would create some enforcement and monitoring complexities related to distinguishing between DTL and tier landings.		
TOPIC: ACCUMULATION (PROVISION 3)			
	Limits on the number of permits registered per vessel should be straight forward and easy to enforce.		Not applicable.
	A data system recording reported ownership interests would limit the increased enforcement costs associated with the limits on concentration of ownership.		Impacts would likely be similar to stacking options.
	Circumvention of the intent of the ownership cap would be possible through means such as long-term leases or private contracts for financing.		Impacts would likely be similar to stacking options.
	Ownership calculation Suboption (b) will be easier to enforce and administer than Suboption (a).		Impacts would likely be similar to stacking options.
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length			
	Needed enforcement effort would be extended over a longer period. The longer season would provide more incentive for misreporting landings, increasing the need for enforcement. Provision 11 may reduce some of the cost of the enforcement effort.	Enforcement problems would not be substantially different from status quo.	Impacts would likely be similar to an extended season with permit stacking.

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
ENFORCEMENT AND MONITORING			
Provision 9: DTL Opportunities for Unendorsed Vessels			
	Option 9a allows unendorsed fixed gear vessels on the water but enforcement would have to ensure no sablefish were being retained. Option 9b would be the same except, instead of ensuring no retention, enforcement would have to ensure that sablefish limits are complied with. 66 vessels with limited entry permits not endorsed for sablefish would be added to group to be monitored (added to the 164 sablefish-endorsed vessels and all open access fixed gear vessels).	Option 9a or 9b. Little change expected, as compared to status quo.	Impacts would likely be similar to an extended season with permit stacking.
Provision 11: Advance Notice of Landing			
	Advance notice of landing, including hail weights, would make it easier for enforcement to target their fishery monitoring efforts, reducing enforcement costs as compared to enforcing regulations during an extended season without the advance notice requirement. Option 11c, requires advance notice by all sablefish-endorsed vessels, hence providing the greatest reduction in enforcement costs, while Option 11b would not require advance notice, hence providing no reduction in enforcement costs. Option 11a requires notice only from vessels that stack permits.	There would be little change expected in the enforcement task, as compared to status quo. Despite the minimal change, there still may be some enforcement savings from requiring advance notice of landings.	Impacts would likely be the same as for an extended season with permit stacking.
Provisions 12:–No impacts of note in this category.			
TOPIC: AT-SEA PROCESSING (PROVISION 6)– No impacts of note in this category.			
TOPIC: PERMIT OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)			
	Option 7a would add to additional tasks to the enforcement burden: (1) determine whether or not the permit owner is required to be on board, and (2) determine who the owner is.		
TOPIC: FOREIGN CONTROL (PROVISION 10)– No impacts of note in this category.			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
ADMINISTRATIVE COSTS			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)			
Provision 1: Basic Permit Stacking			
	Minor adjustments to database	Minor adjustments to database	No permit stacking.
Provision 2: Base Permit and Gear Usage			
	Minor administrative costs associated with the need to track base permits under Option 2a.		
Provision 4: Unstacking Permits–No impacts of note in this category.			
Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits (DTLs)–No impacts of note in this category			
TOPIC: ACCUMULATION (PROVISION 3)			
	Administrative costs would be associated with the development and maintenance of a data system for tracking the ownership interests in permits. Complete contracts may have to be submitted with transfers.		
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length			
	Reduced procedural and administrative costs for setting seasons and cumulative limits.	Substantial additional administrative costs associated with requirements for the advance declaration of intent to stack and more complex considerations in setting season lengths and cumulative limits.	Impacts similar to an extended season with permit stacking.
Provision 11: Advance Notice of Landing			
	If advance notice of landings is required, an automated system for receiving and disseminating the advanced notice would likely be developed. Most of the costs would likely be in initial development. Costs would likely vary little between Options 11a and 11c. For Option 11b, no advance notice would be needed.		
Provisions 9: DTL Opportunities for Unendorsed Vessels:–No impacts of note in this category.			
Provisions 12: Stacking			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)

SOCIAL AND ECONOMIC IMPACTS			
ADMINISTRATIVE COSTS			
	A stacking deadline would serve no purpose.	For Option 12a, a system would have to be established to receive the advanced notice of intent to stack. The database work would be fairly limited and would need to cover the 164 fixed gear permits endorsed for sablefish.	A stacking deadline would serve no purpose.
TOPIC: AT-SEA PROCESSING (PROVISION 6)			
	Issuance of at-sea processing endorsements (Option 6c) will require the modification of databases, the generation of application materials and the development of consistent criteria for evaluating vessel qualification for at-sea processing endorsements. It appears that state fish tickets have not been coded with this information. The submission of nonstandardized information in support of applications will increase the administrative costs of the issuance process.		
TOPIC: PERMIT OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)			
	Option 7a. Administrative costs associated with the tracking and documenting of permit ownership changes for the purpose of implementing the grandfather clause. Option 7b. No additional administrative costs.		
TOPIC: FOREIGN CONTROL (PROVISION 10)- No impacts of note in this category.			

SOCIAL AND ECONOMIC IMPACTS		
FISHING COMMUNITIES		
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)		
Provision 1: Basic Permit Stacking		
	Over the short term, permits may move between communities based on the location of existing excess capacity and social relationships. This would likely result in a movement away from Washington and California toward Oregon.	No permit stacking.

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
FISHING COMMUNITIES			
	Over the long term, relative efficiencies of harvest out of each port without the constraint of the race for fish will determine redistributions.	Over the long term, relative efficiencies of harvest out of each port within the context of the derby constraint will determine redistributions.	
Provision 2: Base Permit and Gear Usage–No impacts of note in this category.			
Provision 4: Unstacking Permits–No impacts of note in this category.			
Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits (DTLs)–No impacts of note in this category			
TOPIC: ACCUMULATION (PROVISION 3)			
	Limiting the concentration of harvest, both on the vessel and under a given ownership, will likely slow the redistribution of harvest. By maintaining a larger number of harvesting entities, there is a greater probability that those entities may be more dispersed among coastal communities. However, if a particular community is able to provide economic advantages not present in other communities (e.g., lower port costs, closer location to high CPUE fishing grounds, higher exvessel prices, etc.), overtime there may still be a tendency for geographic redistribution and concentration of harvest, even with the limits proposed under this provision.	Accumulation is less likely than under an extended season, therefore, the benefits of the accumulation limits would be less (where the benefits are maintaining the dispersal of harvest among numerous coastal communities).	Accumulation is less likely than under stacking provisions, therefore, the benefits of the accumulation limits would be less.
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length			
	Over the short term, vessels may not change their home ports but there may be a redistribution of ports of landing. Over the long term, a market-mediated redistribution of permits and vessel home ports may occur as those interested in harvesting out of lower cost/higher revenue ports outbid those from other ports in the permit market.	Little difference from status quo.	Impacts would likely be similar to an extended season with permit stacking.
Provisions 9, 11, and 12:–No impacts of note in this category.			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
FISHING COMMUNITIES			
TOPIC: AT-SEA PROCESSING (PROVISION 6)			
	At-sea freezing (Option 6b) could result in the transfer of processing jobs from processors in coastal fishing communities to at-sea processors that draw their labor from other areas.	At sea processing is not likely to develop further under the modified derby because of time constraints. Therefore, the benefits of a restriction on at-sea processing would be less.	Impacts would likely be similar to what is described for an extended season with permit stacking.
TOPIC: PERMIT OWNERSHIP AND OWNER-ON-BOARD (PROVISION 7)			
	Option 7a would encourage control of harvest by individuals residing in local fishing communities but prevent municipalities or other nonfishing entities from acquiring permits. Option 7b would allow permit acquisition by municipalities or other nonfishing entities interested in stabilizing the local economy.	Options 7a and 7b would have impacts similar to those described for permit stacking and the extended season, except that the level of impacts would be lower because the probability that permits will move between ports is lower.	Impacts would likely be similar to what is described for an extended season with permit stacking.
TOPIC: FOREIGN CONTROL (PROVISION 10)–No impacts of note in this category.			
SOCIAL AND ECONOMIC IMPACTS			
IMPACTS ON OTHER FISHERIES			
TOPIC: PERMIT STACKING (PROVISIONS 1, 2, 4, & 8)			
Provision 1: Basic Permit Stacking			
	If 50% of the permits were stacked (82 permits), $3.2 million may be a likely upper bound on the exvessel value of the sablefish that vessels divesting themselves of permits would lose, plus some amount of revenue from other groundfish species. These vessels might try to make up that revenue by increasing their participation in other fisheries.	Substantially fewer permits would be stacked, perhaps only 30 out of 164 permits (see Appendix A). This would imply fewer vessels looking to make up revenues in other fisheries.	No permit stacking.
Provision 2: Base Permit and Gear Usage			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
IMPACTS ON OTHER FISHERIES			
	Other fisheries may be impacted if the amount of capacity targeting sablefish with longline gear increases, increasing the amount of incidentally caught species, where harvest of the incidental species is limited by a numeric optimum yield. The result may be allocation controversies.		No permit stacking.
Provision 4: Unstacking Permits–No impacts of note in this category.			

Impact	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions (Section 2.2.3)
SOCIAL AND ECONOMIC IMPACTS			
IMPACTS ON OTHER FISHERIES			
Provision 8: Nonsablefish Cumulative Limits and Sablefish Daily Trip Limits (DTLs)			
Nonsablefish Species	Option 8a: Minor possibility of reduced effort targeted on nonsablefish species. Option 8b: Increased effort may occur in the nonsablefish groundfish fisheries targeted by the limited entry fixed gear fleet.	If stacking of nonsablefish limits is allowed only within the modified derby fishery, there will be little difference in performance between the options. If stacking is allowed outside the modified derby, the allocational impacts of Option 8a and 8b will be similar to those described for the extended season.	
	If expanded effort results in the increased take of weak, overfished, or endangered species, conservation and management difficulties in other segments of the groundfish fishery, or nongroundfish fisheries taking groundfish, could be exacerbated. Impacts on other fisheries would depend on decisions on how to allocate the limited harvest.		
Sablefish DTL Fishery	No impacts of note outside the limited entry fixed gear fishery.		
TOPIC: ACCUMULATION (PROVISION 3)–No impacts of note in this category.			
TOPIC: SEASON LENGTH (PROVISIONS 5, 9, 11, & 12)			
Provision 5: Season Length–There is currently an inverse correlation between the timing of Alaska harvest and the timing of West Coast harvest			
	Extension of the West Coast harvest period may alter the existing pattern of harvest in Alaska.	Little change from status quo.	Impacts similar to an extended season with permit stacking.
Provisions 9, 11, and 12:–No impacts of note in this category.			

5.0 CONSISTENCY WITH THE FMP AND THE MAGNUSON-STEVENS ACT

5.1 FMP Framework and Amendment Processes

Each alternative includes a variety of provisions, some of which require plan amendment and others of which may be implemented under procedures outlined in the framework of the current FMP. Section 2.3 identifies which options require plan amendments and which can be implemented under the current FMP framework. Section 2.3 also identifies the procedures that must be followed for actions to be taken under the FMP framework. These procedures require that analytical documents be developed, approved by the Council and released for public review prior to a final decision. This document constitutes the analytical document required under the framework procedures. In June 2000, the Council announced its intent to prepare the document; in September 2000, it approved documents to be released for public review; and in November 2000, it took final action based on the analysis and public comment.

5.2 FMP Objectives and the National Standards

The relationship between the goals and objectives identified for this action, the goals and objectives of the FMP, and the National Standards of the Magnuson-Stevens Act are outlined in Section 1.3. The following relates the impacts identified in Section 4 to the goals and objectives identified for the proposed action.

5.2.1 FMP Objectives

The primary FMP objectives addressed by the proposed management measures are:

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

See discussion of National Standard 5 in Section 5.2.2.

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

See discussion of National Standard 4 in Section 5.2.2.

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 environment.

Grandfather clauses are included as part of Provisions 3 (Accumulation), 6 (At-Sea Processing), and 7 (Individual Owners and Owner-On-Board Requirements). These grandfather provisions are intended to allow preexisting practices to continue and phase in change. The stacking provision (Provision 1) is intended to allow operations disrupted by the allocations entailed in implementing the three-tier program in 1998 to recover some of their previous harvest levels. Provisions, such as owner-on-board requirements and prohibitions on new entry to at-sea processing also serve to minimize disruption.

Objective 16. Avoid unnecessary adverse impacts on small entities.

The grandfather clauses identified for objective 15 also help minimize adverse impacts on small entities. Provision 9 allows the limited entry DTL fishery to continue during the primary fishery mitigates the effect of the rule on small entities. Some reporting and paperwork burdens would be created by the proposed measures.

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.

See discussion of National Standard 8 in Section 5.2.2.

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

See discussion of National Standard 10 in Section 5.2.2.

5.2.2 National Standards

National Standard 1 requires that "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." The management measures proposed under the recommended alternatives will not change conservation objectives but are intended to achieve those objectives with a different set of social and economic consequences, as compared to the status quo.

National Standard 2 requires the use of the best available scientific information. The analysis of impacts uses the best scientific information available. The Council's recommendations follow from the analysis, public comment, and the Council's weighting of the relative importance of various positive and negative impacts of the proposed measures.

National Standard 3 requires that individual and interrelated stock be managed as a unit or in close coordination. The proposed management measures would not change the management units. The management measures take into account that various species co-occur in the catch.

National Standard 4 requires that management measures not discriminate between residents of different States and that allocations be fair and equitable, reasonably calculated to promote conservation, and not grant any entity an excessive share of privileges. Proposed management measures apply equally to citizens of all US citizens. No situations have been identified whereby the same management measures would have a differing impact depending on a fishers state of residence. The fairness and equity of the regulations have been discussed in the analysis and were thoroughly aired during protracted consideration of the recommended management measures. Various versions of the recommended management measures have been considered and debated publicly over for almost 10 years. Equity considerations are summarized in Section 4.2. The proposed management measures are reasonably calculated to achieve National Standard 1 conservation requirement. No individual entities are expected to receive excessive shares and measures have been recommended to ensure that no single entity is able to accumulate excessive shares (Provision 3).

National Standard 5 requires the consideration of efficiency. Efficiency impacts were a significant factor in the development of the proposed management measures and are addressed extensively in the analysis. These impacts are summarized in Section 4.2. Extension of the season length from less than 10 days to seven months (Provision 5) is expected to eliminate incentive for continued investment in capacity for the sablefish fishery. All vessels are believed to have more than sufficient capacity to take their cumulative limits in the allotted time. Ability to stack permits will allow vessels to scale up operations (Provision 1). Ability to unstack permits will allow vessel that stack permits to scale back down, if appropriate for the harvest operation (Provision 4). Those vessels that are most efficient are likely to outbid other vessels for available permits. Other factors driving the decision include safety and whether conservation goals would be achieved.

National Standard 6 requires that conservation and management measures take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches. The permit stacking program will allow harvest operations to scale fixed gear sablefish harvest operations up and back down as economic and fishery conditions dictate. Flexibility is somewhat limited by the tier system because adjustments must be made in fairly large increments. Extension of the fishery from the current 10-day maximum to seven months will provide fishers with substantial additional flexibility to respond to varying harvest circumstances and opportunities.

National Standard 7 requires cost minimization and avoidance of duplication. The proposed management measures will increase government costs in order to achieve greater safety and efficiency in the fishery. However, policy choices were made that are expected to keep the management costs to a minimum. These include Provision 11 that requires advance notice of landing. While tracking advance notice of landings will impose a cost, it is expected that the advance notice requirement will make other governing activities more efficient, for example, enforcement and port sampling. Another example is the recommendation of a relatively simpler method for determining the number of permits owned with respect to the accumulation limit. The

recommended method is to count toward the ownership limit the entirety of any permit for which an individual has a fractional ownership interest. The rejected alternative would have required determination and summation of fractional ownerships to come up with a total to which the ownership accumulation limit would apply. The Council did not recommend a change from the status quo for Provision 10. This provision would have been largely duplicative of existing restrictions. Other recommendations are not believed to duplicate existing requirements.

National Standard 8 requires provision for sustained participation by communities and minimization of adverse impacts. Numerous provisions are recommended to maintain the coastal community connection with and benefit from the fishery: Provision 3, accumulation limits; Provision 6, limitations on at-sea processing; and Provision 7, individual owner and owner-on-board requirements.

National Standard 9 requires that bycatch be minimized and where it cannot be minimized, bycatch mortality be minimized. There are two types of bycatch of concern to the Council with respect to the proposed policies, the first is economically induced bycatch and the other is regulatory bycatch. Under the status quo it is believed that substantial amounts of nonsablefish incidental catch are discarded during the modified derby fishery. With an extension of the season, there is evidence that much of this catch will be retained. However, there is also evidence to indicate that highgrading of sablefish may increase with the extension of the season. The highgrading is only a concern to the degree that it results in discard mortality. Sablefish mortality rates are believed to be relatively low when highgrading is achieved through immediate discard. Additionally, fishers have demonstrated and reported some ability to "highgrade" through selective fishing practices when the time pressure of the derby fishery is eliminated. The other kind of discard of concern is regulatory-induced discard. By preserving or creating daily trip limit opportunities for all vessels during the primary fixed gear sablefish fishery, the Council has provided an allowance for small amounts of incidentally caught sablefish to be retained by all segments of the fixed gear fishery (limited entry sablefish endorsed, limited entry unendorsed, and open access). Additionally, by not making other trip limits cumulative at this time (Option 8a), the Council has reduced the incentive for the activation of latent capacity targeting on nonsablefish groundfish. By helping to keep this capacity dormant, the Council has limited a source of increase for between-fishery competition for the opportunity to catch weak stocks. When a fishery that takes a weak species incidental to other harvest loses an opportunity to harvest that weak species, then either the fishery must be shut down or regulatory discards occur.

National Standard 10 requires the promotion of safety. This national standard is one of the driving forces behind this proposed regulatory package. The extension of the season from less than 10 days to seven months is expected to remove time pressures that previously led to unsafe fishing conditions.

5.4 Establishing a Limited Entry System (Section 303(b)(6), 303(d)(5) and 304(d)(2))

The actions proposed by the Council in this package would not establish a limited access fishery but would modify an existing limited access program in a manner that substantially changes its characteristics. Harvest in the primary sablefish fixed gear fishery is currently constrained through a combination of a limit on the number of participants (license limitation), cumulative limits, and season length. By extending the duration of the primary fixed gear sablefish fishery, relieving the time constraint on harvest, the current license limitation program would be transformed into a individual quota program. It is not clear that extension of the season length in this fashion triggers the requirements of Section 303(b)(6). However, because many of the impacts associated with the proposed action are associated with an extension of the season length, an evaluation of the requirements of Section 303(b)(6) may be prudent.

303(b) Discretionary Provisions.–Any fishery management plan which is prepared by an Council, or by the Secretary, with respect to any fishery, may– . . . .

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account–
- (A) Present participation in the fishery,
- (B) Historical fishing practices in, and dependence on, the fishery,
- (C) The economics of the fishery,
- (D) The capability of fishing vessels used in the fishery to engage in other fisheries,
- (E) The cultural and social framework relevant to the fishery and any affected fishing communities, and
- (F) Any other relevant considerations; . . . .

Additionally, Section 303(d) on Individual Fishing Quotas requires that

(5) "In submitting and approving any new individual fishing quota program on or after October 1, 2000, the Councils and the Secretary shall consider the report of the national Academy of Sciences required under section 108(f) of the Sustainable Fisheries Act, and any recommendations contained in such report, and shall ensure that any such program--
   (A) establishes procedures and requirements for the review and revision of the terms of any such program (including any revisions that may be necessary one a national policy with respect to individual fishing quota programs is implemented), and, if appropriate, for the renewal, reallocation, or reissuance of individual fishing quotas.
   (B) provides for the effective enforcement and management of any such program, including adequate observer coverage, and for fees under section 304(d)(2) to recover actual costs directly related to such enforcement and management; and
   (C) provides for a fair and equitable initial allocation of individual fishing quotas, prevents any person from acquiring an excessive share of the individual fishing quotas issued, and considers the allocation of a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, and crew members who do not hold or qualify for individual fishing quotas.

Public Law 106-553, passed December 21, 2001, changed the date such that the Section 303(d) requirements apply after October 1, 2002, instead of October 1, 2000. With this change, the requirements of Section 303(d) would not apply to the current program. However, as with the Section 303(b) requirements, an evaluation of the proposed management measures with respect to the requirements 303(d) may be prudent, as well as informative.

Although Section 303 would not apply to the current program, Amendment 14 would implement an IFQ program subject to other Magnuson-Stevens Act requirements for IFQ programs. Under Section 304(d)(2), NMFS is required to collect fees from participants in an IFQ program to recover the actual costs directly related to the management and enforcement of the program. These fees shall not exceed 3% of the exvessel value of sablefish harvested under this IFQ program, to be collected as landings fees. NMFS would likely not implement the appropriate fees until 2002, to allow the agency time to analyze the cost of managing and enforcing Amendment 14. Fees to implement Amendment 14 are not expected to be significant, as they would be constrained by the 3% limit.

The following discussion addresses the considerations specified in Section 303(b) and (d), drawing on the more detailed description, discussion, and analysis presented in Sections 3 and 4.

5.4.1 Present Participation and Historic Practices and Dependence [303(b)(6)(A) and (B)]

The proposed program gives all current holders of limited entry permits an allocation that is proportional to their existing harvest opportunities under three-tier cumulative management of the primary fixed gear sablefish fishery. Since 1998, the fixed gear sablefish-endorsed permits issued under the license limitation system have been assigned to one of three tiers based on landings history. The cumulative limits vary between tiers. Those permits with higher qualifying landings are assigned to the tier with higher cumulative limits and those permits with lower qualifying landing are assigned to the tier lower cumulative limits (Council, 1998). At least 25% of the tier limits have gone unharvested because of the short duration set for the primary fishery (Sections 3.3.2 and 3.3.3). With a lengthening of the season, every vessel is expected to be fully capable of taking the available cumulative limit ("individual quota"). In order to maintain the harvest by this sector of the fishery within its allocation guidelines, cumulative limits will have to be reduced by about 20%. All present participants will be able to continue to fish in the fishery, but all will have their fishing privileges for the primary sablefish fishery reduced by 20%. Fishers on vessels that have generally taken their full cumulative limit in the past will experience this as a reduction in total harvest opportunity and an improvement in the quality of the fishery related to the lengthened season. Fishers on vessels that have generally taken well below their full cumulative limit will experience an increase in harvest opportunity as a result of the lengthened season.

Present participation will not be modified by extension of the season length. Historic practices and dependence on the fishery were taken into account with the creation of the license-limitation program (Amendment 6), the sablefish endorsement program (Amendment 9), and establishment of the three-tier program (Council 1998). The highly controversial allocation issues usually associated with the creation of an individual quota program have been addressed by these previous actions.

5.4.2 Economics of the Fishery and Ability to Engage in Other Fisheries [303(b)(6)(C) and (D)]

The economics of the fishery were considered extensively in the development of this proposal. In particular, economic incentives for overcapitalization and for engaging in unsafe fishing practices are two of the primary motivations leading the Council to consider extending the season. With this extension, economic efficiency is expected to increase and rates of capitalization to decline. The ability and likelihood of the affected vessels to engage in other fisheries was also considered both with respect to vessels opportunity to engage in other fisheries and the impacts that the vessels may have on other fisheries. The permit stacking aspects of the recommendations were designed to ensure that there would not be an increase in effort on nongroundfish species within the fixed gear limited entry segment of the groundfish fishery. Alternative fisheries in which fixed gear vessels currently participate were identified as the most likely fisheries to which vessels voluntarily leaving the fishery might turn in an effort to recover revenues lost when they divested themselves of their groundfish limited entry permit (Section 4.1.1).

5.4.3 Cultural and Social Framework Relevant to the Fishery and Affected Communities [303(b)(6)(E)]

The current limited entry fixed gear sablefish fishery is dominated by owner-operated vessels. Provision 7 would ensure that this mode of organization would be perpetuated. Requiring permit owners to be on board their vessels during sablefish operations is also intended to ensure that there is a connection between the fishing operation, the access privileges, and local communities. One of the premises of the requirement is that individuals required to be on board a vessel during fishing operations are more likely to be members of coastal communities than they would be if they were not required to be directly involved in the fishing business. The impacts on lifestyle resulting from a change from the modified derby to an individual quota program with an extended season are also considered (Section 4.1.7). Possible redistribution of fishing activities among communities is discussed in Section 4.1.1.

5.4.4 Other Relevant Considerations [303(b)(6)(F)]

Extension of the season and creation of a permit stacking policy is an integral part of the Council's strategic plan for West Coast fisheries. This strategic plan has far reaching implications for fostering a well-managed fishery for the benefit of the fishers, fishing communities, and the general public.

5.4.5 Procedures and Requirements for Review and Revision 303(d)(5)(A)

The individual quota program can be reviewed and revised in accordance with the Magnuson-Stevens Act procedures and requirements for amending an FMP or in accordance with the framework provisions of the groundfish FMP (Appendix D). A review of the program for consistency with the national policy for individual quota programs may be appropriate once that policy is established. Language in the Council's FMP as well as the Magnuson Stevens Act makes it clear that harvest privileges established under the FMP may be amended or revoked by future FMP amendments, without compensation.

5.4.6 Effective Enforcement, Observer Program 303(d)(5)(B)

Provision 11 creates advance notice of landings requirements to facilitate effective and more efficient enforcement and the monitoring of landings to meet management needs. A West Coast observer program is being implemented by NMFS that will place some at-sea observers on fixed gear vessels participating in this fishery.

5.4.7 Fair Allocation, Prevent Excessive Shares, Consider Annual Reallocation 303(d)(5)(C)

The basic allocation of access privileges was established by previous actions of the Council. The season extension begins the program with a status quo allocation but allows reallocation through the voluntary stacking of permits. Recommendations under Provision 3 limit stacking and excessive accumulation of ownership. This program is being developed as the direct outgrowth of a limited entry permit for vessels. The program can be implemented at this time only under the strict criteria that Congress created for an exemption for the West Coast fixed gear sablefish fishery. These criteria do not allow the Council to recommend creating a system that would separate portions of the annual harvest for reallocation to entry-level fishermen, small-vessel

owners, and crew members who do not hold or qualify for individual fishing quotas. Provisions are recommended to maintain the status of the fishery as one dominated by owner-operator businesses (Provision 7, owner-on-board requirements). Such provisions should make it easier for smaller vessels and individual fishers to gain entry to the fishery.

5.5 Likely Impacts on Other Management Measures and Other Fisheries

Impacts on other fisheries are summarized in Section 4.2, including the impacts on fisheries under the jurisdiction of adjacent councils.

5.6 Economic Impacts, Particularly on the Cost to the Fishing Industry

Economic impacts are summarized in Section 4.2, including impacts on costs to the fishing industry.

5.7 Essential Fish Habitat

The Magnuson-Stevens Act defines EFH as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." EFH for WOC groundfish is further defined in Amendment 11 to the Pacific Coast FMP as "the entire EEZ and marine coastal waters inshore of the EEZ." NMFS guidelines (62 FR 66553, December 19, 1997) state that "adverse effects from fishing may include physical, chemical, or biological alterations of the substrate, and loss of, or injury to, benthic organisms, prey species and their habitat, and other components of the ecosystem..." Physical and biological impacts are described by provision in Section 4.1 and summarized by category of impact in Section 4.2.

Amendment 14 is essentially administrative, in that it changes the format of the sablefish season without changing the amount of sablefish taken or the gear used during the season. Under a longer season (Provision 5a), participants would be able to set gear appropriate for their cumulative limits, rather than setting excessive amounts of gear to ensure that they take these limits within a brief period. A longer season would reduce incentives for abandoning gear in order to land cumulative limits before the season closes. Abandoned gear may be responsible for ghost fishing or may entangle marine animals. To the extent that Amendment 14 reduces abandoned gear, it would have a positive effect on EFH. No adverse impacts on EFH are expected from any of the alternatives.

6.0 OTHER APPLICABLE LAW

6.1 Regulatory Impact Review and Regulatory Flexibility Act Determination

In compliance with Executive Order (EO) 12866 and the Regulatory Flexibility Act (RFA), National Marine Fisheries Service requires the preparation of a Regulatory Impact Review (RIR) and analysis of impacts under the RFA for all regulatory actions or for significant policy changes that are of public interest.

6.1.1 Executive Order 12866

EO 12866, Regulatory Planning and Review, was signed on September 30, 1993, and established guidelines for promulgating new regulations and reviewing existing regulations. While the EO covers a variety of regulatory policy considerations, the benefits and costs of regulatory actions are a prominent concern. Section 1 of the order deals with the regulatory philosophy and principles that are to guide agency development of regulations. The regulatory philosophy stresses that, in deciding whether and how to regulate, agencies should assess all costs and benefits of all regulatory alternatives. In choosing among regulatory approaches, the philosophy is to choose those approaches that maximize net benefits to society.

The regulatory principles in EO 12866 emphasize careful identification of the problem to be addressed. The agency is to identify and assess alternatives to direct regulation, including economic incentives such as user fees or marketable permits, to encourage the desired behavior. When an agency determines that a regulation is the best available method of achieving the regulatory objective, it is to design its regulations in the most cost-effective manner to achieve the regulatory objective. Each agency is to assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended

regulation justify the costs. Each agency is to base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for and consequences of the intended regulation.

NMFS requires the preparation of an RIR for all regulatory actions of public interest, including those that either implement a new FMP or significantly amend an existing FMP or its implementing regulations. The RIR is part of the process of preparing and reviewing FMPs and provides a comprehensive review of the changes in net economic benefits to society associated with proposed regulatory actions. The analysis also provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problems. The purpose of the analysis is to ensure the regulatory agency systematically and comprehensively considers all available alternatives, so the public welfare can be enhanced in the most efficient and cost-effective way. The RIR addresses many of the items in the regulatory philosophy and principles of EO 12866.

The RIR analysis has many aspects in common with environmental analyses (EA). Much of the information required for the RIR analysis has been provided above in the EA, The following table identifies where previous discussions relevant to the EA can be found in this document. In addition to the information provided in the EA, above, a basic economic analysis is provided annually in the Council's SAFE document.

Regulatory Impact Review

RIR Elements of Analysis	Corresponding Sections in EA
Description of management objectives	1.3, 5.2
Description of the fishery	3.0
Statement of the problem	1.2
Description of each selected alternative	2.0
An economic analysis of the expected effects of each selected alternative relative to status quo	4.1, 4.2

The RIR is designed to determine whether the proposed actions could be considered "significant regulatory actions" according to EO 12866. The following table identifies EO 12866 test requirements used to assess whether or not an action would be a "significant regulatory action", and identifies the expected outcomes of the proposed management alternatives. For the purposes of the EO, none of the proposed alternatives would meet its criteria for a significant regulatory action. A regulatory program is "*economically* significant" if it is likely to result in the effects described in item 1 in the table:

Summary of E.O. 12866 Test Requirements

EO 12866 Test of "Significant Regulatory Actions"	Status Quo (Section 2.2.1)	Permit Stacking with Long Season (Option 5a) (Section 2.2.2)	Permit Stacking with Short Season (Option 5b) (Section 2.2.2)	No Permit Stacking but Implement Some Related Provisions Including a Lengthened Season (Section 2.2.3))
1) Have a annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities	No	No	No	No
2) Create a serious inconsistency or otherwise interfere with action taken or planned by another agency	No	No	No	No
3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof	No	No	No	No
4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order	No	Possibly as this program would implement the first IQ program since the 1996 M-S Act Moratorium. However, this program would not be a significant change from the current sablefish management program.	No	No

6.1.2 Impacts on Small Entities (Regulatory Flexibility Act, RFA)

The RIR is also designed to determine whether the proposed rule has a "significant economic impact on a substantial number of small entities"[15/] under the RFA. The purpose of the RFA is to relieve small businesses, small organizations, and small governmental entities from burdensome regulations and record-keeping requirements. Major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities. The RFA emphasizes predicting impacts on small entities as a group distinct from other entities and the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action. An initial regulatory flexibility analysis (IRFA) is conducted unless it is determined that an action will not have a "*significant* economic impact on a *substantial* number of small entities." For the plan

15/ The Small Business Administration defines a small business in commercial fishing "as a fish harvesting or hatchery business that is independently owned and operated and not dominant in its field of operation" with "annual receipts not in excess of $3,000,000."

and regulatory amendments that are proposed here, information is not sufficient to determine that an IRFA is unnecessary. The RFA specifically requires that an initial regulatory flexibility analysis include the following information:

- A description of the reasons why action by the agency is being considered.
  See Section 1.2.

- A succinct statement of the objectives of, and the legal basis for, the proposed rule.

  See Sections 1.2, and 1.3.

- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate).

  The proposed rules would apply to the owners of the 164 limited entry fixed gear sablefish permits issued for this fishery. Additionally, there may be a modification to regulations affecting holders of 66 fixed gear permits that are not endorsed for sablefish (Provisions 8 and 9). This sector of the fishery is already highly subdivided. Section 3.0 provides some additional information on the size distribution and geographic distribution of permits.

- A description of the projected reporting, record keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

  All holders of fixed gear limited entry permits endorsed for sablefish would be required to annually submit full documentation of the ownership of their permits, including the identification of the ownership of all companies and parent companies that participate in the ownership of the permit. Permit buyers may be required to submit sales contracts including documentation of the ownership of all parties to the contract and the sales price of the permit. This provision would apply to those grandfathered into the fishery under the exception that allows entities other than individuals to own permits, if they owned permits prior to the implementation of this amendment. Individuals may be required to provide documentation of their US citizenship.

  All holders of fixed gear limited entry permits endorsed for sablefish may be required to provide at least six hours' advance notice of landing, hail weight, and landing location.

  When permits are stacked, part of the application for the stacking of a permit will require identification of a base permit.

  If Option 5b is implemented (short season), permit owners intending to stack permits may have to submit an intent to stack declaration prior to a deadline to be established.

  If an at-sea processing ban is implemented with an exception for vessels with pre-existing sablefish fishery capacity or history of freezing sablefish, an application procedure will be required for vessels wishing to qualify under the exception.

  The skills required for the submission of the above information should be held by anyone running a fish harvesting business.

- An identification to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule.

  The recommendation of Option 4c may not be within the scope of the exemption provided for the West Coast fixed gear fishery to the Magnuson-Stevens Act moratorium on new individual quota programs. The Council is not aware of any other federal rules that would duplicate or conflict with the permit stacking proposal.

- A description of any significant alternatives to the proposed rule that accomplish the stated objectives that would minimize any significant economic impact of the proposed rule on small entities.

The actions considered in this document may have significant impacts on small entities. Public comment is invited on adjustments that would reduce the impacts on small entities while achieving the regulatory objectives and on whether the analysis adequately takes into account impacts on small entities.

6.2 Coastal Zone Consistency

Section 307(c)(1) of the Federal Coastal Zone Management Act (CZMA) of 1972 requires all federal activities which directly affect the coastal zone be consistent with approved, state coastal zone management programs to the maximum extent practicable. The relationship of the groundfish FMP with the CZMA is discussed in Section 11.6.1 of the groundfish FMP. The groundfish FMP has been found to be consistent with the Washington, Oregon, and California coastal zone management programs. The recommended action is consistent and within the scope of the actions contemplated under the framework FMP. The recommended action will conserve and maintain the sablefish resource. The action is consistent to the maximum extent practicable with the coastal zone management programs of Washington, Oregon, and California, within the meaning of Section 307(c)(1) of the CZMA and its implementing regulations. This determination will be submitted to the responsible state agencies for their review.

Under the CZMA, each state develops its own coastal zone management program which is then submitted for federal approval. This has resulted in programs which vary widely from one state to the next. The following is a review of the fishery relevant consistency criteria used in federal consistency determinations by each state.

Washington

Consistency with the Washington Coastal Zone Management Program requires compliance with the Washington Shoreline Management Act, the state and federal clean water acts, and the State Environmental Policy Act or National Environmental Policy Act (NEPA). Compliance with the Washington Shoreline Management Act requires consistency with the master plans for the affected coastal counties. The fishery activities covered in this action fall in the exempt category for the coastal county master plans. The proposed action has no water quality implications, meets the requirements of the NEPA, and was developed in consultation with the Washington Department of Fish and Wildlife.

Oregon

General Goals and Requirements

Federal fishery management decisions are reviewed against Oregon's statewide planning Goal 19 for ocean resources and the applicable requirements of the Oregon Territorial Sea Plan.

Goal 19: Ocean Resources: "To conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf. All local, state, and federal plans, policies, projects, and activities which affect the territorial sea shall be developed, managed and conducted to maintain, and where appropriate, enhance and restore, the long-term benefits derived from the nearshore oceanic resources of Oregon. Since renewable ocean resources and uses, such as food production, water quality, navigation, recreation, and aesthetic enjoyment, will provide greater long-term benefits than will nonrenewable resources, such plans and activities shall give clear priority to the proper management and protection of renewable resources."

Oregon Territorial Sea Plan: "The principal focus of the Territorial Sea Plan is conservation and protection of marine habitat through clear procedures and standards for decision making." While the plan is not intended to be an ocean-fisheries management plan, marine habitat conservation and protection considerations may affect federal ocean-fisheries management decisions.

Specific Requirements of Goal 19 and the Territorial Sea Plan

Resource Inventory/Effects Evaluation: Prior to any decisions to approve or implement an action that will potentially affect the state's territorial sea, a resource inventory and effects evaluation is required. The

inventory and effects evaluation must be sufficient to understand the short-term and long-term impacts of the proposed activity on resources and uses of the continental shelf and nearshore ocean. Inventory and evaluation content standards are listed in the Territorial Sea Plan (p. 44-47).

For **Fishery Resources**, the ocean policy goals are to:

- Develop scientific information on the stocks and life histories of commercial, recreational, and ecologically important species of fish, shellfish, marine mammals and other marine fauna.
- Designate and enforce fishing regulations to maintain the optimum sustainable yield while protecting the natural marine ecosystem.
- Develop and promote improved fishing practices and equipment to achieve the optimum sustainable yield while protecting the natural marine ecosystem.
- Develop a better scientific understanding of the effects of man's activities on the marine ecosystem.
- Encourage, where appropriate and in keeping with sound practices for conservation of ocean resources, the exploitation of unutilized and underutilized fish species.

For **Biological Habitat**, the ocean policy goals are to:

- Identify and protect areas of important biological habitat, including kelp and other algae beds, seagrass beds, rock reef areas and areas of important fish, shellfish and invertebrate concentration.
- Identify and protect important feeding areas; spawning areas; nurseries; migration routes; and other biologically important areas of marine mammals, marine birds, and commercial and recreational important fish and shellfish.
- Protect the integrity of the marine ecosystem, including its natural biological productivity and diversity.

Permits or other approvals for actions potentially affecting ocean resources should:

- Designate any areas where certain activities will be prohibited.
- Specify methods and equipment to be used and standards to be met.
- Be available for public review and comment before issuance. Agencies and governments which use or manage ocean resources should also be consulted.

California

The following are the standards related to fishery harvest by which consistency with the California Coastal Zone Management Program is generally determined. Section references are to the California Coastal Act.

Section 30230: Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30234.5: The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.

6.3 Endangered Species Act (ESA)

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the groundfish fishery on chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal, Oregon coastal), chum salmon (Hood Canal, Columbia River), sockeye salmon (Snake River, Ozette Lake), steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south-central California, southern California), and cutthroat trout (Umpqua River, southwest

Washington/Columbia River). The biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS has re-initiated consultation on the Pacific whiting fishery associated with the Biological Opinion issued on December 15, 1999. During the 2000 whiting season, the whiting fisheries exceeded the chinook bycatch amount specified in the Biological Opinion's incidental take statement's estimates, 11,000 fish, by approximately 500 fish. The re-initiation will focus primarily on additional actions that the whiting fisheries would take to reduce chinook interception, such as time/area management. NMFS expects that the re-initiated Biological Opinion will be completed by May 2001. During the interim, fishing under the FMP is within the scope of the December 15, 1999, Biological Opinion, so long as the annual incidental take of chinook stays under the 11,000 fish bycatch limit. The biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. This action is within the scope of these consultations.

6.4 Marine Mammal Protection Act (MMPA)

Section 118 of the MMPA requires that NMFS publish, at least annually, a list of fisheries placing all US commercial fisheries into one of three categories describing the level of incidental serious injury and mortality of marine mammals in each fishery. Definitions of the fishery classification criteria for Categories I, II, and III fisheries are found in the implementing regulations for section 118 of the MMPA (50 CFR part 229.) Pacific Coast groundfish fisheries are considered Category III fisheries, where the annual mortality and serious injury of a stock by the fishery is less than or equal to 1% of the PBR level.

Under the MMPA, marine mammals whose abundance falls below the optimum sustainable population level (usually regarded as 60% of carrying capacity or maximum population size) can be listed as "depleted." Populations listed as threatened or endangered under the ESA are automatically depleted under the terms of the MMPA. Currently the Stellar sea lion population off Washington, Oregon, and California is listed as threatened under the ESA, and the fur seal population is listed as depleted under the MMPA. Incidental takes of these species in the Pacific coast fisheries are well under their annual Potential Biological Removal (PBR) levels. None of the alternatives under any of the issues discussed above are likely to affect the incidental mortality levels of species protected under the MMPA.

6.5 Seabirds

Human activities affect seabirds through direct mortality from: 1) collisions with vessels, 2) entanglement with fishing gear, 3) entanglement with discarded plastics and other debris, and 4) shooting. Indirect effects include: 1) competition with fisheries for food, 2) alteration of the food web dynamics due to commercial and recreational removals, 3) disruption of avian feeding habits resulting from dependency on fish wastes, 4) fish-waste related increases in gull populations that prey on other bird species, and marine pollution and changes in water quality (NMFS, 1997).

Seabirds are caught incidentally to all types of fishing operations, but the vulnerability of bird species to gear types differ with feeding ecology. Fishing gear used in the groundfish fishery includes trawl, hook-and-line, pot, and setnet. Hook-and-line gear occasionally catches surface-feeding seabirds that are attempting to capture bait as the line is being set; some birds are caught on hooks and drown. Trawl gear appears to catch surface-feeding and diving birds that are feeding and scavenging while the net is being hauled. Pot gear does not commonly catch birds, though rare reports of dead diving and surface-feeding birds exist in pot gear. Setnet gear, which is legal only in southern California waters, has documented effects on seabirds as well (Wohl, 1998.) None of the alternatives under any of the issues discussed above are likely to significantly affect the incidental mortality of seabirds, though a shift toward use of longline gear could cause some increase. Provision 2 may allow for some shifting of effort between pot gears and longline gears. Experience in Canada suggests that a shift toward pot gear may be more likely. The direction in which the shift will occur is uncertain. Option 5a, by eliminating the time pressure to fish, may allow fishers to adjust their fishing practices to reduce incidental take.

6.6 Paperwork Reduction Act

The major purposes of the Paperwork Reduction Act (PRA) of 1980 are to: (1) minimize the federal paperwork burden for individuals, small businesses, state, and local governments; (2) minimize the cost to the federal government of collecting, maintaining, using, and disseminating information; and (3) ensure the collection, maintenance, use, and dissemination of information by the federal government is consistent with applicable laws relating to confidentiality. A PRA analysis and Office of Management and Budget authorization may be required for several aspects of the permit stacking program, including declaration of a base permits (Provision 2), annual submission of ownership information (Provision 3), qualifying annually for at-sea processing and submission of ownership information (Provision 6), qualifying for and maintaining exemptions from individual-owner and owner-on-board requirements though the submission of ownership information (Provision 7, information requirements similar to Provision 3 and 6), demonstration of US citizenship (Provision 10 **[NOT ADOPTED]**), advance notice of landings (Provision 11) and declarations of intent to stack (Provision 12 **[NOT ADOPTED]**). The number of individuals businesses affected is expected to be about 136 at any one time (there are 164 limited entry fixed gear sablefish permits however, 47 are held by 19 companies/individuals that each own more than one permit).

6.7 Federalism

Executive Order 13132 addresses federalism issues. Executive Order 13132 contains fundamental federalism principles to which executive agencies must adhere in formulating and implementing policies having federalism implications. No federalism issues have been identified relative to the options in this document. The affected states have been closely involved in developing the options considered, and the principal state officials responsible for fisheries management in their respective states have not expressed federalism-related opposition to the options. Preparation of a federalism assessment under Executive Order 13132 is not warranted.

6.8 Finding of No Significant Impact (National Environmental Policy Act)

6.8.1 General

The discussion of the need for action, alternatives, and their environmental impacts is contained in Sections 1, and 4 of this document. A description of the affected environment is contained in Section 3.

The implementation of a permit stacking program would not be a major action having significant impact on the quality of the marine or human environment of the West Coast.

Mitigating measures related to a tiered system would be unnecessary. No unavoidable, adverse impacts on protected species, wetlands, or the marine environment would be expected to result from the recommended action.

6.8.2 Finding of No Significant Environmental Impact

The recommended action would alter the current implementation of the groundfish FMP by allowing fixed gear sablefish permits to be stacked for the primary limited entry sablefish fishery. The options being considered are described in detail in Section 2. A complete analysis of impacts is provided in Section 4.

Section 1508.27 of the CEQ Regulations lists 10 points to be considered in determining whether or not impacts are significant.

Beneficial and Adverse Impacts. There would be beneficial and adverse impacts from limited entry fixed gear permit stacking. The impacts are described in Section 4.

Public Health or Safety. Limited entry fixed gear permit stacking or other provisions considered as part of this package would not be expected to have any significant adverse impact on public health or safety. There may be substantial vessel safety benefits if seasons can be lengthened (see Section 4.1.5).

Unique Characteristics. Limited entry fixed gear permit stacking or other provisions considered as part of this package would not be expected to have any significant adverse impact on unique characteristics of the area such as historic or cultural resources, park lands, wetlands, or ecologically critical areas.

Controversial Effects. Limited entry fixed gear permit stacking or other provisions considered as part of this package are not expected to involve significant controversial issues for the broader public. Among participants in the fleet, there may be some controversy if the season is lengthen as some participants may experience a reduction in their cumulative limits of about 20% and a decrease in their access to harvest under the sablefish daily trip limit fishery.

Uncertainty or Unique/Unknown Risks. Limited entry fixed gear permit stacking or other provisions considered as part of this package would not be expected to have any significant effects on the human environment that are highly uncertain or involve unique or unknown risks.

Precedent/Principle Setting. Limited entry fixed gear permit stacking would not be expected to have any significant effects in establishing a precedent and does not include actions which would represent a decision in principle about a future consideration. Section 14.1.4 of the license limitation program will continue to apply. This section states:

> Groundfish limited entry permits and endorsements confer a right to participate in the West Coast groundfish fishery with a limited entry gear in accordance with the limited entry system established under the groundfish FMP as modified by this chapter of the FMP (created under Amendment 6) or any future amendment which may modify or even abolish the limited entry system. The permits and endorsements are also subject to sanctions including revocation, as provided by the M-S ACT, 16 USC. at 1858(g), and 15 C.F.R. Part 904, Subpart D.

Relationship/Cumulative Impact. Limited entry fixed gear permit stacking or other provisions considered as part of this package would not be expected to have any significant cumulative impacts that could have a substantial adverse effect on the sablefish resource or any related resource (see Section 4.2).

Historical/Cultural Impacts. Limited entry fixed gear permit stacking or other provisions considered as part of this package would not be expected to have any significant effects on historical sites listed in the National Register of Historic Places and will not result in any significant impacts on significant scientific, cultural, or historic resources.

Endangered/Threatened Impacts. Limited entry fixed gear permit stacking or other provisions considered as part of this package would not be expected to adversely affect any endangered or threatened species or marine mammal population (see Section 6.3).

Interaction with Existing Laws for Habitat Protection. Limited entry fixed gear permit stacking or other provisions considered as part of this package would not be expected to have any significant interaction which might threaten a violation of Federal, state, or local law or requirements imposed for the protection of the environment.

6.8.3 Conclusions or Findings of No Significant Impact

This action would revamp the regulations for the West Coast limited entry fixed gear sablefish fishery by establishing a permit-stacking program that allows vessels to land a full-tier cumulative limit for each permit registered for use with the vessel; establishing limits on the number of permits under a single ownership or registered for use with a single vessel; lengthening the primary season for the fishery; preventing growth; and phasing out at-sea processing (if such activity currently exists); and phasing in requirements that only individual human beings be allowed to own permits and that permit owners be on board the vessel during sablefish fishing operations.

Based on the biological, physical, and socio-economic impacts of the alternatives assessed in this document, it has been determined that implementation of the management permit stacking with an extended season with the options recommended by the Council as designated in Section 2.2.2 would not significantly affect the quality of the human environment. Therefore, the preparation of an environmental impact statement for the proposed action is not required by Section 102 (2) (C) of the National Environmental Policy Act or its implementing regulations.

_____ _____

Assistant Administrator for Fisheries, NOAA Date

7.0 REFERENCES

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8.0 PUBLIC NOTICE AND COMMENT

Fixed gear permit stacking has been discussed frequently at Council meetings since 1998 and is a policy recommended for consideration in the Groundfish Strategic Plan sent out for public review in June 2000 and adopted by the Council at its September 2000 meeting. At its June 2000 meeting, the Council made consideration of permit stacking a high priority and, at its September 2000 meeting, approved the draft options and analysis for public review. Final action was taken at the Council's November 2000 meeting. A public hearing on the issue and analysis was held during the Council meeting. (Also see Section 2.2 on decision procedures.)

9.0 LIST OF PREPARERS

James Seger
Pacific Fishery Management Council
2130 SW 1st Avenue, Suite 420
Portland, OR 97201

The author gratefully acknowledges data and aid received from Dr. James Hastie (NMFS/NWFSC), Mr. John Harms (NMFS/NWFSC), Dr. Steve Freese (NMFS/NWR), Ms. Yvonne de Reynier (NMFS/NWR), Ms. Becky Renko (NMFS/NWR), Mr. John Bishop (NMFS/NWR), Mr. Kevin Ford (NMFS/NWR Fisheries Permits Office), and Ms. Martie Sucec (freelance editor).

TABLE 1. Fixed-gear sablefish vessels **best year of harvest** during 3-year time-periods, 1985-99, by vessels currently assigned to permits with sablefish tier endorsements.

	Sablefish Tier					
	Tier 1		Tier 2		Tier 3	
	# of ves.	Avg. mt for group	# of ves.	Avg. mt for group	# of ves.	Avg. mt for group
Total sablefish permits	27		43		94	
All currently permitted vessels with some landings, 1985-99	26		37		87	
Best year, 1985-87						
<= 5 mt	1	0.3			9	1.4
>5 to 10 mt					4	6.0
>10 to 25 mt	1	10.5	1	12.7	5	19.4
>25 to 50 mt	1	45.0	5	36.9	9	34.2
>50 to 100 mt	3	78.9	12	74.8	3	69.8
>100 mt	10	197.9	4	126.6		
All participants, 1985-87	16	142.0	22	72.8	30	21.7
Best year, 1988-90						
<= 5 mt			1	0.6	12	1.0
>5 to 10 mt			3	7.0	3	7.4
>10 to 25 mt			7	16.8	14	17.6
>25 to 50 mt	2	34.2	7	38.1	5	30.8
>50 to 100 mt	4	71.7	5	67.6		
>100 mt	7	160.7	1	127.3		
All participants, 1988-90	13	113.9	24	36.3	34	12.8
Best year, 1991-93						
<= 5 mt	3	1.3	2	1.5	15	1.4
>5 to 10 mt	2	7.0			8	7.9
>10 to 25 mt			8	18.2	29	15.9
>25 to 50 mt	5	35.5	15	37.0	6	35.4
>50 to 100 mt	6	68.2	3	72.8		
>100 mt	2	111.5				
All participants, 1991-93	18	46.0	28	32.9	58	13.1
Best year, 1994-96						
<= 5 mt	2	0.1			10	2.0
>5 to 10 mt	1	9.7	3	7.3	18	7.7
>10 to 25 mt	2	14.9	18	17.7	35	17.0
>25 to 50 mt	10	35.1	12	34.6	9	31.4
>50 to 100 mt	5	71.5	1	57.0	2	61.2
>100 mt	3	117.3				
All participants, 1994-96	23	47.8	34	23.9	74	15.7
Best year, 1997-99						
<= 5 mt					3	2.6
>5 to 10 mt	1	6.9	2	7.4	20	7.9
>10 to 25 mt	4	21.1	32	19.0	56	16.2
>25 to 50 mt	19	34.8	2	30.3	6	28.1
>50 to 100 mt	1	69.4				
All participants, 1997-99	25	32.9	36	19.0	85	14.6

TABLE 2. Distribution of permits by gear endorsement and among tiers for sablefish-endorsed fixed gear permits.

Fixed Gear Sablefish Tier Endorsements	Permit length group	Gear endorsements: Trawl total	Trawl / Longline	Longline total	Pot / Longline	Pot total	Trawl / Pot	Total
NUMBER OF PERMITS, AS OF MID-2000								
Permits WITH a fixed-gear endorsement								
No Sablefish Endorsement	All	3	3	66				66
Tier 1	All	1		13	3	17	1	27
Tier 2	All			37		6		43
Tier 3	All	1	1	86	1	9		94
Total	All	5	4	202	4	32	1	230
Permits WITHOUT a fixed-gear endorsement								
(Trawl-only permits)	All	269						269
LEASED PERMITS, AS OF MID-2000								
Permits WITH a fixed-gear endorsement								
No Sablefish Endorsement	All			11				11
Tier 1	All			3	1	9		11
Tier 2	All			13		3		16
Tier 3	All	1	1	36		2		38
Permits WITHOUT a fixed-gear endorsement								
(Trawl-only permits)	All	45						45
NUMBER OF PERMITS, BY LENGTH , AS OF MID-2000								
All	< 30 ft			22				22
All	30-<35 ft	1		20		2		23
All	35-<40 ft	2		35		3		40
All	40-<45 ft	7		37	1	5		48
All	45-<50 ft	16		20	1	3		38
All	50-<55 ft	25		13	1	4		41
All	55-<60 ft	42	1	22	1	5		67
All	60-<65 ft	23	2	13		3		37
All	65-<70 ft	27	1	12		1		39
All	70-<75 ft	30		6				36
All	75-<80 ft	39						39
All	80-<85 ft	18						18
All	85-<90 ft	8		1				9
All	90-<100 ft	12		1		5	1	17
All	100-<200 ft	14				1		15
All	>200 ft	10						10
All	Total	274	4	202	4	32	1	499

TABLE 3. Estimated sablefish catching capacity for sablefish-endorsed permits for a 9-day season, and relative to tier limits in 2000, by tier and geographic distribution.

Sablefish tier	Approx. 2000 cum. Limits	Estimated capacity of permit for a 9-day fishing season: 1-20,000 lb	20,001-50,000 lb	50,001-100,000 lb	more than 100,000 lb	Capacity relative to cumulative limits in 2000: <= 2000 limit: < 70% of 2000 limit	71-100% of 2000 limit	Capacity in excess of 2000 limit: 1-20,000 lb	20,001-60,000 lb	>60,000 lb
1	82,000		1	19	7	2	14	4	1	6
2	37,000	3	25	14	1	8	14	11	9	1
3	21,000	48	36	9	1	29	21	33	10	1

Location of port where each permit landed the most sablefish in the most recent year	Sablefish tier endorsement: 1	2	3	All	1-20,000 lb	20,001-50,000 lb	50,001-100,000 lb	more than 100,000 lb	< 70% of 2000 limit	71-100% of 2000 limit	1-20,000 lb	20,001-60,000 lb	>60,000 lb
Puget Sound	5	15	16	36	13	11	11	1	13	8	10	5	
WA Coast	1	7	14	22	11	11			9	8	5		
OR: N. of Nehalem	7	4	8	19	6	3	7	3	4	8	3	1	3
OR: Nehalem-Yachats	8	2	8	18	2	6	7	3	2	5	6	2	3
OR: S. of Yachats	4	8	17	29	5	13	9	2	2	7	13	5	2
CA: N. of Bodega Bay	1	5	11	17	4	10	3		2	7	6	2	
CA: S. of Bodega Bay	1	2	20	23	10	8	5		7	6	5	5	
Coastwide	27	43	94	164	51	62	42	9	39	49	48	20	8

TABLE 4. Estimated exvessel value of landings ($ millions) and prices in the limited entry fixed gear sablefish primary fishery.

	Modified Derby	Mop-up	Total	$/Lb
Longline Gear				
1999	4.3	0.1	4.4	1.35
1998	2.3	0.4	2.7	1.26
1997	6.1	1.8	7.9	1.93
1996	5.3	0.7	6.0	1.66
Fishpot Gear				
1999	2.0	0.0	1.9	1.33
1998	1.0	0.1	1.0	1.21
1997	1.2	0.5	1.7	1.84
1996	1.8	0.1	1.9	1.70
Total				
1999	6.4	0.1	6.5	
1998	3.2	0.5	3.7	
1997	7.3	2.2	9.5	
1996	7.1	0.8	7.9	

Note: Values are not adjusted for inflation.

TABLE 5. Distribution of permits by gear endorsement and among tiers for sablefish-endorsed fixed gear permits by permit group length.

Fixed Gear Sablefish Tier Endorsements	Permit length group	Gear endorsements: Trawl total	Trawl / Longline	Longline total	Pot / Longline	Pot total	Trawl / Pot	Total
Permits with a fixed-gear endorsement								
No Sablefish Endorsement								
	< 30 ft			19				19
	30-<35 ft			11				11
	35-<40 ft			18				18
	40-<45 ft			8				8
	45-<50 ft			4				4
	50-<55 ft			2				2
	55-<60 ft	1	1	2				2
	60-<65 ft	2	2	2				2
	Total	3	3	66				66
Tier 1								
	40-<45 ft			1	1	2		2
	45-<50 ft			1		2		3
	50-<55 ft			1	1	2		2
	55-<60 ft			4	1	2		5
	60-<65 ft			4		2		6
	65-<70 ft			1		1		2
	85-<90 ft			1				1
	90-<100 ft	1				5	1	5
	100-<200 ft					1		1
	Total	1		13	3	17	1	27
Tier 2								
	30-<35 ft			1		1		2
	35-<40 ft			4		1		5
	40-<45 ft			7		2		9
	45-<50 ft			4				4
	50-<55 ft			4				4
	55-<60 ft			3		2		5
	60-<65 ft			4				4
	65-<70 ft			5				5
	70-<75 ft			5				5
	Total			37		6		43
Tier 3								
	< 30 ft			3				3
	30-<35 ft			8		1		9
	35-<40 ft			13		2		15
	40-<45 ft			21		1		22
	45-<50 ft			11	1	1		11
	50-<55 ft			6		2		8
	55-<60 ft			13		1		14
	60-<65 ft			3		1		4
	65-<70 ft	1	1	6				6
	70-<75 ft			1				1
	90-<100 ft			1				1
	Total	1	1	86	1	9		94

TABLE 6. Gear and state stratified landings (in $1000s) of various species for vessels with a limited groundfish limited entry permit endorsed for longline or pot gear and some sablefish landings during the year.

Year / Species group	Gear type							State			
	Hook & line	Misc.	Net	Pot	Troll	Trawl	Shrimp Trawl	CA	OR	WA	Total
1999											
Groundfish	7,049	1	0	2,226	4	588	15	2,648	4,733	2,501	9,883
Prawns/shrimp	0			179		1	349	343	182	4	530
Crab		1		10,192	1			1,888	7,283	1,022	10,193
Salmon	2				370			273	94	4	371
Tuna	65		1		234			110	130	61	300
P. Halibut	206				0			5	174	27	206
Squid	0		292			0		293	0		293
Other	22	4	86	14		8	0	57	26	50	134
1998											
Groundfish	5,081	5	1	1,212	27	756	16	2,491	2,778	1,830	7,098
Prawns/shrimp				5		2	471	393	36	48	477
Crab	0			5,801				2,401	2,994	406	5,801
Salmon	3				171	0		85	87	1	174
Tuna	17	0	1		462			43	390	47	480
P. Halibut	138							10	111	17	138
Squid	0		3			2		3	2	0	5
Other	28	15	16	20	0	13	1	63	29	1	92
1997											
Groundfish	12,712	2	29	2,023	17	979	19	5,971	5,524	4,286	15,781
Prawns/shrimp				11		40	658	576	132	1	709
Crab			1	6,792				2,323	3,715	755	6,793
Salmon	0				289	0		224	65	0	289
Tuna	15		7		561			180	352	51	583
P. Halibut	163							24	121	19	163
Squid	0		807	0	0	0		795	13		808
Other	36	20	147	29	0	17	0	202	43	5	249

TABLE 7. Gear and state stratified landings (mts) of various species for vessels with a limited groundfish limited entry permit endorsed for longline or pot gear and some sablefish landings during the year.

Year/ Species group	Gear type							State			
	Hook & line	Misc.	Net	Pot	Troll	Trawl	Shrimp Trawl	CA	OR	WA	Total
1999											
Groundfish	2,552	0	0	724	2	572	12	1,091	1,848	923	3,863
Prawns/shrimp	0			11		0	212	31	189	3	224
Crab		0		2,447	0			420	1,777	249	2,447
Salmon	0				104			79	24	1	104
Tuna	35		0		125			60	66	35	161
P. Halibut	52				0			1	44	6	52
Squid	0		838			0		838	0		838
Other	16	2	56	8		12	0	47	23	25	95
1998											
Groundfish	2,227	5	1	430	22	4,222	10	1,166	3,762	1,986	6,915
Prawns/shrimp				0		0	68	30	32	7	69
Crab	0			1,474				560	805	109	1,474
Salmon	1				53	0		28	25	1	54
Tuna	10	0	0		298			23	245	41	308
P. Halibut	45							3	36	6	45
Squid	0		4			2		2	4	0	6
Other	18	13	7	4	0	133	0	28	143	6	176
1997											
Groundfish	3,727	3	27	461	12	2,376	10	2,484	1,621	2,511	6,616
Prawns/shrimp				1		51	269	171	150	0	321
Crab			0	1,671				558	920	192	1,671
Salmon	0				108	0		87	21	0	108
Tuna	6		2		321			97	202	30	329
P. Halibut	40							5	30	4	40
Squid	0		2,928	0	0	1		2,895	34		2,929
Other	28	22	196	4	0	80	0	232	57	41	329

TABLE 8. Landed catch, revenue, and number of landings by vessels with longline or pot 'A' permits, by year, species group, and month, 1997-1999. (Page 1 of 3)

	Month												
	1	2	3	4	5	6	7	8	9	10	11	12	Total
							1999						
Metric tons													
Groundfish	67	17	109	198	212	223	293	2,313	168	184	42	37	3,862
Prawns/shrimp		4	1	34	36	68	66	6	5	4	0		224
Crab	333	61	111	66	45	20	8	3	1	0	15	1,783	2,447
Salmon			0	0	11	61	17	6	2	3	4	0	104
Tuna	0						13	79	40	24	4	0	161
P. Halibut						0	52						52
Squid			7	26	119	164	47	0		45	252	178	838
Other	22	8	2	4	3	6	8	9	14	16	1	2	95
Revenue ($1,000s)													
Groundfish	167	69	207	368	385	361	533	6,775	432	320	123	142	9,883
Prawns/shrimp		61	12	75	53	76	95	38	86	34	0		530
Crab	1,345	347	622	388	283	125	38	15	6	1	94	6,928	10,193
Salmon			1	2	54	187	62	18	9	18	21	0	372
Tuna	0						29	148	73	44	6	0	300
P. Halibut						0	206						206
Squid			4	14	59	87	23	0		10	56	39	293
Other	25	8	2	3	4	6	6	4	30	41	2	2	134
Number of landings													
Groundfish	61	36	60	114	114	139	125	153	109	123	70	47	1,151
Prawns/shrimp		6	4	14	11	15	17	11	15	12	1		106
Crab	66	41	66	72	62	64	50	25	14	9	13	72	554
Salmon			1	5	30	41	29	21	12	21	14	1	175
Tuna	5						11	39	24	17	1	1	98
P. Halibut						2	18						20
Squid			3	3	9	15	6	1		1	10	4	52
Other	47	15	41	53	39	48	61	45	37	48	18	16	468

TABLE 8. Landed catch, revenue, and number of landings by vessels with longline or pot 'A' permits, by year, species group, and month, 1997-1999. (Page 2 of 3)

	Month												
	1	2	3	4	5	6	7	8	9	10	11	12	Total
							1998						
Metric tons													
Groundfish	57	18	97	152	208	583	1,108	1,904	1,873	733	105	77	6,915
Prawns/shrimp	2	4	2	10	26	6	5	4	4	0	3	3	69
Crab	159	55	87	46	16	5	28	24	1	0	34	1,018	1,474
Salmon				4	26	11	7	2	1	3	1		54
Tuna				0	0	110	41	60	50	47	1	0	309
P. Halibut							23	18	4				45
Squid				1	3	0	0		0	2	0	0	6
Other	1	2	2	1	2	3	6	15	120	9	7	7	176
Revenue ($1,000s)													
Groundfish	120	52	203	272	372	364	449	3,601	820	450	206	188	7,098
Prawns/shrimp	36	54	32	46	70	52	30	31	35	5	42	45	477
Crab	785	330	460	254	98	31	88	71	1	1	169	3,513	5,801
Salmon				15	81	31	21	6	2	12	6		174
Tuna				0	0	194	64	90	72	57	2	0	480
P. Halibut							63	58	16				138
Squid				0	1	0	0		0	2	1	0	5
Other	4	5	3	1	2	2	3	4	22	13	21	12	92
Number of landings													
Groundfish	47	41	84	109	140	147	157	147	153	135	75	62	1,297
Prawns/shrimp	3	5	4	9	9	6	7	8	10	3	4	3	71
Crab	51	42	69	60	46	35	40	23	14	13	20	78	491
Salmon				6	42	24	15	11	13	22	10		143
Tuna				1	1	13	14	38	28	13	4	1	113
P. Halibut							9	16	6				31
Squid				1	2	1	1		3	4	1	1	14
Other	20	14	36	37	48	52	59	61	83	60	46	50	566

TABLE 8. Landed catch, revenue, and number of landings by vessels with longline or pot 'A' permits, by year, species group, and month, 1997-1999. (Page 3 of 3)

	Month												
	1	2	3	4	5	6	7	8	9	10	11	12	Total
							1997						
Metric tons													
Groundfish	155	172	232	302	353	787	1,300	1,442	924	716	114	121	6,616
Prawns/shrimp	2	2	3	39	134	61	58	5	2	11	3	2	321
Crab	211	52	19	19	19	11	6	10	0	0	52	1,271	1,671
Salmon				8	53	19	22	3	2	0	1		108
Tuna	0				0	3	56	176	73	20	2	0	329
P. Halibut							40			0			40
Squid	1,171	676	744	120	14	24	1	58	120	0	0	0	2,929
Other	59	14	7	24	114	4	33	29	14	15	13	3	329
Revenue ($1,000s)													
Groundfish	345	359	467	581	701	708	520	5,133	3,822	2,693	229	224	15,781
Prawns/shrimp	37	24	40	57	141	87	91	49	30	93	38	24	709
Crab	1,008	306	134	146	140	80	37	44	1	0	229	4,667	6,793
Salmon				33	146	44	47	8	6	1	4		289
Tuna	0				0	8	98	313	116	42	6	0	584
P. Halibut							164			0			164
Squid	310	184	198	37	5	10	0	21	41	0	0	0	808
Other	99	23	6	7	9	3	8	4	11	41	34	3	249
Number of landings													
Groundfish	93	93	114	171	175	172	137	135	110	134	88	76	1,498
Prawns/shrimp	3	3	5	11	21	13	16	5	2	6	8	10	103
Crab	76	56	46	53	51	43	26	14	1	1	9	85	461
Salmon				12	37	21	24	6	9	6	9		124
Tuna	1				2	24	41	59	55	26	11	1	220
P. Halibut							9			1			10
Squid	22	12	19	5	2	8	1	6	4	4	1	1	85
Other	74	45	53	70	79	78	65	50	49	63	36	42	704

TABLE 9. Number of buyers of fixed gear sablefish and percent of purchases that are fixed gear sablefish.

	Buyers' exvessel value of fixed gear sablefish					
Sablefish as a % of total purchases	<= $10K # buyers	> $10K - 100K # buyers	> $100K - $400K # buyers	> $750K # buyers	Total # buyers	**# buyers of Ind. sablefish**
<= 5%	37				37	
> 5 - 20%	13	2			15	1
> 20% - 50%	12	8	1		21	1
> 50% - 90%	10	7	2	7	26	3
> 90%	15	11	5	1	32	2
Total	87	28	8	8	131	7
# buyers of Ind. sablefish	1	2		4	7	7

NOTES:
Only buyers with sablefish revenue >$0 were included
Y axis= ratio of buyer's total sablefish revenue to buyer's total revenue for ALL species
Includes open access sablefish value

TABLE 10. Sablefish landings during 1999 primary fishery (3-tiered+mopup), by port group.

Port Group/State	Mt	Exvessel Value	Landings	Buyers
Northern Puget Sound	303	1,018,099	51	5
Southern Puget Sound	124	430,506	7	2
Washington Coast	168	517,202	50	3
Ilwaco	3	7,984	1	1
Astoria	361	1,132,321	50	4
Newport	373	1,238,740	49	4
Coos Bay	281	868,573	56	4
Brookings	150	431,337	76	4
Crescent City	69	126,937	39	4
Eureka	68	208,773	31	3
Fort Bragg	69	135,629	17	3
Bodega Bay	38	94,523	3	1
San Francisco	72	154,793	25	5
Monterey	77	165,038	47	5
Los Angeles	2	6,932	22	8
San Diego	1	3,145	10	2
	2,158	6,540,531	534	58
State totals for primary season				
Washington	598	1,973,791		10
Oregon	1,165	3,670,971		12
California	395	895,769		28
	2,158	6,540,531		50
State totals for all limited-entry fixed-gear sablefish				
Washington	667	2,189,437		13
Oregon	1,242	3,881,890		22
California	583	1,427,624		57
	2,491	7,498,951		92

TABLE 11. Number of sablefish endorsements by primary port of delivery and tier level (1999).

	Tier 1	Tier 2	Tier 3	Total
Washington				
Bellingham	1	8	4	13
Everett		1	1	2
Seattle	3	3	2	8
Pt Angeles	1	3	8	12
Neah Bay			1	1
La Push		1	4	5
Westport	1	6	10	17
State Total	6	22	30	58
Oregon				
Astoria	7	4	8	19
Newport	8	2	8	18
Florence	2	1	2	5
Winchester			2	2
Coos Bay	2	2	5	9
Port Orford		5	7	12
Brookings			1	1
State Total	19	14	33	66
California				
Crescent City		3	3	6
Eureka		1	5	6
Fields Ldg			1	1
Fort Bragg	1	1	2	4
Bodega Bay	1			1
Berkeley			1	1
San Francisco		2	4	6
Princeton			2	2
Santa Cruz			1	1
Moss Lndg			8	8
Monterey			2	2
Oxnard			1	1
Other Los Angles/Orange County			1	1
State Total	2	7	31	40
Coastal Total	27	43	94	164

TABLE 12. Distribution of sablefish landings, by year, gear group, fishery, and the percentage of total pounds in the landing contributed by sablefish (excludes Conception), 1996-99 (Page 1of 4)

Year/Fishery group % sablefish	Longline						Pot					
	Number of landings	Percent Sablefish	Total Sablefish Poundage	Total Non-Sablefish Poundage	Total Poundage	Percent Non-Sablefish	Number of landings	Percent Sablefish	Total Sablefish Poundage	Total Non-Sablefish Poundage	Total Poundage	Percent Non-Sablefish
1999												
Daily Trip Limit												
>0 - 10%	162	5.6	30,306	576,206	606,512	94.5						
>10 - 20%	172	14.7	31,269	192,237	223,506	85.3						
>20 - 30%	150	24.4	24,654	78,193	102,847	75.6	2	23.8	103	352	455	76.2
>30 - 40%	160	35.4	31,651	58,892	90,543	64.7	6	34.5	715	1,339	2,054	65.6
>40 - 50%	171	45.2	40,797	49,917	90,714	54.8	5	47.4	918	1,025	1,943	52.6
>50 - 60%	194	55.4	49,053	39,763	88,816	44.6	2	52.8	408	371	779	47.2
>60 - 70%	190	64.9	46,084	25,004	71,089	35.1	1	69.7	244	106	350	30.3
>70 - 80%	200	75.3	54,618	17,965	72,583	24.7	5	77.3	1,423	419	1,842	22.7
>80 - 90%	252	85.5	70,248	11,811	82,060	14.5	7	86.7	1,857	282	2,139	13.3
>90 - 100%	864	98.2	253,503	5,264	258,767	1.8	107	98.9	92,259	334	92,593	1.1
Total	2,515	65.6	632,185	1,055,252	1,687,437	34.4	135	90.7	97,927	4,228	102,155	9.3
Modified Derby												
>10 - 20%	1	18.8	587	2,534	3,121	81.2						
>20 - 30%	1	22.2	18	63	81	77.8	1	14.3	40	239	279	85.7
>30 - 40%	1	32.8	61	125	186	67.2	1	29.4	150	361	511	70.7
>40 - 50%	1	45.6	110	131	241	54.4	1	30.1	120	279	399	69.9
>50 - 60%	6	54.3	9,427	7,620	17,047	45.7	1	45.5	155	186	341	54.6
>60 - 70%	7	65.4	11,692	5,409	17,101	34.6						
>70 - 80%	8	75.7	30,075	8,850	38,925	24.3						
>80 - 90%	47	86.2	376,661	59,949	436,610	13.8						
>90 - 100%	244	97.3	2,785,092	82,590	2,867,681	2.7	108	99.7	1,438,708	6,636	1,445,344	0.3
Total	316	92.7	3,213,722	167,271	3,380,993	7.3	112	97.2	1,439,173	7,701	1,446,874	2.8
Mop-up												
>0 - 10%	1	2.9	151	5,134	5,285	97.1						
>10 - 20%	5	14.0	2,862	16,987	19,849	86.0						
>20 - 30%	2	23.5	1,128	3,272	4,400	76.5	1	25.5	268	784	1,052	74.5
>30 - 40%	6	34.8	3,175	5,820	8,995	65.2						
>40 - 50%	1	49.1	811	842	1,653	50.9						
>50 - 60%	7	56.7	7,338	5,644	12,982	43.3						
>60 - 70%	3	62.1	3,294	2,013	5,307	37.9						
>70 - 80%	5	75.0	3,790	1,240	5,030	25.0						
>80 - 90%	14	84.3	13,115	2,466	15,581	15.7						
>90 - 100%	34	98.0	33,407	671	34,078	2.0	18	99.8	15,798	39	15,837	0.2
Total	78	75.0	69,072	44,089	113,161	25.0	19	95.8	16,066	823	16,889	4.2

TABLE 12. Distribution of sablefish landings, by year, gear group, fishery, and the percentage of total pounds in the landing contributed by sablefish (excludes Conception), 1996-99 (Page 2 of 4)

Year/Fishery group % sablefish	Longline						Pot					
	Number of landings	Percent Sablefish	Total Sablefish Poundage	Total Non-Sablefish Poundage	Total Poundage	Percent Non-Sablefish	Number of landings	Percent Sablefish	Total Sablefish Poundage	Total Non-Sablefish Poundage	Total Poundage	Percent Non-Sablefish
1998												
Daily Trip Limit												
>0 - 10%	222	5.3	36,883	741,122	778,004	94.7	3	2.9	45	1,483	1,528	97.1
>10 - 20%	216	14.7	37,364	228,943	266,307	85.3	1	19.9	89	357	446	80.1
>20 - 30%	187	24.7	33,515	104,229	137,744	75.3						
>30 - 40%	170	35.4	28,893	53,577	82,470	64.6						
>40 - 50%	176	45.4	29,359	35,426	64,785	54.6	3	44.1	598	753	1,351	56.0
>50 - 60%	204	54.7	41,732	34,644	76,376	45.4	3	56.2	489	386	875	43.8
>60 - 70%	158	65.1	34,100	18,148	52,249	34.9	4	62.7	683	418	1,101	37.3
>70 - 80%	173	75.3	42,477	13,967	56,444	24.7	3	76.5	572	168	740	23.5
>80 - 90%	218	85.5	56,727	9,498	66,225	14.5	7	84.8	14,951	1,895	16,846	15.2
>90 - 100%	691	98.2	192,604	4,059	196,663	1.8	103	99.7	25,869	68	25,937	0.3
Total	2,415	59.6	533,654	1,243,613	1,777,267	40.4	127	91.9	43,295	5,528	48,824	8.1
Modified Derby												
>10 - 20%	4	15.9	156	797	953	84.1						
>20 - 30%	3	24.7	111	344	455	75.4						
>30 - 40%	4	34.5	1,300	2,575	3,875	65.5						
>40 - 50%	6	47.5	9,750	10,538	20,288	52.5						
>50 - 60%	4	56.8	5,418	4,045	9,463	43.2						
>60 - 70%	12	64.7	26,160	13,811	39,971	35.3						
>70 - 80%	16	75.2	67,114	21,426	88,540	24.8						
>80 - 90%	29	86.4	211,666	32,689	244,355	13.6	1	88.8	1,806	227	2,033	11.2
>90 - 100%	161	97.3	1,484,558	43,574	1,528,132	2.8	58	99.1	784,582	6,814	791,396	0.9
Total	239	87.6	1,806,233	129,799	1,936,032	12.4	59	99.0	786,387	7,041	793,428	1.0
Mop-up												
>0 - 10%	8	3.9	1,907	46,355	48,262	96.2						
>10 - 20%	10	15.6	6,380	37,077	43,457	84.4						
>20 - 30%	14	25.5	8,030	23,687	31,717	74.5						
>30 - 40%	12	35.6	15,142	28,246	43,388	64.4	1	37.2	159	269	428	62.9
>40 - 50%	13	45.9	10,715	12,402	23,117	54.1						
>50 - 60%	11	53.7	7,945	6,584	14,529	46.3						
>60 - 70%	19	66.0	20,337	11,051	31,388	34.0	1	61.0	385	246	631	39.0
>70 - 80%	20	75.7	31,058	10,447	41,505	24.3						
>80 - 90%	28	85.2	30,119	4,957	35,076	14.8	1	87.2	963	141	1,104	12.8
>90 - 100%	101	97.9	165,628	3,435	169,064	2.1	35	98.8	63,923	888	64,811	1.2
Total	236	72.9	297,261	184,242	481,503	27.1	38	95.9	65,430	1,544	66,974	4.1

TABLE 12. Distribution of sablefish landings, by year, gear group, fishery, and the percentage of total pounds in the landing contributed by sablefish (excludes Conception), 1996-99 (Page 3 of 4)

Year/Fishery group % sablefish	Longline						Pot					
	Number of landings	Percent Sablefish	Total Sablefish Poundage	Total Non-Sablefish Poundage	Total Poundage	Percent Non-Sablefish	Number of landings	Percent Sablefish	Total Sablefish Poundage	Total Non-Sablefish Poundage	Total Poundage	Percent Non-Sablefish
1997												
Daily Trip Limit												
>0 - 10%	268	5.1	45,026	931,712	976,738	94.9						
>10 - 20%	267	15.2	50,501	293,818	344,319	84.8						
>20 - 30%	264	25.0	53,791	165,325	219,117	75.0						
>30 - 40%	345	35.2	75,139	139,903	215,042	64.8	1	36.7	36	62	98	63.3
>40 - 50%	344	44.8	77,034	95,643	172,677	55.2	1	42.3	249	340	589	57.7
>50 - 60%	362	55.1	87,495	71,653	159,148	44.9	1	55.3	262	212	474	44.7
>60 - 70%	403	64.8	97,891	53,704	151,596	35.3	4	65.8	814	405	1,219	34.2
>70 - 80%	444	74.9	109,711	36,907	146,618	25.1	10	75.7	3,120	972	4,092	24.3
>80 - 90%	470	85.0	124,405	22,089	146,494	15.0	32	86.9	8,258	1,256	9,514	13.1
>90 - 100%	1,978	98.6	551,189	8,627	559,816	1.5	324	99.1	86,542	872	87,414	0.9
Total	5,145	68.8	1,272,183	1,819,381	3,091,564	31.2	373	96.6	99,281	4,119	103,400	3.4
Modified Derby												
>0 - 10%	1	2.8	11	379	390	97.2						
>10 - 20%	1	16.1	194	1,010	1,204	83.9						
>20 - 30%	1	21.0	37	139	176	79.0						
>30 - 40%	2	32.2	1,999	4,059	6,058	67.8						
>40 - 50%	4	47.7	2,295	2,557	4,852	52.3						
>50 - 60%	3	56.1	1,037	727	1,764	43.9						
>60 - 70%	13	65.5	17,095	9,301	26,396	34.5						
>70 - 80%	13	77.7	63,771	18,264	82,035	22.3						
>80 - 90%	46	86.0	384,757	64,141	448,898	14.0	1	87.2	2,017	297	2,314	12.8
>90 - 100%	287	96.9	2,692,972	87,501	2,780,473	3.1	79	98.8	634,767	8,029	642,796	1.2
Total	371	91.9	3,164,169	188,077	3,352,246	8.1	80	98.7	636,784	8,326	645,110	1.3
Mop-up												
>0 - 10%	3	8.2	597	7,082	7,679	91.8						
>10 - 20%	7	16.1	481	2,287	2,768	83.9						
>20 - 30%	13	25.6	3,026	9,773	12,799	74.4						
>30 - 40%	6	35.8	1,287	2,339	3,626	64.2						
>40 - 50%	19	43.5	5,620	7,158	12,778	56.5						
>50 - 60%	16	53.7	8,588	7,096	15,684	46.3						
>60 - 70%	12	66.8	9,877	5,293	15,170	33.2						
>70 - 80%	21	75.7	16,964	6,166	23,130	24.3	1	79.7	196	50	246	20.3
>80 - 90%	34	85.7	97,846	15,635	113,481	14.3	1	88.6	8,354	1,077	9,431	11.4
>90 - 100%	183	97.5	766,282	21,031	787,313	2.5	69	99.5	252,715	1,772	254,487	0.5

Total	314	81.3	910,569	83,860	994,429	18.7	71	99.1	261,265	2,899	264,164	0.9

TABLE 12. Distribution of sablefish landings, by year, gear group, fishery, and the percentage of total pounds in the landing contributed by sablefish (excludes Conception), 1996-99. (Page 4 of 4)

	Longline						Pot					
Year/Fishery group % sablefish	Number of landings	Percent Sablefish	Total Sablefish Poundage	Total Non-Sablefish Poundage	Total Poundage	Percent Non-Sablefish	Number of landings	Percent Sablefish	Total Sablefish Poundage	Total Non-Sablefish Poundage	Total Poundage	Percent Non-Sablefish
					1996							
Daily Trip Limit												
>0 - 10%	481	5.6	102,639	1,888,885	1,991,524	94.4	1	2.7	2	72	74	97.3
>10 - 20%	327	14.3	71,959	464,045	536,004	85.7						
>20 - 30%	310	25.0	65,695	199,903	265,598	75.0	2	24.6	237	737	974	75.4
>30 - 40%	254	34.8	56,656	106,992	163,647	65.2	1	35.5	199	361	560	64.5
>40 - 50%	269	45.0	64,060	78,469	142,528	55.0						
>50 - 60%	293	55.1	69,796	57,303	127,100	44.9	2	58.2	534	383	917	41.8
>60 - 70%	304	65.2	73,301	39,452	112,753	34.8						
>70 - 80%	357	75.0	85,037	28,596	113,633	25.0	4	76.1	1,181	379	1,560	24.0
>80 - 90%	376	84.8	93,691	16,760	110,451	15.2	13	88.3	3,686	492	4,178	11.7
>90 - 100%	1,110	98.3	296,929	5,759	302,689	1.7	299	99.3	97,128	1,119	98,247	0.7
Total	4,081	58.8	979,763	2,886,163	3,865,927	41.2	322	97.3	102,967	3,543	106,510	2.7
Modified Derby												
>0 - 10%	1	9.3	41	398	439	90.7						
>10 - 20%	1	11.7	96	725	821	88.3						
>20 - 30%	2	25.3	401	1,187	1,588	74.7						
>30 - 40%												
>40 - 50%	3	41.2	739	1,058	1,797	58.8						
>50 - 60%	2	55.4	1,566	1,233	2,799	44.6						
>60 - 70%	5	65.5	4,311	2,284	6,595	34.5						
>70 - 80%	10	73.7	30,274	10,256	40,530	26.3						
>80 - 90%	54	86.4	470,856	69,344	540,200	13.6						
>90 - 100%	244	97.2	2,683,975	92,372	2,776,347	2.8	48	99.1	1,052,664	6,321	1,058,985	1.0
Total	322	92.4	3,192,259	178,857	3,371,116	7.6	48	99.1	1,052,664	6,321	1,058,985	1.0
Mop-up												
>0 - 10%	6	2.7	183	21,026	21,209	97.3						
>10 - 20%	10	15.5	1,460	7,482	8,942	84.5						
>20 - 30%	11	25.8	3,838	11,120	14,958	74.2						
>30 - 40%	19	34.9	15,971	29,544	45,515	65.1						
>40 - 50%	9	45.5	9,128	10,996	20,123	54.6	1	45.0	139	170	309	55.0
>50 - 60%	13	56.8	15,773	11,885	27,658	43.2						
>60 - 70%	21	65.1	12,575	6,808	19,383	34.9						
>70 - 80%	33	76.4	38,983	11,428	50,411	23.6						
>80 - 90%	33	86.4	65,426	10,101	75,527	13.6	2	86.5	986	156	1,142	13.5
>90 - 100%	121	97.4	247,397	7,277	254,674	2.6	47	99.5	68,950	399	69,349	0.5
Total	276	75.3	410,733	127,667	538,399	24.7	50	97.9	70,075	725	70,800	2.1

TABLE 13. Potential concentration of harvest by number of stacked permits for each tier level.

Tier Levels	Total Permits	Number of Permits Stacked (Owned) 1	2	3	4	5	7	13
		Concentration of Harvest Opportunity with Extended Season						
1	27	1.4%	2.8%	4.2%	5.6%	7.0%	9.8%	18.2%
2	43	0.6%	1.3%	1.9%	2.6%	3.2%	4.5%	8.3%
3	94	0.4%	0.7%	1.1%	1.5%	1.8%	2.6%	4.8%
		Concentration of Harvest Opportunity with Short Season (Potential Harvest = 125% of Allocation)						
1	27	1.8%	3.5%	5.3%	7.0%	8.8%	12.3%	22.8%
2	43	0.8%	1.6%	2.4%	3.2%	4.0%	5.6%	10.4%
3	94	0.5%	0.9%	1.4%	1.8%	2.3%	3.2%	5.9%

TABLE 14. Number of owners with multiple permits and the tier levels associated with the permits (based on review of permit owners listed addresses).

		Tier Levels				Percent of Total Harvest		
Number of Owners	Cumulative Number of Owners	Tier 1	Tier 2	Tier 3	Number of Permits Per Owner	Per Owner	For the Row	Cumulative Row Percent
1	1	3	1	1	5	5.2%	5.2%	5.2%
1	2	2	1		3	3.5%	3.5%	8.7%
1	3	2			2	2.8%	2.8%	11.5%
1	4	1	1	3	5	3.1%	3.1%	14.7%
5	9	1	1		2	2.0%	10.2%	24.9%
1	10	1		2	3	2.1%	2.1%	27.0%
1	11		2		2	1.3%	1.3%	28.3%
2	13		1	1	2	1.0%	2.0%	30.3%
1	14			3	3	1.1%	1.1%	31.4%
5	19			2	2	0.7%	3.7%	35.1%

Note: Percents with no overhead (assumes an extended season, percents would be higher with a shortened season).

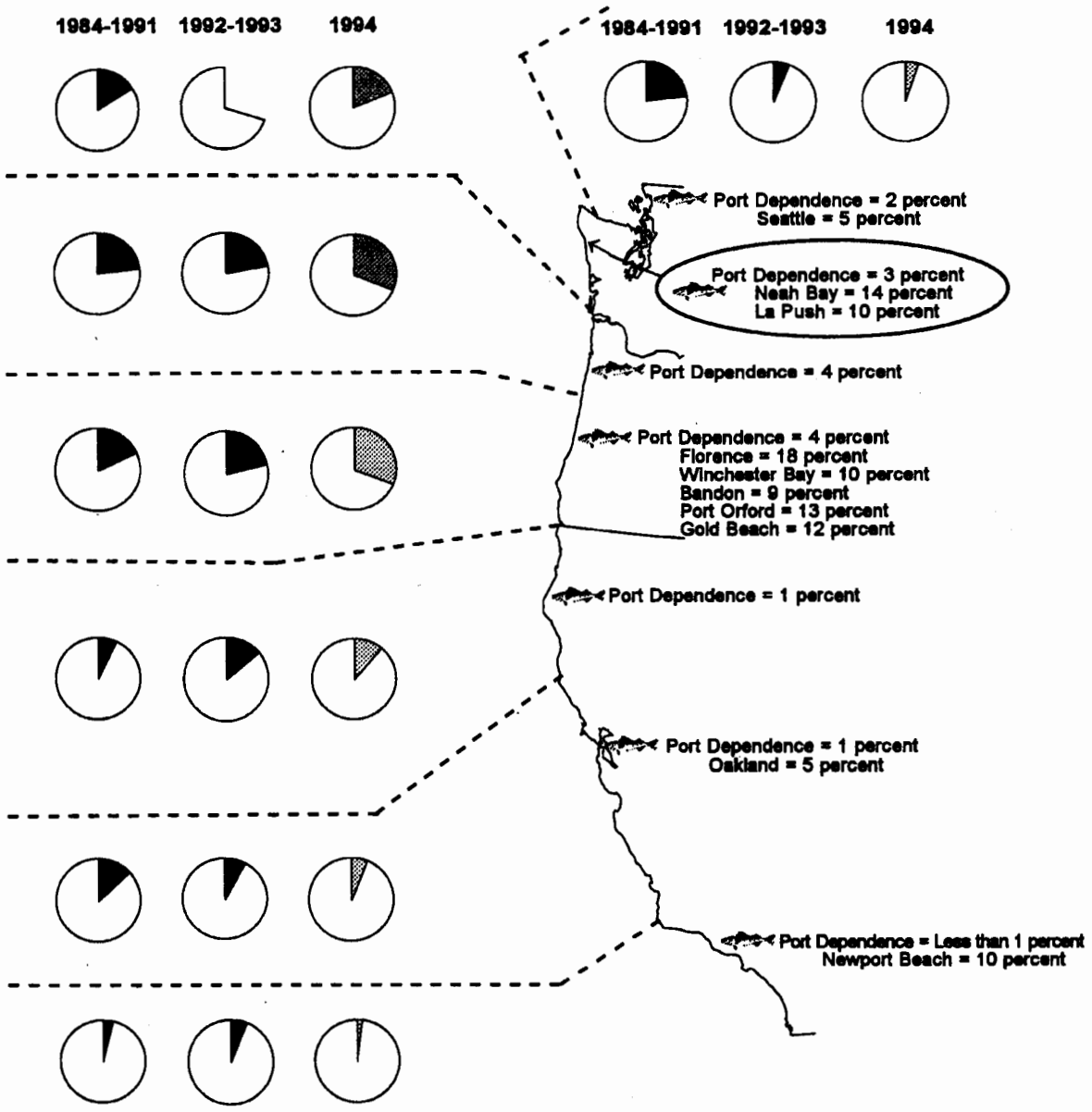
TABLE 15. Amounts of 1996 fixed gear sablefish catch by condition and size category for the daily-trip-limit, derby, and mop-up fishery.[a/]

	Daily-Trip-Limit	Derby	Mop-Up
Dressed Condition (percent of all dressed condition fish, excluding unspecified size)			
Large	7%	3%	8%
Medium	27%	20%	27%
Small	64%	57%	54%
Extra-Small	3%	20%	10%
Pounds of Dressed Condition and Specified Size	237	2,077	244
Unspecified Size as a Percent of **Total** Dressed Pounds	4%	3%	4%
Round Condition (percent of all round condition fish, excluding unspecified size)			
Large	39%	1%	17%
Medium	26%	3%	50%
Small	29%	91%	33%
Extra-Small	6%	4%	0%
Pounds of Round Condition and Specified Size	31	143	18
Unspecified Size as a Percent of **Total** Round Pounds	49%	85%	68%
Unspecified Condition (percent of all unspecified condition fish, excluding unspecified size)			
Large	15%	16%	0%
Medium	54%	71%	83%
Small	31%	13%	17%
Pounds of Unspecified Condition and Specified Size	123	408	53
Unspecified Size as a Percent of **Total** Unspecified Condition Pounds	70%	60%	64%
Dressed, Round, and Unspecified Combined			
Pounds			
Large and Medium	184	830	143
Small and Extra-Small	190	1,798	172
Percent of Total (excluding unspecified sizes)			
Large and Medium	49%	32%	45%
Small and Extra-Small	51%	68%	55%

a/ All poundages are expressed in round pound equivalents.

TABLE 16. Amounts of 1996 limited entry fixed gear sablefish catch, by condition category for the daily- trip-limit, derby, and mop-up fishery.

	Daily-Trip-Limit	Derby	Mop-Up
Total Pounds Landed, by Condition Category		Thousands of Pounds	
Dressed	248	2,150	254
Round	80	970	57
Unspecified	496	1,016	148
Total	824	4,136	459
Portion of **Specified Condition** Pounds Landed, by Condition Category		Portions	
Dressed	0.76	0.69	0.82
Round	0.24	0.31	0.18
Portion of **Total** Pounds Landed, by Condition Category			
Dressed	0.30	0.52	0.33
Round	0.10	0.23	0.70
Unspecified	0.60	0.25	0.60



The dependence percentages are based on total shoreside landings of marine and anadromous fish and do not take into account fish transported to the area which were reported as being landed in other areas, e.g., Alaska landings transported to Seattle.

Similarly shaded areas indicate the relative shares of total pounds of West Coast ocean non-Indian fishpot and line gear sablefish harvest landed in each area for the indicated time period.

Port Dependence = non-Indian fishpot and line gear sablefish exvessel revenue as a percentage of the exvessel revenue of all fish landed in all fishpot and line gear sablefish ports in the area (1984-1993 average). Individual ports for which this value is greater than 5 percent are listed separately.

Figure 1. Fishpot and line gear sablefish landings with geographic distribution and port dependence.

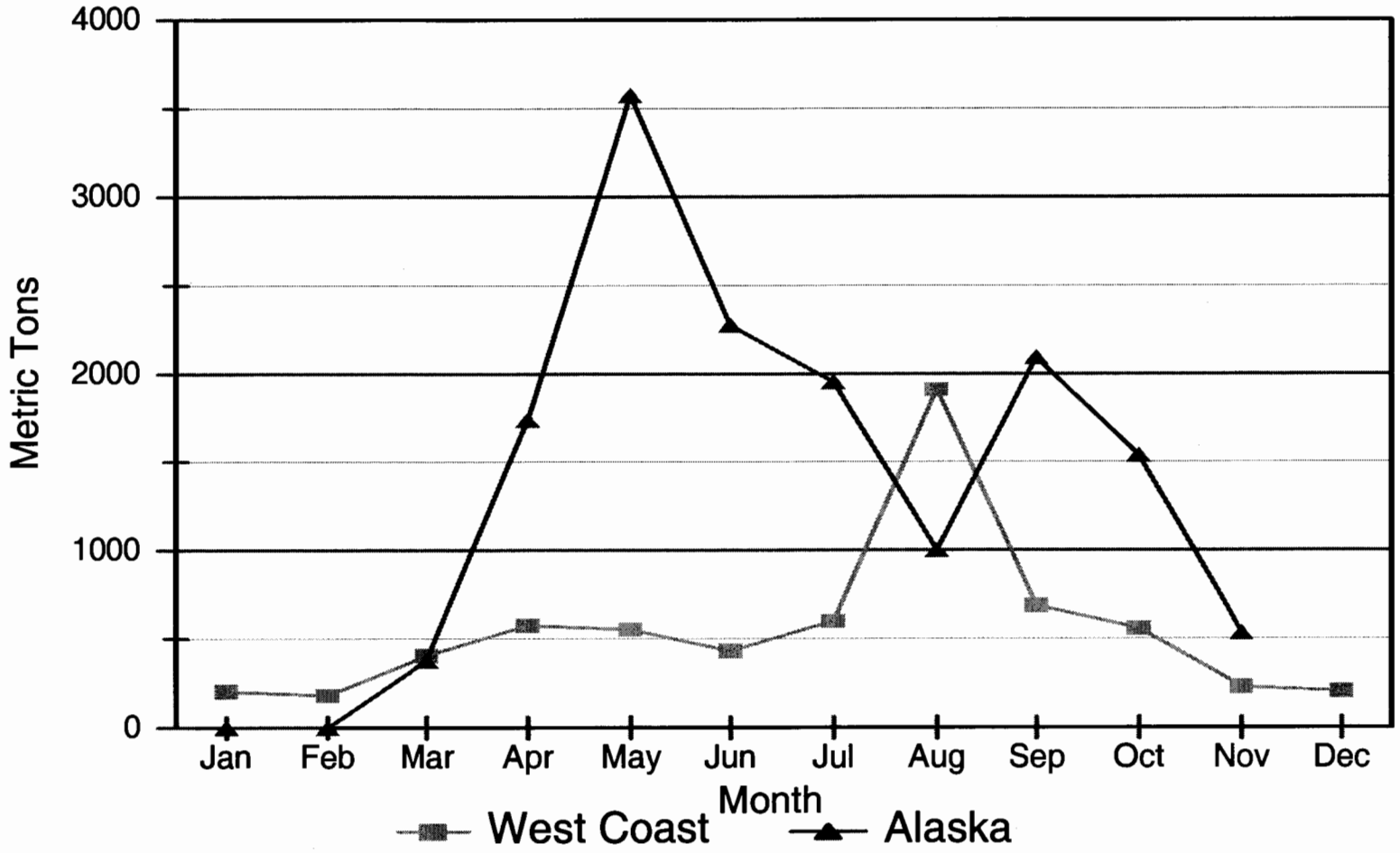


Figure 2. Fixed gear sablefish landings (average for 1997-1999).

APPENDIX A: ANALYSIS OF PERMIT STACKING AND SEASON LENGTH FOR THE MODIFIED DERBY

Supplemental GMT Report D.15.
June 2000

PRELIMINARY EVALUATION OF THE EFFECTS OF PERMIT STACKING ON SEASON LENGTH AND LIMITS IN THE THREE-TIERED, LIMITED ENTRY, FIXED GEAR FISHERY FOR SABLEFISH

Prepared by Dr. James Hastie
of the National Marine Fisheries Service Northwest Fisheries Science Center

The draft version of the Strategic Plan presented to the Council at this meeting identifies the development of a voluntary stacking program for the three-tiered sablefish fishery as a high priority. In support of that discussion, this document summarizes the results of a modeling exercise intended to provide insight into the changes in season length and cumulative limits that would be required to maintain the desired level of "overhead" in the fishery. As such, this analysis is predicated on the assumption that the moratorium on new IQ programs remains in force.

If the moratorium were to lapse in 2000, a season length of at least two months would be anticipated in 2001. Since season length would be far less constraining under those circumstances, the number of permits that might reasonably be used for stacking would be higher and the distribution of stacked permits would be quite different than portrayed in this analysis. Without the need for overhead, cumulative limits would fall to the point where the cumulative limits times the number of endorsed permits in each tier equaled the target poundage for the fishery. Given the current target, the Tier 1 limit would be 66,510 pounds, with limits for Tiers 2 and 3 roughly 30,000 pounds and 17,000 pounds, respectively. A conservative expansion of the currently estimated permit catching capacities to reflect a 2-month season suggests that at least 62 permits could catch at least 200,000 pounds--about three Tier-1 limits--in that amount of time. Of course, this represents the ability of these 62 permits to catch the equivalent of 186 Tier-1 limits, and there are only 164 sablefish-endorsed permits, and just 27 of those are Tier 1. Given this circumstance, the ultimate disposition of stacked permits in a two-month fishery without overhead considerations would be highly uncertain.

In the modeling scenario developed for this analysis, 30 permits are assumed to be stacked in a fishery with the same target poundage as in 2000. The primary criterion used in determining which permits would add an additional permit was the poundage difference between the estimated catching capacity of the permit and the amount of its current cumulative limit. The degree to which that catching capacity has actually be utilized in recent fisheries was also considered. Determining which permits would be included in the group providing the stacked permits was more complicated. Factors included in developing a ranking permits according to their likelihood of being stacked included 1) the difference between a permit's current limit and its projected landings; 2) the difference between a permit's current limit and its recent sablefish landings; 3) the value of its sablefish limit poundage relative to recent earnings from other groundfish and non-groundfish species; and 4) ownership of multiple permits and whether any such permits are currently leased.

To simplify the modeling, no more than one permit was stacked on any other, and the original permit attached to a vessel was always retained by that vessel if it remained in the fishery. In other words, a vessel currently having a Tier-2 permit was only evaluated with regard to adding another permit, not with regard to selling it and buying two Tier-3 permits. The analysis does not evaluate how many permits would be stacked if the opportunity were available. No consideration of the cost of obtaining permits or the effects of doing so on vessel profitability was included. Permits selected to add another permit were assigned a permit from a tier having a limit poundage that was less than, or near, the estimated difference between their catching capacities and existing limit poundages.

The number of 30 stacked permits was selected, during the evaluations described above, because it did not appear that many more permits would have an ability to make full use of an additional limit, given the time constraints placed on the fishery. Therefore, 30 probably represents a reasonable estimate of the largest

number of permits that would be stacked under a voluntary program subject to existing overhead considerations. Uncertainties regarding the limit poundage that would be realized through stacking, as well as the time that would be available to catch it, could discourage some potential stackers from doing so. Additionally, market conditions might be such that the expected financial benefits from stacking would not exceed the costs of permit acquisition for many vessels that have the physical capability of landing additional limits. Because those who acquire additional permits to stack will be buying permits conveying access to a suite of groundfish species--not just sablefish--the status of rockfish allocation, fixed gear rockfish endorsements, changes in groundfish limits for 2001 (and beyond), and the ability to obtain higher rockfish limits through stacking will also affect the willingness of individuals to purchase permits for stacking. On the basis of current ownership of multiple permits and permits that have few or no landings in recent fisheries, a reasonable estimate for the minimum number of stacked permits would be in the 7-10 range.

Table 1 provides a summary of permit shifts used in this scenario. The pool of 30 stacked permits is drawn from all three tiers: three from Tier 1, nine from Tier 2, and 18 from Tier 3. This represents about 11% of the Tier-1 permits, and about 20% of the permits in each of the other tiers. The stacked Tier-1 permits were distributed to one permit in each of the three tiers. Of the 9 stacked Tier-2 permits, three went to Tier-1 permits, two to Tier-2 permits, and four to Tier-3 permits. Of the 18 stacked Tier-3 permits, three were assigned to Tier-1 permits, seven to Tier-2 permits and eight to Tier-3 permits.

Each of the two models used to provide recommendations for the 2000 fishery (Attachment D.6.a.) was used to project limit size and season length under this assumed distribution of permits. Table 2 summarizes the overhead results using these model configurations, with the addition of stacking. Also, the last row shown for each model indicates the estimated amount of overhead if this stacked fleet were provided with the season length and limits recommended for the 2000 fishery (with that model). The right-hand columns illustrate the difference in the contribution to estimated overhead between the group of permits fishing a single limit and those fishing two.

Table 3 provides a more detailed summary of limit amounts, season lengths and overhead for the two model configurations. For each case, the 2000 model results without stacking are provided first, for comparative purposes. With stacking, an 8-day fishery, under Model 1, would meet the worst-case overhead goal of exceeding 15%, however the expected overhead is slightly below the current minimum target of 25%. As a result, both models indicate that in order to meet both overhead standards, the fishery would need to be constrained to seven days. This would represent a reduction of two days from the 2000 Model-1 recommendation and one day from the Model-2 recommendation. Due to the greater reduction in length under Model 1, the limits available for a seven-day fishery with 30 stacked permits would be about 6% higher than recommended for a nine-day fishery in 2000. Because the eight-day scenario is so close to achieving the overhead objectives, reduction of another full day produces much higher overhead than necessary (41%). Projected limits for seven days under the more conservative Model 2 are lower than the Model-2 recommendations for 2000, but the estimated overhead is closer to the minimum standards.

Assuming that sufficient overhead will continue to be a concern, the difference between these results and projections for the 2000 fishery underscores the need for a management structure which will allow final parameters for the fishery to be determined after a deadline has passed marking the close of permit stacking that can be utilized during that year's fishery.

TABLE 1. Distribution of three-tiered sablefish endorsements in the hypothetical modeling of 30 stacked permits.

	Original tier assignment			
	1	2	3	Total
# of Tier 1 endorsements after stacking	25	1	1	27
# of Tier 2 endorsements after stacking	3	36	4	43
# of Tier 3 endorsements after stacking	3	7	84	94
Total endorsements after stacking	31	44	89	164
# of stacked permits	3	9	18	30
Tier 1 only	17			17
Tier 2 only		24		24
Tier 3 only			63	63
Tier 1+1	1			1
Tier 1+2	3	1		4
Tier 1+3	3		1	4
Tier 2+2		2		2
Tier 2+3		7	4	11
Tier 3+3			8	8

TABLE 2. Comparison of estimated overhead for the entire fleet with values for vessels stacking permits or fishing a single permit in the hypothetical stacking scenario.

	Fleet Overhead	Overhead among Vessels With: Stacked Permits	Single Permits
Model 1 configuration			
8 days	22%	9%	33%
7 days	41%	18%	61%
9 days and 2000 limits	19%	8%	26%
Model 2 configuration			
7 days	30%	10%	46%
8 days and 2000 limits	25%	8%	38%

TABLE 3.--Comparison of recommendations for the duration and cumulative limits for the 2000 primary fishery with projections for a fishery in which 30 underutilized permits were stacked.

	Tier 1	Tier 2	Tier 3	Total	Worst Case (1-day differential)
# of permits	27	43	94		
Model 1: (less conservative) with a general landings reduction of 1% and landings reductions for permits not fishing in [1999:1998:1997] of (30%:20%:10%) and/or landings reductions for achieving less than [50%:70%] of their available 1999 limit (20%:10%)					
Tier-specific capacity reductions	2%	13%	33%		
Model results for the 2000 fishery					
Duration				**9 days**	
Cumulative Limit	**81,278**	**36,731**	**21,101**	5,757,435	5,757,435
Expected landings	68,009	29,664	14,774	4,500,524	4,711,315
Overhead	20%	24%	43%	**28%**	**22%**
Model results with 30 stacked permits					
Duration				**8 days**	
Cumulative Limit	**77,753**	**35,139**	**20,186**	5,507,774	5,507,774
Expected landings				4,496,899	4,711,315
Overhead				**22%**	**17%**
Duration				**7 days**	
Cumulative Limit	**86,054**	**38,890**	**22,341**	6,095,734	6,095,734
Expected landings				4,309,769	4,711,315
Overhead				**41%**	**29%**
Model 2: (more conservative) with a general landings reduction of 2% but smaller landings reductions for permits not fishing in [1999:1998:1997] of (20%:10%:10%)					
Tier-specific capacity reductions	4%	15%	35%		
Model results for the 2000 fishery					
Duration				**8 days**	
Cumulative Limit	**85,712**	**38,735**	**22,252**	6,071,510	6,071,510
Expected landings	64,706	29,083	14,817	4,390,424	4,711,315
Overhead	32%	33%	50%	**38%**	**29%**
Model results with 30 stacked permits					
Duration				**7 days**	
Cumulative Limit	**80,095**	**36,197**	**20,794**	5,673,622	5,673,622
Expected landings				4,355,905	4,711,315
Overhead				**30%**	**20%**

APPENDIX B: PROPOSED CHANGES TO GROUNDFISH FMP LANGUAGE (AMENDMENT 14)

This Appendix outlines changes to the FMP text that would constitute Amendment 14 to the groundfish FMP and implement those aspects of the stacking alternative that would require an FMP amendment (see Section 2.3). Text to be added is highlighted in ***bold italics*** and text to be deleted is struck through.

Existing FMP Language Authorizing Permit Stacking

Section 14.2.4 of the FMP authorizes the stacking of permits and reads as follows (**bolded text** added as part of Amendment 13):

14.2.4 Ownership Restriction and Changes in Ownership

1. Only entities (human beings, corporations, etc.) qualified to own a US fishing vessel may be issued or may hold (by ownership or otherwise) an LE permit. (Foreign ownership of LE permits should be limited to the maximum degree possible given what is allowed under the law.)

2. Ownership of a permit will be considered to change when there is an ownership change on US Coast Guard documents, however, an owner can submit documents to demonstrate that the controlling interest has not changed and therefore the change in documentation is not a change in ownership.

3. **An entity qualified to hold an LE permit may hold more than one LE permit. If the Council authorizes a LE permit stacking program, in which a vessel could use more than one permit simultaneously, each LE fishery participant would be required to hold at least one LE "base" permit. An LE base permit is the initial permit necessary to participate in the LE fishery, and subject to all of the requirements described herein for LE permit ownership qualifications, and gear and length endorsements. Requirements and additional priorities for permits "stacked" on to base permits may be authorized in a federal rulemaking.**

Any Provision 2 Stacking Option Combined with Option 4a of the Stacking Alternative [ADOPTED]

Section 14.2.4 gives the Council the authority to create a permit stacking program, however,
Provision 2 of the stacking alternative specifies that where a trawl endorsement is involved in permit stacking (i.e. a permit has both a trawl endorsement and at least one fixed gear endorsement), if permits can be unstacked (Option 4a), the downsizing requirement for trawl permits will be waived. The following the changes to the FMP needed to implement any Provision 2 option combined with Option 4a.

14.2.7 Size Endorsement Will Specify the Vessel Length

The LE permit will be endorsed with the length overall (as defined for purposes of US Coast Guard documentation) of the vessel for which the LE permit is initially issued. The length for which the LE permit is endorsed will be changed only when LE permits are combined, as per Section 14.2.10, or, in the case of LE permits endorsed for trawl gear, when the size of the vessel used with the permit is more than five feet less than the originally endorsed length. In the latter case, the LE permit will be reissued with a size endorsement for the length of the smaller vessel. ***Regulations may be promulgated to waive this downsizing requirement if the permit was transferred to a smaller vessel for the purpose of stacking (See Section 14.2.4 paragraph 3).*** Vessels which do not have documents stating their length overall will have to be measured by a marine surveyor or the US Coast Guard and certified for that length.

14.2.9 Transfer of an LE Permit to Different Owners or Vessels of the Same Owner

3. LE permits may be used with vessels greater in length than the endorsed length provided the increase does not exceed five feet of the endorsed length. Original size endorsements will change only when LE permits are combined as per Section 14.2.10, or when an LE permit with a trawl endorsement is transferred to a vessel five feet less in length than the endorsed length. In the latter case, the LE permit will be reissued with a size endorsement for the length of the smaller vessel. ***Regulations may be promulgated to waive this downsizing requirement if the permit was transferred to a smaller vessel for the purpose of stacking (See Section 14.2.4 paragraph 3).***

Option 4c of the Stacking Alternative [NOT ADOPTED]

Section 14.2.4 gives the Council the authority to create a permit stacking program and require that once permits are stacked they cannot be unstacked. However, tier limits are associated with the sablefish endorsement. In order to allow tier limits to be transferred separately from the sablefish endorsements, as specified in Option 4c, Section 14.2.6 paragraph 4 of the FMP would be amended to read:

14.2.6 Fixed Gear Sablefish Endorsements

4. ***If permits are stacked such that a single permit has multiple sablefish endorsements, sablefish endorsements and associated cumulative limits may be transferred to other sablefish-endorsed permits so long as at least one sablefish endorsement and associated tier limit remains with the permit.*** Fixed gear sablefish *endorsements* ***may not be transferred from permits on which there is only one fixed gear sablefish endorsement.*** ~~are not separable from the LE permit and therefore may not be transferred separately from the LE permit.~~

Options 7a and 7c of the Stacking Alternative [OPTION 7A ADOPTED]

Section 14.2.4 gives the Council the authority to create a permit stacking program and require that permit owners be on board the vessel when permits are stacked. However, Option 7a would require all permit owners to be on board while a vessel is participating in the primary fixed gear sablefish fishery, even when permits are not stacked. Additionally, for the purpose of implementing a grandfather clause, Options 7a and 7c would create a definition of change in ownership different from that in the FMP. To implement the grandfather clause Section 14.2.4 of the FMP would need to be modified as follows.

14.2.4 Ownership Restriction and Changes in Ownership

. . . .

4. ***For the purpose of provisions specifically identified by the Council, NMFS may promulgate regulations which define a change in ownership of a permit as a change in the identity or ownership interest of a corporation or partnership owning a permit.***

To implement the owner-on-board requirement for permits that are not stacked (Option 7a), a new section (Section 14.2.12) would be added to the FMP:

14.2.12 Owner-on-board Requirements

In order to preserve the social and historic characteristics and practices in the fishery or to encourage the flow of fishery benefits into fishing communities, on the Council's recommendation, as it deems appropriate and consistent with the goals of the groundfish FMP and National Standards, NMFS may require permit owners to be on-board a vessel during fishing operations.

Option 9b of the Stacking Alternative [ADOPTED]

Under the extended season specified in Option 5a, vessels with fixed gear limited entry permits that do not have sablefish endorsements would not be able to operate for a substantial portion of the season.

If these vessels are to be provided a fixed gear sablefish opportunity during the primary fixed gear fishery, the following changes would be needed in the FMP language.

14.2.6 Fixed Gear Sablefish Endorsements

1. The permit and gear endorsement requirements of the license limitation program limit the number of vessels which may participate in the groundfish fishery, however, there is still substantial opportunity for vessels to shift between segments of the groundfish fishery. One of the segments of the limited entry fishery subject to an increase in the number of vessels participating is the limited entry fixed gear sablefish fishery. To prevent the movement of vessels from nonsablefish segments of the limited entry fixed gear groundfish fishery to the sablefish segment of the fishery, a fixed gear sablefish endorsement for limited entry permits is required for longline and fishpot gear limited entry vessels to take sablefish against the fixed gear limited entry allocation ***and as part of the primary fishery, the major limited entry fixed gear sablefish harvest opportunities north of 36°N latitude. Such endorsements are not required to harvest under fixed gear limited entry daily-trip-limit or other regulations intended to allow low level or incidental harvest.*** ~~during periods of time specified in the regulations. The general intent is to require an endorsement to take part in the major limited entry fixed gear sablefish harvest opportunities north of 36°N latitude, but not when management measures are intended to allow only small or incidental sablefish harvests.~~

14.2.8 An LE Permit and Necessary Gear and Sablefish Fixed Gear Endorsements Will Be Held by the Owner of Record of the Vessel

6. A vessel owner may not use a vessel, or allow a vessel to be used, to catch any Council-managed sablefish with longline or fishpot gear against the LE fixed gear sablefish allocation ~~and under LE fixed gear sablefish regulations during fishing periods~~ ***as part of the primary fixed gear sablefish fishery*** specified in the regulations and north of 36°N latitude, unless the vessel owner holds an LE permit with a longline or fishpot gear endorsement and a fixed gear sablefish endorsement, and the LE permit has been registered with National Marine Fisheries Service (NMFS) for use with that vessel. ***Sablefish endorsements are not required to harvest under fixed gear limited entry daily-trip-limit or other regulations intended to allow low level or incidental harvest.***

Option 10a of the Stacking Alternative [NOT ADOPTED]

14.2.4 Ownership Restriction and Changes in Ownership

1. Only entities (human beings, corporations, etc.) qualified to own a US fishing vessel may be issued or may hold (by ownership or otherwise) an LE permit ***with the exception of limited entry longline and fishpot permits endorsed for sablefish. Longline and fishpot permits endorsed for sablefish maybe owned only by US citizens.*** (Foreign ownership of LE permits should be limited to the maximum degree possible given what is allowed under the law.)

APPENDIX C: NATIONAL STANDARDS AND GROUNDFISH FMP GOALS AND OBJECTIVES

National Standards

The following are the national standards that must be met by any action recommended by the Council. The national standards most relevant to permit stacking are italicized.

(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.

(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.

(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.

(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.

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

Groundfish Fishery Management Plan

The following are the goals and objectives of the groundfish FMP. The goals and objectives most relevant to permit stacking are italicized.

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

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 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.

APPENDIX D: GROUNDFISH FMP FRAMEWORK FOR REGULATORY PROCEDURES

Actions to amend the regulations without amending the groundfish FMP (regulatory amendments) would be taken under the authority of the following framework provision of the FMP.

6.2 General Procedures for Establishing and Adjusting Management Measures

Management measures are normally imposed, adjusted, or removed at the beginning of the fishing year, but may, if the Council determines it necessary, be imposed, adjusted, or removed at any time during the year. Management measures may be imposed for resource conservation, social or economic reasons consistent with the criteria, procedures, goals, and objectives set forth in the FMP.

Because the potential actions which may be taken under the two frameworks established by the FMP cover a wide range analyses of biological, social, and economic impacts will be considered at the time a particular change is proposed. As a result, the time required to take action under either framework will vary depending on the nature of the action, its impacts on the fishing industry, resource, environment, and review of these impacts by interested parties. Satisfaction of the legal requirements of other applicable law (e.g., the Administrative Procedure Act, Regulatory Flexibility Act, Executive Order 12291, etc.) for actions taken under this framework requires analysis and public comment before measures may be implemented by the Secretary.

Four different categories of management actions are authorized by this FMP, each of which requires a slightly different process. Management measures may be established, adjusted, or removed using any of the four procedures. The four basic categories of management actions are as follows:

A. Automatic Actions - Automatic management actions may be initiated by the NMFS Regional Administrator without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts previously must have been taken into account. Examples include fishery, season, or gear type closures when a quota has been projected to have been attained. The Secretary will publish a single "notice" in the *Federal Register* making the action effective.

B. "Notice" Actions Requiring at Least One Council Meeting and One *Federal Register* Notice - These include all management actions other than "automatic" actions that are either nondiscretionary or for which the scope of probable impacts has been previously analyzed.

These actions are intended to have temporary effect, and the expectation is that they will need frequent adjustment. They may be recommended at a single Council meeting (usually November), although the Council will provide as much advance information to the public as possible concerning the issues it will be considering at its decision meeting. The primary examples are those management actions defined as "routine" according to the criteria in Section 6.2.1. These include trip landing and frequency limits for all gear types for widow rockfish, sablefish (including size limits), Pacific ocean perch, the Sebastes complex, nontrawl year-end trip limits for sablefish, and recreational bag limits for rockfish and lingcod. Previous analysis must have been specific as to species and gear type before a management measure can be defined as "routine" and acted upon at a single Council meeting. If the recommendations are approved, the Secretary will waive for good cause the requirement for prior notice and comment in the *Federal Register* and will publish a single "notice" in the *Federal Register* making the action effective. This category of actions presumes the Secretary will find that the extensive notice and opportunity for comment on these types of measures along with the scope of their impacts already provided by the Council will serve as good cause to waive the need for additional prior notice and comment in the *Federal Register*.

C. Abbreviated Rulemaking Actions Normally Requiring at Least Two Council Meetings and One *Federal Register* "Rule" - These include all management actions (1) being classified as "routine", or (2) intended to have permanent effect and are discretionary, and for which the impacts have not been previously analyzed. Examples include changes to or imposition of gear regulations, or imposition of landing or frequency limits for the first time on any species or species group, or gear type. The Council will develop and analyze the proposed

management actions over the span of at least two Council meetings (usually September and November) and provide the public advance notice and opportunity to comment on both the proposals and the analysis prior to and at the second Council meeting. If the Regional Administrator approves the Council's recommendation, the Secretary will waive for good cause the requirement for prior notice and comment in the *Federal Register* and publish a "final rule" in the *Federal Register* which will remain in effect until amended. If a management measure is designated as "routine" by "final rule" under this procedure, specific adjustments of that measure can subsequently be announced in the *Federal Register* by "notice" as described in the previous paragraphs. Nothing in this section prevents the Secretary from exercising the right not to waive the opportunity for prior notice and comment in the *Federal Register*, if appropriate, but presumes the Council process will adequately satisfy that requirement.

The primary purpose of the previous two categories of abbreviated notice and rulemaking procedures is to accommodate the Council's September-November meeting schedule for developing annual management recommendations, to satisfy the Secretary's responsibilities under the Administrative Procedures Act, and to address the need to implement management measures by January 1 of each fishing year.

It should be noted the two Council meeting process refers to two decision meetings. The first meeting to develop proposed management measures and their alternatives, the second meeting to make a final recommendation to the Secretary. For the Council to have adequate information to identify proposed management measures for public comment at the first meeting, the identification of issues and the development of proposals normally must begin at a prior Council meeting, usually the July Council meeting.

D. Full Rulemaking Actions Normally Requiring at Least Two Council Meetings and Two *Federal Register* Rules (Regulatory Amendment) - These include any proposed management measure that is highly controversial or any measure which directly allocates the resource. The Council normally will follow the two meeting procedure described for the abbreviated rulemaking category. The Secretary will publish a "proposed rule" in the *Federal Register* with an appropriate period for public comment followed by publication of a "final rule" in the *Federal Register*.

Management measures recommended to address a resource conservation issue must be based upon the establishment of a "point of concern" and consistent with the specific procedures and criteria listed in Section 6.2.2.

Management measures recommended to address social or economic issues must be consistent with the specific procedures and criteria described in Section 6.2.3.

6.2.1 Routine Management Measures

"Routine" management measures are those the Council determines are likely to be adjusted on an annual or more frequent basis. Measures are classified as "routine" by the Council through either the full or abbreviated rulemaking process (C. or D. above). In order for a measure to be classified as "routine", the Council will determine that the measure is of the type normally used to address the issue at hand and may require further adjustment to achieve its purpose with accuracy.

As in the case of all proposed management measures, prior to initial implementation as "routine" measures, the Council will analyze the need for the measures, their impacts, and the rationale for their use. Once a management measure has been classified as "routine" through one of the two rulemaking procedures outlined above, it may be modified thereafter through the single meeting "notice" procedure (B. above) only if (1) the modification is proposed for the same purpose as the original measure, and (2) the impacts of the modification are within the scope of the impacts analyzed when the measure was originally classified as "routine." The analysis of impacts need not be repeated when the measure is subsequently modified if the Council determines that they do not differ substantially from those contained in the original analysis. The Council may also recommend removing a "routine" classification.

Experience gained from management of the Pacific coast groundfish fishery indicates that certain measures usually require modification on a frequent basis to ensure that they meet their stated purpose with accuracy. These measures are commercial trip landing limits and trip frequency limits, including landing frequency and

notification requirements and recreational bag limits as they have been applied to specific species, species groups, sizes of fish, and gear types. Their purpose in application to the commercial fishery has consistently been either to stretch the duration of the fishery so as not to disturb traditional fishing and marketing patterns, to reduce discards and wastage, or to discourage targeted fishing while allowing small incidental catches when attainment of a harvest guideline or quota is imminent. For the recreational fishery, bag and size limits have been imposed to spread the available catch over a large number of anglers, to avoid waste, and to provide consistency with state regulations.

As of October 1998, the measures listed below by species and gear type had been classified as "routine" measures through the rulemaking process. Recreational bag and size limits have also been designated as "routine."

Limited Entry Trip Landing and Frequency Limits

Widow rockfish - all gear
Sebastes complex - all gear
Yellowtail rockfish - all gear
Canary rockfish - all gear
Bocaccio - all gear
Pacific ocean perch - all gear
Sablefish (including size limits)
    trawl gear
    nontrawl gear
Dover sole - all gear
Thornyhead rockfish (separately or combined) - all gear
Pacific whiting - all gear
Lingcod (including size limits) - all gear

Open Access Trip Landing and Frequency Limits

All groundfish species, separately or in any combination - all gear types

Recreational Bag and Size Limits

Lingcod
Rockfish

Any measure designated as "routine" for one specific species, species group, or gear type may not be treated as "routine" for a different species, species group, or gear type without first having been classified as "routine" through the rulemaking process.

The Council will conduct a continuing review of landings of those species for which harvest guidelines, quotas, optimum yields (OYs) or specific "routine" management measures have been implemented and will make projections of the landings at various times throughout the year. If in the course of this review it becomes apparent the rate of landings is substantially different than anticipated and that the current "routine" management measures will not achieve the annual management objectives, the Council may recommend inseason adjustments to those measures. Such adjustments may be implemented through the single meeting "notice" procedure.

6.2.2 Resource Conservation Issues - The "Points of Concern" Framework

The "points of concern" process is the Council's second major tool (along with setting harvest levels) in exercising its resource stewardship responsibilities. The process is intended to foster a continuous and vigilant review of the Pacific coast groundfish stocks and fishery to prevent unintended overfishing or other resource damage. To facilitate this process a Council-appointed management team (the Groundfish Management Team [GMT] or other entity) will monitor the fishery throughout the year, taking into account any new information on the status of each species or species group to determine whether a resource conservation issue exists that

requires a management response. The Council developed the "points of concern" criteria to assist it in determining when a focused review on a specific species or species group is warranted which might result in the need to recommend the implementation of specific management measures to address the resource conservation issue. The FMP authorizes the Council to act based solely on the "points of concern," which allows the Council to respond quickly and directly to a resource conservation issue. In conducting this review, the GMT or other entity will utilize the most current catch, effort, and other relevant data from the fishery.

In the course of the continuing review, a "point of concern" occurs when any one or more of the following is found or expected:

1. Catch for the calendar year is projected to exceed the best current estimate of acceptable biological catch (ABC) for those species for which a harvest guideline or quota is not specified.
2. Catch for the calendar year is projected to exceed the current harvest guideline or quota.
3. Any change in the biological characteristics of the species/species complex is discovered such as changes in age composition, size composition, and age at maturity.
4. Exploitable biomass or spawning biomass is below a level expected to produce MSY for the species/species complex under consideration.
5. Recruitment is substantially below replacement level.
6. Estimated bycatch of a species or species group increases substantially above previous estimates, or there is information that abundance of a bycatch species has declined substantially.
7. Impacts of fishing gear on EFH are discovered and modification to gear or fishing regulations could reduce those impacts.

Once a "point of concern" is identified, the GMT will evaluate current data to determine if a resource conservation issue exists and will provide its findings in writing at the next scheduled Council meeting. If the GMT determines a resource conservation issue exists, it will provide its recommendation, rationale, and analysis for the appropriate management measures that will address the issue.

In developing its recommendation for management action, the Council will choose an action from one or more of the following categories which include the types of management measures most commonly used to address resource conservation issues.

- Harvest guidelines
- Quotas
- Cessation of directed fishing (foreign, domestic or both) on the identified species or species group with appropriate allowances for incidental harvest of that species or species group
- Size limits
- Landing limits
- Trip frequency limits
- Area or subarea closures
- Time closures
- Seasons
- Gear limitations, which include, but are not limited to, definitions of legal gear, mesh size specifications, codend specifications, marking requirements, and other gear specifications as necessary.
- Observer coverage
- Reporting requirements
- Permits
- Other necessary measures

Direct allocation of the resource between different segments of the fishery is, in most cases, not the preferred response to a resource conservation issue. Council recommendations to directly allocate the resource will be developed according to the criteria and process described in Section 6.2.3, the socioeconomic framework.

After receiving the GMT's report, the Council will take public testimony and, if appropriate, will recommend management measures to the NMFS Regional Administrator accompanied by supporting rationale and analysis of impacts. The Council's analysis will include a description of (a) how the action will address the resource conservation issue consistent with the objectives of the FMP; (b) likely impacts on other management measures,

other fisheries and bycatch; (c) economic impacts, particularly the cost to the commercial and recreational segments of the fishing industry; and (d) impacts on fishing communities.

The NMFS Regional Administrator will review the Council's recommendation and supporting information and will follow the appropriate implementation process described in Section 6.2 depending on the amount of public notice and comment provided by the Council and the intended permanence of the management action. If the Council contemplates the need for frequent adjustments to the recommended measures, it may classify them as "routine" through the appropriate process described in Section 6.2.1.

If the NMFS Regional Administrator does not concur with the Council's recommendation, the Council will be notified in writing of the reasons for the rejection.

Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under Section 305(c) of the Magnuson-Stevens Act.

6.2.3 Nonbiological Issues--The Socioeconomic Framework

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

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

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

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

The Council, following review of the report, supporting data, public comment and other relevant information, may recommend management measures to the NMFS Regional Administrator accompanied by relevant background

data, information, and public comment. The recommendation will explain the urgency in implementation of the measure(s), if any, and reasons therefore.

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

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

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

Quotas, including allocations, implemented through this framework will be set annually and may be modified inseason only to reflect technical corrections of acceptable biological catch (ABC). (In contrast, quotas may be imposed at any time of year for resource conservation reasons under the points of concern mechanism.)

6.2.3.1 Allocation

In addition to the requirements described in Section 6.2.3, the Council will consider the following factors when intending to recommend direct allocation of the resource.

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

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