Outline for the Review of the Halibut and Sablefish IFQ Program

December 2015

This outline describes the proposed scope of the IFQ program review. The objective of this document is to serve as a starting point for a discussion of what should be included in the review. It is important to keep in mind that the objective of a programmatic review is to comprehensively evaluate the program with respect to its stated management objectives, rather than to define a wholly different set of objectives by which the IFQ fisheries may be managed. It is expected that the North Pacific Fishery Management Council (the Council), the Council's IFQ Implementation Committee, Advisory Panel, and Scientific and Statistical Committee will provide guidance on whether the proposed scope and analytical approach would meet the intentions for this review. The Magnuson-Stevens Act specifies that limited access privilege program (LAPP) reviews should include a review of the operations of the program, including determining progress in meeting the goals of the program and the Magnuson-Stevens Act, and any necessary modifications of the program to meet these goals (Section 303A(c)(1)(G)).

Once the policy scope is determined, a work-plan inclusive of a proposed analytical framework for the review will be developed. The work-plan for the IFQ program review will be presented to the Scientific and Statistical Committee (SSC) and to the Council and its Advisory Panel for discussion on the methodological approach to program evaluation.

This outline is organized as follows:

Section 1 explains the requirement for a comprehensive program review to the Council. Section 2 examines sources that can be used to guide the scope of the review. This includes: 2.1) the goals of the halibut and sablefish IFQ program as laid out in the original Supplemental Environmental Impact Statement for the IFQ management alternative for the fixed gear halibut and sablefish fisheries[1], 2.2) the goals and requirements of limited access privilege programs (LAPP) as established in the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 2.3) the National Standards of the MSA, 2.4) NOAA Catch Share Policy document, 2.5) examples of other LAPP reviews, and 2.6) public comment. Based on these resources, Section 3 includes an annotated table of contents that more specifically details the policy scope of the work intended to be done. Section 4 lists the work-team leads.

The requirement for a comprehensive program review

In December of 2014, NMFS recommended that the Council initiate a formal and comprehensive review of the Halibut and Sablefish IFQ Program. Section 303A(i)(1)(B) of the Magnuson-Stevens Act requires the Council and NMFS to review all LAPPs that have been approved by the Secretary of Commerce, including those programs approved prior to the enactment of the reauthorized Magnuson-Stevens Act in 2007. Furthermore, Section 303A(c)(1)(G) of the Magnuson-Stevens Act specifies that reviews of these LAPPs should occur no less frequently than once every 7 years. NMFS recommended that the IFQ program review be initiated by 2017 to meet the requirements of the Magnuson-Stevens Act. Because the IFQ program was enacted prior to the 2007 reauthorization of the Magnuson-Stevens Act, it has not been subject to the mandatory review process of LAPPs under the Act. In the 20 years since implementation of the IFQ program, this will be the first formal and comprehensive review of the program.

[1] The final SEIS/EA for Amendments 15/20, the IFQ management alternative is available at: https://alaskafisheries.noaa.gov/analyses/groundfish/Amd15_20seis.pdf.

At the time of implementation, the Council identified 10 objectives for the program. Since 1995 the Council has instituted numerous changes to the IFQ program, largely easing restrictions in the program with respect to the use and transfer of quota shares with the exception of hired skipper use, which it has repeatedly tried to constrain. The intent of this review is to evaluate the IFQ program with respect to the 10 original policy objectives for the program. It is the prerogative of the Council to determine whether these original objectives still hold for the IFQ program.

Although this will be the first comprehensive review of the IFQ program, there have been numerous regulatory impact reviews and reports[2] produced by Council and NMFS staff that provide relevant information about quota share ownership and transfers, IFQ use and landings, and with respect to specific provisions in the program. This IFQ program review will synthesize much of the information provided in these previous reports and analyses.

Establishing a policy scope for the review

Unless otherwise stipulated by the Council at program implementation or otherwise, LAPP reviews do not currently have a checklist of required elements that must be included. The Council has the flexibility to request whatever information they deem necessary to evaluate the IFQ program. In addition, the National Standards of the Magnuson-Stevens Act establish requirements for the management of fisheries under fishery management plans (FMPs).

There are also a number of guidance documents that may aid the Council in requesting appropriate, relevant information and discussion to address the goals of the program as well as the general requirements of a LAPP. First, NOAA has produced a Catch Share Policy document that provides policy recommendation for nine guiding principles in the development and evaluation of catch share (or LAPP) programs.[3] Secondly, there have also been reviews of other LAPP programs that could serve as examples. Thirdly, public comment is another informative and important resource to influence the policy scope of issues highlighted for the review.

The goals of the Halibut and Sablefish IFQ Program

In 1991 the Council recommended an IFQ program for the management of the fixed gear (hook and line) halibut and sablefish fisheries off of Alaska. The Secretary of Commerce approved the Council's IFQ program as a regulatory amendment in 1993, and the program was implemented by NMFS for the fishing season in 1995. The fundamental component of the IFQ program is quota shares, issued to participants as a percentage of the quota share pool for a species-specific IFQ regulatory area, which is translated into annual IFQ allocations in the form of fishable pounds.

The IFQ program was developed to address issues associated with the race-for-fish that had resulted from the open-access and effort control management of the halibut and sablefish fisheries. Specifically, the Council identified several problems that emerged in these fisheries due to the previous management regime, including increased fishing, processing, and marketing costs without increasing catch, decreased product quality, sablefish and halibut prices, and the availability of fresh halibut, increased conflicts

[2] See for example "Changes under Alaska's halibut and sablefish IFQ program 1995 through 2014: Halibut and Sablefish" and the "Report to the Fleet" for 2012. The Report to the Fleet is also available for previous years online as well: http://alaskafisheries.noaa.gov/ram/ifqreports.htm

[3] NMFS is currently in the process of developing guidance for conducting reviews of catch share programs in coordination with all regional fishery management councils.

among halibut fishermen, sablefish fishermen, or other interest groups, adverse effects on halibut and sablefish stocks, and unintended distributions of benefits and costs.[4]

In the original Supplemental Environmental Impact Statement for the IFQ program, the Council identified 10 policy objectives that it intended to address through specific elements of the IFQ program. Specifically, in selecting the elements of the IFQ program the Council attempted to do the following:

1) Address the problems that occurred with the open-access management regime.
    - The Council identified 10 specific problems: Allocation conflicts, gear conflicts, deadloss from lost gear, bycatch loss, discard mortality, excess harvesting capacity, product wholesomeness, safety, economic stability in the fisheries and communities, and rural coastal community development of a small boat fleet.
2) Link the initial quota share allocations to recent dependence on the halibut and sablefish fixed gear fisheries.
3) Broadly distribute quota share to prevent excessively large quota share from being given to some persons.
4) Maintain the diversity in the fleet with respect to vessel categories.
5) Maintain the existing business relationships among vessel owners, crews, and processors.
6) Assure that those directly involved in the fishery benefit from the IFQ program by assuring that these two fisheries are dominated by owner/operator operations.
7) Limit the concentration of quota share ownership and IFQ usage that will occur over time.
8) Limit the adjustment cost to current participants including Alaskan coastal communities.
9) Increase the ability of rural coastal communities adjacent to the Bering Sea and Aleutian Islands to share in the wealth generated by the IFQ program.
10) Achieve previously stated Council goals and objectives and meet Magnuson-Stevens Act requirements.

The intent of this review is to assess the impacts of the IFQ program with respect to these initial 10 policy objectives. The analysts note that most of these objectives are broad and do not include specific, measurable objectives. In addition, many of these objectives overlap while others are inherently conflicting. As a result, the analysts are unlikely to be able to quantify or make definitive statements about whether or not the program is meeting any or all of the policy objectives. Rather, the analysts intend to provide information on the status and evolution of the IFQ program with respect to these policy objectives to the extent practicable.

The goals and requirements of a LAPP as stated in the Magnuson-Stevens Act

Section 303A(c)(1) of the Magnuson-Stevens Act states the requirements of a LAPP approved by the Secretary of Commerce. Although the IFQ program is not a LAPP as defined in Section 303A of the Magnuson-Stevens Act, this section of the Act may still inform the Council's review of the IFQ program. The following list summarizes issues derived from language in the Magnuson-Stevens Act that appear relevant to the IFQ program review. The Magnuson-Stevens Act states that a Section 303A LAPP program shall:

1) Contribute to reducing overcapacity if the fishery is overcapitalized.
2) Promote fishing safety.
3) Promote fishery conservation and management.
4) Promote social and economic benefits.

[4] See Footnote 1 for the location of the final SEIS/EA for the IFQ management alternative.

5) Include an effective system for enforcement, monitoring, and management of the program, including the use of observers or an electronic monitoring system.

The Magnuson-Stevens Act also includes mandates with respect to allocations under a Section 303A LAPP that may be relevant to this review to the degree that they provide guidance for consideration of the distribution of fishing privileges or the sustained participation of stakeholder groups, rather than just initial allocations, and to the degree that they align with the Council's original objectives for the IFQ program. Policies and criteria for transferability of fishing privileges in a Section 303A LAPP are also supposed to be consistent with allocation provisions. Specifically, the Magnuson-Stevens Act states that in developing a LAPP a Council or Secretary shall:

1) Consider the basic cultural and social framework of the fishery, especially through
    a. The development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing requirements, and
    b. Procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors in the fishery.
2) Include measures to assist, when necessary or appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges.
3) Ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program.
4) Authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

A discussion of the halibut and sablefish IFQ program with respect to these Magnuson-Stevens Act provisions will be integrated into the relevant sections of the review.

Magnuson-Stevens Act National Standards

The 10 National Standards contained in Section 301(a) of the Magnuson-Stevens Act provide authoritative direction for species managed under an FMP. These National Standards apply to the Bering Sea and Aleutian Islands groundfish and Gulf of Alaska groundfish FMPs, which encompass the sablefish IFQ fisheries. The halibut IFQ fisheries are managed under the authority of the Halibut Act of 1982 (Halibut Act). At the time of IFQ program implementation, the Council and NMFS determined that the IFQ program for both the halibut and sablefish fisheries was consistent with the Magnuson-Stevens Act and the Halibut Act. The National Standards will be incorporated into the discussions throughout relevant sections of the review. The 10 National Standards are:

1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.
2) Conservation and management measures shall be based on 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 U.S. 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 a 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.

NOAA Catch Share Policy document

NOAA Catch Share Policy is a document meant to serve as additional guidance on the development and evaluation of catch share programs in the U.S. Based on the Magnuson-Stevens Act requirements for Section 303A LAPPs, NOAA's Catch Share Policy document identifies guiding principles for design of a catch share program and considerations for a program review.

The elements of the catch share design from NOAA's Catch Share Policy document include: setting **specific management goals** for the program, considering a broad range of participation criteria when setting initial **allocations** of privileges, establishing a criteria for the t**ransferability** of limited access privileges, creating **distinctions among sectors** in which the catch share program may not be the appropriate management fit, consider the **duration** of the catch share program, develop policies to promote **fishing community stability**, consider the use of auctions or other means to collect **royalties** from the initial allocation or subsequent distribution of privileges, design a **cost recovery** program to support the direct management, data collection, analysis and enforcement activity related to that program, and establish an outlet for periodical **reviews** of the program.

The NOAA Catch Share Policy recommends the re-evaluation of many of these elements in a program review. Furthermore, whenever possible, catch share program management goals should be measurable and linked back with the initial objectives in the FMP. The review of a LAPP should serve to identify whether the goals of the program are being met and the potential steps to be taken to ensure that the program is meeting its goals and objectives.

The NOAA Catch Share Policy document highlights that harvesting privileges under a LAPP are not granted in perpetuity. As such, the Council can revisit underlying total allocations between sectors of a fishery and mechanisms to ensure the sustained participation of fishing communities, to promote accessibility to new entrants, and to discourage the acquisition of catch quota by those who are not fishery participants, amongst others. The NOAA Catch Share Policy describes that the Magnuson-Stevens Act is clear that harvesting privileges are revocable and regular and detailed monitoring of a LAPP will help discern if the fishery is performing as expected at the implementation of the program.

The concepts of collecting royalties and cost recovery may be included in a program review; however, more emphasis is placed on the consideration of these components in the development of a LAPP. NMFS has implemented a cost recovery program to recover the incremental costs of management, data collection, and enforcement of the IFQ program, and the analysts intend to include a discussion of this cost recovery program in the review. Additionally, while it is still possible to consider the use of auctions or other means to collect royalties for the subsequent distribution of privileges, it would likely present equity issues among program participants because 20 years into the program, many of the initial recipients who received quota share allocations at no cost have already sold their quota shares.

The NOAA Catch Share Policy document is meant to serve as a reference for what a comprehensive program review could evaluate. While it is anticipated that not all of these issues are relevant or a priority to the IFQ program review, the guidance in the document is valuable in a discussion of the policy scope for the program review and may be considered for sections of the annotated table of contents presented in this document.

Other program reviews

The most recent program review completed by the Council in the North Pacific region was the Amendment 80 program review, with the Final Review presented to the Council in October 2014. The BSAI Crab Rationalization program (CR program) is also currently undergoing a 10-year review process, with the presentation of the report to the Council scheduled for February of 2016. The CR program has undergone regular reviews since its implementation, including an 18-month program review, a 3-year program review, and a 5-year program review.[5] Additional reviews for the North Pacific include a 1-Year Review of the Central Gulf of Alaska rockfish pilot program in 2008 and a review of impacts from the American Fisheries Act (AFA) sector in a report to U.S. Congress and the Secretary of Commerce one year after program implementation.[6]

Although a formal review of the halibut and sablefish IFQ program has not been conducted, the Council and NMFS reviewed the Community Quota Entity (CQE) program in 2010, which was five years after implementation.[7] The CQE program authorized eligible communities in the Gulf of Alaska to purchase commercial halibut and sablefish quota shares for lease to community residents.[8]

Of particular relevance may be a 2014 review of the Pacific Coast sablefish permit stacking program, which was developed by the Pacific Fishery Management Council.[9] The sablefish permit stacking program is similar to the halibut and sablefish IFQ program in that it includes numerous provisions intended to protect the small business and owner-operated nature of the fishing fleet as well as fishing communities. For example, the program includes an owner-on-board mandate for permit holders and a prohibition on the acquisition of permits by non-individual business entities, with a grandfather clause for those who were permit holders prior to the inception of the permit stacking program in 2001. Furthermore, the program was implemented in 2001, prior to the reauthorization of the Magnuson-Stevens Act and its mandate for programmatic reviews of LAPPs in 2007. The 2014 review marked the

[5] All three CR program reviews are available on the Council's website: http://www.npfmc.org/crabrationalization/
[6] The Central Gulf Rockfish pilot program is available at: http://www.npfmc.org/wp-content/PDFdocuments/catch_shares/Rockfish/RPPreview508.pdf. The AFA report to Congress is available at: http://alaskafisheries.noaa.gov/sustainablefisheries/afa/congress202.pdf
[7] The CQE program review is available at: http://www.npfmc.org/wp-content/PDFdocuments/halibut/CQEreport210.pdf
[8] The Council recommended a CQE program for the Aleutian Islands in 2012, which was implemented in 2014.
[9] The permit stacking program review can be found here: http://www.pcouncil.org/wp-content/uploads/2015/06/Final_FGSPS_PrgmRev.pdf

first comprehensive review of the sablefish permit stacking program, 13 years after its implementation. In other words, another similarity between the sablefish permit stacking program review and the IFQ program review is a significant length in time from program implementation to the first comprehensive review, keeping in mind that numerous extensive analyses of specific issues have been conducted for the IFQ program since its implementation.

Public comment

Public input is a valuable tool in shaping the Council's priorities for the halibut and sablefish IFQ program. Based on written and oral public testimony, the Council may consider including a discussion of characteristics of the program that are of interest or concern to stakeholders, communities, and others affected by the IFQ program.

It is important to clarify for the public that while this program review will seek to provide enough information to highlight potential areas of concern, a review in itself is not a program amendment. Should the Council choose to take action on an area of concern, a proposed amendment would go through the standard analytical process including an environmental assessment, which investigates the environmental impacts of an action and its reasonable alternatives, a regulatory impact review, which assesses the economic benefits and costs of the action alternatives, as well as their distribution effects, and a regulatory flexibility analysis, which considers the impacts of the action on directly regulated small entities. This analytical process often goes through an initial review draft stage and a public review draft stage before the Council determines whether to take final action on an amendment.

Annotated proposed table of contents

Given that this will be the first comprehensive review of the halibut and sablefish IFQ program since its implementation 20 years ago, there is the potential for this review to become extensive. While the intent is for the review to be comprehensive, it is not intended to be an exhaustive study of any one issue. Although the Council may choose to focus on some issues more specifically, a rigorous evaluation of specific issues may be better suited for a discussion paper or analysis.

The analysts' intention for the review is to evaluate the impacts of the program with respect to the Council's 10 stated policy objectives.[10] Specifically, the review will use quantitative and qualitative analyses to focus on the present status of the fisheries in relation to the 10 objectives and to changes since the implementation of the program. However, wherein necessary to provide comprehensive information or to present program performance or impacts over time, annual data will be included.

As previously stated, there is substantial overlap between many of the Council's original 10 objectives for the IFQ program. Given this, many of these objectives have been aggregated into single sections in the table of contents, with sub-sections discussing specific issues as summarized in the paragraphs below each section heading. The intent of this annotated table of contents is to present a potential organizational structure for the IFQ program review. Although there are potentially numerous ways of organizing the presentation of these issues, it is expected that any re-organization of this presentation recommended by the Council would not affect the substance of the issues presented. The following annotated table of contents also includes potential ways in which the analyses for each of the stated objectives may be conducted.

[10] Although not expressly addressed in this proposed outline, objective 10 of the original EIS ("achieve previously stated Council goals and objectives and meet MFCMA requirements") is woven in throughout this analysis.

0. EXECUTIVE SUMMARY

The executive summary will be developed to be a stand-alone document. It will include summaries of the key findings of the IFQ program review.

1. BACKGROUND INFORMATION

1.1. INTRODUCTION

This section will provide all of the background information on the review and the objective of the review. Similar to the outline it will detail the requirements for a program review and available authoritative guidance. It will lay out the outline of the analysis and describe the data sources that are used within the document. Primary data sources include NMFS's Restricted Access Management program's harvest and administrative data, AKFIN's fisheries landings data, NMFS's IFQ loan program data, IPHC's biological management data, and NIOSH's safety data. If data are used from sources that are not traditionally relied on in Council analyses, a more detailed description of the data collection and analysis methodology will be included in an appendix to the review.

1.2. DESCRIPTION OF MANAGEMENT

Given that this is the first comprehensive review of the IFQ program, it is the analysts' intention to include an extensive description of the program, inclusive of all the original management elements of the program and how they have been amended over the last 20 years. It is expected that a comprehensive description of the IFQ program is necessary for understanding how the program is performing with respect to the Council's original objectives and how it has impacted participants, stakeholders, and communities.

The description of management section will include background information on how the halibut and sablefish fisheries are prosecuted and the management of the fisheries prior to the IFQ program. Similar elements have been included in program descriptions in previous LAPP reviews for the Council. The remainder of the description section is outlined below.

1) Stated objectives of the IFQ program
2) Total allowable catch
   This section will be a description of the biological management of the two fisheries and the designated management areas.
3) Quota share – initial allocation
   This section will be a description of how quota shares were initially allocated (including CDQ compensation quota share) and how shares are translated into annual IFQ pounds.
4) Quota share – use provisions
   This section will be a description of the use privileges associated with quota shares by quota share type and different entities (i.e. initial recipient or second-generation shareholder; individual or business entity). This section will include information about the vessel class and area designation for quota shares (and changes to these over the course of the IFQ program), the hired skipper use privilege for initial recipients and the owner-on-board mandate for second generation shareholders, and the overage and underage allowances for quota shareholders.
5) Quota share – transferability provisions
   This section will be a description of the quota share and IFQ transferability provisions by quota share type and different entities (i.e. initial recipient or

second-generation shareholder; individual or business entity). This section will include a description of the eligibility provisions to acquire quota share by vessel class and area, the restrictions on IFQ transferability or leasing and the exemptions under which catcher vessel IFQ may be leased, the quota share block program and sweep up provisions, and accumulation caps (individual and vessel use caps).

6) The Community Quota Entity (CQE) program

This section will be a brief description of the CQE program. The intent of this section will be to provide a general description of the CQE program as the program will be discussed in relation to specific issues highlighted in the review (e.g., the owner-on-board mandate and new entry). The CQE program was reviewed by the Council in 2010. As an appendix to the IFQ program review, there will also be a brief review of the CQE program providing an update to the 2010 CQE report.

7) The Halibut Charter Sector

This section will be a brief description of the changes to the quota share and IFQ trading provisions between the commercial and charter fishing sectors beginning in 2014. The potential impacts of these new trading provisions will be discussed in the context of potential impacts on IFQ participants.

2. ANALYTICAL SECTION

2.1 OVERALL TRENDS IN THE IFQ FISHERIES AND CONTEXT FOR THIS ANALYSIS

Prior to presenting the analytical section of the review, addressing the impacts of the IFQ program with respect to its 10 objectives, we propose to highlight some of the overall changes in the halibut and sablefish fisheries and the IFQ program. Perhaps one of the most significant impacts on IFQ participants has been the decreasing TACs in the halibut and sablefish fisheries since the late 2000s. The potential impacts of the IFQ program on the biological management of the halibut and sablefish fisheries will be discussed in more detail under the section "Biological Management Issues." Herein, we propose to discuss broadly how the decreasing TACs may be impacting IFQ participants.

The overall management context of the IFQ program for the 20 years since its implementation has largely been one of decreasing restrictions over time. The one overarching exception to this has been with respect to the owner-operator characteristic of the fleet. The Council has repeatedly re-asserted its position on limiting hired skipper use and catcher vessel quota share acquisition by non-individual entities in an effort to continue progress toward fully individual owned and owner-operated IFQ fisheries. At the same time, however, the Council elected to authorize certain communities to be able to form community quota entities (CQEs), which can purchase halibut and sablefish quota shares and lease the resultant IFQ to their residents, and more recently to allow the charter sector to lease IFQ as guided angler fish (GAF) from the commercial sector. To some degree the lease provisions in the CQE and the GAF programs contradict the Council's broader objective of transitioning the IFQ fleets towards becoming wholly individual-owned and owner-operated. Herein, we propose to discuss the regulatory history of the IFQ program with respect to trends in the Council's vision for the program.

In the years since the implementation of the IFQ program, some of the most important impacts on IFQ participants have taken place outside of the management framework of the IFQ program. It is important to keep this broader context in mind when reviewing the IFQ program itself. We propose to briefly discuss how management regimes in other Alaskan fisheries may be impacting IFQ participants.

2.2 LESSONS LEARNED FROM INITIAL ALLOCATIONS

This section will address Objectives 2 and 3 of the original EIS for the program.

- Objective 2: Link the initial quota share allocations to recent dependence on the halibut and sablefish fixed gear fisheries
- Objective 3: Broadly distribute quota share to prevent excessively large quota share from being given to some persons.

The mechanisms by which initial allocations were administered in the IFQ program will be discussed under the "Description of Management" section. In this section we intend to focus on the underlying reasoning for these allocations with respect to Objectives 2 and 3. Furthermore, this section would discuss the potential implications of these allocation decisions, especially with respect to immediate consolidation and regulatory changes following the implementation of the program. Specifically, we propose a discussion of how broad quota share distribution resulted in some fishermen not having enough IFQ pounds to make economically worthwhile fishing trips, which resulted in significant consolidation in the first couple of years of the IFQ program and in the Council lifting some of the restrictions on consolidation.

2.3 HARVESTING FLEXIBILITY, CAPACITY AND CONSOLIDATION

This section will address Objectives 1, 4, and 7 of the original EIS for the program.

- Objective 1: Address the problems that have occurred with the current management regime – excess harvesting capacity, allocation conflicts, gear conflicts, product wholesomeness
- Objective 4: Maintain the diversity in the fleet with respect to vessel categories.
- Objective 7: Limit the concentration of quota share ownership and IFQ usage that will occur over time.

Because Objectives 1, 4, and 7 affect similar components of the IFQ program and are achieved through the same mechanisms (e.g., harvesting flexibility and quota share transferability), we propose to include several sub-headings under this broad section, including gear conflicts, allocation conflicts, product wholesomeness, harvesting capacity, and fleet diversity.

2.3.1 Gear Conflicts

It was anticipated that the IFQ program would reduce gear conflicts within and between the halibut and sablefish fisheries by providing greater flexibility in when fishermen may participate in the fisheries. (Reductions in interactions between fishermen could also stem from decreases in the numbers of vessels in the fisheries as a result of consolidation under the IFQ program). However, it was also anticipated that longer halibut and sablefish fishing seasons could potentially increase gear conflicts with the groundfish trawl fisheries, because the trawl fleet could not as easily avoid halibut and sablefish fishermen if they could be at sea for nine months versus two weeks. Historical conflicts between pot longline gear and hook-and-line fishermen led to Amendment 14, which was implemented prior to the IFQ program and designated the area east of 147° W. longitude as hook-and-line only and phased out the pot longline fishery in the Central and Western Gulf of Alaska, allocating that allowable harvest to the hook-and-line fleet. (In April 2015 the Council passed a Motion to authorize pot longline gear in the Gulf of Alaska sablefish IFQ fisheries). Given that gear-conflicts between IFQ fishermen and between IFQ fishermen and those participating in other fisheries are not tracked, data that could be used to inform an analysis of the impacts of the IFQ program on such conflicts does not

exist. Similarly to previous analyses of gear conflicts, this review will focus on providing a qualitative approach to analyzing the impacts of the IFQ program on gear conflicts in addition to citations of relevant literature whenever possible.

2.3.2 Allocation Conflicts

With respect to allocation conflicts, it was recognized at the time of program implementation that the IFQ program could actually engender controversies between various stakeholders. Specifically, analysts for the original EIS for the program highlighted that the initial allocations under the IFQ program necessarily excluded certain user groups (e.g., crewmembers), that initial recipients would receive much of the benefits of the program at the cost of future participants who would have to pay for quota shares, and that the public in general would have to pay for the management and enforcement costs of the program. Impacts of the IFQ program on crewmembers will be discussed in detail under the "Crewmember Impacts" section. With respect to the costs to the public, the IFQ program does have a system of recovering the incremental costs related to management, monitoring and enforcement, which will be described in the program review under "Management Costs and Recovery." Inter-generational distributions of the benefits of IFQ program implementation will be discussed further in the "Entry Opportunities" section.

It was also recognized during IFQ implementation that conflicts may arise between fishermen and CDQ communities over allocations. The Council and NMFS sought to address issues with issuing halibut and sablefish CDQ allocations by allocating CDQ compensation quota share, described in more detail in the "Description of Management" section.

Allocation conflicts were anticipated to arise between vessel classes as well, if members of one vessel class perceived an injustice in maintaining quota share allocations that perpetuated inefficiencies. However, the Council explicitly included maintaining fleet diversity amongst its objectives for the program. We propose to discuss quota share distributions and trading restrictions between vessel classes in the section "Fleet Diversity."

2.3.3 Product Wholesomeness

The IFQ program was anticipated to lead to improvements in product wholesomeness by increasing fishermen's flexibility in when and how they fish, prolonging the fishing season and allowing fishermen to respond to market incentives. As such, it was anticipated that the quality of the landed product would improve and that fishermen and processors could take advantage of the fresh market for halibut and the seasonal consumption patterns for sablefish. Product quality improvements and better targeting of markets were expected to result in higher ex-vessel prices in both fisheries. This section is intended to provide a discussion of changes in product form for both IFQ species since implementation of the IFQ program.

2.3.4 Harvesting Flexibility

Many of the benefits that were anticipated to materialize from the implementation of the IFQ program (e.g. longer fishing seasons, better product, less gear conflict) were associated with the flexibility that would be afforded by quota share allocations. The majority of these effects are discussed under other sections of this outline. In this section, we propose to discuss the 10% adjustment policy (underage and overage), which was intended to provide additional flexibility benefits to IFQ participants. A person's annual

IFQ allocation may be adjusted by up to 10% to cover under or over harvest from the previous year. This section is intended to highlight how underage and overage are being utilized in the IFQ fisheries.

2.3.5 Harvesting Capacity

In developing the IFQ program, the Council sought to balance addressing the problems with the race for fish (including excess harvesting capacity[11] and gear conflicts) that had resulted from the previous management regime and preventing excessive consolidation. In addition, in order to ensure that the benefits of implementing the IFQ program were spread amongst a large number of participants the Council allocated quota shares to as many participants as possible, introducing more people into the two fisheries. In effect, the Council implemented countervailing provisions into the IFQ program to try to affect these contradictory goals. One of the tools that the Council employed to try to minimize consolidation was use caps, limiting the amount of quota shares that could be held by participants, QS use caps, and the amount of IFQ that could be landed on any one vessel, vessel IFQ caps.

We propose to analyze capacity and consolidation across the IFQ fisheries and to examine the efficacy of the individual and vessel use caps with respect to achieving management goals for the IFQ program. This section would include information about trends in indicators of consolidation (with respect to the level of the individual as well as the vessel) and fleet diversity. (Consolidation indicators at the community level will be presented under the Community Impacts section). In addition to this summary information, the analysts propose including commonly-used metrics of inequality (the Gini coefficient) and of market power (the Herfindahl-Hirschman Index (HHI)). Both of these metrics can be used to assess quota share and landings concentration and in addition to summary tables on quota share holdings and consolidation provide a tool for analyzing the IFQ program with respect to the objectives of addressing excess harvesting capacity and limiting consolidation.

2.3.6 Fleet Diversity

The IFQ program designated catcher vessel quota shares by vessel class, which are specific to vessel length, and prohibited inter-class trading of quota shares. The Council's intention was to prevent a redistribution of fishing privileges amongst vessel classes. At the same time, quota share trading restrictions limited the potential for further decreases in harvesting capacity and increases in economic efficiency throughout the fisheries, which would have occurred at the price of more widespread fishing opportunities and employment in the fisheries.

In addition to presenting summary tables of quota share distributions by vessel class, we propose to provide some discussion of the efficiency and distributional tradeoffs of inter-class trading constraints, including the utilization of the fish up and fish down provisions.

2.4 CREWMEMBER AND PROCESSOR IMPACTS

This section will address Objective 5 of the original EIS for the program.

- Objective 5: Maintain the existing business relationships among vessel owners, crews, and processors

[11] Harvesting capacity may be defined with respect to inputs (e.g., the capacity of the fleet to harvest fish expressed in terms of gross tonnage and hold capacity) or outputs (the maximum amount of fish that the fishing fleet can expect to catch). For the former see: (https://stats.oecd.org/glossary/detail.asp?ID=1202) and for the latter: (http://www.nmfs.noaa.gov/ocs/mafac/meetings/2008_11/docs/capacity_mafac110508.pdf).

2.4.1 Crewmember Impacts

At the time of implementation of the IFQ program, it was recognized that the program would likely increase the relative bargaining strength of whoever controlled the quotas. Furthermore, initial recipients benefit disproportionately by receiving allocations of shares at no cost at the onset of the program. In other words, the increase in bargaining strength for initial quota share recipients would be relative to a decrease in bargaining strength for crewmembers and processors. After some discussion of including crewmembers among the initial recipients, the Council elected to allocate quota shares only to persons who owned or leased a vessel with fixed gear sablefish or halibut landings off Alaska. This was intended to provide those who had borne the greatest financial risk in developing the harvesting sector with initial quota share allocations and to ensure a smooth transition to IFQ management by maintaining business relationships within the harvesting sector. The investment of crewmembers in the fisheries was recognized through the mandate that catcher vessel quota share acquisition by transfer be limited to bona fide crewmembers (i.e. those with 150 days of commercial fish harvesting experience in a U.S. commercial fishery) and initial quota share recipients.

The intent of this section is to discuss the relationships between vessel owners and crewmembers in the IFQ fisheries. Specifically, we propose a discussion of how the IFQ program may have affected the bargaining power of crewmembers due to consolidation and the elimination of vessels and associated crew jobs. We also propose to include a discussion of how the IFQ program may have affected crewmember earnings. Because there is limited data that can be used to capture crewmember impacts, this section would greatly benefit from stakeholder input.

2.4.2 Processor Impacts

The IFQ program was anticipated to shift some power from processors to quota shareholders as the latter gained the flexibility to decide when and where to land their fish. This section will provide a discussion of the shifts in processing capacity and bargaining strength between fishermen and processors that resulted from the IFQ program. The impacts of the IFQ program on processing with respect to product quality will be explored in detail in the "Product Wholesomeness" section. Regional and community shifts in processing will be covered in detail under the "Community Impacts" section.

2.5 OWNER-OPERATOR CHARACTERISTIC OF THE FLEET

This section will address Objective 6 of the original EIS for the program.

- Objective 6: Assure that those directly involved in the fishery benefit from the IFQ program by assuring that these two fisheries are dominated by owner/operator operations

One of the original objectives for the IFQ program was to assure that the sablefish and halibut fisheries were dominated by owner-operator operations. However, several provisions were included in the program that allowed for outright or de facto leasing (including leasing of IFQ derived from Class A shares, medical leases, survivorship transfer privileges, military leases, and hired skipper use among some QS holders). In this section, we propose to show how much leasing or hired skipper use occurs under each of these provisions.

Since the beginning of the IFQ program, the Council has focused its efforts for an owner-operator fleet on the catcher vessel fleet. IFQ derived from catcher processor (or Class A) shares have been eligible for leasing since program implementation.

Leasing of IFQ derived from catcher vessel shares has generally been prohibited since 1998. However, several provisions have been implemented allowing leasing of catcher vessel IFQ under special conditions, including medical leases, survivorship transfer privileges, military leases, leases through CQEs, and IFQ to guided angler fish (GAF) transfers.

The Council has repeatedly expressed its frustration at the slow transition of the catcher vessel fleet towards full ownership by owner-operators due to increasing use of hired skippers by initial quota share recipients and has on five occasions tried to address this with amendments to the hired skipper use provision. This transition has been slowed primarily by two factors: 1) an increasing use of hired skippers by individual initial recipients and 2) the continued ownership of catcher vessel quota shares by non-individual entities (e.g. corporations, partnerships, etc.). This section will focus on trends in the halibut and sablefish IFQ fisheries with respect to these two factors and the underlying incentives for inactive ownership of quota shares.

In Area 2C of the halibut fishery and the Southeast Outside area of the sablefish fishery, the Council implemented additional provisions intended to protect the historically owner-operator characteristic of the catcher vessel fleets in these areas. In these areas, the Council prohibited any individuals from using hired skippers and the acquisition of catcher vessel quota shares by non-individual entities by transfer. Therefore, this section will also include an assessment of these differentiated regulations on the catcher vessel fleet in these areas.

2.6 ENTRY OPPORTUNITIES

Providing entry opportunities for new participants (i.e. non initial recipients of quota shares) is implicit to many of the objectives of the IFQ program (e.g., owner-operator characteristic of the fleet, limiting consolidation, maintaining fleet diversity). In addition, analysts for the original EIS for the IFQ program recognized that initial allocations could result in inter-generational equity issues as the benefits of program implementation, with respect to rent accrual, flow largely to initial recipients.

In this section, we propose to discuss the impacts of implementing the IFQ program on non-initial recipients of quota shares in the halibut and sablefish fisheries. This section would include a discussion of quota share transfer activity since the implementation of the program, including transfer types, financing mechanisms, and current realities of buying into the IFQ fisheries. Under this section, we also propose to provide a discussion of the block program, which was intended to ensure that small quantities of quota share are available in part for new entrants, and the sweep up provision, which was intended to provide that small quantities of shares could be swept up into harvestable amounts of IFQ. This section would also greatly benefit from stakeholder input about entry opportunities and impediments, including knowledge of loan programs and access to financing.

2.7 COMMUNITY IMPACTS

This section will address Objectives 1, 8, and 9 of the original EIS for the program.

- Objective 1: Address the problems that have occurred with the current management regime - economic stability in the fisheries and communities, and rural coastal community development of a small boat fleet.
- Objective 8: Limit the adjustment cost to current participants including Alaskan coastal communities.
- Objective 9: Increase the ability of rural coastal communities adjacent to the Bering Sea and Aleutian Island to share in the wealth generated by the IFQ program.

In developing the halibut and sablefish IFQ program, the Council was concerned with the potential impacts of the program on coastal communities. Many of the provisions included in the program to protect small operators and the owner-operator characteristic of the fleet were also intended to ensure that the benefits of the IFQ fisheries flowed to coastal communities. In this section of the review we propose to assess the effects of the IFQ program on communities, with respect to both quota share holdings and landings.

The IFQ program was anticipated to change processing needs especially in the halibut fishery as the market shifted from a frozen to a fresh product. Remote communities, which could compete in the pre-IFQ processing market of mostly frozen product because they did not have to rely on air transportation for moving the product, were anticipated to be less competitive in a fresh market reliant on inexpensive air transportation. It was also expected that some processing would shift from outside of Alaska into Alaska as the switch to a fresh market would mean that processors closer to the fishing grounds (with access to air transportation) would be able to offer higher ex-vessel prices, given that transit time to Seattle would mean the Seattle ports were receiving fish that was already several days old. In effect it was anticipated that the IFQ program would release some of the previous constraints on processing and provide a mix of frozen and fresh product but that this was likely to come at the cost of shifting processing out of some communities.

For this section, we propose to assess changes in quota share holdings and landings for Alaska, Washington, Oregon, and other states. Given that the Council also made an explicit reference to rural communities in its objectives for the program, we propose to assess the effects of the IFQ program with respect to quota share holdings and landings on rural Alaskan communities, wherein rural is defined as a community with less than 2,500 people, based on the U.S. Census Bureau definition, although there are other potential ways of defining rural communities.[12] Information on quota shareholdings and landings by specific communities is provided in publicly available reports through NMFS.[13] It is not staff's intent to reproduce these community-level reports for this review but rather to provide this information on the aggregated level that was identified in the Council's original objectives.

Objective 9 relates to the implementation of the CDQ program. Since the CDQ program is a separate management program, it will not be reviewed as part of the IFQ program review. However, with respect to the participation of rural coastal communities in the IFQ fisheries, a recent analysis by Council staff for the development of the Pacific Cod Community Development Quota fishery[14] includes a description of CDQ resident participation in the CDQ halibut fishery and will be incorporated by reference.

2.8 FISHING VESSEL SAFETY

This section will address Objective 1 of the original EIS for the program.

- Objective 1: Address the problems that have occurred with the current management regime – Safety

[12] For example, eligibility to participate in the CQE program is constrained to communities with a population of fewer than 1,500 people.

[13] See Halibut Transfer Report: http://alaskafisheries.noaa.gov/ram/halibut-transferfrpt2015.pdf; Sablefish Transfer Report: http://alaskafisheries.noaa.gov/ram/sablefish-transferrpt2015.pdf; and Report on holdings of IFQ by residents of selected Gulf of Alaska fishing communities: http://alaskafisheries.noaa.gov/ram/reports/ifq_community_holdings_95-12.pdf

[14] See: C1 CDQ Pcod Public Review.pdf

Prior to the IFQ program, the race for fish in the halibut and sablefish fisheries resulted in very short fishing seasons that sometimes resulted in fishermen going out to sea in hazardous weather conditions and generally engaging in unsafe fishing practices. It was expected that longer fishing seasons, greater flexibility, and decreased capacity would provide safety benefits for participants in the halibut and sablefish IFQ fisheries. This section will provide summary information on several indicators of safety in the halibut and sablefish fisheries over the 20 years of the IFQ program.

2.9 BIOLOGICAL MANAGEMENT ISSUES

This section will address Objective 1 of the original EIS for the program.

- Objective 1: Address the problems that have occurred with the current management regime – Deadloss from lost gear, bycatch loss, discard mortality

One of the chief reasons for the implementation of the IFQ program was to address biological management issues for the halibut and sablefish fisheries associated with the race for fish that had emerged under the previous management regime. Prior to IFQ implementation, shortening seasons and overcapacity in the fisheries had led to bycatch and discard issues as well as deadloss from lost and abandoned gear. The intent of this section is to highlight how the IFQ program affected these issues in the halibut and sablefish fisheries. The Council may wish to provide guidance on any other biological areas of interest for this comprehensive review.

2.10 OTHER ISSUES

2.10.1 RECORD KEEPING AND REPORTING

Recordkeeping and reporting requirements for the IFQ fisheries include landing reports, logbooks, applications for quota share and IFQ transfers, payment of cost recovery fees, and annual reports for CQEs. In recent years, NMFS has transitioned a number of recordkeeping and reporting requirements from paper to electronic submissions from IFQ fishery participants. Electronic reporting is more efficient and less costly for fishery participants and for NMFS to process. Therefore, NMFS intends to continue to increase the use of electronic recordkeeping and reporting methods to the extent practicable. This section will provide an overview of the current recordkeeping and reporting requirements for the IFQ fisheries and provide an analysis of the impacts on fishery participants and NMFS of continuing the transition to electronic methods of recordkeeping and reporting.

2.10.2 OBSERVER PROGRAM

In 2013, NMFS made significant changes to the North Pacific Groundfish and Halibut Fisheries Observer Program, including how observers are deployed, how observer coverage is funded, and the vessels and processors that must have some or all of their operations observed. These changes should increase the statistical reliability of data collected by the program, address cost inequalities among fishery participants, expand observer coverage to previously unobserved fisheries, and improve fisheries management overall. The 2013 restructuring of the Observer Program also placed a lot more vessels participating in the IFQ fisheries under partial observer coverage, increasing their costs of participating in the fisheries. This section would summarize how changes to the Observer Program may be impacting IFQ participants. It would not address specific issues related to observer coverage in the IFQ fisheries.

2.10.3 MONITORING AND ENFORCEMENT

Under the Magnuson-Stevens Act, Section 303A LAPPs are directed to include an effective system of monitoring and enforcement. This section is intended to highlight monitoring and enforcement changes in the halibut and sablefish fisheries since IFQ

implementation, with a focus on the current state of these programs. Council guidance on management and enforcement challenges for discussion are requested.

2.10.4 MANAGEMENT COSTS AND RECOVERY

The Magnuson-Stevens Act authorizes and requires NOAA Fisheries to collect fees to pay for the costs of management (including data collection and analysis, monitoring and enforcement activities) arising from the IFQ program. At the end of each fishing season, IFQ permit holders must remit payment to NMFS based on a percentage calculated from the ex-vessel value of the IFQ program fisheries and the incremental costs of managing the fishery. The Magnuson-Stevens Act limits the fee percentage to no more than three percent of the ex-vessel value of fish harvested under the IFQ program. The amount of cost recovery fees collected varies annually because total ex-vessel value and total program costs fluctuate from year to year.

NMFS calculates recoverable costs by adding together the incremental costs of management, data collection, and enforcement for the halibut and sablefish IFQ fisheries that would not have been incurred but for the implementation of the program. For purposes of calculating IFQ cost recovery fees, NMFS distinguishes between two types of ex-vessel value: actual and standard. Actual ex-vessel value is the amount of all compensation, monetary or non-monetary, that an IFQ permit holder received as payment for his or her IFQ fish sold. Standard ex-vessel value is calculated based on information submitted by registered buyers and is the default value on which to base fee liability calculations. IFQ permit holders have the option of using actual ex-vessel value if they can satisfactorily document it; otherwise, the standard ex-vessel value is used.

The IFQ program review provides NMFS with the opportunity to review the current methods for calculating the ex-vessel value of the IFQ fisheries for purposes of assessing cost recovery fees. This section will evaluate potential methods for collecting IFQ fishery ex-vessel value information that would improve and streamline current data collection requirements for registered buyers.

2.10.5 HOUSEKEEPING

The IFQ program review provides NMFS with the opportunity to review current IFQ program regulations to evaluate whether they could be clarified and/or streamlined. In this section, NMFS will identify whether any such issues exist in the IFQ regulations and how such issues may be addressed.

3. KEY FINDINGS AND CONCLUSIONS

The final section of the review is intended to summarize the findings of the analysis with respect to how the IFQ program is meeting the original objectives for the program identified by the Council and other issues identified herein. This section will also highlight areas that appear to contain the largest challenges in reaching these objectives, as well as a discussion on the Council's authority related to those challenges.

4. WORK TEAM LEADS

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