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Additional Correspondence

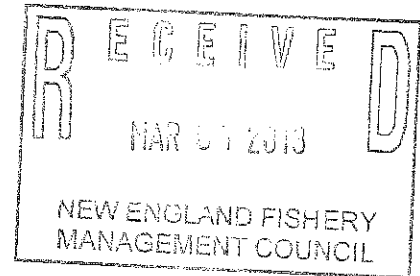
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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

MAR - 1 2013

Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950



Dear Tom:

I would like to provide the Council a more extensive rationale to our February 14 announcement of our intent to allow the full 10 percent carryover for all allocated groundfish stocks except Gulf of Maine cod. As indicated in our announcement, we intend to allow slightly less than 2 percent Gulf of Maine cod carryover in fishing year 2013 to avoid a risk of exceeding the overfishing limit. We can't finalize our intended carryover approach until we have completed our review and approval of Frameworks 48 and 50. However, we can outline the rationale for our intent, much as we did last year when discussing the Gulf of Maine cod interim measures for FY 2012.

We view the primary purpose of carryovers as a way to promote safety at sea which, in turn, helps fishermen to optimize their year-long fishing strategy. By allowing carryover, fishermen are less likely to feel forced to try and catch every allocated pound before the end of the fishing year, regardless of weather. However, as we have recently indicated to the Council, allowing carryovers to be added to annual catch limits (ACLs) without explicitly accounting for the potential extra catch is problematic. On the other hand, to just eliminate carryovers for FY 2013 in light of these concerns, at this point in the fishing year, could undermine safety and management benefits that fishermen have been understandably relying on from the beginning of the 2012 fishing year. In large part because of this conflict, we have evaluated the appropriateness of continuing the existing 10-percent carryover program at least for the 2013 fishing year.

We considered many issues in stating our intent to allow carryover for FY 2013. We recognize that, if nothing is done, the current regulations require us to provide 10-percent carryover for all stocks. We are sensitive to the timing implications of changing the existing program set forth in regulation with roughly 2 months remaining in the fishing year. We are also concerned that making a substantial reduction to or eliminating carryover at this point could have the undesirable consequence of incentivizing a race to fish for the remainder of the year, as fishermen may attempt to fully utilize available FY 2012 catch limits. This could negate the very safety-at-sea and flexibility objectives of the program. We continue to recognize that there can be a modest benefit to stocks when available catch limits are not fully utilized, as unharvested fish may have additional opportunity to grow and spawn. We have considered the disconnect between the previously approved and implemented program that now, in light of the precipitous declines in allowable catches for some stocks, raises serious questions about the



program's consistency with National Standard 1 ACL requirements. We have evaluated the likelihood that stocks could be subject to overfishing if carryover was provided and fully harvested in conjunction with full utilization of all available FY 2013 catch limits. Based on this examination, we believe there is a low risk of overfishing for all stocks except Gulf of Maine cod, even with the full 10-percent carryover added to the FY 2013 catch limits. The potential total catch available with our intended approach to carryover for FY 2013 would remain significantly under established overfishing limits because robust uncertainty buffers remain in place to ensure that these limits are not exceeded. Therefore, allowing these carryovers on a 1-year basis is not likely to result in any significant harm to these stocks or, where applicable, their rebuilding strategies.

Gulf of Maine cod was more problematic in our evaluation because the full 10-percent carryover, when combined with the FY 2013 ACL, results in potential total catch exceeding the overfishing limit. This is because the carryover amount is calculated based on the FY 2012 ACL, which allows overfishing, and because the Council's recommended ACL for FY 2013 is only 10 percent below the overfishing limit. We are intending to allow up to a 1.85-percent carryover for Gulf of Maine cod which is derived by calculating what 10-percent carryover would have been, had the fishing year 2012 catch limit been set at a level that ended overfishing. This level of carryover would provide a modest carryover and maintain an offset from the overfishing limit, and, as with the other stocks, is not expected to result in any significant harm to the stock or rebuilding efforts.

We intend, for FY 2013, to develop an analysis and appropriate action to allow carryovers as outlined above, consistent with the mandate to prevent overfishing and our past practices. We believe that this intended action would strike the right balance in preserving the purpose of carryovers while still ensuring that overfishing does not occur. We intend to allocate and account for carryovers for FY 2013 as we have done in the prior 2 years. Thus, carryover amounts would be made available sometime in July 2013, after final sector rosters and FY 2012 catch amounts are known.


Even though we intend to allow carryovers for FY 2013, we remind the Council, as stated in previous correspondence to the Council and conversations at the Plan Development Team, Committee, and Council level, that the existing carryover program must be clarified or revised to account for carryover in setting ACLs. The Council must address these concerns for FY 2014 and beyond. Carryover continues to be widely discussed at a national level as programs in the Northwest and Alaska also work through the first years of their ACL-based management programs. We are ready and willing to assist the Council in developing a new approach to carryover that provides some operational flexibility for industry, addresses potential safety concerns, and is consistent with the intent of National Standard 1 guidelines and the national guidance for carryover programs.

In the meantime, we are considering proposing regulations to clarify how we will account for carryovers beyond 2013 in a manner more consistent with national policy and National Standards. If implemented, these regulations would serve as default measures while the Council considers other measures to address carryover.

Let me stress that because of the need to address concerns about carryovers in the future, our intended action allowing carryover heading into FY 2013 is a one-time, transitional approach to provide a bridge year to a new approach for FY 2014. We believe that the transitional approach for FY 2013 is warranted because of the extraordinary circumstances due to significant catch limit reductions. Our intended allowance of carryover honors the expectations of fishermen necessary to promote safety at sea and to maximize harvesting strategies for the rest of this year and into 2013, while ensuring a likely probability of not overfishing the stocks.

If you have questions regarding this letter, please contact Mike Ruccio in my Sustainable Fisheries Division at (978) 281-9315.

Sincerely,


for John K. Bullard
Regional Administrator

Cc: Rip Cunningham, NEFMC Chair
Terry Stockwell, NEFMC vice-chair and Groundfish Committee chair

Example of 1385

From: anthony caturano <mail@change.org>
Sent: Wednesday, February 27, 2013 7:55 PM
To: Rip Cunningham
Subject: Why I signed -- to save the future...

Dear Rip Cunningham (Chairman of the New England Fisheries Management Council),

I just signed Ron Borjeson's petition "[Fight the Big Box Boats; Save Family Fishermen and the Fish](#)" on Change.org.

Here's why I signed:

to save the future...

Sincerely,
anthony caturano
saugus, Massachusetts

There are now 1385 signatures on this petition. Read reasons why people are signing, and respond to Ron Borjeson by clicking here:

<http://www.change.org/petitions/fight-the-big-box-boats-save-family-fishermen-and-the-fish?response=7646646b8a19>



Finding the ways that work

March 4, 2013

Mr. Terry Stockwell, Chair
New England Groundfish Committee
New England Fishery Management Council
50 Water Street
Newburyport, MA 01915



Dear Terry,

Back in November, the New England Fishery Management Council voted to make Amendment 18 a priority for 2013. Despite the drastic catch limit cuts coming this year, Environmental Defense Fund believes this Amendment is still important for the Council to develop.

Accordingly, EDF would like to submit a document that we commissioned Northern Economics to conduct, "*Designing Measures to Limit Accumulation of Fishing Privileges in the Northeast Multispecies Fishery*," that summarizes management measures that have been implemented in other fisheries to address accumulation and outlines a range of management alternatives that the Council may consider when developing Amendment 18.

The alternatives and options that are described in the document should not be viewed as EDF's preferred options. Rather, our intention is that the approaches described in the document can, at a minimum, provide a starting point for discussion and help the development of Amendment 18.

We look forward to working with you and the Groundfish Committee on developing Amendment 18 for the groundfish fishery.

Thank you for your consideration.

Sincerely,

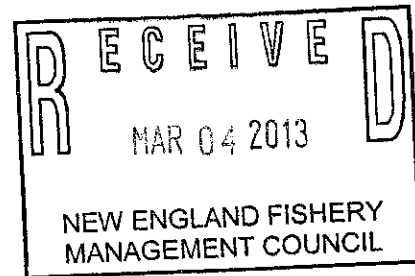
A handwritten signature in black ink, appearing to read "mullin".

Matthew P. Mullin
Deputy Regional Director, Oceans
New England & Mid-Atlantic Regions

Designing Measures to Limit Accumulation of Fishing Privileges in the Northeast Multispecies Fishery

Prepared for

Environmental Defense Fund



February 2013

Prepared by



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Abbreviations

ACE	Annual Catch Entitlement
ACL	Annual Catch Limits
BSAI	Bering Sea and Aleutian Islands
CFA	Community Fishing Association
CQE	Community Quota Entities
ECC	Eligible Crab Communities
FY	Fishing Year
IFQ	Individual Fishing Quota
IPQ	Individual Processing Quota
ITQ	Individual Transferable Quota
NEFMC	New England Fishery Management Council
NERO	New England Regional Office (of NMFS)
NMFS	National Marine Fisheries Service
PQS	Processing Quota Share
PSC	Potential Sector Contributions
QP	Quota Pounds
QS	Quota Share
TAC	Total Allowable Catch
VS	Vessel Size

1 Introduction

On June 23, 2010, the New England Fishery Management Council (NEFMC) approved the following goals to maintain diversity and limit accumulation of fishing privileges in the Northeast multispecies fishery:

- 1) Maintain inshore and offshore fleets;
- 2) To the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation;
- 3) Maintain a balance in the geographic distribution of landings to protect fishing communities and the infrastructure they provide; and
- 4) Prohibit any person from acquiring excessive access to the resource, in order to prevent extraction of disproportionate economic rents from other permits holders.

In September 2010, the NEFMC published a white paper summarizing the diversification and accumulation issues facing the fishery. The white paper can be reviewed on the Gulf of Maine Research Institute web page at <http://www.gmri.org/upload/files/Fleet%20Div%20whitepaper.pdf>. A NEFMC presentation summarizing the Amendment 18 issues is available at the NEFMC web page: <http://www.nefmc.org/nemulti/planamen/Amend%2018/scoping%20hearings/A18%20Scoping%20Presentation.pdf>.

On December 21, 2011, a Federal Register notice was published (and later corrected on February 21, 2012) indicating that the NEFMC, with the New England Regional Office (NERO) of the National Marine Fisheries Service (NMFS) intended to develop an Environmental Impact Statement that would, if any action is taken, become Amendment 18. The notice also published a control date, the intent of which was “to alert the fishing industry and the public that any present or future accumulation of fishing privileges may be limited or may not be allowed after or prior to the published control date.” The control date was established as April 7, 2011.

Between January 17 and January 30, 2012, the NEFMC conducted a series of 10 scoping meetings.¹ In addition to the public meeting, the NEFMC accepted written scoping comments through March 1, 2012.² An overview of the comments received during scoping process can be found at http://www.nefmc.org/nemulti/council_mtg_docs/June%202012/10_A18_Comments_Corrected.pdf.

In August 2012, the Environmental Defense Fund contracted Northern Economics, Inc. to develop a discussion paper that describes how accumulation limits might be developed for the Northeast multispecies fishery in order to meet management objectives. The sections below lay out a range of alternatives for decision-makers to consider when designing accumulation limits.

A companion report, prepared as part of the same project, examines another approach to meeting management objectives by protecting fleet diversity. That report, titled *Designing Measures to Protect Fleet Diversity in the Northeast Multispecies Fishery*, is also available from the Environmental Defense Fund.

¹ See http://www.nefmc.org/nemulti/council_mtg_docs/June%202012/11_A18=SCOPING_HEARINGS.pdf for a transcript of comments received at the scoping hearings.

² See http://www.nefmc.org/nemulti/council_mtg_docs/June%202012/12_A18_ScopingComments.pdf for the written comments received by the NEFMC during the Amendment 18 scoping process.

An appendix, attached to each of these reports, contains a review of measures enacted in other catch share fisheries to prevent excessive consolidation, protect fleet diversity, and minimize impacts to fishing communities.

2 Designing Accumulation Limits in the Northeast Multispecies Fishery

The following sections are intended to guide the design of a measure to limit accumulation of fishing privileges by describing the various components that would comprise a measure. For each component, an array of possible options and sub-options are provided. These choices should not be viewed as all-inclusive. There are undoubtedly many other ways to limit accumulation. It is hoped, however, that the options described will at least provide a foundation upon which a measure to limit accumulation can be developed.

The authority to define a specific measure to limit accumulation could be held and exercised by the NEFMC (with approval by NMFS) or it could be devolved by the Council upon individual sectors. Under the first approach, the measure selected by the NEFMC would likely be applied uniformly across all vessels participating in sectors. Under the second approach, each sector would be required to develop its own measure to limit accumulation. Once the measure was selected, it would be incorporated into the sector's operations plan. A sector would assess the results of the measure each year in its annual report submitted to NMFS and the NEFMC.

There are several basic approaches to preventing excessive accumulation of fishing privileges in the Northeast multispecies fishery. Limits may be placed on one or more of the following:

- 1) Number of limited access NE multispecies permits—along with associated Potential Sector Contributions (PSC)—that can be owned or controlled.
- 2) Amount of PSC of individual stocks that can be owned or controlled.
- 3) Amount of PSC in the aggregate that can be owned or controlled.
- 4) Amount of Annual Catch Entitlement (ACE) of individual stock that be used on any vessel.
- 5) Amount of ACE in the aggregate that can be used on any vessel.

The design of each of these approaches is discussed separately.

In addition, it is important to define the concept of “ownership and control” for two reasons: 1) corporations and partnerships may own permits, PSC, and vessels; and 2) the relationships between companies, and between their human (as opposed to corporate) owners may be complex. The following hypothetical example illustrates this potential complexity:

Assume that there is a proposed measure that states that no more than two permits (P) may be owned by a single owner. Also assume that P1 is owned by ABC Corp, P2 is owned by JK, Inc., and P3 is owned by XXX, LLC. On the surface it appears that no owner has more than one permit.

If it is discovered that ABC Corp is a wholly owned subsidiary of JK, Inc., then JK, Inc. owns two permits and is at the limit. This would only be the case if the rules established to enforce the accumulation limits applied not only to the “registered owner” of the permit, but also to the owners of any companies that were “registered owners” of permits.

If the measure limiting accumulation of permits and PSC applies to owners of companies, as well as to the “registered owner”, then it is reasonable to assume that the measure would apply not only to companies that own the registered owner, but all companies in an ownership chain, all the way down to the actual human beings that own the companies that own the permits and PSC.

If we assume that the proposed measure requires that the “registered owners” must annually submit a list of all owners of the permit/PSC including not only the registered owner, but also down to the level

of actual human beings, here are hypothetical lists submitted by the registered owners of the three permits described above.

Permit	Registered Owners	2nd Tier Owners	3rd Tier Owners
P1	ABC Corp	JK, Inc.	Person A & Person B
P2	JK, Inc.	Person A & Person B	None
P3	XXX, LLC	XYZ Co.	Person B

With the additional information it is clear that Person A is a part owner of two permits, and that Person B is a part owner of three permits. It may be reasonable for decision makers to determine that the accumulation limits apply to full or part ownership regardless of the ownership shares, and that Person B is over the limit, and Person A is at the limit.

Assume now that Person B's attorneys submit a comment that they will file a lawsuit on the grounds that while Person B does indeed own 100 percent of XYZ Co., he only owns 1 percent of JK, Inc., and that therefore he should not be considered to have a controlling interest in P1 or P2. They argue that Person B should be allowed to buy an additional permit.

The designers of the accumulation limits see the logic of the arguments and augment their measure with provisions that require registered owners to report actual owners down to the level of human beings, and to also report the equity share of each owner at all levels. They also determine that an ownership entity (i.e. any person or company that has an ownership interest in a permit) must have an equity share of 10 percent or more of a permit in order to have a controlling interest the permit. Finally, they change the wording of the proposed measure such that "no ownership entity may have a controlling interest in more than two permits."

Here are lists submitted by the registered owners of the three permits in the hypothetical situation described above.

Permit	Registered Owners	2nd Tier Owners	3rd Tier Owners
P1	ABC Corp (100%)	JK Inc (100%)	Person A (99%) & Person B (1%)
P2	JK Inc (100%)	Person A (99%) & Person B (1%)	None
P3	XXX LLC (100%)	XYZ Co (100%)	Person A (100%)

With this information it appears that Person A has a controlling interest in two permits and may not buy additional permits, and that Person B has a controlling interest in only one permit and is allowed to buy an additional permit.

Unfortunately, the example is not over. Person C, the registered owner of permit P4, submits a letter to the decision makers complaining that Person A has an unfair advantage over other unmarried and childless permit holders. It turns out that while Person B is an accomplished skipper and fisherman, he is also the 15-year-old son of Person A. Person C's complaint goes on to argue that at a minimum, all family members living in same household regardless of age should be considered part of a single ownership entity.

Another commenter then adds that Person C wasn't completely forthright either. In fact Person C is a former crewmember of Person A's and the money for the P4 was provided by Person A, through an unsecured loan. Also, according to the commenter, P1 – P4 are all controlled by Person D. In spite of the fact there are no family or other legal ties linking Person D with Person A, Person D helped establish Person A in the fishing business years ago, and still makes many of the business decisions on the day-to-day operations.

The bottom line is that while it may be possible to establish measures that in theory limit the ownership and control of permits and PSC, it is very difficult to truly limit the influence that one person has on another.

2.1.1 Defining Ownership and Control if Accumulation Limits are Applied to Human Owners

The above discussion suggests that an accumulation limit measure can be applied to either:

- 1) the first level of permit ownership i.e. the registered owner of the permit, using information that is already reported to NMFS, or
- 2) the individual human beings that are behind the companies, corporations, and partnerships that are currently reported as owners of permits in the Northeast multispecies fishery.

The following suite of components, options and sub-options can be used to define ownership and control if it is determined that the measure should apply to individual human beings. In the following, the word “person” means a human being and does not include “corporate” persons.

Component 1) How will ownership entities be defined?

Ownership entities include all persons, companies, corporations, partnerships who are shareholders in a corporation owning or leasing a permit; who are partners (general or limited) to a permit owner or permit lessee; or any other company or person who, in any way, wholly or in part, owns or leases a multispecies groundfish permit. Under this definition, lessors of permits are not considered ownership entities, unless the lessor has ownership interest in a company that leases a permit.

The following options define different ways that family and household relationships will be treated. The options do not go into other types of relationships, e.g. extended family relationships or employer/employee relationships.

Option A. All persons are considered to be separate ownership entities regardless of age, family or household relationships, or any other relationship, documented or otherwise.

Option B. Persons that are part of the same household, as defined by the US Census at <http://www.census.gov/cps/about/cpsdef.html>, are considered to be part of the same ownership entity.

Option C. Persons living in the same household that are legally married and all children of either spouse that are 17 years of age or less that are living in that household, are considered to be part of the same ownership entity. Other persons outside of the immediate family unit that are living in the household are considered separate ownership entities.

Component 2) How will persons or companies that own a small percentage of a company be treated?

Ownership entities that have an ownership interest that is equal to or exceeds the percentage specified in the options below must be reported to NMFS by the registered owner/lessee of each multispecies groundfish permit prior to the beginning of each fishing year.

Option A. Ownership entities must be reported if they have an ownership interest of one percent or more equity share in the permit, unless the ownership entity is not a person—in which case there is no minimum equity share below which reporting is not required.

Option B. Ownership entities must be reported if they have an ownership interest of five percent or more equity share in the permit, unless the ownership entity is not a person—in which case there is no minimum equity share below which reporting is not required.

Option C. Ownership entities must be reported if they have an ownership interest of 10 percent or more equity share in the permit, unless the ownership entity is not a person—in which case there is no minimum equity share below which reporting is not required.

Component 3) The treatment of Permit Banks with respect to ownership and control of permits.

Option A. Permit Banks that are officially recognized as such by NMFS-NERO, are exempt from restrictions on the ownership and control of permits and/or PSC resulting from those permits.

Option B. Permit Banks are treated no differently than any other permit owner.

Component 4) The treatment of lienholders with respect to control of permits.

Option A. The potential that lienholders may exert a controlling interest in a permit is recognized. Because of this, a Permit Lien Registration System will be implemented. All liens on permits and PSC must be reported by both the registered owner of the permit and the lienholder. If in the future, it is determined by NMFS or the NEFMC that lienholders that may be exerting significant amount of control in the multispecies fishery, then limits on the accumulation of liens on permits in the fishery may be implemented.

Option B. While it is recognized that lienholders may exert some control over ownership entities, no action with respect to liens and lienholders will be taken.

2.1.2 Approaches that Limit Accumulation of Permits

Accumulation Limit Approach 1:

Limit the number of permits that may controlled by an Ownership Entity.

In this approach, the number of permits that may be controlled by an owner is limited. Under this approach, owners are defined as either the “registered owner/lessee” of the permit or as “Ownership Entities” as defined in Section 3.3.2 above.

Component 1) The number of permits that may be controlled by an owner is limited as specified by the chosen option. Provisions for owners that controlled more than the limit prior to approval of this alternative are found in Components 4 and 5.

Option A. No more than five permits may be controlled by an owner.

Option B. No more than 10 permits may be controlled by an owner.

Option C. No more than 15 permits may be controlled by an owner.

Option D. No more than 25 permits may be controlled by an owner.

Component 2) Definition of control with respect to the permit accumulation limit.

Option A. The permit is deemed to be controlled by the registered owner/lessee of the permit. The lessor is not considered an owner with respect to this measure.

Option B. The permit is deemed to be controlled by all reported ownership entities associated with the permit. Ownership entities are defined in Section 3.3.2.

Option C. The permit is deemed to be controlled by the ownership entity that has the largest ownership interest in the permit. If more than one ownership entity has the “largest” ownership interest, then all are considered to control the permit.

Option D. The permit is deemed to be controlled by any ownership entity that has an ownership interest equal to or greater than the amount chosen from the sub-options below.

Sub-option a. 5 percent or more.

Sub-option b. 10 percent or more.

Sub-option c. 25 percent or more.

Sub-option d. 35 percent or more.

Component 3) NMFS responsibility with respect to permit accumulation limits.

NMFS must review all permit transfer requests. NMFS will disallow the transfer if the transferee will exceed the permit limit with the additional PSC. Prior to the beginning of the fishing year NMFS will send a notice to all owners with their determination of permit ownership and control. Owners may appeal the findings.

Option A. In addition to the above, NMFS must make available to the public prior to the beginning of each fishing year, a list of all permit owners and lessees, and the number of permits they control. (While this option may appear to be a violation of confidentiality restrictions, it is possible that the Secretary of Commerce can determine that the information should be made available to the public.)

Option B. NMFS need not publish a list of all owners and the number of permit they control.

Component 4) Grandfather Rights for owners in excess of the limit.

Option A. Owners that are in excess of the limit are not “grandfathered in” and must divest their ownership interests in the permits such that they no longer control permits in excess of the limit. Divestiture may be through the transfer of permits or through changes in ownership interests.

Sub-option a. Permits must be divested using a last-in, first-out methodology (i.e., the most recently acquired permit must be the first divested).

Sub-option b. Permits may be divested without regard to the date of acquisition.

Option B. Owners that were excess of the limit prior to the control date for this measure are “grandfathered in” and need not divest of permits acquired before the control date. Owners that acquired a controlling interest in one or more excess permit after the control date must divest permits. Divestiture may be through the transfer of permits or through changes in ownership interests.

Sub-option a. Specific permits acquired after the control date must be divested.

Sub-option b. Permits may be divested without regard to the date of acquisition.

Component 5) The Control Date for permit accumulation limits.

Option A. The Control Date of this measure is the April 7, 2011 control date as published by NMFS in the Federal Register on February 21, 2012.

Option B. The Control Date of this measure is an as yet unspecified date that may be chosen by the NEFMC during its deliberations regarding this alternative. The NEFMC must notify the public using standard protocols that they have set this control date.

Option C. The Control Date of this measure is the date the final rule is approved by the Secretary of Commerce.

Option D. No Control Date is necessary for this measure. (Choose this option if grandfather rights under Component 4 are not conferred.)

Component 6) How will compliance with the measure be monitored and enforced?

Option A. Each sector shall have the responsibility to ensure that the limit on the accumulation of permits is not exceeded by its members. Prior to the start of each fishing year, the sector shall submit a Pre-season Permit Limitation Plan to NMFS as part of its sector operations plan. The Permit Limitation Plan would document the number of permits that may be controlled by an owner in the sector (depending on the option chosen under Component 1). At the end of the fishing year, the sector shall submit a Final Permit Report (to be included as part of its annual report to NMFS and the Council) that documents the number of permits that were controlled by each owner in the sector.

Option B. The NMFS Regional Administrator would have the authority to issue sanctions against a sector if at the end of the fishing year the sector is in violation of the limit on the accumulation of permits.

2.1.3 Approaches that Limit Accumulation of PSC

The following two approaches place limits on amount of PSC that may be controlled by owners. Approach 2 limits the amount of PSC of individual stocks that may be controlled, while Approach 3 limits the amount of PSC over all stocks combined. It is conceivable that either or both approaches may be used to limit accumulation of PSC.

Accumulation Limit Approach 2:

Limit the amount of PSC of individual stocks that may controlled by Permit Owners.

Accumulation Limits will be applied to PSC individual stocks as specified in the options below.

Component 1) is a matrix that can be used with Components 1 – 3.

Option A. Limits are applied to all stocks individually.

Option B. Limits are applied to particular stocks as selected by the NEFMC and NMFS.

Table 1. Matrix for Assigning PSC Limits to Groundfish Stocks

Stock Name	PSC Limit Imposed (Yes/No)	PSC Limit (percent)
Georges Bank Cod East		
Georges Bank Cod		
Gulf of Maine Cod		
Georges Bank Haddock East		
Georges Bank Haddock		
Gulf of Maine Haddock		
Georges Bank Yellowtail Flounder		
Southern NE/Mass. Yellowtail Flounder		
Cape Cod/Gulf of Maine Yellowtail Flounder		
Plaice		
Witch Flounder		
Georges Bank Winter Flounder		

Designing Measures to Limit Accumulation of Fishing Privileges in the Northeast Multispecies Fishery

Stock Name	PSC Limit Imposed (Yes/No)	PSC Limit (percent)
Gulf of Maine Winter Flounder		
Southern NE Winter Flounder		
Redfish		
White Hake		
Pollock		

Component 2) Shall the PSC accumulation limit be set the same for all included stocks?

Option A. The PSC accumulation limit is set at the same level for all included stocks.

Option B. The PSC accumulation limit may vary across individual stocks.

Component 3) What is the size of the PSC ownership limit? Provisions for “grandfather rights” are found in Components 7 and 8.

Option A. 0.5 percent of the PSC issued.

Option B. 1.0 percent of the PSC issued.

Option C. 2.5 percent of the PSC issued.

Option D. 5.0 percent of the PSC issued.

Option E. 10.0 percent of the PSC issued.

Component 4) Definition of control with respect to PSC accumulation limits.

Under this component it is presumed that PSC are additive across permits.

Option A. PSC are deemed to be controlled by the registered owner of the permit.

Option B. PSC are deemed to be controlled by all ownership entities (as defined in Section 3.3.2 above) associated with the permit.

Option C. PSC are deemed to be controlled by the ownership entity that has the largest ownership interest in the permit. If two or more ownership entities have the “largest” ownership interest, then all are considered to control the permit.

Option D. The permit is deemed to be controlled by any ownership entity that has an ownership interest equal to or greater than the amount chosen from the sub-options below.

Sub-option a. 5 percent or more.

Sub-option b. 10 percent or more.

Sub-option c. 25 percent or more.

Sub-option d. 35 percent or more.

Component 5) What constraints does the PSC limit impose?

Option A. Owners that meet or exceed the PSC limit for a particular stock may not acquire control of any additional PSC for **that stock**.

Option B. Owners that meet or exceed the PSC limit for a particular stock may not acquire control of any additional PSC for **any stock**.

Component 6) NMFS responsibility with respect to PSC accumulation limits.

NMFS must review all permit and PSC transfer requests. NMFS will disallow the transfer if the transferee will exceed a PSC limit with the additional PSC. Prior to the beginning of the fishing

year, NMFS will send a notice to all owners with NMFS determination of permit and PSC ownership and control. Owners may appeal the findings.

Option A. In addition to the above, NMFS must make available to the public, a list of all owners and the PSC percentage for each stock they control, prior to the beginning of each fishing year. (While this option may appear to be a violation of confidentiality restrictions, it is possible that the Secretary of Commerce can determine that the information should be made available to the public.)

Option B. NMFS need not publish a list of all owners and the PSC percentage for each stock they control.

Component 7) Grandfather Rights for owners in excess of the limit.

Option A. Owners that are in excess of the limit are not grandfathered in and must divest their ownership interests in permits such that they no longer control PSC in excess of the limit. Divestiture may be through the transfer of permits or through changes in ownership interests below levels of control as defined in Component 4.

Sub-option a. Excess PSC and associated permits must be divested using a last-in, first-out methodology (i.e., the most recently acquired permit must be the first divested).

Sub-option b. Excess PSC and associated permits may be divested without regard to the date of acquisition.

Option B. Owners that were excess of the PSC limit prior to the control date for this measure are "grandfathered in" and need not divest of PSC associated with permits acquired before the control date. Owners that acquired a controlling interest in an excess amount of PSC after the control date must divest PSC and associated permits. Divestiture may be through the transfer of permits or through reductions in ownership interests below levels of control as defined in Component 4.

Sub-option a. Excess PSC and associated permits acquired after the control date must be divested using a last-in, first-out methodology (i.e., the most recently acquired permit must be the first divested).

Sub-option b. Excess PSC and associated permits after the control date may be divested without regard to the date of acquisition.

Component 8) The Control Date for PSC accumulation limits.

Option A. The Control Date of this measure is the April 7, 2011 control date as published by NMFS in the Federal Register on February 21, 2012.

Option B. The Control Date of this measure is an as yet unspecified date that may be chosen by the NEFMC during its deliberations regarding this alternative. The NEFMC must notify the public using standard protocols that they have set this control date.

Option C. The Control Date of this measure is the date the final rule is approved by the Secretary of Commerce.

Option D. No Control Date is necessary for this measure. (Choose this option if grandfather rights under Component 7 are not conferred.)

Component 9) How will compliance with the measure be monitored and enforced?

Option A. Each sector shall have the responsibility to ensure that the limit on the amount of PSC that may be controlled by permit owners is not exceeded by its members. Prior to the start of

each fishing year, the sector shall submit a Pre-season PSC Limitation Plan to NMFS as part of its sector operations plan. The PSC Limitation Plan would document the amount of PSC that may be controlled by permit owners (depending on the option chosen under Component 3). At the end of the fishing year, the sector shall submit a Final PSC Limitation Report (to be included as part of its annual report to NMFS and the Council) that documents the amount of PSC that was controlled by permit owners in the sector.

Option B. The NMFS Regional Administrator would have the authority to issue sanctions against a sector if at the end of the fishing year the sector is in violation of the limit on the amount of PSC that may be controlled by permit owners.

Accumulation Limit Approach 3:

Limit the aggregate amount of PSC over all stocks that may controlled by Permit Owners.

Component 1) Accumulation Limits will be applied to all PSC in aggregate, and all PSC will be assigned a weighting that will determine each owner's Aggregate PSC Percentage.

Option A. For purposes of the PSC accumulation limits, all stocks will be weighted equally. Since there are 17 stocks, the "PSC Denominator" will be set equal to 1,700. The sum of PSC controlled by the owner over all stocks divided by the PSC Denominator and multiplied by 100 shall be defined as the owner's Aggregate PSC Percentage.

Option B. For purposes of the PSC accumulation limits, PSC of all stocks will be weighted in terms of the aggregate value of the Annual Catch Limits (ACL) during Fishing Year (FY) 2010, assuming that 100% of each stock was harvested at the average ex-vessel price from that year. The PSC Denominator will be set equal to the sum over all stocks of the FY 2010 ACL of each stock multiplied by the average FY 2010 ex-vessel price for that stock. Similarly, the PSC of each stock controlled by an owner will be multiplied by the FY 2010 ACL and the FY 2010 ex-vessel price for that stock and summed over all stocks. This amount divided by the PSC Denominator and multiplied by 100 shall be defined as the owner's Aggregate PSC Percentage.

Option C. For purposes of the PSC accumulation limits, PSC of all stocks will be weighted in terms of the total value of the ACL during the previous year, assuming that 100 percent of each stock was harvested at the average ex-vessel price from that year. The PSC Denominator will be set equal to the sum over all stocks of the previous year's ACL of each stock multiplied by the previous year's average ex-vessel price for that stock. Similarly, the PSC of each stock controlled by an owner will be multiplied by the previous year's ACL and the previous year's ex-vessel price for that stock and summed over all stocks. This amount divided by the PSC Denominator and multiplied by 100 shall be defined as the owner's Aggregate PSC Percentage.

Option D. For purposes of the PSC accumulation limits, PSC of all stocks will be weighted in terms of the estimated total value of the ACL in the current fishing year, assuming that 100 percent of each stock will be harvested at the average ex-vessel price from the previous year. The calculation of the Aggregate PSC Percentage will be the same as in Option C, except that the ACLs for the current year will be used.

Notes: Options A and B above lead to accumulation limits with a fixed PSC Denominator that will not change over time. Under Options C and D, the PSC Denominator will change over time in response to changes in the fishery. If the PSC Denominator is variable, then it is possible an owner will find themselves in excess of the PSC Accumulation Limit through no action of their own. If, for example, the PSC Denominator uses the current ACL with the previous year's prices,

and the ACL of a particular stock increases significantly, then owners that had in previous years purchased PSC up to the limit would find themselves owning an amount in excess of the limit. Conversely, an argument can be made that the PSC Denominator should reflect current conditions in the fishery.

Component 2) What is the size of the PSC ownership limit?

- Option A.* 0.5 percent of the PSC Denominator.
- Option B.* 1.0 percent of the PSC Denominator.
- Option C.* 2.5 percent of the PSC Denominator.
- Option D.* 5.0 percent of the PSC Denominator.
- Option E.* 10.0 percent of the PSC Denominator.

Component 3) Definition of Control with respect to PSC accumulation limits.

- Option A.* PSC are deemed to be controlled by the registered owner of the permit.
- Option B.* PSC are deemed to be controlled by all ownership entities (as defined in Section 3.3.2) associated with the permit.
- Option C.* PSC are deemed to be controlled by the ownership entity that has the largest ownership interest in the permit. If two or more ownership entities have the “largest” ownership interest, then all are considered to control the permit.
- Option D.* PSC are deemed to be controlled by any ownership entity that has an ownership interest in the permit equal to or greater than the amount chosen from the sub-options below.
 - Sub-option a. 5 percent or more.
 - Sub-option b. 10 percent or more.
 - Sub-option c. 25 percent or more.
 - Sub-option d. 35 percent or more.

Component 4) NMFS responsibility with respect to aggregate PSC accumulation limits.

NMFS must review all permit and PSC transfer requests. NMFS will disallow the transfer if the transferee will exceed the aggregate PSC limit with the additional PSC. Prior to the beginning of the fishing year NMFS will send a notice to all owners with NMFS determination of permit and PSC ownership and control. Owners may appeal the findings.

- Option A.* In addition to the above, NMFS must make available to the public a list of all owners and the aggregate PSC percentage they control, prior to the beginning of each fishing year. (While this option may appear to be a violation of confidentiality restrictions, it is possible that the Secretary of Commerce can determine that the information should be made available to the public.)
- Option B.* NMFS need not publish a list of all owners and their aggregate PSC percentages.

Component 5) Grandfather Rights for owners in excess of the limit.

- Option A.* Owners that are in excess of the limit are not grandfathered in and must divest their ownership interests in permits such that they no longer control PSC in excess of the limit. Divestiture may be through the transfer of permits or through changes in ownership interests below levels of control as defined in Component 3.

Sub-option a. Excess PSC and associated permits must be divested using a last-in, first-out methodology (i.e., the most recently acquired permit must be the first divested).

Sub-option b. Excess PSC and associated permits may be divested without regard to the date of acquisition.

Option B. Owners that were in excess of the PSC limit prior to the control date for this measure are “grandfathered in” and need not divest of PSC associated with permits acquired before the control date. Owners that acquired a controlling interest in an excess amount of PSC after the control date must divest PSC and associated permits. Divestiture may be through the transfer of permits or through reductions in ownership interests below levels of control as defined in Component 3.

Sub-option a. Excess PSC and associated permits acquired after the control date must be divested using a last-in, first-out methodology (i.e., the most recently acquired permit must be the first divested).

Sub-option b. Excess PSC and associated permits after the control date may be divested without regard to the date of acquisition.

Component 6) The Control Date for permit accumulation limits.

Option A. The Control Date of this measure is the April 7, 2011 control date as published by NMFS in the Federal Register on February 21, 2012.

Option B. The Control Date of this measure is an as yet unspecified date that may be chosen by the NEFMC during its deliberations regarding this alternative. The NEFMC must notify the public using standard protocols that they have set this control date.

Option C. The Control Date of this measure is the date the final rule is approved by the Secretary of Commerce.

Option D. No Control Date is necessary for this measure. (Choose this option if grandfather rights under Component 5 are not conferred.)

Component 7) How will compliance with the measure be monitored and enforced?

Option A. Each sector shall have the responsibility to ensure that the limit on the amount of PSC that may be controlled by permit owners is not exceeded by its members. Prior to the start of each fishing year, the sector shall submit a Pre-season PSC Limitation Plan to NMFS as part of its sector operations plan. The PSC Limitation Plan would document the amount of PSC that may be controlled by permit owners (depending on the option chosen under Component 2). At the end of the fishing year, the sector shall submit a Final PSC Limitation Report (to be included as part of its annual report to NMFS and the Council) that documents the amount of PSC that was controlled by permit owners in the sector.

Option B. The NMFS Regional Administrator would have the authority to issue sanctions against a sector if at the end of the fishing year the sector is in violation of the limit on the amount of PSC that may be controlled by permit owners.

2.1.4 Approaches that Limit the Use of ACE on Vessels

The following two approaches place limits on the amount of ACE that may be used on any vessel. Approach 4 limits the amount of ACE of individual stocks that may be used, while Approach 5 limits the amount of ACE over all stocks combined. It is conceivable that either or both may be used to limit

the use of ACE. Under both approaches it is assumed that the “use of ACE” means groundfish caught (whether retained or discarded) by a vessel using a multispecies groundfish permit within a Sector.

**Accumulation Limit Approach 4:
Limit the amount of ACE of individual stocks that may used on a vessel**

Component 1) Limits will be applied to the use of ACE of individual stocks as specified in the options below. Table 2 is a matrix that can be used with Components 1 – 3.

Option A. All stocks individually.

Option B. Stocks as selected by the NEFMC and NMFS.

Table 2. Matrix for Assigning PSC Limits to Groundfish Stocks

Stock Name	ACE Use Limit Imposed (Yes/No)	ACE Limit (percent)
Georges Bank Cod East		
Georges Bank Cod		
Gulf of Maine Cod		
Georges Bank Haddock East		
Georges Bank Haddock		
Gulf of Maine Haddock		
Georges Bank Yellowtail Flounder		
Southern NE/Mass. Yellowtail Flounder		
Cape Cod/Gulf of Maine Yellowtail Flounder		
Plaice		
Witch Flounder		
Georges Bank Winter Flounder		
Gulf of Maine Winter Flounder		
Southern NE Winter Flounder		
Redfish		
White Hake		
Pollock		

Component 2) Shall the ACE use limit be set the same for all included stocks?

Option A. The ACE use limit is set at the same level for all included stocks.

Option B. The ACE use limit may vary across individual stocks.

Component 3) What is the size of the ACE use limit?

Option A. 0.5 percent of the ACE issued to sectors.

Option B. 1.0 percent of the ACE issued to sectors.

Option C. 2.5 percent of the ACE issued to sectors.

Option D. 5.0 percent of the ACE issued to sectors.

Option E. 10.0 percent of the ACE issued to sectors.

Component 4) What constraints do the ACE use limits impose?

Option A. Any vessel that uses the ACE limit for a particular stock may not catch any additional amounts of that stock. One or both of the sub-options must also be selected.

Sub-option a. The vessel is not precluded from taking additional trips but may not fish:

- 1) in any area if use limits for plaice, witch flounder, redfish, white hake, or pollock have been reached.
- 2) in GOM East if a use limit for a GOM East stock has been reached.
- 3) in the GOM if a use limit for a GOM stock has been reached.
- 4) in the GB if a use limit for GB stock has been reached.
- 5) in the Cape Cod/GOM areas if the use limit for Cape Cod/GOM yellowtail flounder has been reached.
- 6) in the SNE/MA area if the use limit for SNE/MA yellowtail flounder has been reached.
- 7) in the SNE if the use limit for SNE winter flounder has been reached.

Sub-option b. If the vessel chooses to take additional trips under the groundfish permit, it must carry an observer, an at-sea monitor or use an electronic monitoring system certified by NMFS for use in "an ACE use limit attainment" situation.

Option B. Any vessel that uses the ACE limit for a particular stock may not take any additional trips under a multispecies groundfish permit.

Option C. Any vessel that uses the ACE limit for a particular stock may continue to fish, and must retain and land all catches of the limited stock. The ex-vessel value of the landings of this stock above the limit must be donated to a NMFS certified permit bank. Donated value will be calculated at the average ex-vessel price for that stock for the year. The vessel must also carry an observer, an at-sea monitor or use an electronic monitoring system certified by NMFS for use in "an ACE use limit attainment" situation.

Component 5) Grandfather Rights for ACE Use Limits

Option A. A vessel whose catch history of a stock during Amendment 16 "catch history years" exceeds the use limit for the stock relative to the total catch history of the stock during Amendment 16 "catch history years" has grandfather rights. The vessel may use up to its "earned catch history percentage" for the stock, but once that level is used it must follow the use limit constraints from Component 4.

Option B. A vessel that has used ACE for a particular stock in excess of the use limit during the fishing year prior to the control date has grandfather rights. The vessel may use ACE up to its highest use percentage in previous years or the use limit, whichever is higher. Once that "grandfathered in" level is used, the vessel must follow the use limit constraints from Component 4.

Sub-option a. The Control Date for use limits is the date chosen by the NEFMC during its deliberations regarding this alternative. The NEFMC must notify the public using standard protocols that they have set this control date.

Sub-option b. The Control Date of this measure is the date the final rule regarding ACE use limits is approved by the Secretary of Commerce.

Option C. No grandfather rights will be conferred with respect to ACE use limits.

Component 6) Ability of the RD to adjust ACE use limits.

Option A. The ACE use limits will be applied to all stocks during the entire FY. The RD may not make adjustments to the ACE use limits.

Option B. ACE use limits may be temporarily waived for a particular stock at the discretion of the NMFS Regional Administrator after the ninth month of the FY, if the Regional Administrator determines that the ACL of the stock (or of other stocks³) will not be harvested.

Option C. ACE use limits may be temporarily waived for a particular stock at the discretion of the Regional Administrator after the sixth month of the FY, if the Regional Administrator determines that the ACL of the stock (or of other stocks³) will not be harvested.

Option D. ACE use limits may be temporarily waived for a particular stock at the discretion of the Regional Administrator at the beginning of the FY, if the Regional Administrator determines that the ACL of the stock (or of other stocks³) will not be harvested.

Component 7) How will compliance with the measure be monitored and enforced?

Option A. Each sector shall have the responsibility to ensure that the limit on the amount of ACE that may be used on a vessel is not exceeded by its members. Prior to the start of each fishing year, the sector shall submit a Pre-season ACE Limitation Plan to NMFS as part of its sector operations plan. The ACE Limitation Plan would document the amount of ACE that may be used on a vessel in the sector (depending on the option chosen under Component 3). At the end of the fishing year, the sector shall submit a Final ACE Limitation Report (to be included as part of its annual report to NMFS and the Council) that documents the amount of ACE that was used by each vessel in the sector

Option B. The NMFS Regional Administrator would have the authority to issue sanctions against a sector if at the end of the fishing year the sector is in violation of the limit on the amount of ACE that may be used on a vessel

Accumulation Limit Approach 5:

Limit the amount of overall amount of ACE that may be used on a vessel

Component 1) Limits will be applied to use of ACE in the aggregate on a vessel for each fishing year. ACE of each stock will be assigned a weighting that will determine the overall amount of ACE that can be used.

Option A. For purposes of ACE use limits, all stocks will be weighted equally. The "ACE Use Denominator" will be set equal to the total ACL available to sectors over all stocks. The sum of ACE over all stocks used on a vessel divided by ACE Use Denominator and multiplied by 100 shall be defined as the vessel's Aggregate ACE Use Percentage.

Option B. For purposes of ACE use limits, all stocks will be weighted in terms of the estimated aggregate value of the Sector ACL in the current year. The ACE Use Denominator will be set equal to the sum over all stocks of the current year Sector ACL of each stock multiplied by the average ex-vessel price for that stock from the previous year. Similarly, the ACE of each stock used by a vessel will be multiplied by the average ex-vessel price for that stock from the previous year and summed over all stocks. This amount divided by the ACE Use Denominator and multiplied by 100 shall be defined as the vessel's Aggregate ACE Use Percentage.

Component 2) What is the size of the Aggregate ACE Use Limit?

Option A. 0.5 percent of the ACE Use Denominator.

³ The clause "or of other stocks" has been added, because it is theoretically possible that the Vessel Size designations and use limitations on Stock A may adversely affect harvests of Stock B, particularly if Stock A is an unavoidable incidental catch species in the fishery for Stock B.

Option B. 1.0 percent of the ACE Use Denominator.

Option C. 2.5 percent of the ACE Use Denominator.

Option D. 5.0 percent of the ACE Use Denominator.

Option E. 10.0 percent of the ACE Use Denominator.

Component 3) What constraint does the Aggregate ACE Use Limit impose?

Option A. Any vessel that reaches the Aggregate ACE Use Limit may not take any additional trips under a multispecies groundfish permit.

Component 4) Grandfather Rights for Aggregate ACE Use Limits

Option A. A vessel that during any fishing year (from 2009 forward to the control date) used ACE in excess of what would have been the Aggregate ACE Use Limit for that year has grandfather rights. The vessel may use ACE up to its highest Aggregate ACE Use Percentage in previous years or the Aggregate ACE Use Limit, whichever is higher. Once that "grandfathered in" level is used, the vessel must comply with the constraint in Component 3.

Sub-option a. The Control Date for use limits is the date chosen by the NEFMC during its deliberations regarding this alternative. The NEFMC must notify the public using standard protocols that they have set this control date.

Sub-option b. The Control Date of this measure is the date the final rule regarding ACE use limits is approved by the Secretary of Commerce.

Option B. No grandfather rights will be conferred with respect to Aggregate ACE Use Limits.

Component 5) Ability of the RD to adjust Aggregate ACE use limits.

Option A. The Aggregate ACE use limit will be applied for the entire FY. The RD may not make adjustments to the Aggregate ACE use limits.

Option B. The Aggregate ACE use limit may be temporarily waived at the discretion of the NMFS Regional Administrator after the ninth month of the FY, if the Regional Administrator determines that the Aggregate ACE use limit will adversely affect harvest of ACLs of particular stocks.

Sub-option a. The RD may waive the Aggregate ACE use limits only if stock level ACE use limits remain in effect.

Sub-option b. The RD may waive the Aggregate ACE use limits without regard to stock-level ACE use limits.

Option C. The Aggregate ACE use limit may be temporarily waived at the discretion of the NMFS Regional Administrator after the sixth month of the FY, if the Regional Administrator determines that the Aggregate ACE use limit will adversely affect harvest of ACLs of particular stocks.

Sub-option a. The RD may waive the Aggregate ACE use limits only if stock level ACE use limits remain in effect.

Sub-option b. The RD may waive the Aggregate ACE use limits without regard to stock-level ACE use limits.

Option D. The Aggregate ACE use limit may be temporarily waived at the discretion of the NMFS Regional Administrator at the beginning of the FY, if the Regional Administrator determines that the Aggregate ACE use limit will adversely affect harvest of ACLs of particular stocks.

Sub-option a. The RD may waive the Aggregate ACE use limits only if stock level ACE use limits remain in effect.

Sub-option b. The RD may waive the Aggregate ACE use limits without regard to stock-level ACE use limits.

Component 6) How will compliance with the measure be monitored and enforced?

Option A. Each sector shall have the responsibility to ensure that the limit on the amount of ACE that may be used on a vessel is not exceeded by its members. Prior to the start of each fishing year, the sector shall submit a Pre-season ACE Limitation Plan to NMFS as part of its sector operations plan. The ACE Limitation Plan would document the amount of ACE that may be used on a vessel in the sector (depending on the option chosen under Component 2). At the end of the fishing year, the sector shall submit a Final ACE Limitation Report (to be included as part of its annual report to NMFS and the Council) that documents the amount of ACE that was used by each vessel in the sector.

Option B. The NMFS Regional Administrator would have the authority to issue sanctions against a sector if at the end of the fishing year the sector is in violation of the limit on the amount of ACE that may be used on a vessel. As under Option A, each sector shall have the responsibility to ensure that the vessel limit is not exceeded by its members. However, no plans or reports will be required to be submitted to NMFS. Each sector would have the authority to issue sanctions against a member who is in violation of the ACE limitation measure.

Appendix: Measures Used in Other Catch Share Programs to Prevent Excessive Consolidation, Protect Fleet Diversity, and Minimize Community Impacts

This appendix summarizes management measures that have been implemented in other catch share programs to prevent excessive consolidation of fishing privileges, maintain diversity of the fishing fleet, and minimize adverse impacts to fishing communities. There is clearly some degree of overlap and interdependence among these three issues and the measures proposed to address them. For example, accumulation limits have been considered the “go to” mechanism to address all three issues (Bradley 2011). However, it is instructive to categorize past measures according to the issue that appears to be the one that they were primarily designed to address.⁴ In this summary, therefore, measures will be differentiated as follows:

Consolidation Measures: Measures, such as accumulation limits or consolidation caps, that prohibit any individual or entity from acquiring excessive access to a fishery by placing an upper limit on the amount of quota or permits any one individual or entity may possess or use.

Fleet Diversity Measures: Measures that maintain a diverse fishery, including different gear types, vessel sizes, and levels of participation, by allocating quota or restricting the transfer of quota among vessels of different sizes and types, preserving the owner-operator nature of the fishery, limiting and discouraging corporate ownership of the fishery, or facilitating new entry to the fishery.

Community Protection Measures: Measures that protect the economic viability of fishing communities and the infrastructure they provide by maintaining a balance in the geographic distribution of harvests and landings in a fishery.

The catch share programs discussed in this chapter were chosen because they best demonstrate the wide array of measures that have been used to address the above issues. While the emphasis is on programs implemented in fisheries occurring in the U.S. exclusive economic zone (EEZ), Iceland’s Individual Transferable Quota (ITQ) system is also included because of its unique set of relevant measures.

Gulf of Alaska Pacific Halibut and Sablefish Longline Fisheries Individual Fishing Quota Program

The ITQ program for the Pacific halibut and sablefish longline fisheries off Alaska was implemented in 1995. The halibut and sablefish fisheries have historically supported a large number of small vessels (Fina 2011; NMFS 2009a), including catcher vessels that deliver their catch shoreside for processing and freezer vessels that process fish onboard as well as catch fish.

Under this catch share program and the other catch share programs discussed in this chapter, harvesting quota shares (QS) were created in the relevant fisheries and issued to harvesters. QS are a revocable privilege that allow the holder to harvest a specific percentage of the annual total allowable

⁴ Preventing excessive consolidation, maintaining fleet diversity, and minimizing adverse economic impacts to fishing communities are among the stated management goals and objectives of many catch share programs in U.S. fisheries (the first and third goals comply with national standards 4 and 8 of the Magnuson-Stevens Act, respectively—these two national standards and the eight others guide promulgation of all federal fishery management plans). However, these management goals and objectives are not always explicitly linked to specific management measures implemented in a given catch share program.

catch (TAC) in an ITQ fishery. Each year the percentage of catch represented by the QS is converted into poundage. These annual allocations are referred to by various terms, depending on the particular catch share program.⁵ For simplicity the following discussion will consistently refer to annual allocations as quota pounds (QP). The size of each annual QP allocation is based on the amount of QS held in relation to the QS pool in the ITQ fishery—a person holding one percent of the QS pool receives QP to harvest one percent of the annual TAC in the ITQ fishery.

Consolidation Measures

No single individual may own more than specified percentages the total existing QS nor may a single vessel harvest more than specified percentages of the QP. The caps vary by management area and species shown in the table below. In general, the sale of QP is prohibited without the underlying QS, although there are exceptions: for example, freezer vessel QP may be sold, subject to ownership cap restrictions.

Species	Southeast Alaska		Gulf of Alaska		Bering Sea & Aleutians		All Management Areas Combined	
	QS Cap	QP Cap	QS Cap	QP Cap	QS Cap	QP Cap	QS Cap	QP Cap
Halibut	1.0%	1.0%	0.5%	NA	1.5%	NA	NA	0.5%
Sablefish	1.0%	1.0%	NA	NA	NA	NA	1.0%	1.0%

Note: NA means there is no applicable cap for that area.

In addition, to ensure that the program does not substantially reduce the number of entities with an interest in the halibut and sablefish fisheries, any initial allocation of QS that would have entitled the owner to less than 20,000 lbs of harvests under the 1994 TAC is considered a “block.” Any block must be transferred as a whole and cannot be consolidated with any other block for purpose of transfers. To prevent the consolidation of blocked QS and to ensure that smaller aggregate units would be available on the market, the ownership of more than two blocks, or more than one block and any amount of unblocked QS in any regulatory area, is prohibited.⁶

Fleet Diversity Measures

To maintain the distribution of the TAC among the vessel size classes and prevent QP issued to small vessels from being bought out by larger vessels, vessel classes were created for each fishery, and QP can be fished only by vessels of the same class as the vessel to which the QP was initially issued. For sablefish, three vessel classes were created based on vessel size and type: freezer vessels, catcher vessels less than 60 feet in length, and catcher vessels greater than 60 feet in length. Four vessel classes were created for halibut: freezer vessels, catcher vessels less than 35 feet in length, catcher vessels between 35 and 60 feet in length, and catcher vessels greater than 60 feet in length. An amendment to the program allowed most catcher vessel QP to be fished by catcher vessels of a smaller class.

⁵ Quota pounds is the term used in the Pacific Groundfish Trawl Rationalization Program. ITQ programs implemented in federally managed fisheries off Alaska refer to the annual allocation as individual fishing quota, while the ITQ system for Icelandic fisheries uses the term catch share.

⁶ The block requirement created a variety of block sizes that were available for transfer, including small blocks of QS that could be purchased at a relatively low cost by crew members and new entrants. As the experience of these fishermen increased and the size of their fishing operations grew, larger amounts of QS were needed to accommodate this growth. One method to accommodate this growth was a “sweep-up” provision, which allows very small blocks of QS to be permanently consolidated.

To limit and discourage corporate ownership of the fisheries, corporations or partnerships that did not receive initial QS allocations can only purchase QS that are designated as freezer vessel QS. QS designated as catcher vessel QS can be owned by a corporation or partnership only if the corporation or partnership was the original QS recipient. An amendment to the program required a corporation or partnership to own at least a 20 percent interest in any vessel that fishes its QP.

To preserve the owner-operator nature of the fishery, only catcher vessel QS holders who received an initial allocation are permitted to hire skippers to fish their QP. All other catcher vessel QS holders are required to be onboard the vessel fishing their QP. The owner-operator requirements do not apply to freezer vessel QS, which can be fished by hired skippers.

Eligibility to purchase catcher vessel QS is restricted to initial recipients of QS and bona fide crew members. Bona fide crew members are defined by regulations as those individuals who have been directly active in the harvest of fish in a U.S. commercial fishery for at least 150 days. With this provision, crew members who might otherwise lose their jobs can establish themselves in the fishery, and because the owner of the QS is required to be onboard when the QP are fished, these crew members can guarantee themselves a position.

The North Pacific Loan Program, managed by the Fisheries Finance Program of NMFS and authorized under the Magnuson-Stevens Act, assists individual fishermen in financing the purchase of QS. The Program may finance up to 80 percent of the cost of purchasing QS by an entry-level fisherman or a fisherman who fishes from a small vessel.

Community Protection Measures

In the initial allocation of QS, all QS were allocated to the regulatory area from which the qualifying harvest was taken. To maintain the distribution of effort across the range of the halibut and sablefish fisheries, QP resulting from QS issued for one regulatory area cannot be used in other regulatory areas.

The Individual Fishing Quota (IFQ) Community Quota Program authorizes eligible communities to establish non-profit entities (referred to as Community quota entities [CQEs]) to purchase halibut and sablefish QS on the open market. Eligible communities have to apply to NMFS in order to be recognized as a CQE. To be eligible, communities must consist of fewer than 1,500 people, be located on the Gulf of Alaska, and have a history of fishing in the halibut or sablefish fishery. Multiple communities may be represented by one CQE, but one community may not be represented by more than one CQE. CQEs must provide proof of support from the community that it is seeking to represent. Each year, a CQE may transfer its QP to one or more permanent residents of the eligible community on whose behalf the QS are held. Each eligible community as represented by a CQE is subject to the same use limitations on QS and QP currently established for any QS holder, including accumulation limits. In addition, communities represented by CQEs cumulatively are limited to holding a maximum of three percent of the total halibut QS and three percent of the total sablefish QS in each regulatory area in the first year after implementation of this program. In each subsequent year, the percentage is increased by an additional 3 percent until, after seven years, a maximum of 21 percent of the total halibut QS, and 21 percent of the total sablefish QS could be held in each regulatory area in which CQEs are eligible to hold QS. Additional limits exist on the amount of halibut and sablefish QS blocks that can be held by a CQE. Further, the amount of QP that may be transferred annually to an eligible community resident is limited in order to ensure a broad distribution of QP among community residents and limit the amount of QP that may be transferred to those residents who already hold QS or acquire QP from another source.

Shortly after the implementation of the program, the Alaska State Legislature approved a loan program through the Commercial Fishing Revolving Loan Fund to help finance the purchase of QS by CQEs.⁷

Bering Sea and Aleutian Islands Crab Rationalization Program

The catch share program for the nine major Bering Sea and Aleutian Islands crab fisheries was implemented in 2005 (Fina 2011; NMFS 2009b). In addition to creating harvesting QS, the program created processing quota shares (PQS), which are allocated to shorebased processors and are analogous to the QS allocated to harvesters. Annual allocations to processors are referred to as individual processing quota (IPQ).

In each program fishery, crab harvested using 90 percent of the QP allocated to catcher vessels must be delivered to a shorebased processor holding unused IPQ. Crab harvested using the remaining 10 percent of the QP can be delivered to any processor regardless of whether the processor holds unused IPQ. The program allows harvesters to form voluntary fishery cooperatives associated with one or more processors holding PQS. Cooperatives receive the annual QP allocated to their members.

Consolidation Measures

Separate caps are imposed on the ownership of QS by any person and the use of QP on any vessel. "Individual use caps" limit the holdings of QS by any person. Different caps apply across the nine program fisheries because of different fleet characteristics and differences in historic dependency of participants on the different fisheries. In addition, different caps apply across types of QS.⁸ All of a person's direct QS holdings are credited toward the cap. Moreover, a person's indirect QS holdings are also credited toward the cap in proportion to the person's ownership interest. For example, if a person owns a 20 percent interest in a company that holds 100 shares, that person is credited with holding 20 shares for purposes of determining compliance with the cap. A grandfather provision exempted persons who received an initial allocation of QS in excess of the cap.

"Vessel use caps" limit the amount of QP that may be harvested by a single vessel. QS holders can choose to harvest their QP individually, or as part of a fishery cooperative. Vessel use caps do not apply to cooperatives, thereby providing an incentive for cooperative participation. Further, the sale of owner QP (see footnote 8) is prohibited, except by cooperatives, after the first five years of the program.

Processors may not hold more than 30 percent of the total PQS for each program fishery. An exception to these caps is custom processing in certain fisheries and regions.

⁷ The Division of Investments of the Alaska Department of Commerce, Community and Economic Development (ADCCED) provides loan applications and assistance in understanding the application requirements to obtain financing for halibut and sablefish QS. The ADCCED Division of Banking, Securities, and Corporations assists communities in setting up a non-profit corporation. The ADCCED Division of Community Advocacy assists communities regarding sample by-laws and provides a non-profit corporation handbook with ideas regarding how to setup a non-profit corporation.

⁸ Approximately 97 percent of the QS (referred to as "owner QS") in each program fishery were allocated to limited access license holders based on their catch histories in the program fisheries. The remaining 3 percent of the QS (referred to as "crew/captain QS") were allocated to captains.

Fleet Diversity Measures

The Fisheries Finance Program of NMFS can finance up to 80 percent of the cost of purchasing QS by captains or crew members of crab fishing vessels. To ensure that the harvest sector does not evolve into a fishery owned by persons with no fishing background, a person or entity is required to have at least 150 days of sea time in U.S. commercial fisheries in a harvest capacity to be eligible to purchase QS or QP.

Community Protection Measures

To provide a period of general stability for processors and communities to adjust to the program, a two-year “cooling off period” was established during which IPQ could not be relocated from the community where the historical processing occurred that led to the allocation (the community of origin).⁹ Moreover, to continue to maintain the historic regional distribution of landings, harvest and processing shares are regionally designated under the program based on the historic location of the landings and processing that gave rise to the allocation. Delivery-restricted QP must be delivered to a processor in the designated region.¹⁰ In most of the nine program fisheries, regionalized shares are either North or South, with North shares designated for delivery in areas on the Bering Sea north of 56° 20' north latitude and South shares designated for any other areas, including Kodiak and other areas on the Gulf of Alaska. In the Western Aleutian Islands (Adak) golden king crab fishery, the designation is based on an east/west line to accommodate a different distribution of activity in that fishery. Small communities in the Pribilof Islands are the prime beneficiaries of these regional restrictions on where crab can be landed and processed.

In addition, NMFS-approved non-profit organizations are authorized to represent Eligible Crab Communities (ECCs) to exercise special privileges. These privileges include the right to acquire Bering Sea and Aleutian Islands king and Tanner crab QS for transfer of the resulting QP to permanent residents of the ECC on whose behalf the QS are held. In addition, ECCs are granted the right of first refusal on sale of PQS and use of IPQ. Before NMFS issues any PQS/IPQ, an ECC may establish a contract with that PQS/IPQ holder which guarantees the ECC first rights to any PQS/IPQ proposed for sale for use outside that community.

The governing body of the ECC, such as a local government, must designate the non-profit organization. Caps limit the amount of QS that can be held on behalf of each ECC and the amount of QP used by each resident. The Fisheries Finance Program of NMFS can make loans to ECC non-profit organizations to purchase QS.

Lastly, the program includes harvesting “sideboards” that limit the activity of crab vessels in Gulf of Alaska groundfish fisheries in order to protect participants in those fisheries from a possible influx of activity that could arise from vessels that exit the program fisheries or are able to time activities in the program fisheries to increase participation in other fisheries. In other words, a sideboard is a collective limit for all vessels subject to the sideboard designed to restrict the ability of those vessels to target non-program fisheries at the expense of other industry and community investments. Sideboard limits are typically calculated based on historic aggregate harvest levels. In the case of the Bering Sea and Aleutian Islands Crab Rationalization Program, NMFS manages the sideboard limits by setting a single

⁹ The “cooling off” limitation applied to most IPQ, but shares allocated based on processing history in communities with minor amounts of crab were not subject to the provision. In addition, each PQS holder was permitted to move small amounts of IPQ out of the community of origin during the cooling off period to allow for some coordination of landings and more complete use of QP and IPQ allocations.

¹⁰ Likewise, a processor with regionally designated IPQ is required to accept delivery of and process crab in the designated region.

sideboard limit for each Gulf of Alaska groundfish species. That amount is then available to all qualified vessels subject to the limit, on a seasonal basis. All targeted or incidental catch of sideboard species made by a vessel subject to the limits is deducted from the sideboard limit. NMFS closes directed fisheries to vessels subject to the limit when it deems that sideboard amounts are inadequate to support directed fishing and projected incidental catch in other directed fisheries. The program provides sideboard exemptions to crab vessels with strong historic dependence on non-crab fisheries in order to relieve them from the limitations of the sideboards.

Pacific Groundfish Trawl Rationalization Program

The Pacific groundfish fishery includes over 90 different species, such as sablefish, Pacific whiting, and many flatfish and rockfish species. Implemented in 2011, the Pacific Groundfish Trawl Rationalization Program consists of: 1) an ITQ program for the shorebased trawl fleet, which includes a whiting sector and “non-whiting” (i.e., all other groundfish) sector; and 2) two cooperative programs for the at-sea trawl fleet, which consists of whiting catcher processor vessels and whiting motherships (and associated catcher vessels) (NMFS 2011). A catcher processor is a vessel that is used for catching fish and processing that fish, while a mothership is a vessel that receives and processes fish from other vessels.

Consolidation Measures

The ITQ program for the shorebased trawl fleet includes two sets of accumulation limits: limits that apply to ownership of QS, and vessel limits that restrict the amount of QP that can be registered to a vessel at any one time and cumulative over the year.

Both individual species and aggregate QS ownership limits are in place. To determine how much aggregate non-whiting QS a person holds, NMFS multiplies each person’s QS for each species by the shorebased trawl allocation for that species. The person’s pounds for all non-whiting species is then summed and divided by the shorebased trawl allocation of all non-whiting species to calculate the person’s share of the aggregate non-whiting trawl quota. The QS that count toward a person’s accumulation limit include the QS owned by that person, and a portion of the QS owned by an entity in which that person has an interest, where the person’s share of interest in that entity determines the portion of that entity’s QS that counts toward the person’s limit. The aggregate cap of 2.7 percent for the shorebased non-whiting sector was designed to allow one fisherman or business entity to operate two fulltime groundfish trawl vessels. The shorebased whiting sector has an aggregate cap of 10 percent.

Any person who qualified for an initial allocation of QS in excess of the accumulation limits was allowed to receive that allocation, but they must divest themselves of the excess QS during years three and four of the program. At the end of year four of the program, any QS held by a person (including any person who has ownership interest in the owner named on the limited entry trawl permit) in excess of the accumulation limits will be revoked and redistributed to the remainder of the QS owners in proportion to the QS holdings in year five. No compensation will be due for any revoked shares.

The amount of QP registered to a vessel may not exceed the QP vessel limit in any year, and, for species covered by unused QP vessel limits, may not exceed the unused QP vessel limit at any time. The QP vessel limit is calculated as unused available QP plus used QP (landings and discards) plus any pending outgoing transfer of QP. The unused QP vessel limit is calculated as unused available QP plus any pending outgoing transfer of QP. The shorebased non-whiting sector has a QP vessel limit of 10 percent of the total QP, while the shorebased whiting sector has a QP vessel limit of 15 percent.

A mothership catcher vessel may catch no more than 30 percent of the whiting allocation to the mothership sector, and mothership processors may process no more than 45 percent of the whiting allocation to the mothership sector. The catcher processor trawl fleet is not subject to accumulation limits.

Community Protection Measures

During the first two years of the program, a moratorium was imposed on the transfer of QS to ease the adjustment period and allow for adaptive response. In particular, the moratorium is intended to slow the movement of QS holdings out of communities during a time when the trailing action for Community Fishing Associations (CFAs) can be developed by the Pacific Fishery Management Council and implemented in a considered fashion. A CFA is type of cooperative arrangement which may confer a number of potential benefits on participants, including ensuring access to the fishery resource in a particular area or community to benefit the local fishing economy; enabling the formation of risk pools and sharing monitoring and other costs; ensuring that fish delivered to a local area will benefit local processors and businesses; providing a local source of QS for new entrants and others wanting to increase their participation in the fishery; increasing local accountability and responsibility for the resource; and benefiting other providers and users of local fishery infrastructure. Participants in a CFA must comply with the QS accumulation limits.

An adaptive management program sets aside 10 percent of the non-whiting QS for the shorebased trawl fleet each year to address unforeseen effects and achieve a variety of objectives, such as creating incentives for bycatch reduction and use of habitat-friendly gear, mitigating adverse impacts to processors and fishing communities, and helping second generation fishermen/new entrants. The Pacific Fishery Management Council discussed, but did not adopt, criteria for deciding when and how to allocate these reserve shares, and stated that QS not used for adaptive management would be proportionally distributed to QS holders.

Bering Sea and Aleutian Islands American Fisheries Act Pollock Cooperatives

The Bering Sea and Aleutian Islands pollock fishery is a high-volume industrial fishery, with large-scale shorebased and at-sea processing sectors. In 1998, the U.S. Congress adopted a cooperative management program for the fishery (Fina 2011; NMFS 2009c).

The program divides the TAC in the directed pollock fishery in the Bering Sea and Aleutian Islands Management Area among three sectors: inshore sector (catcher vessels that deliver their harvests to shoreside processing plants; catcher processor sector (including catcher vessels that deliver to catcher processors); and mothership sector (floating processors that receive deliveries from catcher vessels at sea). Inshore catcher vessels that participate in a fishery cooperative created under the American Fisheries Act can access exclusive annual allocations.

Consolidation Measures

No entity (individual, corporation, or entities affiliated with each other above a minimum common ownership or control standard) can harvest more than 17.5 percent, or process more than 30 percent of the pollock directed fishery allocation. The harvesting and processing share limits are applied using a "10 percent ownership rule," which states that any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity is considered to be the same entity as the other individual or entity. Thus, whenever there is 10 percent or more ownership or control by an entity, all of the pollock harvested or processed by its subsidiary of affiliate is added to the total

amount of pollock harvested or processed by the entity for the purposes of determining if the harvesting or processing limit has been exceeded. The rule thereby casts the net most widely as to what counts as a entity: any entity that is linked to any pollock harvesting or processing operation through any number of ownership linkages has limits placed on it, even if those ownership linkages are indirect and never amount to more than a 10 percent stake in the company or facility (Mansfield 2004).

Community Protection Measures

Provisions in the American Fisheries Act benefit the communities in which certain shoreside processors are located by establishing a stable long-term supply of pollock to the processing plants. Inshore catcher vessels eligible under the Act to participate in the directed pollock fishery may deliver their catch only to shoreside processors that met minimum pollock delivery thresholds in 1996 and 1997 (i.e., processors that historically received pollock harvests). In addition, inshore catcher vessels that participate in a fishery cooperative must deliver at least 90 percent of their catch to the shoreside processor that they delivered a majority of their catch to in the year prior to the year in which the cooperative was formed.

The program also recognizes potential spillover effects on other fisheries that could arise if pollock vessels consolidate harvests or time harvests to allow for greater participation in other fisheries. To prevent encroachment of pollock vessels in other fisheries, the program implemented a series of sideboard measures that dictate maximum levels, by species, of non-pollock catches for each sector of the pollock fleet.

Bering Sea and Aleutian Islands Non-Pollock Cooperatives

This program, which was established in 2008, allocates QS to trawl catcher processors participating in non-pollock groundfish fisheries in the Bering Sea and Aleutian Islands Management Area (Fina 2011; NMFS 2009d). The trawl catcher processors governed by the program participate in a variety of multispecies groundfish fisheries. Vessels that participate in a fishery cooperative created under the program can access exclusive annual allocations.

Consolidation Measures

No single person can hold more than 30 percent of the total QS. The cap is applied on an aggregate basis to all species allocated to the non-pollock groundfish fishery sector. In addition, no single vessel may catch more than 20 percent of the initial TAC allocated to the trawl catcher processor sector in a year. Any person initially issued QS in excess of the 30 percent ownership cap is allowed to continue to hold QS at that initial level, and any vessel owner that is initially allocated a percentage of the sector allocation that is greater than the 20 percent vessel use cap is grandfathered at their initial allocation level. Vessels that participate in a cooperative can transfer QS within the cooperatives but cannot transfer QS to non-cooperative members.

QS for six non-pollock groundfish species were allocated to trawl catcher processors based on their catch history. Two underutilized non-pollock groundfish species historically harvested by a few trawl catcher processors were excluded from the program so that a wider array of vessels would be able to harvest these species should their market value increase in the future.

Community Protection Measures

To limit the ability of trawl catcher processors participating in non-pollock groundfish fisheries to expand their harvest capacity in other fisheries not allocated under the program, the fleet is constrained by sector-wide harvest limits in the Gulf of Alaska that limit the catch of pollock, Pacific cod, and other species based on harvest patterns during 1998 through 2004.

Icelandic Fisheries Individual Transferable Quota System

The Fisheries Management Act of 1990 established the present ITQ system, which includes all major fisheries inside Iceland's EEZ.¹¹ As of 2012, 25 different fisheries were controlled under this system, representing about 98 percent of the value of the country's commercial catch (Matthíasson 2012).

No one may pursue commercial fishing in Icelandic waters without having a general fishing permit. General fishing permits are of two types: a general fishing permit with a catch quota and a general fishing permit with a hook-and-line catch quota. The two license groups operate under separate ITQ systems, typically referred to as the general or common system and the *krókaafلامarkskerfi* or hook-quota system, respectively. A vessel may only hold one type of fishing permit and operate in one system each fishing year. The hook-quota system is only open to boats that are smaller than 15 GRT and fish with hook-and-line gear (handlines or longlines).¹² Each ITQ system is allocated a portion of the TAC for Atlantic cod and other groundfish species.

Consolidation Measures

In order to prevent undue consolidation, upper limits have been set for the holding of QS in major fishable stocks by a fishing company or a group of companies linked by ownership. In the common system, the upper limit is 12 percent of the total QS for cod, 20 percent for haddock, pollock, herring, capelin, Greenland halibut, and deepwater shrimp, and 35 percent for redfish. In the hook-quota system, the upper limit is 4 percent of the total QS for cod and 5 percent for haddock.

A further measure stipulates that the aggregate QS held by a firm in all the common system fisheries cannot exceed 12 percent of the total value of the combined TAC of those fisheries, while the aggregate QS of each firm in all the hook-quota system fisheries cannot exceed 5 percent of the total value of the combined TAC. These aggregate values are calculated in cod-equivalents, as the cod fishery is by far the most important fishery. Cod-equivalents for each fishing year are determined on the basis of the average unit value of the landings of each species the year before, and provide a measure of the relative value of individual species compared to cod.

Fleet Diversity Measures

As discussed above, a separate ITQ system is available for small boats fishing with hook-and-line. QS/QP can be freely transferred among vessels within this system, and QS/QP can be transferred from

¹¹ The ITQ system also applies to a number of fisheries that take place outside Iceland's 200-mile EEZ. These include the shrimp fishery on the Flemish Cap, the Barents sea cod fishery, the Atlanto-Scandian herring fishery and the blue whiting fishery. When an international agreement exists for the utilization of species outside the EEZ, Iceland's share is allocated under the ITQ system. Even in cases where no international agreement concerning the utilization of the shared stock exists, Iceland frequently elects to impose a TAC on its vessels and allocate this TAC as QS (Arnason 2005).

¹² The Ministry of Fisheries and Agriculture may, however, grant hook-and-line boats permission to fish for benthic species using such fishing gear as is required.

boats in the common system to boats in the hook-quota system. However, QS/QP cannot be transferred from boats in the hook-quota system to boats in the common system.

To further support the small boat fleet, hook-and-line vessels that use longline gear, make day trips (i.e., return to land their catch within 24 hours of sailing from the harbor where the line was loaded), and bait their lines on shore may land 15 or 20 percent in excess of their allocated QP for cod, haddock, and wolffish. The Ministry of Fisheries and Agriculture estimates the additional QP implied by this rule, and this estimated quantity is subtracted from the TAC before arriving at the allocated total QP to be shared out to eligible vessels.

In addition, to give people who do not hold a general fishing license or QS an opportunity fish for commercial purposes, an open access system called *strandveiði* (coastal fishing) was introduced in 2009. This system receives a separate allocation of the TACs for cod and other groundfish species, up to a maximum of 6,000 metric tons/year. The country is divided into four landing areas, and each area is assigned a share of the system's allocation. While the coastal fishing system is outside the ITQ system, participation is open to vessels that are in the ITQ system as well as vessels that are not. However, vessels in the coastal fishing system may only 1) fish with handlines, with a maximum of four mechanical handlines onboard; 2) catch a maximum of 800 kg of fish per trip, with a maximum trip length of 14 hrs; and 3) fish from June through August, and only on Sunday through Thursday during that period.

A number of measures also restrict QS holdings to bona fide fishermen and obstruct speculative QS holdings and trades: 1) for each fishing year, the amount of QP transferred from a vessel to another vessel of different ownership may not exceed 50 percent of its total QP measured in cod equivalents; 2) QS holders must catch at least 50 percent of their total QP, measured in cod equivalents, every second year or forfeit their QS; 3) the QS/QP of a vessel may be transferred wholly or in part to another vessel, provided that the transfer does not result in the QS/QP of the receiving vessel becoming obviously in excess of its fishing capacity; and 4) a general fishing permit is cancelled if a fishing vessel has not been fishing commercially for 12 months.

Community Protection Measures

Each fishing year the Ministry of Fisheries and Agriculture has available QP amounting to up to 12,000 metric tons of cod and other groundfish species, which may be used for a number of purposes, including regional support, in consultation with the Regional Development Institute, through allocations to 1) smaller communities that are facing difficulties due to downturns in fisheries and which are dependent upon groundfish fishing or processing; and 2) communities that have suffered substantial unemployment due to unexpected cutbacks in the total QP of fishing vessels operating from and landing their catch in the communities in question. QP as provided for in this provision may be allocated for up to three years at a time.

The Directorate of Fisheries handles the allocation to fishing vessels of QP received by individual communities. Each fishing vessel allocated this QP must land for processing within the community catch amounting to double the cod-equivalent of the QP allocated to them. QP allocated to a community cannot be transferred.

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