

ADDENDUM TO THE OWN/CONTROL LIMITS MEASURE: A NMFS-PROPOSED ALTERNATIVE AND CONCERNS REGARDING THE EXISTING PRELIMINARY PREFERRED ALTERNATIVE (PPA)

NMFS-proposed alternative: Under this alternative, eligible owner(s) of vessel(s) registered to a sablefish-endorsed limited entry permit could apply to the National Marine Fisheries Service (NMFS) for a limited exemption from the control rules. The exemption, if granted, would allow the person to own up to 20 percent of up to two vessels registered to other tier-endorsed limited entry permits without having the permits registered to the vessel(s) count against the individual's three-permit own/control limit. Additionally, members of a corporation would be restricted from owning, collectively, more than 40 percent of a vessel under the exemption (see "Strawman Suboption on Coordinated Ownership", Section 2.2.2 of *Action to the Fixed Gear Sablefish fishery Managed under the Pacific Coast Groundfish Fishery Management Plan*).

The current control rules would remain in place; any level of ownership in a sablefish tier-endorsed permit is a count of one towards the three-permit own/hold control rules and any level of ownership in a vessel registered to a sablefish tier-endorsed permit is also a count of one towards the three-permit own/hold limit.

To be considered eligible to receive this limited exemption from the control rules, the vessel owner must own tier-endorsed permits, Alaska sablefish individual fishing quota (IFQ), and vessel(s) that participate in both West Coast and Alaska sablefish fisheries. Currently, this is the only recently documented group of individuals that have had their ability to attain their tiers negatively impacted by the own/control limit. However, if there are other documented circumstances where this has been an issue, NMFS encourages the public to bring these issues to the attention of NMFS and the Pacific Fishery Management Council so that if other eligibility criteria are warranted they can be considered.

A tentative process for implementing this alternative is outlined as follows. If a vessel owner wants to apply for an exemption from the current control rules, NMFS would require the vessel owner to submit a letter to NMFS requesting the limited exemption, a copy of the vessel's current U.S. Coast Guard (USCG) vessel documentation form 1270, credible evidence of their eligibility to apply for the exemption, and an ownership interest form that shows both relative percent ownership amounts when there are multiple vessel owners and/or percent ownership of all shareholders of a business entity that owns the vessel(s). The request for exemption could be made at any time during the year and there would be no requirement to renew it annually. However, if any of the ownership interest amounts change or any vessel owners change (added or deleted) from that previously reported, the vessel owner must notify NMFS within 30 calendar days and resubmit a revised ownership interest form and USCG form 1270.

Concerns regarding the existing preliminary preferred alternative (PPA): The PPA's proposed method for calculating vessel ownership for compliance with the control rules potentially adds three new layers of complexity to the existing regulations: (1) the 20 percent calculation for vessel owners, (2) capping that level of ownership at two vessels, and (3) potentially tracking the relative ownership of vessels across members of corporations to ensure it is within the 40 percent limit (if the strawman option on coordinated ownership is adopted, page 23 of Agenda Item

F.6.a, Attachment 2) . The administrative burden affects both NMFS and many vessel owners in the permit stacking program; NMFS would now have to calculate and track vessel ownership information at three levels and every vessel owner that is not the sole owner of their vessel would be required to fill out a vessel ownership interest form and understand and comply with increasingly complex regulations. Moreover, the scope of this PPA appears overly-broad when compared with the scope of the problem that is being addressed. The main problem being addressed here occurs when West Coast tier-endorsed permit owners also own Alaska sablefish IFQ and have been granted an owner on board exemption in Alaska that allows them to fish their Alaska IFQ on a vessel in which they have at least 20 percent ownership without being on board that vessel. If that vessel then also participates in the West Coast sablefish primary fishery , any tier-endorsed permits registered to that vessel count towards the vessel owner's three-permit own/control limit, which can prevent the vessel owner from fishing tier-endorsed permits they own without exceeding the control limit. There are currently 97 vessels that participate in the West Coast LEFG fishery; of these vessels, only 13 participate in both the Alaska sablefish IFQ program and the West Coast permit stacking program. Under the PPA, the control rules would be modified for the entire permit stacking program in order to address an issue that only affects a minority of the fleet, but adds an increased administrative burden to all vessel owners and increased complexity to the regulations.

Although the outcome of this new alternative is likely to be very similar to the existing PPA, the approach is different. Instead of requiring many vessel owners to send vessel ownership information to NMFS (the majority of whom do not operate in Alaska) only the vessel owners who want the exemption would need to apply for it. The qualification standard for the exemption remains the same, but it is placing the burden on those who want the exemption to request it.

PFMC
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