

COMMUNITY ADVISORY BOARD REPORT ON
TRAWL CATCH SHARE REVIEW REPORT DEVELOPMENT AND PRELIMINARY
RANGE OF FOLLOW-ON ACTIONS

The Community Advisory Board (CAB) met July 27 - 28, 2017 in Portland, Oregon, and began work on developing ranges of alternatives for five-year review follow-on actions. For each issue, the CAB discussed the Council process, draft purpose and need, and available analyses. The CAB will meet again prior to the November Council meeting, at which time it will continue to work on recommendations related to follow-on actions, including the purpose and need statement for gear switching.

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As noted in its June report, the CAB believes it is critical to expedite completion of actions currently underway in the Council forum or awaiting implementation by the National Marine Fisheries Service (NMFS). These actions include:

- Essential Fish Habitat/Rockfish Conservation Area (EFH/RCA) Revisions
- The Gear Rule
- Exempted Fishing Permits (EFPs) to develop the year-round coast-wide nonwhiting midwater trawl fishery (including within RCAs)

With respect to follow-on actions considered here, the CAB notes that for the following actions there is a need for Council action in the near term. These actions are straightforward and provide relief in the short term.

- Set-aside management for the at-sea whiting sectors (Item 1.a)
- Relief from lightning strikes (some alternatives in Item 4)
- Control date for a moratorium on gear switching (Item 5)

1. Meeting the At-Sea Whiting Fishery Bycatch Needs

The CAB concurred with the purpose and need statement as developed by Council staff, but recommended that the word “relieve” be changed to “reduce.”

Overall, for near-term relief, the CAB recommends the Council proceed with (a) set-aside management and (b) increasing harvest guidelines, but continue to explore other possible actions. The CAB remains interested in other topics as potential long-term solutions, including between sector quota pound (QP) transfers, revisions to the Amendment 21 allocations, and carryovers. At this point, it would be premature to take any approach off the table. In moving forward, it will be important to balance the tradeoff between making the industry more rational while at the same time not taking conservation risks.

a. *Set Aside Management*

As a matter of expediency in providing relief, the CAB recommends that the Council proceed with establishing set-asides in place of hard caps for all four of the original hard cap species.

The alternatives are:

Alternative 1-status quo: A plan amendment to manage Pacific ocean perch and darkblotched rockfish as set-asides (currently in progress).

Alternative 2-set aside management for all cap species (CAB preferred): A plan amendment to add widow rockfish and canary rockfish to the species managed with set-asides and to continue such management for all four cap species indefinitely (until changed).

b. *Increasing the Amounts Available for Harvest*

With respect to increasing fishery harvest guidelines, the CAB recommends that during the biennial specifications process, the Council evaluate the degree to which current policy is overly conservative and provide relief in those areas. For example, the CAB understands that in general the calculation of amounts for set-asides are based on the maximum observed mortalities over the last ten years. How likely is it that research and incidental open access set-asides will all be at that maximum in any one year? To what degree have set-aside amounts been fully taken in the past?

c. *Between Sector Quota Pound Trading*

The CAB believes that the range of alternatives set out at the September 2016 Council meeting is adequate and should form the basis for the range of alternatives used in the analysis of between-sector quota pound trading ([Agenda Item F.4, Attachment 1, September 2016](#)).

Alternative 1. Status quo. Trading of quota between sectors is not allowed.

Alternative 2. Allow transfer of allocations between quota pound holders across limited entry trawl sectors. This alternative would allow shorebased QP holders to transfer their non-whiting quota pounds to any mothership (MS) or catcher-processor (CP) co-op and allow MS and CP co-ops to transfer their non-whiting quota in the form of QP to accounts in the shorebased IFQ system.

Alternative 3. Move quota at a higher level via Council action and rebalance score card in-season. This alternative would provide the Council the ability to move species

allocations to another sector in-season based on current fishery data trends, sector needs, and willingness for sectors to allow excess to be transferred. Transfers between the MS and CP sector could be conducted in a similar manner as was done in October, 2014. Transfers to the shorebased sector from the MS or CP sector could be done, but transfers from the shorebased sector to the MS or CP sectors could not be done because QPs cannot be taken out of individual accounts.

While there is interest in a market approach (e.g. Alternative 2), there is also concern about situations where quota can only be transferred in one direction and that the needs of non-harvest sectors (e.g. processors) that are dependent on the allocations may not be fully accounted for. This issue may be complex and require a substantial amount of regulatory work.

d. *Changing Within Trawl and Trawl/Nontrawl Allocations*

The CAB recommends that the Council's Ad Hoc Groundfish Allocation Committee be convened soon to address this issue. The range of alternatives to be considered should be consistent with the analysis that has been done thus far on the review of the [Amendment 21 allocations](#).

e. *Carryover of At-sea Set Asides*

The CAB recommends that the Council move forward with a policy that will facilitate the expanded use of carryover provisions, and include carryover of the at-sea set-asides from one year to the next, along with carryover for the shoreside trawl program quota pounds. The absence of carryovers means that available allocations are under-harvested because unused QP cannot be used in a following year. With respect to set-asides, providing enough fish to ensure that one sector's bycatch needs are met will likely result in some of that fish going unharvested in years when actual bycatch is lower. The CAB understands that it is likely that this issue will be considered as part of Agenda Item E.5 (Flexibility in Annual Catch Limit Management Response, Scoping) at the September 2017 Council meeting.

2. *Trawl Sablefish Area Management*

The CAB recommends the following purpose and need statement to replace the draft developed by Council staff.

Action may be needed to allow the shorebased trawl sector to reduce costs and more fully harvest its allocation to the benefit of industry (harvesters and processors), communities, and consumers. Currently, the trawl southern sablefish allocation is going largely unharvested while the northern sablefish allocation is nearly fully harvested. The management boundary at 36° N. latitude is not needed for conservation purposes. The trawl sablefish in the south is being harvested primarily by vessels using pots (vessels gear switching) that come down from the north, and it has been stated in public comment that this is resulting in a conflict between those vessels and vessels from other sectors that use line gear in that area (gear interaction and grounds and market competition). The

purpose of this action would be to create a coastwide sablefish allocation for the trawl sector.

With respect to this purpose and need statement, the CAB would like to note that, while there is a perceived conflict between gears, the CAB is not certain that there are substantial conflicts.

The gear switching issue (Item 5) may be interrelated with this issue. While some members of the CAB note that elimination of the line at 36° N. would provide more sablefish for northern fisheries, others express concern that the additional sablefish could just allow the expansion of gear switching. One approach might be to pair elimination of the 36° N. line with a moratorium on new gear-switching operations (including a control date). Another perspective was that the issues are not interrelated and resolution of the 36° N. line should be decided based on the lack of a biological basis given sablefish population dynamics. These issues will be further vetted as the process moves forward and the analysis is developed.

Alternative 1: Status Quo. Trawl allocation is divided north and south of 36° N. latitude.

Alternative 2: For trawl sablefish, eliminate the management line at 36° N. lat. After determining all allocations as required under the FMP (including tribal, open access, and limited entry fixed gear) merge the trawl northern and southern sablefish allocations into a single management unit.

Alternative 3: Same as Alternative 2, but as a mitigation measure, also take additional actions to limit new gear switching operations.

Alternatively, the issue of limiting gear switching might be addressed as an entirely separate item under the Gear Switching topic discussed below.

Another alternative might be to allow southern sablefish to be fished north of the line, but only with trawl gear. Some members of the CAB feel that if that approach is adopted, vessels currently gear switching should be grandfathered in (allowing them to fish the southern sablefish in the north with nontrawl gear). Others felt this would be better addressed under action on gear switching.

3. Revising Shoreside IFQ Accumulation Limits

The CAB concurred with the purpose and need statement as developed by Council staff.

There was a recommendation that the current limits be further assessed and analyzed using the Herfindahl-Hirschman Index and a microeconomic welfare distribution analysis.

For the aggregate nonwhiting control limits, the CAB recommends status quo and elimination of the aggregate limits be used as bookends for the range of alternatives.

Aggregate QS Control Limit Alternative 1 - Status Quo: 2.7 percent aggregate nonwhiting control limit.

Aggregate QS Control Limit Alternative 2: No aggregate nonwhiting control limit (based on individual species limits, no one would be able to control more than 5.84 percent).

The CAB noted that the current aggregate limit is calculated based on 2010 trawl allocations (the 2010 allocations are used to weight the individual species allocation to determine the aggregate amount of nonwhiting QS a person controls). Over time, this weighting becomes outdated. Elimination of the aggregate limit would remove the need for such calculation, as well as the regulatory and procedural complexities of adjusting the weighting.

Individual species annual vessel QP limits should also be evaluated and further analyzed (including a review of the original analysis used to develop the limits). For incidentally caught species or species for which catch is market limited, it might not make sense to maintain the existing limits; but at the same time, it may be that target and bycatch species should be evaluated differently. Rather than permanently setting individual species QP limits, they might be adjusted depending on the degree to which allocations are being attained.

There are daily vessel QP limits for overfished species and Pacific halibut that are equal to the control limits. The CAB believes these are an administrative burden that has little benefit in ensuring that overfished species QP are available on the market. Additionally, the only overfished species that remain are yelloweye rockfish and cowcod.

Daily Vessel QP Limits Alternative 1 – Status Quo: Maintain all existing individual species vessel limits.

Daily Vessel QP Limits Alternative 2 – Eliminate daily limits.

4. Meeting Shoreside IFQ Sector Harvest Complex Needs

The CAB concurred with the purpose and need statement as developed by Council staff, but suggested that additions be made to include the lightning strike issue and downstream impacts that occur as a result of harvest limits (e.g. impacts to processors and markets).

The CAB considered a number of different approaches for reducing constraints in the shorebased fishery. The alternatives identified address constraints for the fleet level as a whole and for individual vessels encountering lightning strike tows.

a. Enhance the Fleet's Ability to Use Quota Within the Trawl Allocations

The following alternatives may enhance the fleet's attainment of its allocation by increasing access. For example, allowing post-season trading would increase the use of QP to cover catch in the year for which they were issued, rather than using current year QP to cover previous year catch. And, increasing carryover amounts provides increased opportunity to take available allocations.

Allow Post Season Trading - Allow post season trading to cover the deficit (also an element on alternatives for lightning strikes).

Increase Carry-Over – Raise the carryover amount from 10 percent to as much as 100 percent (particularly for non-target species with low ACLs).

Increase Quota Issued – Raise the amount of QP issued to the point where the modelling would suggest that the trawl allocations would be taken.

Raise Annual Vessel QP Limits – (also addressed under accumulation limits)

Alternative – Raise the vessel cap for vessels that participate in risk pools (define qualifying risk pool)

Other alternatives to be developed.

Change Management Tools for Some Species

Alternative 1 – Status Quo (non-IFQ management for certain species seldom caught by trawlers, e.g. nearshore rockfish are managed with cumulative trip limits).

Alternative 2 – Convert yelloweye and cowcod from IFQ management to set-aside management. Take into account that existing closures are protecting the resource and its habitat, but also identify the specific areas that should remain closed to ensure the resource is protected.

Suboption – Create a new management line at 34° 27' N. and make cowcod a monitored (set-aside) species between 34° 27' N. and 40° 10' N. (Management north and south of this area would not change).

Yelloweye and cowcod are excessively constraining, and individual vessel overages could shut down the entire fleet. Like other groundfish species which are not managed with IFQ, they are not taken in substantial enough amounts to warrant IFQ management. With appropriate habitat protections and area restrictions, the CAB believes that there is no conservation need to manage these species with IFQ because the core area where these species reside is closed or restricted. If these species continue to be managed with IFQ, mechanisms such as increasing the carryover amounts may better respond to year-to-year variability in the amounts caught.

b. Vessels with Deficits in Excess of Vessel QP Limits (Including Lightning Strike Situations)

Vessels with deficits that exceed the vessel QP limits are not able to immediately resolve their deficits no matter how much quota they might otherwise be able to acquire. These alternatives specifically address the situation of any vessel with such a deficit. Some aspects of these alternatives might be extended to cover any vessel with a deficit (not just those with amounts in excess of vessel QP limits). While aimed at the vessels with large deficits (likely the result of lightning strikes) the approaches identified here might also benefit the industry as a whole, for example, by making greater use of QP from previous year's allocations and thereby leaving more allocation available for a coming year. The CAB also noted that vessels with even small amounts over the vessel QP limits might take advantage of provisions under some alternatives.

Relief from QP Limits: After the end of the year, all vessels with deficits in their account would be allowed to buy previous year QP to cover their deficit, up through a certain date. In covering their previous year deficits, vessels would not be limited by the annual vessel QP use limits for certain non-target species.

Suboption A: In covering their previous year deficits, vessels would not be limited by the annual vessel QP use limits (applies for any species). [This replaces second sentence in main alternative]

Suboption B: If the deficits are not covered by that certain date, NMFS would also convert unfished amounts from the previous year's ACLs and sell the QP to trawl sector vessels that are in deficit, up to the amount of that deficit.

Suboption B-1: Limit the NMFS sale to non-target species.

Suboption B-2: Set the NMFS sale price to above market rate.

[Suboptions are not mutually exclusive]

Area Restriction Alternative: Vessels that are in deficit by amounts in excess of the annual vessel QP use limits may continue to fish in areas where that deficit species is not caught (species/area relationships to be defined).

Under the current system, vessels that have deficits in excess of vessel QP limits must both forfeit their fish and acquire the QP to cover the landing before they are allowed to return to fishing. In some situations, the market prices for buying the needed QP may be very high. In providing relief for lightning strike tows, the CAB noted the importance of balancing that relief with the disincentives, since individual vessel overages could impact the entire fleet. Care should also be taken to design the alternatives in a way that minimizes the opportunity for abuse. Some other ideas discussed included a two-strike system (such that the repercussions for a second overage would be more substantial than the first) and allowing risk pools to cover amounts a vessel takes in excess of vessel QP caps. The CAB considered but rejected an option that would end the carryover of surpluses in order to provide QP for NMFS to sell to vessels with deficits, since this would reduce the fleet and individual vessel opportunity to harvest available quota.

5. Gear Switching

The CAB reviewed the purpose and need statement provided by Council staff, but was unable to come to a consensus on an alternative statement. We plan to revisit this issue in more detail at our next meeting and adopt a purpose and need statement at that time.

In discussing the possibility of limiting gear switching, one of the primary focuses of the CAB discussion was the need to account for investments already made in the fishery. Because such investments may be continuing and the Council may want to place some form of a limit on gear switching, the CAB makes the following recommendation.

As a first step in this process, the CAB recommends that a control date be set and a subcommittee be established to focus on the gear switching issue. Since the CAB discussed this in a publically noticed and open forum on July 28, 2017, the CAB recommends that date be used.

The recommendation for a subcommittee is based on the need to follow up the establishment of the control date with the development of a policy based on that date so that the date does not become stale.¹

As part of the analysis of the 36° N. line for trawl sablefish, the CAB recommends that analysts evaluate the likely mix of catch between trawl and fixed gear for the quota that becomes available to the north, and the degree to which sablefish might be constraining harvest of other species.

6. Catcher-Processor Sector Accumulation Limits on Permit Ownership and Harvesting/Processing

The CAB reviewed the purpose and need statement developed by Council staff. During discussion, it was noted that while the statement cited Section 303A(c)(5)(D) of the Magnuson-Stevens Act, which requires the Council to prevent the accumulation of excessive shares, section 303(h) excludes pre-existing programs from having to comply with this provision of 303A. The catcher-processor co-op predates its incorporation into the current trawl catch share program.

During the CAB discussion, it was noted that thus far there had not been a major consolidation process in the catcher-processor sector. So far, only one company has left the sector. If such a process were to occur, it would likely go through the Department of Justice.

On the basis of its discussion, the CAB recommends that accumulation limits not be set for the catcher-processor sector. During its discussion, the CAB noted that further work on this issue would be an unnecessary use of limited staff time and resources, would take time away from addressing other critical problems in the catch shares program, and is not an issue requested or supported by any sector represented on the CAB.

7. AMP Pass-Thru

NMFS reported to the CAB that NOAA GC has recommended that the Council decide whether or not to continue the pass-thru. The CAB recommends that the Council continue the pass-thru as it is until an alternative use of the AMP-QP is implemented. This is not intended to foreclose discussions on the longer term resolution.

PFMC
08/17/17

¹ When progress is not made toward developing a policy around a control date it becomes more difficult to effectively use the date in subsequently developed policy. Such policies may become more vulnerable to court challenges. The term “stale” has been used to describe this occurrence.