

Meeting Summary
Sablefish Management and Trawl Allocation Attainment
Committee (SaMTAAC)

Pacific Fishery Management Council
Sheraton Portland Airport
Mt. Adams Room
8235 NE Airport Way
Portland, OR 97220
Telephone: 503-281-2500
October 9-10, 2019

Call to Order

Voting Members in Attendance

Mr. Phil Anderson – Committee and Council Chair
Ms. Kelly Ames – National Marine Fisheries Service (NMFS)
Ms. Keeley Kent – NMFS (Sitting in for Ms. Ames on Day 1)
Ms. Michele Culver – Washington Department of Fish and Wildlife (WDFW)
Mr. Robert Dooley – California Council Member
Mr. Pete Hassemer – Council member at large
Ms. Maggie Sommer – Oregon Department of Fish and Wildlife (ODFW)

Voting Members Absent

None

Non-voting Members in Attendance

Mr. Bob Alverson
Mr. Bill Blue (alternate for Mr. Steve Scheiblaue)
Mr. John Corbin (alternate for Dan Platt)
Mr. David Crabbe
Mr. Kevin Dunn
Mr. Mike Okoniewski

Non-voting Members Absent

Mr. Dan Platt (alternate present)
Mr. Steve Scheiblaue (alternate present)

Mr. Tyler Besecker resigned from the Committee September, 2019.

Approval of the Agenda

The agenda was reorganized so that after the overview of the alternatives was presented under Agenda Item E.1, the presentation of the analysis planned for Agenda Item E.2 would instead occur as part of F.3 and after the NMFS Report (Agenda Item E.3) there would be a public comment period.

Review Timeline/Calendar Jim Seger

A question was raised as to whether the scope of the gear switching agenda item at the November 2019 Council meeting is sufficient to allow the Council to adopt a purpose and need if it so desired. Ms. Maggie Smith, NOAA GC, was on the phone to make a presentation and responded that she believed the scope was sufficient to allow that action.

Opening Comments by Committee Members

During opening comments, Mr. Okoniewski spoke to a rumor that this action might be deprioritized and spoke to its importance for the trawl fleet. Additionally, there need to be alternatives that book-end the amount of gear switching that would be allowed under the trawl rationalization program. At the same time, Mr. Corbin felt it would be counterproductive to start adding more alternatives after the work that had been done to narrow the alternatives from twenty-two. Ms. Culver stated that it would be good to take a step back and consider the issue of gear switching and sablefish attainment more holistically in the context of the groundfish fishery, and discuss what we would like the groundfish fishery to look like 10 to 20 years from now, rather than look at the issues on a piecemeal basis.

Review Criteria and Basis for Recommendations

NOAA General Counsel Report

Ms. Smith, NOAA GC, noted the Council's broad authority to reconsider fishing privileges, taking into account statutory factors such as those in 303A and national standards, especially National Standard 4 on equity. Specification of purpose and need is important because it ties back to the evaluation of equity. Considering what the Council is trying to achieve with the trawl fishery will be helpful in determining what should be achieved with respect to fixed gear participants gear switching in the trawl sector. Articulating what the objective of any allocation change is and tying to the broader objectives for the fishery makes it easier to explain why it is fair and equitable.

When asked about whether she thought the range of alternatives was adequate, Ms. Smith commented that, at this point in the process, it was difficult to determine the degree to which there were substantial differences between the alternatives in terms of the amount of gear switching that would be allowed under each.

When asked about the options of allocating to vessels, permits or quota share (QS) accounts, Ms. Smith said there was no reason that a particular allocation basis (e.g. permits) had to be used just because it was used in the past. It is all about explaining why whatever method is chosen is fair and equitable under the current circumstances: what objective is the Council trying to achieve and why does it make sense to do it in a particular fashion?

NMFS Report on Purpose and Need

Ms. Keeley Kent presented the NMFS Report ([Agenda Item D.2, NMFS Report](#)). She noted that the current purpose and need statement (from the May 2019 SaMTAAC meeting) contains two under-attainment issues but none of the current alternatives address any of them: under attainment in the area south of 36° N. lat. With respect to trawl under attainment, NMFS believed it would be helpful to focus on certain particular stocks and noted that the focus has been on Dover sole and thornyheads. There has been some discussion that those are not the only stocks of concern and, if that is the case, it would be helpful to identify some other stocks. Finally, there should be some discussion about why the Council is concerned about limiting or preserving gear switching. In the purpose and need, or in additional goals and objectives, it may be useful to identify which investments the committee is concerned about protecting and why. NMFS presented the committee with a recrafted purpose and need statement that addressed some of these issues and included footnoting that tied these issues to results from the catch share review completed in 2017.

Working from the NMFS suggestions, the committee developed the following purpose and need statement.

This action is needed because the Shorebased Individual Fishing Quota (IFQ) Program has underattained most of its allocations since the inception of the program in 2011. The underattainment for some northern stocks may be due to the allowance to use fixed gear to harvest shorebased IFQ, declining trawl vessel participation, and the lack of market and infrastructure. Specifically, participants engaging in gear switching are acquiring northern sablefish quota that may otherwise be used by trawl gears; this may lead to uncertainty in trawl access to sablefish, thereby affecting the development of markets and infrastructure. Working within the guidance and authority provided by the MSA (§303A(c))¹ and the Pacific Coast Groundfish Fishery Management Plan (FMP) goals and objectives, the purpose of this action would be to keep northern sablefish gear switching from impeding the attainment of northern IFQ allocations with trawl gear, while considering impacts on current operations and investments.

This action is also needed because the Shorebased IFQ Program has underattained several of its southern allocations, specifically sablefish south of 36° N. latitude. Sablefish is managed under a coastwide overfishing limit (OFL) and acceptable biological catch (ABC) but the annual catch limit (ACL) is split into two management areas, north and south of 36° N. The Shorebased IFQ allocation and ACL for sablefish south of 36° N. latitude are underattained due to declining gear switching vessel participation in this area since rationalization,² limited DTS trawling in this area,³ and lack of market and infrastructure.⁴ The purpose of this action would include encouraging utilization of sablefish south of 36° N. latitude within the current management area and exploring mechanisms that would allow a portion of that allocation to be caught in areas north of 36° N. latitude.

¹ Section 303(A)(c) of the MSA sets forth elements defining the creation of limited access privilege programs, including the promotion of fishing safety; fishery conservation and management; and social and economic benefits.

² See page 163 of the Trawl Rationalization Program 5-Year Review (PFMC/NMFS 2017).

³ See page 151 of the Trawl Rationalization Program 5-Year Review and Table 68 (PFMC/NMFS 2017).

⁴ See page 249 of the Trawl Rationalization Program 5-Year Review (PFMC/NMFS 2017).

These separate underattainment issues result in the Shoreside IFQ Program being unable to meet Management Goals 2 and 3 of the FMP which respectively seek to maximize the value of the groundfish resource as a whole and to achieve the maximum biological yield of the overall groundfish fishery. Additionally, this action would seek to improve the program towards the goal of Amendment 20 to the FMP, which created the Shorebased IFQ Program, of providing for full utilization of the trawl sector allocation.

The committee discussed the issue of the types of operations and investments that might be of concern in this statement. It was agreed that it would be understood to include both investment in participating as a trawl vessel or using fixed gear. FMP Objective 14 specifies minimizing disruption and was related to the issue of considering investments. Further, it was noted that investments by processors and individuals would also be affected and should be considered in the analysis.

With respect to the issue of attainment of the southern sablefish quota, the committee agreed that after it completed work on the other alternatives it would evaluate those alternatives to see whether they adequately addressed northern attainment issues, and decide whether alternatives are needed to address attainment of the southern sablefish allocation by southern fisheries. Depending on what it decides at that time, the committee may decide to modify the purpose and need statement with respect to southern sablefish issues.

Goals, Objectives and National Standards Summarized as Summarized in Amendment 20

Dr. Seger oriented the SaMTAAC on a table that summarizes goals and objectives across multiple sources ([Agenda Item D.2, Attachment 1](#)).

Principles Adopted by Committee

As a reminder, Dr. Seger reviewed the principles adopted by the committee ([Agenda Item D.3, Attachment 1](#)). There was a discussion of whether to modify the principles and it was decided not to at this time. As part of that discussion, it was noted that most would be evaluated as part of the analysis.

NMFS WCR Report on the Alternatives

Ms. Kent then reviewed the NMFS report on the alternatives ([Agenda Item E.3, NMFS Report 1](#)). This report expressed NMFS concerns about the lack of need for the sunset provisions included under Alternative 1 and 3; the potential increase in discards under Alternative 4; the Alternative 1 quota pounds (QP) debiting system that would provide fishers a choice in which type of sablefish QP (trawl-only or unrestricted) are debited from a vessel account (as compared to a default rule, e.g. debiting trawl-only first); use of QS accounts for the purpose of qualifying for gear switching provisions and implications for confidentiality, the ability of an applicant to correct data or appeal a NMFS decision; and the potential lack of relationship to investment in gear switching activity and related fairness and equity concerns. Even if there are concerns about using the methodology for qualification purposes, the methodology may still be of value for determining impacts of the alternatives. NMFS plans to continue to evaluate the methodology for linking QS accounts to gear switching activity and may have further feedback

for the committee. The NMFS report noted that the Council is not under obligation to use the announced control date; provided an assessment of the degree of administrative burden associated with each alternative; and identified that implementation would likely take 18 months after Council action and most likely start at the beginning of a calendar year. Staff time in development of this action has also been deemed eligible for cost recovery.

Overview of Alternatives and Analysis

Dr. Seger provided an overview of the alternatives ([Agenda Item E.2, Alternatives](#)).

New Proposals

The agenda was adjusted to receive a new proposal from Mr. Mike Okoniewski, presented as Trawl Stakeholder Alternative 2 ([Public Comment 6](#)). During Public Comment, Mr. Jeff Lackey presented Trawl Stakeholders Alternative 1 ([Public Comment 2](#)).

Analysis of Alternatives

Ms. Jessie Doerpinghaus led the presentation of the analysis that she and Dr. Seger developed for the committee ([Agenda Item E.1, Attachment 1](#)). The analysts will continue to develop information useful for the committee in terms of understanding the dynamics of the current situation and potential solutions. At the end of the meeting, the following was displayed as the list of particular issues on which the committee requested information.

1. Include an analysis of no gear switching (not as a formal alternative)
 - a. Community impacts
 - b. Vessels, permit, QS owners affected
 - c. DTS analysis (associated revenue from increase in sablefish, etc.)
2. Species leased from fixed gear to trawl operations
3. Potential for crossover from other fisheries (e.g. crab)
4. Ratio exploration for DTS (season, area, depth)
 - a. Add in new graphs/data shown at the Oct. meeting
 - b. Look at analysis about potential revenue from additional sablefish
5. What other underattained species might be of concern (outside of DTS)?
6. Are the same permits latent year-after-year?
7. Where do vessels go that gear switch one year but are not present in the trawl fishery for other years (page 21 of analysis)?
8. Look at ways in which non-transferability provisions and hardships have been handled in other systems, for example, with respect to passing an asset along to family members in the event of death (NMFS).
9. What impact would reduced gear switching have on the quality of observer data for fixed gear trips?
10. Consider interactions with protected species (such as salmon)

Narrowing and Refinement Alternatives

The committee came to fairly rapid agreement that Alternative 4 could be combined with Alternative 3 because they are quite similar in terms of their mechanisms for limiting gear switching, and that Alternative 2 (gear specific quota shares) could be dropped. The low qualifiers in Alternative 4 meant that it would probably perform similar to status quo. Alternative 2 has some complexities that make it challenging and is within the range of the other alternatives in terms of what it would accomplish in restricting gear switching.

While there was some concern about expanding the range of alternatives and reconsideration of an alternative that was previously discarded, Trawl Stakeholder Alternative 1 was added. It was viewed as bringing in some new elements, with its focus on active trawlers and QS ownership as an element determining gear switching limits. Alternative 1 was also viewed as providing for a broader range, in that it would more quickly restrict gear switching and likely hold it to lower levels than the other alternatives. The committee made a number of modifications to Trawl Stakeholder Alternative 1. In order to minimize the need to consider hardship provisions, the committee specified that the active trawler status would be established by trawl activities in the current or previous year. This way if a vessel was out of the fishery due to a hardship, it could re-establish itself as an active trawler without having to wait an entire year. At the level likely to be required (currently 6 trawl landings), active trawl status could be established over a relatively short period of time. Consistent with other alternatives, the committee specified that the exemption to be granted would be attached to the trawl permit (rather than the vessel) so that the existing limited entry permit system could be used to designate the status rather than creating a separate new permitting system. As with the other alternatives, in order to assess the impact of the control date qualification periods for the exemption status include periods of time, both within and extending beyond the control date. The committee also modified the original proposal so that it would not place any limitation on gear switching for species other than sablefish. The restriction on non-sablefish landings was removed because it would substantially expand the scope of the action and related analytical burden and was not viewed as a critical part of the alternative. Any sablefish caught with fixed gear by a vessel that is neither an active trawler nor exempted would have to be discarded. Another element that seemed overly complex and unnecessary were provisions related to the handling of shifts the proportion of the sablefish ABC taken in northern and southern areas. This kind of change will be addressed as part of the biennial specifications process, with advice from the SSC. There were some other concerns with Trawl Stakeholder Alternative 1, but committee members thought the analysis would bring these concerns to the surface for further discussion. In contrast, there were some concerns about the Trawl Stakeholder Alternative 2 provisions that would prohibit leasing of QP to fixed gear vessels and the complexities related to allowing trawl vessels to cross into the fixed gear sector. Because of these complexities and because the proponents of Trawl Stakeholder Alternative 2 were generally supportive of Trawl Stakeholder Alternative 1, the committee incorporated only the first of these alternatives into the package.

Ms. Culver identified two options for analysis with respect to the Alternative 1 split between QP issued only for use with trawl gear and QP issued as unrestricted. If there was no opt-out provision, then the split would be 70/30 since all gear switchers would have to acquire QP issues as unrestricted, and often somewhat more than 30 percent of the QP has been used for gear switching. With an opt-out provision, those most involved in gear switching would qualify to receive all their QP as unrestricted, therefore the QP issued for accounts that did not opt-out

would only be needed by past gear switchers that did not qualify to opt-out or to provide an option for trawlers to begin modest levels of gear switching in the future.

For the opt-out approach, an option was eliminated that would allow any entity to opt-out and replaced by one that would allow opt-out qualification based on gear switching activity associated with the trawl permit. Allowing any entity to opt-out would have likely resulted in a long delay in the effectiveness of the program (assuming that most entities would choose to opt-out). Allowing qualification based on the permit provides a contrast with the remaining option which would make the opportunity to opt-out contingent on the activity associated with the QS account. For qualification based on the permit, for analysis the initial qualifying requirement options were specified as 10,000, 20,000 and 30,000 pounds of sablefish. For the option by which an individual would qualify through gear switching associated with the QP issued to the QS account, qualification options were specified as the use for gear switching of 25, 33, and 50 percent of the QP issued to a QS account for a “to be determined” number of years. In evaluating the usage of QP issued to a particular account, only the first four transfers would be assessed: the transfer from the QS account to a QP account and three subsequent transfers. The selection of this level of transfers was intended to recognize those that intended for the QP to be transferred to gear switching entities and also took into account Figure 22 of the analysis, which showed that the gear switching history associated with accounts was either fully resolved or nearly fully resolved after the first four transfers. To assess the effect of the control date, a qualifying period running from January 1, 2011 through the control date (September 15, 2017) will be contrasted with one running through December 31, 2018.

If an opt-out option is provided, it will expire with the expiration of the QS Account (Opt-out Option b) or the addition of a new entity to the QS account or trawl permit ownership. This is consistent with the rules for ownership changed used in the tier fishery and prevents individuals within an organization from gaining excess leverage through their ability to cause the entity to lose a special status by their departure.

The option of converting all QP from trawl-only to unrestricted on October 1 was eliminated, leaving conversion date options for September 1 and August 1. The October 1 option was eliminated because 60 percent of the gear switched harvest occurs before that date (between about 18 and 24 percent of the total QP issued). The 30 percent of quota pound issued as any gear under the no-opt-out option should be sufficient to accommodate gear switching occurring up through the end of August (September 1).

The committee worked extensively on the qualifying options for Alternative 3 and the new active trawler alternative, adding recent qualification approaches to each alternative and the consideration of some gear switching occurring after the control date. Consideration of dates after the control date will allow the Council to assess the effect of using the control date.

For Alternative 3, some middle and the higher end annual poundage requirements were eliminated (20,000, 25,000, 50,000 and 70,000 pounds). This left the 15,000 and 30,000 pound requirements. The middle poundages were eliminated because they provided minimal contrasts and were bracketed by the 15,000 and 30,000 pound requirements. The upper end requirements were eliminated because they eliminated vessels that had substantial participation. Lower end qualifiers of 5,000 and 10,000 pounds were added to further explore the trade-offs of alternative qualifying levels.

For vessels that do not have a gear switching endorsement, the per-vessel sablefish gear switching limit for this alternative was set at 0.5 percent (about 25,000 pounds when the northern sablefish trawl allocation is 5 million QP).

With respect to the endorsement transferability and expiration options, Option 3 was narrowed by eliminating the two transfer option (endorsements may only be transferred one time). This will speed the transition away from gear switching. Option 4, which would have provided a sunset, was eliminated in line with the advice in the NMFS report on sunset provisions. Similarly, the sunset option for the program as a whole was eliminated. The Council can consider changes during normal scheduled reviews of the program, and it would be appropriate for the Council to evaluate these provisions at that time after some information on performance is available.

Next Meeting

The committee scheduled its next meeting for January 22-23, 2020 in Portland Oregon.