

## SAMTAAC RECOMMENDED ALTERNATIVES

This document provides a description of the alternatives developed by the Sablefish Management and Trawl Allocation Attainment Committee (SaMTAAC) and included in its final report to the Council. *As compared to the version of this document provided for the November 2020 Council meeting, suggestions are made for clarifying modification to three sentences (noted in track changes).*

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### **No-Action Alternative**

No Action is an alternative to each of the following action alternatives. Under No Action, the regulatory regime would not change in connection with this deliberation, but the fishery will continue to change in response to changing environmental, economic, and social conditions, as well as other regulatory actions. Attainment of the trawl allocations would continue to vary with changes in factors such as the level of trawl allocations, market conditions, the mix of co-occurring species, and prices for quota pounds (QP). These factors may influence and be influenced by the degree of gear switching (trawl-permitted vessel use of non-trawl gear to catch trawl QP). Vessels with limited entry trawl permits would be able to continue to use any gear to catch their sablefish north of 36° N. lat. QP, up to the annual vessel limit of 4.5 percent.

### **Action Alternatives (As Developed by SaMTAAC)**

There are three action alternatives, each of which rely on a different mechanism to limit gear switching of sablefish north of 36° N. lat. All three also provide some greater amount of opportunity for participants with a qualifying level of gear switching history (i.e., a grandfather or legacy opportunity) based on the history of the permit or the vessel. An overview of the action alternatives is provided in Table 1 with details in the following sections.

Table 1. Overview of the action alternatives.

	<b>Alt 1</b>	<b>Alt 2</b>	<b>Alt 3</b>
	<b>Gear Specific QP Alternative</b>	<b>Gear Switching Endorsement Alternative</b>	<b>Active Trawler Alternative</b>
Gear Switching Opportunity Available to Any Trawl Permit Holder	All northern sablefish QP is issued to QS accounts as either trawl-only or unrestricted gear (e.g., 80 percent trawl-only and 20 percent unrestricted).  Vessels with unrestricted northern sablefish QP may retain northern sablefish while gear switching.	All trawl permitted vessels can gear switch at least 0.5 percent of the trawl allocation of northern sablefish.	An active trawler (status evaluated annually based on a vessel's landings) can gear switch up to 1.0 percent of the trawl allocation of northern sablefish
Gear Switching for Those Qualifying for a Legacy Opportunity  (in most cases, this opportunity would be of limited duration)	Option: Owners of permits with a qualifying history can designate ("opt out") a QS Account that would receive 100% of its northern sablefish QP as unrestricted (eligible for gear switching).	Vessels with permits that qualified for a gear switching endorsement have gear switching limits higher than that available to all others.	Active trawler exemptions allow qualified vessels to continue low levels of gear switching without qualifying as an active trawler (minimum of 0.6 percent).
Allocation of Legacy Opportunity Based on	Limited Entry Permit History	Limited Entry Permit History	Vessel History

In some cases, the provisions of one of the action alternatives might be used in a different action alternative, though the implications may need to be analyzed before final action. For example, qualifying requirements for one alternative if applied to a different alternative could undermine the degree of constraint of gear switching originally intended for the alternative.

## **Gear Specific QP Alternative (Action Alternative 1)**

**Overview.** Each year, some northern sablefish QP would be issued as trawl-only QP and the remainder would continue to be unrestricted (valid with any legal groundfish gear, as under status quo). Every northern sablefish quota share (QS) owner would receive these two types of QP in the same proportions (e.g., 80 percent trawl-only and 20 percent unrestricted), except that under an option there would be an opportunity for certain entities to receive all their sablefish QP as unrestricted (an “opt-out” opportunity). The opt-out status would expire over time as QS accounts expire or with other QS account ownership changes. There is also an option that would convert all trawl-only QP to unrestricted QP on a specified date, either in the latter part of the year or after the year was over (before post-season trading or carryover).

### **Full Description**

**Allocation of Gear Specific QP.** All northern sablefish QP issued to QS accounts (including Adaptive Management Program [AMP] QP) will be designated as trawl-only or unrestricted with respect to gear used (i.e., status quo “sablefish QP”) in the following proportions:<sup>1, 2</sup>

**Gear Specific QP Option 1:** *(If the Council does not select the opt-out option, described below, then only Option 1 is available.)<sup>3</sup>*

70 percent trawl-only/30 percent unrestricted (any gear)

**Gear Specific QP Option 2:** *(If the Council selects the opt-out option, described below, then both Option 1 and Option 2 are available.)*

90 percent trawl-only/10 percent unrestricted (any gear)

Northern sablefish caught with any gear other than trawl would have to be covered with unrestricted QP. Northern sablefish caught with trawl gear could be covered with trawl-only or unrestricted QP. A vessel using trawl gear that had both trawl-only and unrestricted QP in its account would designate which type of QP would be used to cover the landing.

### **Option for Conversion to Unrestricted QP.**

**Conversion Option 1:** On August 1, any remaining unused trawl-only sablefish QP in individual accounts will convert to unrestricted sablefish QP.

**Conversion Option 2:** On September 1, any remaining unused trawl-only sablefish QP in individual accounts will convert to unrestricted sablefish QP.

**Conversion Option 3:** Any trawl-only QP left at the end of the year will be converted to

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<sup>1</sup> As part of implementation, PacFIN species codes might be used to track this distinction. For example, “TWSF” could be used for trawl-only sablefish and the current species code (“SABL”) for unrestricted sablefish.

<sup>2</sup> These proportions will be set in the fishery management plan in order to provide more assurance of their stability over the long term.

<sup>3</sup> These are the options as recommended by SaMTAAC. They have not yet been adopted by the Council. The Council is not restricted by the constraints recommended by SaMTAAC.

unrestricted QP (either before post-season trading or when issued as carryover, to be determined).

**Option for an Opt-out Provision (100 percent unrestricted QP for opt-out accounts).** The Council may decide to include this opt-out provision for QS accounts with northern sablefish QS.

1. At the time of implementation, a one-time opt-out option will be provided for qualified trawl permit owners that have a history of using their permit to land sablefish with fixed gear in the trawl IFQ fishery (gear switch). Qualifying permit owners that opt out must designate the QS account to which the opt-out status will apply.
2. All QP (including AMP QP) deposited to a QS account that is opted out will be unrestricted with respect to gear.<sup>4</sup>
3. Opt-out status will expire when the QS Account<sup>5</sup> expires<sup>6</sup> or when a new owner is added to the underlying ownership of the account<sup>7</sup>. Therefore, over time, the opt-out status for all QS accounts will expire and all QS accounts will receive gear-specific QP in the standard proportions of QP specified in the first paragraph of this alternative.
4. Any future trawl permit owners or new QS account owners will not have the opportunity to opt out and all new QS accounts will receive gear-specific QP in the standard proportions of QP specified in the first section of this alternative.
5. To qualify its owner for an opt-out choice, a trawl permit must have had:
  - Opt-out Qualification Suboption A:* between January 1, 2011, and December 31, 2018, one fixed gear sablefish north landing.
  - Opt-out Qualification Suboption B:*<sup>8</sup> between January 1, 2011, and September 15, 2017, a minimum of 10,000 lbs of fixed gear sablefish north landings.
  - Opt-out Qualification Suboption C:*<sup>8</sup> between January 1, 2014, and December 31, 2018, a minimum of 10,000 lbs of fixed gear sablefish north landings.
  - Opt-out Qualification Suboption D:* between January 1, 2011, and September 15, 2017, or between January 1, 2014, and December 31, 2018, a minimum of 30,000

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<sup>4</sup> If a QS account opts out, they would also be able to acquire additional QS and receive all of their QP as unrestricted (up to the 3 percent own/control limit).

<sup>5</sup> In this document the term QS Account is used synonymously with QS Permit.

<sup>6</sup> In this alternative, expiration of a QS account refers to the process by which an account is not renewed for a following year, either by choice of the QS account owner or if the account loses eligibility for renewal. A QS account may lose its eligibility for renewal due to a change in the name of the owning company or its structure without a change in the underlying ownership. For example, if an individual decided to form an LLC, the QS Account might not be renewed and instead a new QS account created for the following year.

<sup>7</sup> The rule causing expiration of a legacy opportunity with the addition of a new owner to the permit ownership interest, but not subtraction of an owner, would be similar to that which applies to expiration of the owner-on-board exemption for the fixed gear permit system. The intent is to allow, for example, a partner to leave the ownership or die without depriving the remaining owners of the opportunity provided. Addition of a new owner would be volitional on the part of the existing owners and could be used to effectively circumvent the intent of expiration-on-transfer provisions. Therefore, it is only addition of a new owner that would be considered the equivalent of a transfer that terminates the opportunity.

<sup>8</sup> Opt-out qualification Suboptions B and C might be combined at the time of Council preliminary and/or final action.

lbs of fixed gear sablefish north landings.

## **Gear-Switching Endorsement Alternative (Action Alternative 2)**

**Overview.** In the area north of 36° N. lat., a vessel's gear-switching activity will be restricted based on limits applied to its trawl limited entry permit and the size of the limit will depend on whether or not the permit has a gear-switching endorsement. The amount of sablefish north gear switching allowed will be larger for gear-switching endorsed permits than for non-endorsed trawl permits. Gear-switching endorsements will be attached to permits that have a history of gear switching that meet minimum qualification criteria. The endorsement might or might not expire when the permit to which it is attached is transferred. If endorsements expire with permit transfer, the higher gear-switching limits would eventually phase out and all vessels would be restricted to the lower level gear-switching limit provided for permits without gear-switching endorsements.

### **Full Description**

**Gear-Switching Endorsement and Qualification.** Gear-switching endorsements will be attached to trawl limited entry permits and will not be severable from the permit. The gear-switching endorsement on a permit (or the absence of such an endorsement) will determine the northern sablefish gear-switching limit associated with the permit.

To qualify for a gear-switching endorsement, between January 1, 2011 and September 15, 2017 (the control date) the limited entry trawl permit must have landed northern sablefish IFQ with fixed gear totaling at least:

**Endorsement Qualification Option 1:** 10,000 lbs per year in at least 3 years  
*Recent Participation Sub-Option:* and participated in at least one year from 2016 through 2018.

**Endorsement Qualification Option 2:** 30,000 lbs per year in at least 3 years  
*Recent Participation Suboption:* and participated in at least one year from 2016 through 2018.

**Endorsement Qualification Option 3:** 30,000 lbs per year in at least 3 years and participated in at least one year from 2016 through 2018; or caught 90,000 lbs of northern sablefish cumulatively across three years from 2014 to 2018, with at least one gear-switched landing in each of the three years.

### **Sablefish Gear-Switching Limits.**

**Trawl permits with gear-switching endorsements.** The annual sablefish north gear-switching limit for a gear-switching endorsed permits is:

**Endorsement Limit Option 1:** for each qualifying permit, the average percentage of the sablefish north trawl allocation caught with fixed gear for years fished between 2011 and the control date.

**Endorsement Limit Option 2:** the standard northern sablefish vessel QP limit (the current limit is 4.5 percent<sup>9</sup> but this could change in the future).

**Trawl permits without gear-switching endorsement.** The annual sablefish north gear-switching allowance for a trawl permit not endorsed for gear switching is 0.5 percent<sup>10</sup> of the sablefish north trawl allocation.

**Gear-Switching Limits and Permit Transfers.** For both gear-switching endorsed and non-endorsed permits, the gear-switching limits are associated with the permit. If a permit is transferred midyear, fish caught prior to the transfer still count against the permit's limit for the year.

**Sequential Permit Registration.**<sup>11</sup> A vessel operating under non-gear-switch endorsed permits (non-endorsed permit) may not exceed 0.5 percent gear-switching (for example, by sequentially registering different non-endorsed permits during the same year). A vessel gear switching under a gear-switching endorsed permit may not increase its gear-switching limit beyond that allowed under the endorsed permit by sequentially registering a non-endorsed permit during the same year. FOR FURTHER DELIBERATION: Should a vessel be able to expand its gear-switching opportunity by sequentially fishing under multiple gear-switching endorsed permits?

**Combination of Trawl Permits.** Current management measures allow vessels to combine two permits to create a single permit with a larger vessel length endorsement. If trawl permits are combined and if there is a gear-switching endorsement on either permit, the permit resulting from the combination will have a gear-switching endorsement. If both of the combined permits have a gear-switching endorsement, then the larger of the two limits will be included on the resulting permit.<sup>12</sup>

### **Gear-Switching Limit Overages.**

When a vessel reaches the gear-switching limit (as determined by the permit registered to the vessel), it may retain and sell any sablefish caught in excess of the limit but may not deploy non-trawl gear on any trawl IFQ sector trips taken during the remainder of the year.<sup>13</sup> The gear-switching limits are specified as limits on the

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<sup>9</sup> Using the 2020 trawl allocation (2,637 mt), 4.5 percent is equivalent to 261,600 pounds.

<sup>10</sup> Using the 2020 trawl allocation (2,637 mt), 0.5 percent is equivalent to 29,100 pounds.

<sup>11</sup> Permit Stacking and Joint Registration: As under status quo, this alternative does not allow trawl permit stacking (the registration of more than one trawl permit with a vessel at the same time). Similarly, as with status quo, joint registration of trawl and fixed gear permits continues to be permissible.

<sup>12</sup> The provision of this sentence regarding the larger of the two endorsements is only relevant if Endorsement Limit Option 1 is selected.

<sup>13</sup> A vessel that reaches the sablefish gear-switching limit would not be able to gear switch on subsequent trips even if it was targeting non-sablefish species and the chance of sablefish bycatch is extremely low. It would be able to continue to fish with trawl gear and retain sablefish caught, up to the annual vessel limit.

maximum amount of sablefish QP that can be used to cover fish caught under the IFQ Program with non-trawl gear.<sup>14</sup> All gear-switching overages must be covered by QP. Any QP a vessel uses for gear switching in excess of its gear-switching limit will reduce the following year gear-switching limit for its permit by the amount of the excess QP used. This applies to the permit being used by the vessel at the time of the overage.

*Suboption:* Any QP a vessel uses for gear switching in excess of its gear-switching limit will not reduce the following year gear-switching limit on the permit used when the limit was exceeded (i.e., eliminate the last two sentences of the above paragraph).

**Other Species Gear-Switching Limit.** For all trawl permitted vessels, there will not be any gear-switching limits for other IFQ species.

**Annual Vessel QP Limit.** Regardless of these gear-switching limits, trawl permitted vessels are not allowed to catch amounts in excess of the northern sablefish vessel QP limit (taking into account both the vessel's trawl and non-trawl QP landings).

#### **Endorsement Expiration.**

**Expiration Option 1:** Gear-switching endorsements will expire<sup>15</sup> when the permit is transferred to a different owner or a new owner is added to the existing permit ownership<sup>16, 17, 7</sup> (ownership-based phase-down of gear switching).

**Expiration Option 2:** Gear-switching endorsements do not expire when the permit is transferred.

#### **Active Trawler Alternative (Action Alternative 3)**

**Overview.** To be eligible for gear switching in a particular year, a vessel would be required to have a certain level of trawl landings earlier in that year or the previous year. Exemptions to this requirement would be provided for vessels that have some minimum amount of gear-switching history. These exemptions would be attached to a limited entry permit designated by the vessel owner, not separable from the permit, and expire over time with changes in permit ownership. The level of gear switching allowed by those with exemptions would be tied to the amount of QS owned by the vessel owner but would not be less than some base amount, likely 0.6 percent.

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<sup>14</sup> Sablefish gear-switching limits are evaluated after applying credits for discard survival. Therefore, they are actually limits on total QP used (sablefish discard mortality and landings) rather than of catch.

<sup>15</sup> Expire means the endorsement will be removed from the permit.

<sup>16</sup> For purpose of this provision, a change in ownership will be considered to occur when a new entity is added to the permit ownership but not when an entity leaves the permit ownership, e.g. partners may leave but new partners may not be added (using rules similar to those which apply to expiration of the owner-on-board exemption for the fixed gear permit system).

<sup>17</sup> A change in the name or organizational structure (e.g. from partnership to LLC) of the permit will not be considered a change in ownership for the purposes of these provision unless the change also involves the addition of a new entity or individual to the underlying permit ownership.

Provisions are included for adjustments to the level of gear switching allowed for active trawlers and exempt vessels, in order to keep the fleet within a particular cap (“back-stop”).

### **Full Description**

**Active-Trawler Designation.** A vessel must have a current year “active-trawler” designation to use fixed gear to land northern sablefish (unless it has an exemption).

**Active Trawler Gear-Switching Limit.** Each active-trawler vessel will be limited to catching<sup>18</sup> 1.0 percent<sup>19</sup> of the northern sablefish allocation with fixed gear.

**Active Trawler Qualification.** A vessel is designated as an “active trawler” if in the current or prior year it uses trawl gear to make at least six IFQ landings that each meet at least one of the following two criteria (based on area of catch):

- a. in the area north of 40° 10’ N. lat, 18,000 pounds of any IFQ species
- b. in the area between 36° N. lat. and 40° 10’ N. lat., 9,000 lbs of any IFQ species

**Exempted Permits.** Vessels may qualify for an exemption to the “active trawler” requirement. The exempted vessel status will be assigned to a trawl permit designated by the vessel owner at time of implementation.

**Exemption Qualification.** To qualify a permit for an exemption, a vessel must have used fixed gear in the trawl catch share program to land a minimum of:

**Exempted Vessel Qualification Option 1:** 30,000 lbs of northern sablefish per year in at least three years between January 1, 2011 and September 15, 2017.

**Exempted Vessel Qualification Option 2:** 30,000 lbs of northern sablefish per year in at least three years between January 1, 2011 and September 15, 2017 or 90,000 lbs cumulatively across three years from 2014 to 2018, with at least one gear-switched landing in each of the three years.

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<sup>18</sup> Sablefish gear-switching limits are evaluated after applying credits for discard survival. Therefore, they are actually limits on total QP used (sablefish discard mortality and landings) rather than of catch.

<sup>19</sup> Using the 2020 trawl allocation (2,637 mt), 1.0 percent is equivalent to 58,100 pounds.



**Exempted Permit Gear-Switching Limit.** Vessels with exempted permits will be allowed to use fixed gear to catch<sup>18</sup> the greater of

0.6 percent<sup>20, 21</sup> of the northern sablefish allocation OR  
an amount proportional to the percent of northern sablefish QS in a QS account<sup>22</sup> for which there is a 50 percent common ownership between the vessel and the QS account.<sup>23</sup>

In order to qualify for the larger limit, the ownership that meets the common ownership<sup>24</sup> requirement must have owned the northern sablefish QS as of and continuously since the control date and must have owned the vessel as of and continuously since the control date, with the following exception. Further, after the program is implemented, divestment of sablefish QS will reduce the amount allowed for the larger limit.

**QS Account Expiration Exception.** If before or after program implementation a QS account<sup>5</sup> expires<sup>6</sup> and the common ownership that meets the 50 percent requirement acquires another QS account, transfers the sablefish QS to the new account, and maintains ownership in the vessel, then the common ownership linkage between the new QS account and the previous vessel will qualify the vessel for the larger limit (provided the exempted permit continues to be registered to the vessel, in the case of QS account expiration after implementation).

**Vessel Replacement Exception.** If after implementation, the common ownership that meets the 50 percent requirement acquires another vessel, divests itself of the previous vessel, and maintains ownership in the QS Account, then the common ownership linkage between the new QS Account and the previous vessel will qualify the new vessel for the larger limit (provided the exempted permit continues to be registered to the vessel).

**Gear-Switching Limits for Transferred Permits.** For exempted permits, the gear-switching limits are associated with the permit. If a permit is transferred midyear to a new vessel, fish caught prior to the transfer still count against the permit's limit for the year.

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<sup>20</sup> Using the 2020 trawl allocation (2,637 mt), 0.6 percent is equivalent to 34,900 pounds.

<sup>21</sup> This amount may be reduced prior to final adoption of the alternative, as necessary to ensure that exempted vessels would not be expected to exceed the 10 percent backstop percentage described below.

<sup>22</sup> The amount would be the northern sablefish QS in the account plus a percentage to adjust for the 10 percent of QS allocated for AMP. To derive that amount, multiply the QS amount by  $(1 + 0.1/0.9)$  and the trawl allocation.

<sup>23</sup> A vessel owner will be considered to own a QS account if there is 50 percent or more common ownership between the vessel and the QS account.

<sup>24</sup> The phrase "common ownership" is used here to refer to the common owners between a QS account and a vessel. Through any ownership changes, at least 50 percent common ownership between the two must be maintained in order to qualify for the higher level gear-switching limit.

**Gear-Switching Limits and Sequential Permit Registration.** A vessel gear-switching under an exempted permit may not exceed the exempted permit's gear-switching limit by sequentially registering different exempted permits during the same year. A vessel's current permit determines the vessel's limit. If a vessel registers to a new permit during the year, its total annual gear switching is limited by the amount allowed under the new permit. It may only engage in additional gear switching if the gear-switching limit for the new permit<sup>25</sup> is more than the amount of gear switching in which the vessel has already engaged earlier in the year.<sup>26</sup>

**Gear-Switching Limits for Active Trawlers with Exempted Permits.** If a vessel is both an active trawler and has an exempted permit, the higher of the gear-switching limits associated with the status/permit will apply for that vessel.

**Exemption Expiration.** Exemptions will expire<sup>27</sup> upon transfer of the limited entry permit to a new owner...<sup>17,16</sup>

*Exemption Expiration Suboption:* ... or 12 years after any fishing under the regulations start, whichever comes earlier.

### **Gear-Switching Limit Overages.**

When a vessel reaches the gear-switching limit (as determined by the permit registered to the vessel or a vessel's active trawler status), it may retain and sell any sablefish caught in excess of the limit but may not deploy non-trawl gear on any trawl IFQ sector trips taken during the remainder of the year.<sup>28</sup> The gear-switching limits are specified as limits on the maximum amount of sablefish QP that can be used to cover fish caught under the IFQ Program with non-trawl gear.<sup>29</sup> All gear-switching overages must be covered by QP. Any QP a vessel uses for gear switching in excess of its gear-switching limit will reduce, by the amount of the excess QP

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<sup>25</sup> After subtracting any gear switching previously carried out by other vessels on that permit.

<sup>26</sup> If a vessel starts the year fishing under a permit with a 0.6 percent limit but transfers to a different exempted permit with a 0.6 percent limit, its total gear-switching limit for the year is still 0.6 percent and any gear switching conducted prior to the transfer counts against the limit for the vessel under its new permit. If a vessel starts the year fishing under a permit with a 0.6 percent limit but transfers to a new exempted permit with a higher limit, its total gear-switching limit for the year is that associated with the higher limit and any gear switching the vessel conducted prior to the transfer counts against the higher limit of the current permit. If a vessel starts the year fishing under a permit with a limit higher than 0.6 percent and transfers to a permit with a lower limit it may not conduct additional gear switching unless it has not yet reached the 0.6 percent limit.

<sup>27</sup> Expire means the exemption will be removed from the permit.

<sup>28</sup> A vessel that reaches the sablefish gear-switching limit would not be able to gear switch on subsequent trips even if it was targeting non-sablefish species and the chance of sablefish bycatch is extremely low. It would be able to continue to fish with trawl gear and retain sablefish caught, up to the annual vessel limit.

<sup>29</sup> Sablefish gear-switching limits are evaluated after applying credits for discard survival. Therefore, they are actually limits on total QP used (sablefish discard mortality and landings) rather than of catch.

used, the following year gear-switching limit for the vessel (if it is gear switching as an active trawler) or for its permit (if it is fishing under an exempted permit). The latter applies to the permit being used by the vessel at the time of the overage.

*Suboption:* Any QP a vessel uses for gear switching in excess of its gear-switching limit will not reduce the following year gear-switching limit (i.e. eliminate the last two sentences of the above paragraph)

**Other Species Gear-Switching Limit.** For all trawl permitted vessels, there will not be any gear-switching limits for other IFQ species. Sablefish north caught on gear-switching trips by vessels without either active trawler status or an exempted permit must be discarded.

**Back Stop Percentages.** Set back-stop percentages for the active trawler group and exempt group to 10 percent and 10 percent, respectively, of northern sablefish trawl allocation. Vessel gear-switching limits for active trawlers would be adjusted from year-to-year to keep the active trawler group below the 10 percent back stop amount. Prior to final adoption, the 0.6 percent limit for vessels with exemptions may be reduced if it appears necessary to ensure that exempted vessels do not take more than 10 percent of the northern sablefish with fixed gear.