

Range of Gear Switching Alternatives Adopted for Analysis
by the Council at Its September 2021, June 2022, and
November 2022 Meetings

Draft

February 2023

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Range of Gear Switching Alternatives Adopted for Analysis

The Pacific Fishery Management Council (Council) is considering placing a limit on the amount of gear switching (GS), use of non-trawl gear to catch quota pounds (QPs), that can occur in the trawl individual fishing quota (IFQ) fishery. **The Council will next take up this topic at its April 2023 meeting. At that time, it may further modify the range of alternatives adopted for analysis.** At its November 2022 meeting, some Council members expressed an interest in considering an alternative that would allow gear switching to continue as it does under current regulations, except that once gear switching of northern sablefish is projected to reach 29 percent of the trawl allocation, all gear switching for northern sablefish would halt.

This document provides a description of the preliminary range of alternatives the Council adopted at its September 2021 meeting and augmented at its June and November 2022 meetings.

At its November 2022 meeting, the Council

- Added new options and made other changes to Alternative 1, gear specific quota share (QS)—any-gear and trawl-only QS.
- Eliminated Alternative 2, which would have created gear specific quota pounds (QP) but not gear-specific QS.
- Eliminated some options and made other changes to Alternative 3, gear-switching endorsements allocated based primarily on permit history.
- Eliminated Alternative 4, which would have allocated gear-switching endorsements primarily based on vessel history.
- Added a new, gear-specific QS alternative, one that would create less total any-gear QS and distribute it among fewer QS accounts, as compared to Alternative 1 (numbered as Alternative 2 in this document).

This document provides some discussion of all the alternatives. See the June ([Agenda Item F.5, Attachment 2, June 2022](#)) and November ([Agenda Item H.3, Attachment 1, November 2022](#)) versions of the alternatives for additional discussions and interpretations regarding Alternative 1 and Alternative 3. Note that the current Alternative 3 was numbered as Alternative 2 in the June version of the alternatives document.

In the following, all references to quota, allocations, QS, and QP are to northern sablefish, and all references to permits are to trawl limited entry permits (LEPs), unless otherwise specified. The control date referenced is September 15, 2017.

1.0 SUMMARY OF NO-ACTION ALTERNATIVE

No Action is an alternative to each of the following action alternatives (Figure 1). Under No Action, the regulatory regime would not change in connection with this deliberation. Some of the main provisions of that regime relevant to provisions of the gear-switching limitation alternatives under consideration include:

- participation in the trawl catch share fishery is allowed for any vessel registered to a trawl limited entry permit (LEP) and any legal groundfish gear may be used to participate;
- movement between the limited entry fixed gear (LEFG) and trawl catch shares fishery is eased by allowing a vessel to be registered with a trawl and fixed gear LEP at the same time (dual registration);
- any person can open a QS account but QS accounts cannot be transferred (just the QS held in the accounts);
- each year QP are issued to QS accounts but must be transferred to a vessel account to be used; and
- no individual can own or control more than 3 percent of the QS, while no vessel may use more than 4.5 percent of the QP.

If No Action is selected, the regulatory regime would not be changed, but the fishery would 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 QP. These factors may influence and be influenced by the degree of gear switching. Vessels with trawl LEPs 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. The total amount of GS might decline, remain at recent levels, or increase.

No Action: Overview				
Main Gear Switching Related Provisions				
Trawl Permit Required to Participate	Vessels with Trawl Permits Can Use Any Gear	LE Trawl and LE Fixed Gear Permits Dual Registration Allowed	Any Person Can Open a QS Account QS Account Cannot be Transferred	QP Issued to QS Accounts QPs Transfer to Vessel Accounts
QS Control Limit: 3% Annual Vessel QP Use Limit: 4.5%				

Figure 1. Identification of alternatives and overview of No Action Alternative.

2.0 SUMMARY OF ACTION ALTERNATIVES

Three Action Alternatives, with Different Limitation Mechanisms. There are three action alternatives, which rely on different mechanisms to limit gear switching of sablefish north of 36° N. lat. (Figure 2 and Table 1). The first two would limit gear switching by converting some northern sablefish quota share (QS) to trawl-only and leaving the remainder as is (i.e. any-gear QS, top of Figure 2). The differences between Alternatives 1 and 2 relate primarily to the amount of QS designated as any-gear, the breadth of the distribution of the any-gear QS, and whether a QS owner's landings history is evaluated based on the landings of a vessel while under their ownership (Alternative 1) or the history of a permit (Alternative 2) that they own on the control date (they did not necessarily need to own the permit when it accumulated the gear switching history). Additionally, Alternative 1 includes a suboption that would allow first receivers to qualify. The first alternative would designate a greater amount of QS as any-gear QS and distribute that QS across a greater number of QS owners, compared to the second alternative. Alternative 3 would utilize a different limitation mechanism than the first two alternatives, eliminating the opportunity to land northern sablefish with non-trawl gear, except for those vessels operating with trawl LEPs endorsed for gear switching (bottom of Figure 2). Gear switching endorsements would be issued to LEP owners based on the gear-switching history of the permit they own and their ownership of northern sablefish QS—and possibly on ownership of a vessel that gear switched northern sablefish QPs (depending on the qualification criteria selected). Under all alternatives, a greater amount of opportunity would be provided in consideration of gear switching history and amounts of QS owned as of the control date.

Maximum GS Allowed: The action alternatives were designed to limit gear switching to no more than 29 percent of the trawl allocation. Under all three alternatives, the maximum amount of gear switching may be lower than 29 percent (Table 2). For Alternative 1, this would depend on the QP allocation split options selected by the Council (at the low end, the amount would only be somewhat less than 29 percent¹); and for Alternative 2, it would be affected by the amount of QS owned by qualifying entities as of the control date (this could be well less than 29 percent). Under Alternative 3, the amount of gear switching allowed under gear switching endorsed permits could be 29 percent or substantially lower, depending on the qualifying options (Table 2) and endorsement limit options selected (Table 3). The lowest number of qualifiers would occur under Qualifying Option 2, which requires that as of and since the control date, a person own the qualifying permit, some amount of northern sablefish QS, and a vessel that gear switched prior to the control date. The lowest average gear switching limits for individual gear switching endorsements would occur under Endorsement Limit Option 3, which would set the individual permit limits based on the amount of QS owned by the qualifying permit owner as of and since the control date.

Qualifying Criteria: What must be owned and when in order to qualify for a continuation of some GS opportunity varies among the alternatives—as described in the last row of Table 2.

¹ The first QP split option would designate 29 percent of the quota as any-gear, thereby establishing a 29 percent maximum (the remainder of the quota would be trawl-only). The second QP split option would specify the any-gear portion as the smaller of 29 percent of the trawl QP allocation and 1.8 million pounds.

All three action alternatives include a qualifier option constructed around having at least 30,000 pounds of gear switched landings per year in at least 3 years prior to the control date. Alternative 1 requires those landings be made by a vessel that was under the ownership of the QS owner at the time of the landings. Alternatives 2 and 3 require those landings be made by a permit that was under the ownership of the QS owner as of and since the control date. Alternative 1 also includes qualifying options constructed around requiring only a single gear switched landing. Additionally, it includes gear-switching participant qualification opportunities for first receivers of gear switched landings, for individuals that are in QS ownership groups with vessel owners who qualify based on meeting landings criteria, and for members of a Fishermen’s Collective Marketing Act (FCMA) registered cooperative that transfer their sablefish QP to gear switching vessel(s) owned by other members. The full text of the alternatives should be reviewed for specific information on what is required to meet the criteria and the opportunities provided to those meeting the criteria.

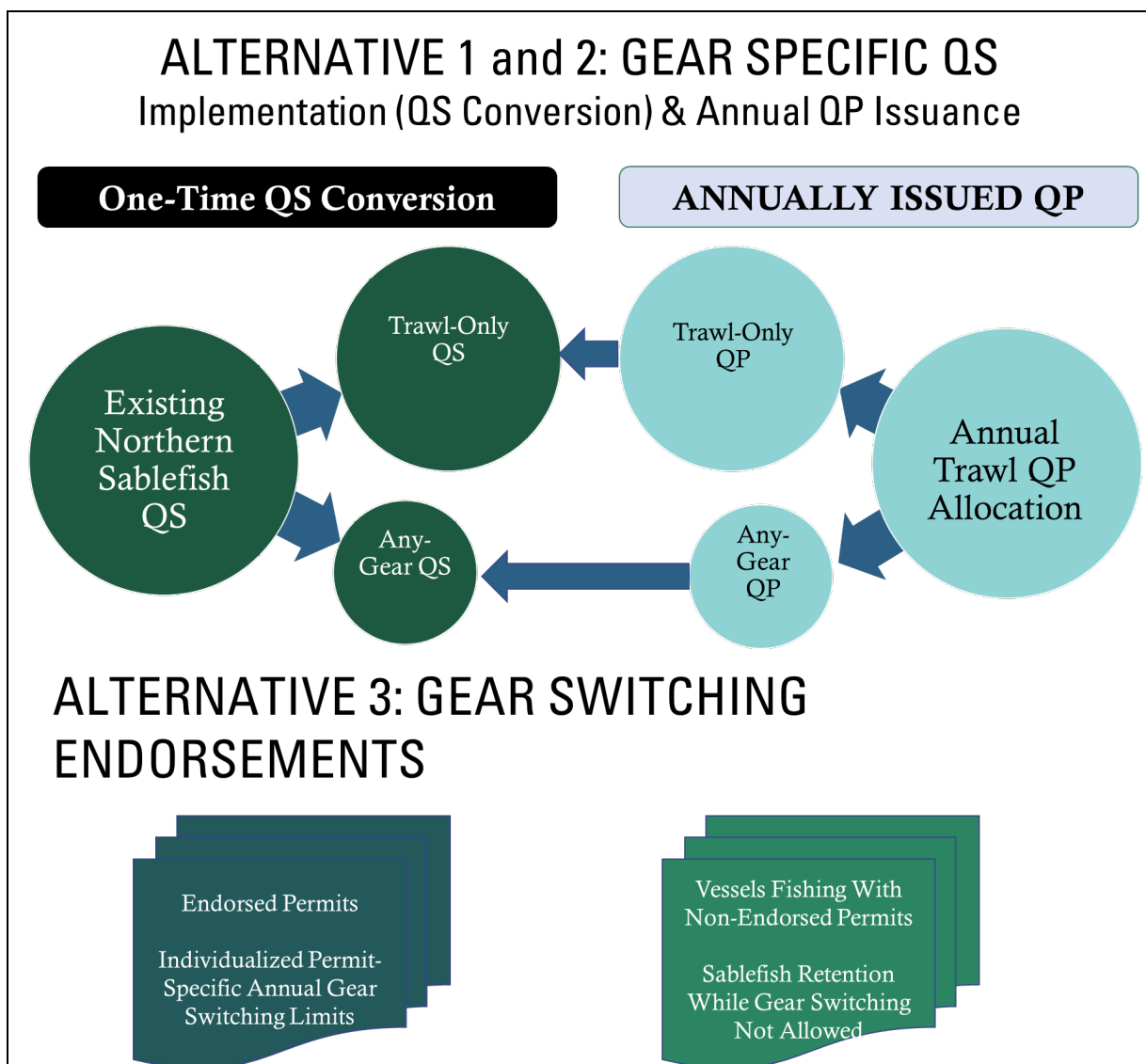


Figure 2. Schematics of Action Alternatives.

Table 1. Overview of main provisions of the action alternatives.

Alternatives	Alt 1 Gear Specific QS—Wide Distribution	Alt 2 Gear Specific QS— Narrow Distribution	Alt 3 Gear Switching Endorsement—Permit Qualifier
Mechanism to Limit Gear Switching	<p style="text-align: center;">Gear-specific QP Issued for gear-specific northern sablefish QS (Trawl-only or any-gear)</p>		<p style="text-align: center;">Gear-switching limits for gear-switching endorsed trawl LEPs</p> <p>Vessels with trawl LEPs not endorsed for gear switching may not land sablefish north caught while gear switching.</p>
<p>Gear Switching Opportunity</p> <p>Those with Gear Switchers Meeting Qualifying Criteria</p>	<p style="text-align: center;">QS owners with adequate qualifying gear switching history would have ...</p> <hr/> <div style="display: flex; justify-content: space-between;"> <div data-bbox="359 568 980 812" style="width: 45%;"> <p>...all of their QS designated as any-gear QS, up to the amount of their control date holdings; while owners without adequate gear-switching history would have, at most, only a portion of their QS designated as any-gear QS.</p> </div> <div data-bbox="980 568 1337 812" style="width: 45%;"> <p>...all of their QS designated as any-gear QS, up to the amount of their control date holdings; while all other QS would be designated as trawl only.</p> </div> </div>		<p>The amounts of gear switching allowed by a gear-switching endorsement would be individualized for each permit based on factors such as gear-switching history and/or QS ownership (see Table 3 for criteria).</p>
<p>Others (Current and Future)</p>	<p style="text-align: center;">A vessel's opportunity to gear switch is limited to it's any-gear QP, acquired from any-gear QS owners, from other vessels with any-gear QP, or by acquiring any-gear QS from others and receiving the QP directly.</p>		<p>If gear-switching endorsement duration is unlimited (see below), endorsement conveys gear-switching opportunity to future owners of the endorsed trawl LEP.</p> <p>If duration is limited, no opportunity for future acquisition of a trawl LEP with a gear-switching endorsement.</p>
<p>Qualifying Criteria</p> <p><i>(see Table 2 for related landing criteria)</i></p>	<p style="text-align: center;">Own QS on the control date <u>and</u> own a vessel when it met gear-switching participant landings criteria, OR be a member of a QS ownership group in which at least one other member meets the vessel ownership criteria OR be a member of a cooperative and transfer QP to gear switching vessels owned by co-op members that met the vessel ownership criteria.</p> <p>Suboption: OR own a first receiver that received an amount of gear-switched landings equivalent to the gear-switching participant landings criteria.</p>	<p style="text-align: center;">As of and since the control date:</p> <p>own QS (any amount) <u>and</u> a permit that meets the gear-switching participant landings criteria.</p>	<p style="text-align: center;">As of and since the control date:</p> <p style="text-align: center;">Own both a trawl LEP that meets gear-switching participant landing criteria and northern sablefish QS,</p> <p style="text-align: center;">with an option that would also require ownership of a vessel that gear switched prior to the control date</p> <p>(all ownership required as of and since the control date).</p>
Duration	No limit on duration.		Options for the gear switching endorsement to expire or remain valid with transfer of permit to a new owner.

Table 2. Gear switching participant landings criteria and maximum total gear switching.

Alternatives	Alt 1 Gear Specific QS—Wide Distribution	Alt 2 Gear Specific QS— Narrow Distribution	Alt 3 Gear Switching Endorsement—Permit Qualifier
<p>Gear-Switching Participant Landings Criteria ^{a/}</p> <p><i>(abbreviated – please see the alternatives for complete specification of these criteria).</i></p>	<p>Option 1: Vessel with at least one landing of northern sablefish prior to the control date</p> <p>Option 2: Vessel with at least 30,000 pounds of northern sablefish in each of three or more years prior to the control date.^{c/}</p>	<p>LEP(s) gear switched at least 30,000 lbs per year in at least 3 years prior to the control date.</p>	<p>Permit Landing Criteria (Options 1 and 2): LEP gear switched at least 30,000 lbs per year in at least 3 years prior to the control date.</p> <p>Vessel Landing Criteria (Option 2 only): At least one gear switched landing prior to the control date.</p>
<p>Maximum Total Gear-Switching under the Alternative</p>	<p>QP Split Option 1: 29% any-gear^{b/}</p> <p>QP Split Option 2: 29% any-gear but not more than 1.8 million lbs^{b/}</p>	<p>Depends on amount of QS held by qualifiers on the September 15, 2017 (the control date)—expected to be substantially less than 29%.^{b/}</p>	<p>Not more than 29 percent for all vessels with endorsements, in aggregate.</p> <p>Maximum depends on the participant landings criteria (above) and endorsement limit options (Table 3) selected.</p>

a/ Under Alternative 1, there is an option that would include an additional criteria that non-gear switchers (those not meeting the gear switching history criteria) would need to meet in order to receive a portion of their quota as any-gear—those not meeting that criteria would be allocated only trawl-only QS. That criteria is ownership of a vessel making a bottom trawl landing after the control date and within two years prior to implementation.

b/ The remainder would be trawl-only.

c/ An option related to the process for converting QS to gear-specific QS (Conversion Process Option 2) would allow both Criteria Options 1 and 2 to be adopted, with those meeting Option 1 having 50 percent of the amount they owned on the control date converted to any-gear QS. and meeting Option 2 having 100 percent)

Table 3. General description of the endorsement limit options for Alternative 3 (abbreviated – please see the alternatives for complete specification of these criteria).

Alternatives	Alt 3 Gear Switching Endorsement—Permit Qualifier
Endorsement Limit Option 1:	Limit based on the qualifying permit's average percentage of sablefish north trawl QP allocation gear switched, for years fished.
Endorsement Limit Option 2:	Limit based on based on QS owned as of and since the control date plus an amount such that the total of all gear switching limits is 29 percent. This additional amount would be distributed among endorsements in proportion to history calculations specified in Option 1.
Endorsement Limit Option 3:	Limit based on QS owned as of and since the control date

3.0 DETAILED DESCRIPTION OF THE ACTION ALTERNATIVES

The following is a detailed description of action alternatives. In these descriptions, all references to quota, allocations, QS, and QP are to northern sablefish, unless otherwise specified. Additionally, all references to years are to calendar years unless otherwise noted.

Action Alternative 1: Gear Specific QS—Wide Distribution

Overview. All northern sablefish QS will be converted to either QS valid only for the use of trawl gear (“trawl-only QS”) or for the use of any gear (“any-gear QS”, i.e., QS that is the same as status quo QS with respect to gear usage). This one-time conversion will be carried out in a fashion such that it will not impact the total percentage of northern sablefish QP a QS owner receives in the year of the conversion. The proportions of each type of QS a QS owner receives will be based on the QS owner’s participant status, except that any QS an owner holds that is excess of the amount held as of the control date will be converted entirely to trawl-only QS. QS owners that qualify as a gear-switching participant will receive all or a substantial portion of their northern sablefish QS as any-gear QS (except for amounts held in excess of what they owned on the control dates). Non-Gear-Switching participants will receive a combination of trawl-only and any-gear QS; and if there is an “Other Participant” category, those entities would receive 100 percent of their QS as trawl-only. Participant status will be based on a QS owner’s history of owning a vessel that gear switched or trawled. There are also opportunities for qualifying based on association with such individuals and an option for first receivers. The annual trawl allocation of northern sablefish QP issued each year will be designated as trawl-only and any-gear QP and issued to holders of the respective trawl-only and any-gear QS.

Full Description

Terminological Note:

Any-gear QS: Same as status quo QS.

Conversion: Because any-gear QS is the same as status quo QS, there is not really a need to “convert” it to any-gear QS; however, to simplify discussion, the designation of QS as any-gear QS will be described as “conversion,” just as the designation of QS as trawl-only is a conversion.

Gear Switching Control: Trawl-Only and Any-Gear Quota Share (QS)

The current northern sablefish QS (valid for use with any gear) will be converted to trawl-only QS and any-gear QS (see procedure below).

Annual Split of the Sablefish North QP Allocation Between Trawl-Only and Any-Gear QS

QP Allocation Split Option 1: 71 percent of the trawl QP allocation will be designated as trawl-only QP and 29 percent as any-gear QP. Trawl-only QP will go to trawl-only QS holders and trawl-only adaptive management program (AMP) QS. Any-gear QP will go to any-gear QS holders and any-gear AMP QS.

QP Allocation Split Option 2: The total amount of QP issued as any-gear QP will be the smaller of 29 percent of the trawl QP allocation and 1.8 million pounds, with the remainder of the allocation issued as trawl-only QP. Trawl-only QP and any-gear QP will be distributed to QS holders and AMP, as indicated for Option 1.

Procedure for Converting Northern Sablefish QS holdings to Trawl-Only and Any-Gear QS

National Marine Fisheries Service (NMFS) will categorize current individual owners of sablefish north QS based on the participation criteria listed in the next section. After classifications have been completed, northern sablefish QS will be converted to trawl-only and any-gear QS using the following initial steps. After initial steps are completed, all QS amounts will be adjusted so that the total amount of QS held for each gear-specific northern sablefish QS type totals to 90 percent for QS accounts and 10 percent for QS reserved for AMP. The end result will be that in at least the year of conversion, each QS holder would receive the same percentage of the total sablefish QP after the conversion that they would have if the conversion had not been carried out, except designated as trawl-only or any-gear QP.

Initial steps:

Excess QS. All QS owned by an individual in excess of the amount the individual held as of the control date (September 15, 2017) will be converted to trawl-only QS.

Eligible QS. All other QS held by the QS owner at the time of conversion will be potentially **eligible** for conversion to any-gear QS, depending on the QS owner's status as determined by participation criteria and applied in the following steps.

1. QS owners **meeting the gear-switching participant criteria** will
 - Conversion Procedure Option 1:** have 100 percent of their eligible QS converted to any-gear QS.
 - Conversion Procedure Option 2:** have 50 percent of their eligible QS converted to any-gear QS if they qualify under Gear-Switching Participant Vessel Option 1 and have 100 percent of their eligible QS converted to any-gear QS if they qualify under Gear-Switching Participant Vessel Option 2 or the First Receiver suboption, if it is selected. (Note: this option requires Council selection of both Gear-Switching Participant Vessel Options 1 and 2).
2. QS owners **meeting the non-gear-switching participant criteria** will have their eligible QS converted to trawl-only and any-gear QS in pre-established ratios that are applied to each account. Those ratios will be established such that, when all of these initial steps are completed and results summed across all QS accounts, the ratio of trawl-only to any-gear QS matches the ratio of the QP Allocation Split Option selected above and the combined total of trawl-only and any-gear QS comes to 90 percent.^{2,3}

² For QP Allocation Split Option 1, in the initial step, the total amount of QS issued to private accounts as trawl-only would be 63.9 percent and the total amount issued as any-gear would be 26.1 percent, i.e. 71 percent of 90 percent and 29 percent of 90 percent.

³ If the Council chooses QP Allocation Split Option 2, the ratio will be the percentages that would apply under QP Split Option 2 for the year of the conversion.

3. QS owners that **do not meet the gear switching or non-gear-switching participant criteria** (“Other Participants”) will have 100 percent of their QS converted to trawl-only QS.
4. AMP QS⁴ will be designated as trawl only and any-gear in proportions that match the QP Allocation Split option selected above.

Adjustment Step:

After the initial steps, the amount of **trawl-only QS and any-gear QS** in each account will be adjusted by multiplying by an adjustment factor so that the total amount of each type of QS in QS accounts is 90 percent.⁵

The percentage of **QS held back for AMP** will be expanded so that there are 10 percentage points of trawl-only AMP QS and 10 percentage points of any-gear AMP QS.

Participant Criteria for Determining Participant Status

The participant criteria below are applied only to current QS owners for the purpose of determining their participant status. In general, these criteria will be applied to individuals (taking into account their ownership interest in QS accounts as reported to NMFS), including individuals within ownership group. For this purpose, trusts, non-governmental entities, and governments will be treated as individuals. To meet the participant criteria, a current QS owner must

have owned northern sablefish QS as of September 15, 2017; and
for some criteria, meet the additional participation criteria listed below.

Gear-Switching Participant Criteria:

Gear-Switching Participant—Vessel Option 1: The QS owner owned a vessel that they used to make at least one gear switched landing of northern sablefish prior to September 15, 2017;

OR were part of a QS ownership group when at least one member of the group owned a vessel or vessels and met this landing criteria;

OR were members of a Fishermen’s Collective Marketing Act (FCMA) registered cooperative that transferred their sablefish QP⁶ to gear switching vessel(s) owned by members of the cooperative which met this landing criteria.⁷

⁴ AMP QS is implicitly set aside in that only 90 percent of the QS is allocated out to QS Account owners.

⁵ Implementation Detail—Calculation: For trawl only QS the adjustment factor would be 90 percent divided by the sum of all trawl-only QS in all QS accounts. For any-gear QS, the adjustment factor would be 90 percent divided by the sum of all any-gear QS in the accounts.

⁶ “Their sablefish QP” means the individual owns northern sablefish QS for which they received QP.

⁷ The vessel receiving the QP must have been making gear-switched landings in the year of the QP transfer. This criteria does not require that the particular year in which such a transfer is made be one that counts toward meeting the requirement.

Gear-Switching Participant—Vessel Option 2: The QS owner owned a vessel or vessels that they used to make gear switched landings of at least 30,000 pounds of northern sablefish in each of three or more years prior to September 15, 2017,

OR were part of a QS ownership group when at least one member of the group owned a vessel or vessels and met this landing criteria;

OR were members of an FCMA registered cooperative that transferred their sablefish QP⁶ to gear switching vessel(s) owned by members of the cooperative which met this landing criteria.⁷

(Note: If Conversion Procedure Option 2 is selected, then both of the above options would be applied.)

Gear-Switching Participant—First Receiver Suboption: A QS owner that owns a first receiver which purchased a minimum of 30,000 pounds of northern sablefish from gear switching vessels in at least three years prior to September 15, 2017. This suboption could be applied with either vessel option.

Non-Gear-Switching Participant Criteria:

Non-Gear-Switching Participant—Option 1:

All QS Owners: The QS owner owns sablefish north QS but does not meet the gear-switching participant criteria (including QS account owners that do not own vessels or first receiver operations).

Non-Gear-Switching Participant—Option 2

Vessel Criteria: The QS owner does not meet the gear-switching participant criteria but owns or owned a vessel that they used to land northern sablefish with bottom trawl in the IFQ fishery in any of the two years prior to the year in which the QS conversions are conducted;

OR were part of a QS ownership group when at least one member of the group owned a vessel or vessels and met this landing criteria.

First Receiver Suboption: The QS owner does not meet the gear switching participation criteria but purchased Dover sole, thornyheads, and sablefish north from bottom trawl vessels in the IFQ fishery in any of the two years prior to the year in which the above QS conversions to gear-specific QS are conducted. This suboption could be applied to either of the non-gear-switching participation options.

Other Participant Criteria:

Any QS owners with QS as of the control date and not qualifying under the selected gear-switching and non-gear-switching participant options will be classified as “Other Participants.” Only if Non-Gear-Switching Participant Option 2 is selected would there be anyone in this category.

Applying Participation Criteria (Allocation Approach)

Approach for Applying Vessel Ownership Related Participant Criteria: Where a QS owner’s participant status is determined by the ownership of a vessel at the time it made landings meeting the participation criteria, the QS owner is considered to meet the vessel ownership criteria if the QS owner has any fraction of ownership interest in a vessel at the time of those landings.⁸

Additionally, as provided by the participant options, the following also count as the meeting the participant criteria:

- being part owner of a QS ownership group, or
- being a member of an FCMA registered co-op

for which at least one member meets the vessel ownership criteria (see the participant options for related additional criteria that must be met to qualify based on association).

These criteria do not require that vessel ownership or association with the vessel owner be maintained through to the control date or time of implementation. Thus, once it is established that at a particular point in time an individual met the participant criteria that individual’s status is not considered to change across time.

Approach for Applying First Receiver Ownership Related Participant Criteria: If a QS owner has any fraction of ownership interest in a first receiver at the time the first receiver received qualifying landings, that QS owner will qualify under the participant criteria for first receivers. As with the vessel owner participant criteria, once it is established that at a particular point in time an individual met the first receiver participant criteria that individual’s status is not considered to change across time.

Approach to Applying QS Ownership Related Criteria: An individual approach will be used to convert the QS in each QS account. This means that each individual’s participant status will be determined and then applied to the portion of QS in the account attributable to their ownership share of the QS account.⁹ All converted QS will

⁸ Vessel account information will be used to determine ownership of a vessel at any particular point in time and to determine linkage to QS account ownership as of the control date and at the time of implementation (current QS ownership).

⁹ In some cases where a group owns the QS account, the total of the individual ownership interests may add up to more than and in others less than 100 percent. For example, where the partnership is considered a joint entity with rights of survival partnership, each individual is reported to own 100 percent of the partnership. Or, because QS owners are not required to report ownership interests of less than 2 percent, there are some accounts for which the total reported ownership is less than 100 percent.

remain in the same QS account, under the same owner or ownership group (not under the individual's sole ownership). This approach applies regardless of the criteria by which the individual qualifies.

(Note: The Council instructed that analysts continue to evaluate a collective approach. Under the collective approach, where QS account ownership is comprised of a group of individuals as of the control date, if one individual owner qualifies for a particular status then all members of the group are considered to qualify. This is similar but different from what is now specified with respect to the application of vessel ownership criteria and being part of a QS ownership group, but in that case, it is at the time of gear-switching, rather than the control date.)

Applying Participation Criteria Requiring QS Ownership as of the Control Date (Special Transfers):

Families: Any QS that was owned as of the control date but transferred to a family member including via inheritance (e.g., probate, estate planning) will be considered to have been owned by that family member as of the control date. This effectively alters the cap on the maximum amount of QS that family member may have converted based on their participant status but does not alter the family member's participant status.

Administrative Changes and Business Reorganization: QS in a QS account as of the control date that is transferred to a new or different QS account as a result of changes to accounts that are solely administrative in nature, or as a result of business reorganizations, will be considered to have been in the new or different QS account as of the control date. The application of this provision is limited to the QS that remains under ownership of the same individual(s).¹⁰

Accumulation Limits

The existing QS control limit (3.0 percent) and annual vessel use limit (4.5 percent) will continue to be applied for northern sablefish quota as a whole (without distinction by gear type).¹¹

Discussion and Interpretations of Alternative 1

For the motions that created and modified this alternative see [September 2021, 1st motion](#) and [November 2022, 2nd motion](#), in Section 4.0 of this document.

In these situations, the reported ownership interest for each individual in the group will be adjusted proportionately so that their combined ownership totals to 100 percent.

¹⁰ For example, if 50 percent of the ownership in the new account is the same as that in the old account, then a continuity of ownership will be considered to exist for the associated 50 percent of the QS in the account.

¹¹ To determine a person's holdings or usage relative to these caps, trawl-only quota (QS or QP) will be multiplied by 0.71 and any-gear quota will be multiplied by 0.29. This assumes that quota is issued in a 71/29 gear ratio. If another ratio is used, the multipliers will be adjusted as necessary.

Conversion Process: Intermediary Gear-switching Qualification

The motion included the following language:

Intermediary Gear-switching qualification

- Add a Gear-switching Participant Option 3 that has the following effect:
Those that meet Option 2 criteria keep 100% of their QS as any gear quota.
Those that only meet the Option 1 criteria keep 50% of their QS as any gear quota.

Because the provisions relate to what is received by a qualifier, rather than what is required to qualify, this portion of the motion was implemented as a step in the QS conversion process (Conversion Process Option 2). We also found that placing Option 2 in the conversion process section resulted in a somewhat simpler display and explanation of the various qualification options and permutations. In contrast to Conversion Process Option 2, under Conversion Process Option 1, any QS owner that qualifies as a gear-switching participant would have all of the QS they own converted to any-gear QS—up to the amount owned on the control date.

It should be noted that the intermediary qualification approach applies only for the gear-switching participant vessel options, since there are two qualification options that involve vessel ownership and only one that involves first receiver ownership. This means that if Conversion Process Option 2 is selected along with the First Receiver Suboption, first receivers would still have all of their QS converted to any-gear QS.

Participation Criteria--Expanded

The criteria for qualifying for gear-switching participant and non-gear-switching participant status were expanded in several ways.

Qualification Via Association with Qualified Vessel Owners

The motion included language to allow individuals to qualify via their association with owners of gear switching vessels that qualify as gear-switching participants, through either QS ownership groups or FCMA registered co-ops (related criteria described in the alternatives must also be met).

QS Account Associations. The following is the motion language that allows QS owners to qualify as gear-switching participants through their participation in QS ownership groups in which at least one member qualifies based on vessel landings criteria. It changed the alternative by addition of the underlined text.

Change the “Participation Criteria for Use in QS Conversion Procedure” (p. 14 of [\[Agenda Item H.3, Attachment 3\]](#)) to read:

have owned northern sablefish QS as of September 15, 2017; and for some criteria, have used a vessel or vessels under their ownership, or have been part of a QSA ownership group when at least one member of the group owned a vessel or vessels when it met the participation criteria listed below.

Because the phrase “for some criteria” required context for interpretation, it seemed simpler to incorporate this addition into the criteria to which it applied (Gear-Switching Participant—Vessel Options 1 and 2). The underlined language above was adjusted to clarify the time frame references so that it reads:

... were part of a QS ownership group when at least one member of the group owned a vessel or vessels and met this landing criteria.

The motion does not restrict the application of the new language to the gear-switching participant criteria, so similar language is also incorporated for Non-Gear-Switching Participant Option 2.

FCMA Associations. The motion also specified qualification by association through a fishermen’s cooperative.

Add language to the Participation Criteria that has the effect of qualifying members of a Fishermen’s Collective Marketing Act (FCMA) registered cooperative that transferred **their sablefish QP** to gear switching vessels owned by members of the cooperative.

FCMA co-ops are essentially another kind of ownership group, so the requested language was added to the same options as the language for association through QS ownership groups. With respect to this addition, “their sablefish QP” was assumed to mean that the individual owns northern sablefish QS for which they received QP—in line with the idea that the qualifying criteria relate to demonstration of investments. Further, it is assumed that the transfers must have occurred in the years in which the vessel was making gear-switched sablefish landings. This means that, for example, QP transfers to a vessel in 2017 that last gear switched in 2012 would not count as a transfer to a gear switching vessel. At the same time, for transfers to a vessel occurring in a year it gear switched, it allows for the QP to be transferred to the vessel after a gear-switching landing is made. This interpretation is considered reasonable because the program allows deficits to be covered after a trip is completed; and sometimes co-op relations are created as ways to coordinate vessels working with one another to cover their needs for QP, including needs that rise from deficits. Both assumptions are specified as footnotes within the alternatives.

As currently specified, the alternative only requires that a QS owning FCMA member transfer its QP to a vessel that is owned by someone who meets the landing criteria and that the vessel gear switched in the year of the transfer. It does not require that the particular year in which such a transfer is made be one that counts toward meeting the participant requirement. For example, if 30,000 pounds of gear switching is required in each of three years prior to the control date (i.e., Vessel Option 2), the QP transfer could occur in a year in which less than 30,000 pounds was gear switched.

The participant criteria related to vessels now all have the following form:

The QS owner owned a vessel that they used to make at least ... landing(s) of northern sablefish prior to September 15, 2017;

- OR were part of a QS ownership group when at least one member of the group owned a vessel or vessels and met this landing criteria;
- OR were members of a Fishermen’s Collective Marketing Act (FCMA) registered cooperative that transferred their sablefish QP to gear switching vessel(s) owned by members of the cooperative which met this landing criteria.

A final note regarding the FCMA provision. The scope of the FCMA allows fishermen to “act together in associations, corporate or otherwise.” Those activities can include catching, producing, marketing, and more (Fishermen’s Collective Marketing Act, 1934). Cooperatives must be organized under state laws (Smith, 1972),¹² and an unincorporated cooperative can be organized in a variety of forms, including a general partnership or limited partnership (McMullin, 1963, p. 8).¹³ The language of the Alternative 1 provision requires some form of governmental registration as an FCMA cooperative. No centralized registry of FCMA co-ops appears to exist. One approach to evaluating the registration requirement might be to consider the requirement met if a co-op’s organizational documents are filed with a state and explicitly identify the group as an FCMA cooperative.

Mix of Individual and Collective Approaches to Allocation. These additions move the alternative from the more fully individual allocation approach adopted by the Council in June 2022 to a mix of individual and collective approaches.

Under the more fully individual approach, each individual’s

- history of vessel ownership would be evaluated (participant status determined based on fishing activities of the vessel(s) in which they have at least partial ownership interest),
- holdings of QS on the control date determined (based on their share of ownership of QS accounts on the control date), and
- holdings at the time of implementation determined (again based on their share of ownership of QS accounts at the time of implementation)—see the “Prior to November 2022” row of Table 4.

The amount of QS the individual owned on the control date would determine the maximum amount that could be converted based on their participant status.¹⁴

With the modifications made at the November 2022 meeting, the process for determining the individual’s participant classification status incorporates a qualification criteria that is more of a collective approach (see the “After November 2022” row of Table 4). As described in the

¹² Smith, F. J. (1972). Organizing and Operating a Fishery Cooperative. Part 1 & Part 2.

¹³ McMullin, L. D., (1963), Organizing and Operating Fishery Cooperatives in the United States. Circular 155. United States Department of the Interior, Bureau of Commercial Fisheries Washington DC.

¹⁴ While the conversions would be based on the individual’s status, the conversion would not change the ownership of the QS—i.e., if a group of individuals own a QS account, all QS in the account would continue to be under the control of that ownership group even though the conversions would be based on each individual’s participant status and their share of ownership interest in the QS in the account.

previous section, for QS ownership groups, every individual who was a member of the group when at least one group member meets the gear-switching participant criteria via vessel ownership will be considered a gear-switching participant. And, new consideration is given for a different type of group (the FCMA registered co-op). If one or more members of such a co-op meet the gear-switching participant criteria via vessel ownership, then every co-op member that transferred their sablefish QP to a gear switching vessels owned by other group members will be considered a gear-switching participant.

Table 4. Use of individual compared to collective approaches in Alternative 1, prior to the November 2022 Council meeting and after.

	Gear-Switching Participant		
	Participant Classification Status	Historic QS Ownership	QS to Be Converted Based on Status
	Determination Date: Prior to control date (when criteria were met).	Determination Date: Control date	Determination Date: Time of Implementation
Prior to November 2022	Individual Approach: Each individual owner evaluated to determine if they have some degree of ownership of a vessel while it made required landings.	Individual Approach: Each individual owner is evaluated to determine the amount of QS they owned on the control date based on their share of interest in QS accounts and the amount of QS in the account. This amount becomes a cap on the total amount that can be converted based on their participant status.	Individual Approach: Each individual owner is evaluated to determine the amount of QS they own at the time of implementation based on their share of interest in QS accounts and the amount of QS in the account. Any amount less than or equal to the amount they owned on the control date is converted based on their participant status.
After November 2022 Action	Semi-Collective Approach: Same as prior to November; OR at the time qualifying landings are being made, participate in a QS owning group with a qualifying vessel owner, or transfer QP to vessel of a fellow FCMA member that met the criteria.	No Change	No Change
Changes Over Time	Once status established for determination date, it follows the individual through time (does not follow the group)		Not relevant after implementation.

Across Time Consideration. The Council’s June 2022 direction on the collective approach was that, if such an approach were used, the individual’s status would be determined by associations on the control date (Table 5). If, on the control date, one member of a QS ownership group qualified as a gear-switching participant, the group would then qualify and all QS owned by the group would be converted on that basis. Thus, up through the control date it allowed individuals to join a group with a gear-switching participant and benefit from that status. However, if an individual left a group and was not the gear-switching participant, the group’s status would not follow the individual.

Based on the Council’s November 2022 action, the individual’s participant status is determined based on a collective rule applied for a time prior to the control date. For individuals qualifying based on being a member of a QS owning group in which one owner qualifies as a gear

switching participant based on vessel ownership, they just have to be a member of the group when those qualifying landings are made. For an individual that qualifies based on being a member of an FCMA in which one member qualifies based on vessel ownership, they have to transfer QP to that member’s gear-switching vessel prior to the control date (in a year in which it gear switched). In either case, the individual approach applies thereafter, such that if the individual leaves their group, regardless of if they were the gear-switching participant that qualified the group or not, they still maintain that status.¹⁵

Table 5. Comparison of the June collective approach (Council guidance on how it would be implemented if adopted) to the November approach with respect to implications for groups that at first qualify, but then dissolve.

	Gear-Switching Participant	
	Participant Classification Status	Status in the Case of Dissolution of Ownership Group After the Determination Date
	Status Determination Date: Differs by Approach	
Collective Approach From June 2022	Either meet criteria as a vessel owner (own vessel at the time qualifying landings are made) OR, participate in a QS owning group with a qualifying vessel owner on the control date.	After control date: If the group dissolves, only members that met the criteria as a vessel owner retain the status (along with those that remain in an ownership group with them).
Collective Approach From after November 2022	Either meet criteria as a vessel owner (own vessel at the time qualifying landings are made), OR, at the time qualifying landings are being made participate in a QS owning group with a qualifying vessel owner, or prior to the control date transfer QP to a gear switching vessel of a fellow FCMA member which met the criteria.	After time qualifying landings were made: If the group dissolves, all members retain the status because every member of the group earned that status. Joining another group will not confer that status on members of that other group.

Qualification for First Receivers

Qualification options for first receivers were provided in the following form:

A first receiver that owns Sablefish North QS and purchased...[specified purchase requirement]

This language form varies from that used for vessel qualification. It effectively starts with the set of first receivers and then limits the group to those that own QS. The vessel qualification criteria start with the QS owner and then requires the QS owner to own some interest in a vessel with which a given amount of landings were made. This difference, while subtle, has a real allocational effect, depending on how it is interpreted (discussed further below).

¹⁵ Also, the collective approach last June was more liberal in that it allowed individuals to join a group with a member with gear-switching participant status and benefit from that status even if they joined after the qualifying gear switching activity occurred. Here, in order to benefit from the collective approach, there has to be a correspondence between an individual’s membership in the group and the time of gear switching activity.

Currently, we have interpreted the intent to be that the first receiver criteria parallel the vessel owner-based criteria. This makes the provisions easier to understand, explain, and analyze. Therefore, it is written into the alternative in the following form.

A QS owner that owns a first receiver which purchased...[specified purchase requirement]

Using the language for first receivers that parallels that used for vessel qualification, the logic process starts with the QS owner and the question is-does the QS owner have any interest in a first receiver that received the required deliveries? In that case, a QS owner with a partial interest in a first receiver would be classified as a gear-switching participant based on their first receiver status and their QS converted on that basis.

To illustrate the above, in Figure 3 the first receiver and QS account Z are owned by Partnership AB. Of the members of the partnership (Individuals A and B), Individual A owns QS Account X on its own and Individual B does not own any QS on its own. As the provision was interpreted and incorporated into the alternative, first the QS account owners would be considered and the question asked whether either QS owner owns any part of a first receiver. In that case, both Individuals A and B and Partnership AB would be considered first receivers, and QS Accounts X and Z would be converted on the basis of the status of those entities as gear-switching participants.

On the other hand, if we start with a first receiver that would qualify as a gear-switching participant, in this case Partnership AB, only the QS in QS Account Z would be converted on that basis. At its June 2022 meeting, the Council was presented with an interpretation and confirmed that QS an individual holds on its own, outside a qualifying group, would not count toward gear switching allocations. Following that interpretation, Individual A is considered to hold a QS Account on its own, outside of the partnership and first receiver business.

This interpretation would also mean that only that QS attributable to the ownership of the first receiver would be converted based on the first receiver's status. This is illustrated in Figure 4 where it shows the first receiver sharing ownership of its QS Account with Individual C. Under this interpretation, only 25 percent of the QS in QS Account Z would be converted based on the first receiver's status (Partnership AB) as a gear-switching participant. With respect to the scenario illustrated in Figure 4, under neither of the approaches described above would Individual C qualify as a first receiver. Such an individual might qualify if a group QS ownership criteria like that provided for vessel owners were created for first receivers (i.e., participation in an QS ownership group in which at least one member qualifies on their own as a gear-switching participant qualifies all members of that group as gear-switching participants).

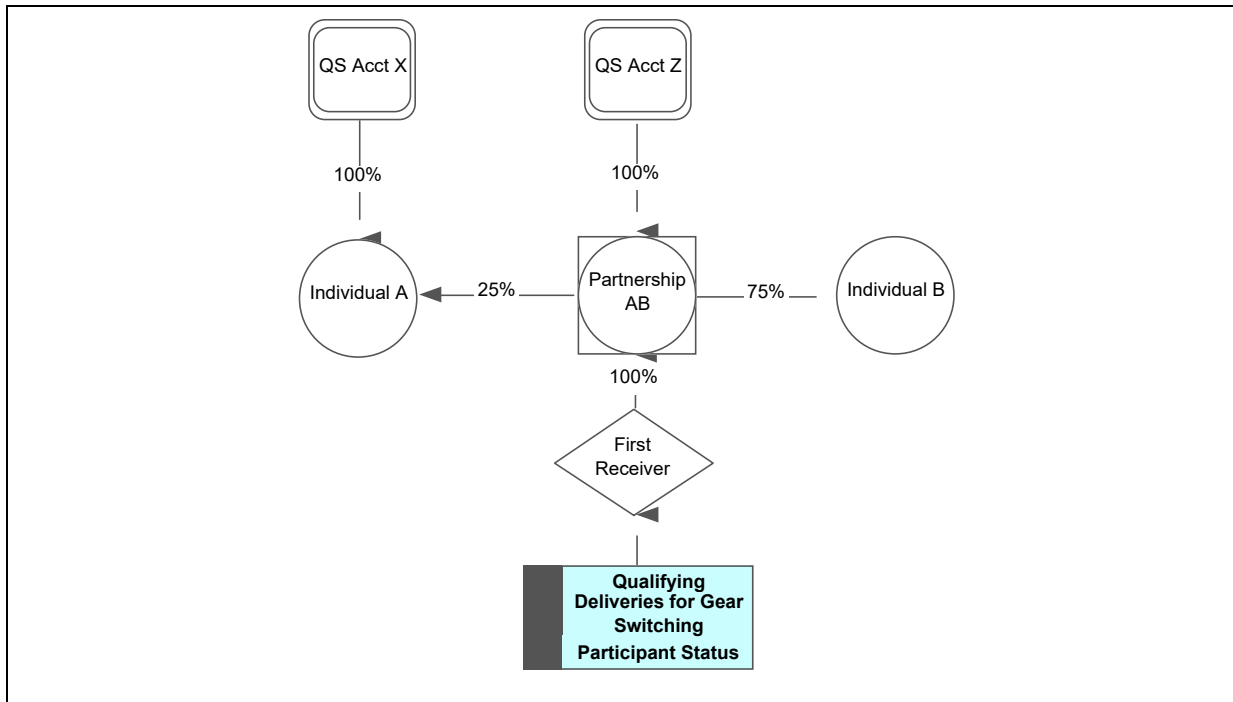


Figure 3. Ownership diagram for a first receiver owned by a partnership of two individuals (A and B) and the QS Accounts owned by that partnership and Individual A.

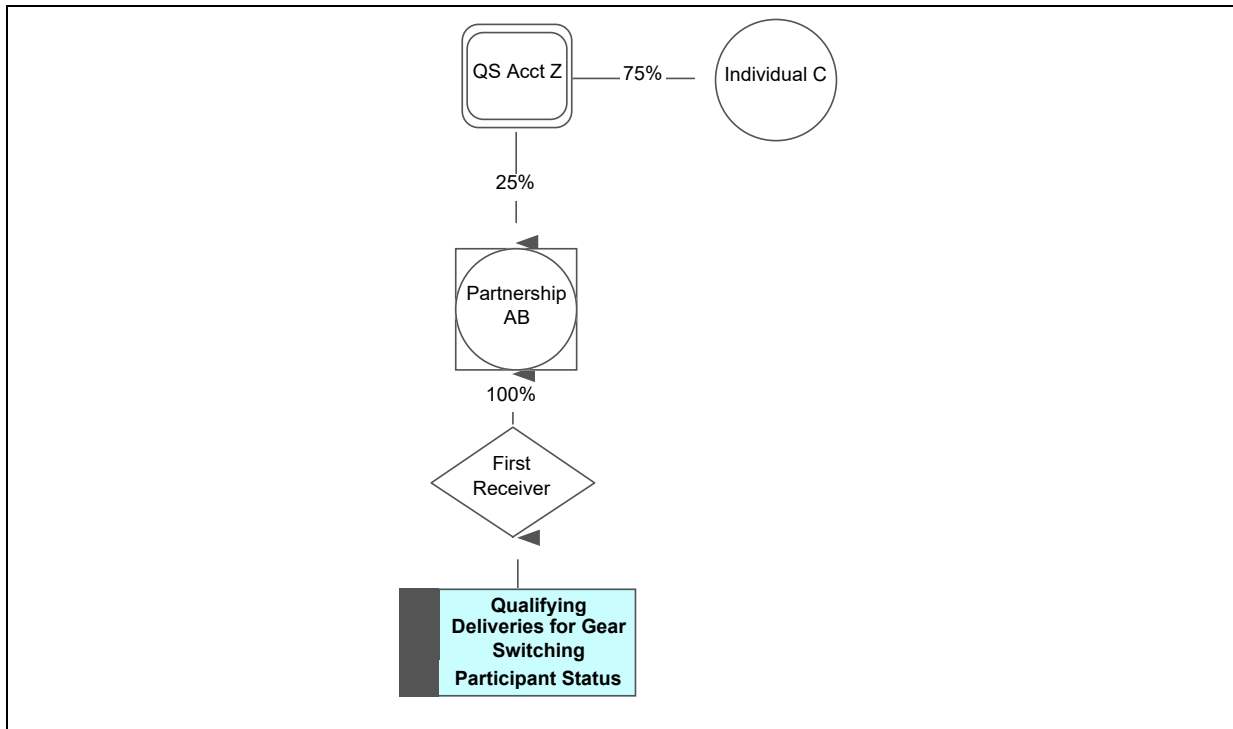


Figure 4. Ownership diagram for a first receiver owned by a partnership that also shares in the ownership of a QS Account.

Exemptions for Post Control Date Transfers – Families

The November motion on this alternative stated:

Create exemptions from the Control Date for transfers of QS between accounts ... for transfers to family members including via inheritance (e.g., probate, estate planning). These exemptions would be only for transfers and not acquisitions (i.e., there would be no net increase in the overall amount of any gear QS).

In order to implement this provision, a definition of family member would be required. A more limited legal definition might include spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law. Some legal definitions include ex-spouses and adoptive relations. Stepfamily relations, where there have not been adoptions, might also be considered—which would be in line with definitions that include any members of a person’s household, other than a tenant or employee.¹⁶ Whatever definition is selected, there should be rationale stated in support of the choice.

With respect to transfers via inheritance, inheritances may include individuals that are not family members, though this provision might be read to indicate that only inheritances involving family members should be considered. Restricting the provision to only transfers involving inheritance might be another way to take into account the variety of relations that exist with individuals that are considered “one of the family.”

While this provision would not increase the overall amount of any-gear QS issued, it might cause a different distribution of QS among recipients (relative to a version of Alternative 1 without this provision). There are two groups of individuals that will receive any-gear QS:

- those qualifying as gear-switching participants (for whom up to 100 percent of their QS will be converted to any-gear QS), and
- those among whom the remainder of the any-gear QS is distributed in combination with trawl-only QS (such that the total amount of QS converted to any-gear is the proportion specified for the QP split).

Therefore, as the amount distributed to the former increases, the amount distributed to the latter decreases.¹⁷

It should also be noted that this exemption does not change the participant status of the individual family member that receives the QS, it just alters the cap on the maximum amount of QS that family member may have converted based on their participant status. Thus, if an individual who is not a gear-switching participant receives a familial transfer of QS from someone who qualified

¹⁶ The [Atlantic surf clam and ocean quahog fishery regulations](#) provides a definition of immediate family member: “Immediate family members include individuals connected by the following relationships: (1) Spouse, and parents thereof; (2) Children, and spouses thereof; (3) Parents, and spouses thereof; (4) Siblings, and spouses thereof; and (5) Grandparents and grandchildren, and spouses thereof.” Some other examples of legal definitions and their applications can be found at <https://www.lawinsider.com/dictionary/family-member>.

¹⁷ Only if the amount to be issued as any-gear QS exceeds the proportion of any-gear QP to be issued annually might the total amount of any-gear QS issued under the alternative change. If this were to happen, the alternative would need to be modified to accommodate that outcome.

as a gear-switching participant, it would only increase the amount of QS that is converted based on their non-gear-switching participant status but would not grant that gear-switching participant status. If they are classified as an “other participant,” it would have no practical effect (since for “other participants” all QS is converted to trawl-only).

The Council’s resolution of this issue may impact the analysis that has been conducted to date. The previous analysis has treated a trust that was established in a QS or vessel owner’s name the same as the owner (i.e., not a change in ownership). The trust has been assumed to receive the same participant status as the owner.

Exemptions for Post Control Date Transfers – Administrative and Business Reorganizations

The November motion on this alternative stated:

Create exemptions from the Control Date for transfers of QS between accounts that resulted because of changes to accounts that are administrative in nature, result from business reorganizations, These exemptions would be only for transfers and not acquisitions (i.e., there would be no net increase in the overall amount of any gear QS).

The types of situations that this provision would cover include:

1. **Administrative Change:** A business changing its name but remains under an identical ownership structure (or other events occur that cause NMFS to terminate the old account and re-establish a new account for the same entity). For example, ABC Fish LLC changes its name to Good Fish International LLC but does not change any aspect of its ownership structure. Because of the name change, NMFS requires that the QS Account be closed and a new QS Account opened under the new name.
2. **Business Reorganization.** For example, Good Fish International LLC becomes Good Fish International Inc., a new QS Account is opened for the reorganized company, and the company’s QS transferred to that account.

In both situations, for ownership groups, the exception only applies to those owners that are part of the group both before and after the change and only with respect to the QS attributable to their share of interest.¹⁸ Given that the alternative maintains an individual approach with respect to evaluating amounts of QS owned, it is not clear that this provision has an effect on the outcomes—i.e. whether QS Accounts change through an administrative change or business reorganization, as long as the same individuals own the QS before and after the change, the change of accounts would have no impact on their qualification. Maintaining this continuity would have had more of a policy impact under an alternative that focused on any-gear QP allocation tied to QS Accounts (rather than the QS itself)¹⁹.

¹⁸ If this alternative is selected as a PPA, consideration should be given to the effect of changes in relative shares of ownership (where the partners participating do not change).

¹⁹ The version of Alternative 1 recommended by the SaMTAAC and the version of Alternative 2 the Council considered at the November 2022 meeting.

Ongoing Evaluation of the Collective Approach

The Council requested an ongoing evaluation of the collective approach, even though it is not currently part of the alternative (beyond what is described above). Because the collective approach has already been part of the deliberations on Alternative 1, there will be some analysis of it in the record. If the collective approach is not preferred by the Council, maintaining an ongoing evaluation of it outside the context of an alternative substantially adds to the complexity, volume, and workload associated with the analysis. If the approach has not been set aside, then it would be good to incorporate it into an alternative so that it can be part of a fully developed alternative. Incorporation into the alternative later will require additional work and an extended deliberation calendar.

Action Alternative 2: Gear Specific QS—Narrow Distribution

Overview. All northern sablefish QS will be converted to either QS valid only for the use of trawl gear (“trawl-only QS”) or for the use of any gear (“any-gear QS”, i.e., QS that is the same as status quo QS with respect to gear usage). This one-time conversion will be carried out in a fashion such that it will not impact the total percentage of northern sablefish QP a QS owner receives. The proportions of each type of QS a QS owner receives will be based on their ownership of an LEP with qualifying gear switching history as of the control date (September 15, 2017) and continuously thereafter—through to the time of implementation. The amount of QS converted on that basis will be limited to their control date holdings. Amounts in excess of the control date holdings will be converted entirely to trawl-only QS. QS owners that qualify as a gear-switching participant will receive all of their northern sablefish QS as any-gear QS (except for amounts held in excess of what they owned on the control dates). All other QS owners will receive 100 percent of their QS as trawl-only. The annual trawl allocation of northern sablefish QP issued each year will be designated as trawl-only and any-gear QP and issued to holders of the respective trawl-only and any-gear QS.

Full Description

Gear Switching Control: Trawl-Only and Any-Gear Quota Share (QS)

The current northern sablefish QS (valid for use with any gear) will be converted to trawl-only QS and any-gear QS (see procedure below).

Annual Split of the Sablefish North QP Allocation Between Trawl-Only and Any-Gear QS

The annual split of QP between trawl-only and any-gear QP will match the proportion of QS designated as any-gear and trawl-only (including AMP).

Procedure for Converting Northern Sablefish QS holdings to Trawl-Only and Any-Gear QS

NMFS will categorize current individual owners of sablefish north QS based on the participation criteria listed below and convert QS based on the steps listed below. The end result will be that each QS holder would receive the same percentage of the total sablefish QP after the conversion that they would have if the conversion had not been carried out, except designated as trawl-only or any-gear QP.

- QS owners **meeting the gear-switching participant criteria** will have their eligible QS converted to any-gear QS (QS in amounts up to their control date holdings).
- QS owned by those **meeting the gear-switching participant criteria but in excess of what they owned on the control date** will be converted to trawl- only QS.
- QS owners that **do not meet the gear-switching participant criteria** will have 100 percent of their QS converted to trawl-only QS.
- After the total amount of QS converted to any-gear for QS accounts is determined, that same percentage will be applied to determine the amount of AMP QS designated as any-gear QS, with the remainder being designated as trawl-only.

Gear-Switching Participant Criteria for Use in QS Conversion Procedure

To qualify as a gear-switching participant: As of and since the control date, an entity must own a permit (or permits) that landed northern sablefish QPs with non-trawl gear totaling at least 30,000 pounds per year in at least 3 years between January 1, 2011 and September 15, 2017 (the control date) and had some ownership interest in northern sablefish quota shares (any amount).

Applying Participant Criteria (Allocation Approach)

In general, these criteria will be applied using an individual approach:

- Any fraction of ownership of a permit will be considered adequate for the purpose of determining whether the individual meets the participant criteria requiring ownership of a permit with certain landings levels.
- An individuals' fraction of ownership of a QS account and amount of QS in the account on the control date will be used to determine the maximum amount of QS individuals may have converted based on their participant status.⁹
- The amount of QS subject to conversion based on the individual' participant status is based on the individual's share of ownership of QS accounts and the amount of QS in those accounts at the time of implementation.

For this purpose, trusts, non-governmental entities, and governments will be treated as individuals.

Accumulation Limits

The existing QS control limit (3.0 percent) and annual vessel use limit (4.5 percent) will continue to be applied for northern sablefish quota as a whole (without distinction by gear type).

Discussion of Alternative 2

Alternative 2, was developed at the November 2022 Council meeting and, like Alternative 1, would limit gear switching with gear-specific QS, but 1) has fewer participant classifications and exceptions, 2) would result in a lesser amount of any-gear QS distributed to fewer accounts and 3) would base QS owner qualification for gear switching status on the history of the permit they owned as of and since the control date, rather than the history of a vessel while they owned it. For the motion creating Alternative 2, see [November 2022, 4th motion](#) in Section 4.0. While

under Alternative 1 the individual would have to have owned the vessel when the qualifying landings were made but not thereafter, under Alternative 2, the individual would not have had to have owned the permit when the landings were made but would have to maintain ownership of it from the control date through to implementation.

While under Alternative 1 a large portion of QS accounts would have at least some QS converted to any-gear QS, under Alternative 2, relatively few QS account owners would receive any-gear QS. Further, while Alternative 1 participant criteria consider several different connections to gear switching (e.g., participating in an QS ownership group in which at least one person qualifies as a gear switcher), Alternative 2 considers only the QS account owner's history of owning a permit that gear switched. Finally, Alternative 1 provides consideration of several exceptions to the control date that are not provided in Alternative 2 (e.g., transfer between family members).

When the Council reviews this alternative, if it chooses to modify the provisions to expand the number of those that qualify for any-gear QS, the effect will be different from what occurs with similar expansions under Alternative 1. Under Alternative 1, provisions that expand the number of QS owners designated as gear-switching participants (or the amount of QS eligible to be converted to any-gear QS) result in a different distribution of any-gear QS among accounts (with a reduction in the amount of QS converted to any-gear for non-gear-switching entities, as described on page 24). In contrast, if such provisions were incorporated in Alternative 2, rather than changing the distribution of any-gear QS among accounts, it would expand the amount of northern sablefish QS designated as any-gear QS.

The language that describes Alternative 2 was not substantially modified from that in the November 2022 motion that created it, except to provide a more explicit description of the individual approach to QS conversion. Alternative 2 uses an individual approach to allocation similar to that which was in place for Alternative 1 prior to changes made to Alternative 1 at the November 2022 Council meeting (see page 19 discussion of the change in approaches used for Alternative 1).

Action Alternative 3: Gear-Switching Endorsement—Permit Qualifier

Overview. North of 36° N. lat., no retention of sablefish will be allowed while gear switching, except by vessels registered to a gear-switching endorsed trawl permit. Vessels fishing under endorsed trawl LEPs will have gear switching sablefish limits individualized for each permit based on gear-switching history of the permit, QS ownership, or a mix of the two. Gear-switching endorsements will be attached to trawl LEPs. For all options, qualification for a gear-switching endorsement requires that permit owners own a qualifying permit and northern sablefish QS as of and since the control date, and for one option, possibly a gear switching vessel. A qualifying permit is one that has the required history of gear switching prior to September 15, 2017. The endorsement might or might not expire when the permit to which it is attached is transferred to a different owner. If endorsements expire with permit transfer, the higher gear-switching limits associated with endorsed permits would eventually phase out.

Full Description

Gear-Switching Endorsement and Qualification

A gear-switching endorsement will be required for a vessel to gear switch and retain northern sablefish. Gear-switching endorsements will be attached to trawl LEPs and will not be severable from the permit.

To qualify for a gear-switching endorsement, between January 1, 2011 and September 15, 2017 (the control date):²⁰

Endorsement Qualification Option 1: a permit must have landed northern sablefish QPs with non-trawl gear totaling at least 30,000 pounds per year in at least 3 years, and, as of and since the control date, the current permit owner must have owned the qualifying permit and must have had some ownership interest in northern sablefish quota shares (any amount).

Endorsement Qualification Option 2: same as Option 2 plus, as of and since the control date, the current permit owner also had some ownership interest in a trawl permitted vessel that had some history of gear switching prior to the control date.

Sablefish Gear-Switching Limits

Trawl permits with gear-switching endorsements. The gear switching limits apply to the QP used with the endorsed permit while gear switching.²¹ The annual sablefish north gear-switching limit for a trawl LEP that receives a gear-switching endorsement is:

Endorsement Limit Option 1: the average percentage of the sablefish north trawl QP allocation caught by the qualifying permit with fixed gear for years fished through either December 31, 2016 or September 15, 2017 (the control date), whichever results in the larger average for the qualifier.

²⁰ For situations where groups of individuals own a permit together, a collective approach will be used for assessing qualification and amounts of QS owned such that for qualification only a subset of the permit owners need to have owned QS (qualification Option 1 and 2) or a trawl permitted vessel with gear switching history (qualification Option 2) as of and since the control date.

²¹ Sablefish gear-switching limits are evaluated after applying credits for discard survival. Therefore, they are limits on total QP used for gear switching (sablefish discard mortality and landings) rather than of gear switching catch.

Endorsement Limit Option 2: a percentage equivalent to the share of QP issued²² for the sablefish north QS owned by the qualifying permit owner as of and since the control date,²³ **plus** an additional amount which will be determined in two steps. First, calculate the difference between the aggregate gear switching limit that would be issued to all recipients based on QS ownership and 29 percent. Second, allocate that difference among all qualifying permits proportionally to each permit’s limit under the Option 1 provisions.²⁰

Endorsement Limit Option 3: a percentage equivalent to the share of QP issued²² for the sablefish north QS owned by the qualifying permit owner as of and since the control date.^{20,23}

Under no circumstances will an endorsement limit be set above the annual vessel QP limit.

For Endorsement Limit Options 2 and 3, under no circumstances may the same QS be counted toward more than one limit. Under circumstances where QS owners own more than one qualifying permit, the QS owners may designate how credit for the QS owned should be divided among the gear switching endorsements to be issued for those qualifying permits.

QS Account Expiration Exception. Before program implementation, if a QS account that was owned as of the control date expires and the owners of the qualifying permit replace the QS account, then the common ownership linkage to the new QS account will be considered to meet the requirement for having been in place as of the control date (both the expiring and new QS account must have contained northern sablefish QS). Replacement is defined as the immediate acquisition of another QS account and transfer of sablefish QS to the new account, while maintaining ownership in the qualifying permit—or, for Qualification Option 2, while maintaining ownership of the qualifying permit and a gear switching vessel.²⁴

Vessel Replacement Exception (Applies to Endorsement Qualification Option 2). If before implementation, the owners of a qualifying permit replaced a vessel that they owned as of the control date, then the common ownership linkage to the new vessel will be considered to meet the requirement for having been in place as of and since the control date. Replacement is defined as the divestment or loss of the previous vessel, prior to or immediately following acquisition of a new vessel while maintaining ownership of the qualifying permit and QS account.

²² The share of QP issued would be equivalent to the percentage of QS owned plus a share of the AMP quota pounds which has been passed through to QS owners since the start of the program.

²³ For situations where groups of individuals own a permit together, a collective approach will be used for assessing amounts of QS owned such that all of the QS in any account jointly owned with the permit owner will count toward the endorsement limit (limit Options 2 and 3).

²⁴ A vessel with at least one gear switched landing of northern sablefish prior to the control date.

Trawl Permits Without a Gear-Switching Endorsement. When not fishing under a permit endorsed for gear switching any sablefish caught using non-trawl gear may not be retained.

Annual Vessel QP Limit. Regardless of these gear-switching limits, trawl permitted vessels are not allowed to catch amounts that cause it to exceed the northern sablefish vessel QP limit (taking into account both the vessel’s trawl and gear switched QP usage).

Other Species Gear-Switching Limit

For all trawl permitted vessels, there will not be any gear-switching limits for other IFQ species.

Gear-Switching Limits and Permit Transfers.

For gear-switching endorsed trawl LEPs, the gear-switching limits are associated with the permit. A vessel may sequentially fish under multiple gear-switching endorsed permits, catching all or a portion of the limit allowed under each permit (sequential registration).²⁵ If a permit is transferred midyear, fish caught using the permit and prior to the transfer still count against the permit’s limit for the year.

Gear-Switching Limit Overages

When a vessel reaches the gear-switching limit (as determined by the trawl LEP registered to the vessel), it may not deploy non-trawl gear on any trawl IFQ sector trips taken during the remainder of the year,

Discard/Retention Option 1: but may retain and sell any sablefish caught in excess of the limit on its final gear-switching trip.

Discard/Retention Option 2: and must discard any sablefish caught in excess of its permit gear switching limit (*added by staff for Council consideration—see discussion*).

For each of the following allowance options, vessels would still be required to cover any catch with QP (including discards).

Allowance Option 1: A vessel may exceed the gear switching limit on its permit by up to **500 pounds without incurring a violation** (the exceedance is measured as the amount of QP used to cover the overage).²⁶

²⁵ 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.

²⁶ Vessels receive discard survival credits for sablefish. These credits reduce the amount of QP that must be used to cover a given amount of catch. The current discard survival credit for fixed gear is 50 percent. Thus, for example, if a vessel catches 1,000 pounds in excess of its limit but discards all of the excess it would receive a 500-pound discard survival credit for a total overage of 500 pounds (i.e., it would be able to catch and discard up to 1,000 pounds in excess of its limit without incurring a

Allowance Option 2: A vessel may exceed the gear-switching limit on its permit by up to **10 percent** of the amount of its gear switching limit remaining when it started the trip **without incurring a violation** (the exceedance is measured as the amount of QP used to cover the overage).

Allowance Option 3: There is no limit on the amount by which a vessel may exceed the gear switching limit on its permit **without incurring a violation** (*should probably be combined with Discard/Retention Option 2*).²⁷ (*added by staff for Council consideration—see discussion*).

If a permit's gear switching limit is exceeded in a given year, then

Overage Payback Option 1: any QP a vessel uses for gear switching in excess of its gear-switching limit will reduce the permit's gear-switching limit in the following year by the amount of the excess QP used. This applies to the permit being used by the vessel at the time of the overage.

Overage Payback Option 2: any QP a vessel uses for gear switching in excess of its gear-switching limit will not reduce the permit's gear-switching limit in the following year.

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 LEPs are combined and there is a gear-switching endorsement on either permit, the permit resulting from the combination will receive the gear-switching endorsement and associated limit. If both of the combined permits have a gear-switching endorsement, then the larger of the two limits will be applied for the gear-switching endorsement on the resulting permit.

violation). Similarly, for the second allowance option, a vessel's catch could go over its limit by 20 percent if it discarded its entire overage.

²⁷ This could allow a vessel with an endorsed permit to gear-switch for non-sablefish in common with other trawl permitted vessels fishing without a gear-switching endorsed permit if the prohibition on further deployment of non-trawl gear is also removed.

Endorsement Expiration

Expiration Option 1: Gear-switching endorsements will expire²⁸ when the permit is transferred to a different owner or a new owner is added to the existing permit ownership^{29, 30} (ownership-based phase-down of gear switching).

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

Limit on the Number of Gear-Switching Endorsed Permits Owned. *The Council will be considering a limit on the number of gear-switching endorsed permits any one individual may own. Options for those limits have yet to be developed. Some factors the Council might take into account in developing those options are described below in the Alternative 3 discussion section.*

Discussion of Alternative 3

At its November 2022 meeting, the Council directed that for Alternative 3

- the first of the qualification options³¹ be removed,
- the allowance for low levels of sablefish gear switching by non-endorsed vessels be removed,
- a provision be developed to allow small gear-switching limit overages that would not be considered a violation,
- a restriction on the number of gear-switched endorsed permits an individual could own be evaluated, and
- a collective approach be used in determining qualification and endorsement limits.

Each of these directions is discussed further in the following, except the direction on use of a collective approach (which is specified in footnote 20 of the alternative).

See [June 2022, 3rd motion](#) and [November 2022, 3rd motion](#) in Section 4.0 of this document for the Council motions that resolved and further modified the alternative.

Qualification Options

The Council eliminated Endorsement Qualification Option 1 (November 2022 version of the alternatives) at least partially based on there being no difference between it and Old Option 2

²⁸ Expire means the endorsement will be removed from the permit.

²⁹ 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).

³⁰ 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.

³¹ To qualify for a gear-switching endorsement, between January 1, 2011 and September 15, 2017, a permit must have landed northern sablefish QPs with non-trawl gear totaling at least 30,000 pounds per year in at least 3 years.

(designated as Endorsement Qualification Option 1 in this iteration) with respect to the number of qualifiers and limits of the resulting gear-switching endorsements. There was, however, a functional difference between the options. Under the eliminated Option 1, whoever owned a permit with the required history at the time of implementation would receive an endorsement for the permit. This approach allows for entry and exit while the action is under development, provides a degree of simplicity (tracks the asset/permit rather than having to take into account changes in groups owning the asset), and is consistent with the approaches taken for Amendment 6 (license limitation—current vessel owner at time of implementation), Amendment 9 (fixed gear sablefish endorsements—current permit owner), the 1998 regulatory action that created the fixed gear sablefish tiers (current permit owner), and Amendment 20 (trawl catch shares—current permit owner). Under the remaining qualification options (the current Options 1 and 2), a different approach is taken, one that focuses on the qualifying person and requires that they own a qualifying permit, QS, and possibly a gear switching vessel on the control date and continuously through to the time of implementation. This makes entry/exit more difficult while the program is under development and requires addressing differences in ownership groups (across time and between permit and QS ownership groups)—leading to the need to define and consider whether to use an individual or collective approach in these determinations.

Overages, Discards, and Removal of Allowance for Low Level of Sablefish Retention

One of the policies that has been considered in the design of the alternatives is avoiding the creation of regulatory discards. In the SaMTAAC recommendations and the gear-switching endorsement based alternatives adopted by the Council, there has always been the inclusion of an allowance to retain sablefish in excess of a gear-switching endorsed permit's limit, on the vessel's final gear-switching trip (i.e., allowed the vessel to go out on a trip while still under the permit limit and potentially exceed that limit on the last trip). The status of that overage and whether it would be considered a violation has been a point of some uncertainty. Designing the alternative to totally avoid regulatory discards has been creating some complexity in the overage provisions for vessels with endorsements. Also related to minimizing regulatory discards, up through November 2022, there was a limited allowance for the catch and retention of sablefish while gear-switching for non-sablefish species (for vessels fishing without gear switching endorsements). However, at its November 2022, the Council

- eliminated the allowance for low-levels of retention of sablefish for vessels gear-switching without an endorsement (requiring the discard of those sablefish), and
- directed the addition of new options allowing vessels fishing with a gear-switching endorsement to incur a small overage without being in violation.³²

³² This allowance for overages is needed in order to allow vessels to fully take the limits provided, as is the case for other vessel-limit based policies. Bimonthly cumulative limits and the LEFG tier program are landings based, so vessels can discard to stay within limits. The IFQ program is catch based, but if a vessel catches more than the amount of QP in its account it can comply by acquiring more QP within a certain period after the overage occurs.

Given that Alternative 3 is now specified in a fashion that could result in regulatory discards,³³ the question arises as to whether an opportunity to avoid violations for overages could be provided by allowing them to be discarded, while still requiring them to be covered by QP. This would also simplify the alternative. To provide a focus for Council discussion and to move the process forward, staff has added the following options that use that approach:

- Discard/Retention Option 2, which requires discard of excesses, and
- Allowance Option 3, which would place no limit on the amount by which a gear switching limit could be exceeded without incurring a violation (adopt only in combination with Discard/Retention Option 2 so that overages would have to be discarded—but still covered with QP).

Allowance Option 3 would essentially redefine the limit from a limit on the amount of QP used for gear switching to a limit on retention of sablefish once a certain threshold of QP usage is reached.

While vessels would have to cover their discards with QP, there is currently a 50 percent survival credit for discards. To increase the disincentive for catching sablefish in excess of gear switching limits (either the limit for vessels with endorsements or that which applies for vessels without endorsements, i.e., no retention).

Allowance Options

If Discard/Retention Option 1 is selected (retention of overages allowed for gear-switching endorsed vessels on the final trip), then the Council indicated it would like options that would allow those overages to not be considered violations, up to certain low levels. The options for small allowances provided include two approaches. One provides a fixed amount and the other provides an overage allowance that is 10 percent of what is remaining when a trip starts. The options state that the exceedances are measured as the amount of QP used to cover the overage. This means that, with 50 percent discard survival credits, if the vessel chooses to discard, the allowed overage could be up to twice the exceedance specified in the option (see footnote 26). Alternatively, the exceedances could be specified as an amount of sablefish caught (eliminating the discard survival credit for overages), which would reduce the buffer provided to cover the uncertainty of fishing and might increase complexity in data systems but would also result in a higher level of incentive to keep overages to lower levels.

With respect to Overage Allowance Option 2, some consideration should be given to the data available at the point in time at which the 10 percent overage would be measured and how the option should be specified in that regard. For example, a vessel might leave on a trip with a certain amount remaining in its account, but while on the trip, data corrections or discard information may be added which decreases the amount remaining. These types of changes could also impact attempts to stay within a 500-pound limit (Overage Allowance Option 2).

³³ Currently gear-switching for non-sablefish species rarely occurs but it could be something that changes over time, particularly if, for example, the non-trawl RCAs are reopened.

Targeting Non-Sablefish by Vessels With and Without Gear Switching Endorsements

Vessels without gear-switching endorsed permits are allowed to gear switch but must discard sablefish (which must be covered with QP), while vessels with a gear-switching endorsed permit may discard or retain sablefish until they reach their limit but after that are not allowed to deploy non-trawl gear in the IFQ fishery.³⁴ Implicitly if before it reached its gear-switching limit such a vessel transferred its gear-switching endorsed permit off the vessel and acquired access to another trawl permit, it would be able to continue to gear switch and target non-sablefish species. Alternatively, if Discard/Retention Option 2 is selected (retention of sablefish overages is prohibited) and, additionally, the language that prohibits deployment of non-trawl gear after the limit is reached is removed (i.e., delete: “it may not deploy non-trawl gear on any trawl IFQ sector trips taken during the remainder of the year”), vessels gear switching with endorsed permits could complete their gear switching for sablefish and still gear switch for other species, in common with vessels that do not have such endorsements.

Limit on the Number of Gear-Switching Endorsed Permits Owned

The Council will be considering a limit on the number of gear-switching endorsed permits a single entity may own. Council policies intended to limit excessive accumulation of shares often address both ownership and control, where control is exerted in a fashion that does not necessarily involve direct ownership. For example, under the LEFG tier program, a three-permit limit applies both to owning or holding (leasing) permits. The inclusion of leasing reduces the opportunity for a vessel owner to indirectly control more than three permits for the benefit of their vessel. It does not, however, limit other forms of control over permits, such as those taken into account by the trawl catch share program (see Section 5.0). Another consideration is the degree of ownership that is required before a permit is considered to fall under the ownership of a particular person. For the LEFG tier permits, if a person has any degree of ownership of a permit,³⁵ then that permit counts towards the person’s ownership limit.

Regardless of the maximum the Council sets and whether the maximum applies just to ownership or other forms of control (e.g., leasing), the Council may want to consider an exception provision for anyone that already exceeds the limits it is implemented. A total of 11 permits are expected to receive endorsements under Qualification Option 1 and 6 permits under Qualification Option 2. Thus, for example, under Option 2 the three-permit ownership limit used for the LEFG program would allow all the gear switching endorsed permits to be controlled by two entities. Complete data on permit ownership is not currently collected, but the best estimate is that 2 appears to be the most qualifying permits in which any single person has an ownership interest. More complete data could reveal that more permits are owned by a single person or subject to other forms of control.

³⁴ This prohibition is interpreted to apply to the vessel, even if the vessel transferred the endorsed permit off the vessel and acquired a non-endorsed permit.

³⁵ LEFG participants can apply for an exception that covers situations where an individual desires to use their quota in the Alaskan sablefish IFQ fishery and is required to take 20 percent ownership of a vessel in order to do so.

4.0 COUNCIL PASSED MOTIONS ON GEAR SWITCHING

September 2021 Motions (Agenda Item C.5)

September 2021, 1st Motion (Niles)

I move that the following be added to the range of alternatives for analysis as the gear-based quota share alternative:

Creation of trawl-only Quota Share (QS): NMFS will create a new management unit from the existing Sablefish North IFQ management unit that will only be eligible to be fished by trawl gears. The existing IFQ management unit will continue to be eligible to be fished with any legal gear. For ease of reference, the resulting QS units are referred to as “trawl only” and “any gear.”

Split of the Sablefish North trawl allocation: After conversion both would be adjusted so that the total pool of QS for each is 90 percent (and 10 percent to the Adaptive Management Program). The QS conversion will achieve the Council’s specified split between the two QS types and then each will receive the specified percentage or amount of the trawl allocation of Sablefish North annually. The two options for analysis include:

- Option 1: 71% of the trawl allocation will go to trawl only QS and 29% any gear.
- Option 2: The any gear QS will receive the smaller of 29% of the trawl allocation or 1.8 million pounds with the trawl only QS receiving the remainder.

Procedure for converting QS holdings: NMFS will evaluate owners of Sablefish North QS against the fixed gear and IFQ participation criteria and then convert the QS using the following steps:

1. QS acquired by owners after the control date and in excess of what they held on the control date will be converted to trawl only QS.
2. QS owners that do not meet the fixed gear or IFQ participation criteria will have 100% of their QS converted to trawl only.
3. QS owners meeting the fixed gear participation criteria will have 0% of their QS converted to trawl only QS up to the QS they owned on the control date. QS acquired after the control date will be converted to trawl only QS.
4. QS owners meeting the IFQ participation criteria will have their QS converted at the rate that achieves the Council’s recommended allocation between the two QS units.

Participation Criteria: the criteria focus on QS owners with ownership tracked by the QS Permit. The term “vessel” refers to a vessel owned in full or part by the QS owner. Vessel ownership and fishing activity are evaluated based on the Vessel Account. And the term “fished” refers to landings of Sablefish North QP and activity that qualifies under the control date unless otherwise stated.

Fixed gear participation criteria options for analysis:

- Option 1: The vessel fished with fixed gear.
- Option 2: The vessel fished at least 30,000 QP in each of three or more years with fixed gear.

IFQ participation criteria options for analysis:

- Option 1: All Sablefish North QS owners not meeting the fixed gear participation criteria and irrespective of vessel ownership and fishing activity.

- Option 2: The vessel fished QP with bottom trawl gear in any of the two years prior to the year of QS conversion.

Moved by Corey Niles
Seconded by Phil Anderson
Motion carries
Marci Yaremko voted no

September 2021, 2nd Motion (Sommer)

I move the Council include the following alternatives in the range adopted for further analysis and review:

No Action Alternative

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 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~~ and based on a permit or vessel meeting a history of gear switching that meet minimum qualification criteria that include gear switching history and, under some options, linkage between permit, quota share and, or vessel ownership. 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 (Option for further analysis: or VESSEL) must have landed northern sablefish IFQ with fixed gear totaling at least:

~~**Endorsement Qualification Option 1:** 10,000 pounds 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 1: permit (option for vessel) has 30,000 pounds 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 pounds per year in at least 3 years

and participated in at least one year from 2016 through 2018;
or caught 90,000 pounds of northern sablefish cumulatively across three years from 2014 to 2018, with at least one gear switched landing in each of the three years.

(NEW) Endorsement Qualification Option 2: permit (option for vessel) has 30,000 pounds per year in at least 3 years, AND quota share ownership (any amount) on the control date by the permit owner (option for vessel owner)

(NEW) Endorsement Qualification Option 3: permit (option for vessel) has 30,000 pounds per year in at least 3 years, AND quota share ownership (any amount) AND vessel ownership on the control date by the permit owner (for vessel owner option: “AND permit ownership on the control date by the vessel owner

IF VESSEL used as the qualifying entity, then at implementation, the vessel owner designates a LE trawl permit to carry the gear switching endorsement.

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 (option for vessel), 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 but this could change in the future).

(NEW) Endorsement Limit Option 2: Each qualifying permit owner (option for vessel) receives a gear switching limit equivalent to the percentage of quota share owned as of and since the control date; in addition, the difference between the amount thereby allocated and 29 percent will be allocated among all qualifying permits (option for vessel) proportionally to each permit’s (option for vessel) average annual gear switched landings (or the qualifying vessels landings) in years fished in the trawl IFQ program before the control date. This additional allocation will be operationalized as an addition to the permit specific limits (option for vessel).

(NEW) Endorsement Limit Option 3: the percent of sablefish north QS owned by the qualifying permit owner (option for vessel owner) as of and since the control date.

Trawl permits without gear-switching endorsement. The annual sablefish north gear-switching allowance for a trawl vessel except when fishing under a permit not endorsed for gear switching is 10,000 pounds ~~0.5 percent 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. ~~A vessel gear switching under non-gear-switch endorsed permits (non-endorsed permit) may not exceed the 0.5 percent/year gear-switching limit 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? **Yes**

Combination of Trawl Permits. Current management measures allow vessels to combine to 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.

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. 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. 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 (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 when the permit is transferred to a different owner or a new owner is added to the existing permit ownership (ownership-based phase-down of gear switching).

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

Moved by Maggie Sommer
Seconded by Bob Dooley
Motion carries
Marci Yaremko voted no

June 2022 Motions (Agenda Item F.5)

June 2022, 1st Motion (Ridings)

I move to instruct staff to discontinue work on this action.

Moved by Corey Ridings

Second by Christa M. Svensson

Roll call vote. Voting no: Smith, Anderson, Moore, Pettinger, Watson, Hassemer, Oatman, Niles, Dooley.

Keeley Kent (NMFS) abstained.

Motion failed

June 2022, 2nd Motion (Anderson)

I move that the Council advance the consideration of limiting gear switching in the Limited Entry Trawl Fishery and confirm the following guidance and intent relative to the questions raised in F.5, Attachment 3 specific to Alternative 1 (F.5, Attachment 2) and add a new alternative as described below.

Alternative 1: Gear Specific Quota Share Guidance

*With respect to classifying QS owners as Gear Switching Participants, what degree of linkage between QS account owners and vessel owners should be required? Where linkages exist, how much of the QS in the account should be converted based on that linkage? **Focus on using the “individual” approach while maintaining the flexibility to use the “Collective” approach depending on the outcome of the analysis.***

*On what date should the linkage between a QS account owner and vessel owner be evaluated? **Use the Control Date.***

*If a collective approach is taken and linkages are valued based on some date in the past (e.g., the control date), what happens if a group splits up prior to implementation? **Only the partner that has had a history of owning a gear switching vessel would retain that status.** How might the individual/collective approach and linkage date requirements be applied with respect to the Individual Fishing Quota (IFQ) Participant option that requires a bottom trawl landing within two years prior to implementation? If a collective approach is taken, how would the conversion caps be applied if an ownership group breaks up prior to implementation? **Use the individual approach.***

*If a collective approach is taken, how would the conversion caps be applied if an ownership group breaks up prior to implementation? **If a collective approach is taken and the group breaks up prior to implementation, have a cap proportional to their share of ownership of QS as of the control date.***

*Under the collective approach, how is QS owned outside the ownership group treated? **Under the collective approach, the QS owned outside the group would not qualify for group classification status.***

*Application of criteria to trusts, non-governmental organizations (NGO)s, and governments. **Apply same as they would be applied to all other QS owners.***

*Application of formulas relying on share of ownership when ownership shares on record do not add to 100 percent. **Calculate based on reported percent of ownership.***

*Modification of QS control and annual vessel quota pounds (QP) limits to take into account the division of the northern sablefish allocation into two pools. **Apply existing accumulation limits only at the aggregate northern sablefish level, i.e., maintain the aggregate northern sablefish QS control limit (3 percent) and QP use limit (4.5 percent), as recommended by the GAP and GMT and do not apply adjustments to convert those into gear-specific limits.***

New Alternative

Include as a new alternative a variation on Alternative 1 in which the resulting distribution of trawl-only and any gear quota is done at the annual quota pound issuance step, rather than permanently converting quota share. All other provisions of Alternative 1 would remain the same.

Staff Discretion

In addition to this guidance, the intent is to provide Council staff with the leeway to modify the language of the alternatives to reflect the intent stated.

Moved by Phil Anderson

Second by Bob Dooley

Motion carried

Voting no: Ms. Christa M. Svensson and Ms. Corey Ridings

Abstain: Ms. Marci Yaremko

June 2022, 3rd Motion (Watson)

I move the Council confirm the following statements of intent regarding the requested provisions on which council guidance is needed ([F.5, Attachment 3](#)) for the gear switching range of alternatives and request that staff analyze alternative 2 according to this intent:

Prevent potential circumvention of qualification criteria and add provisions stated in the [SaMTAAC report](#) (page A-8) for exceptions that should be applied for certain circumstances of quota share account expiration and vessel replacement.

No double counting in complex ownership situations.

In complex ownership situations allow the involved owners to decide how to distribute credit for Quota Share (QS) accounts.

Gear switching limits based on QS should be adjusted to take into account Adaptive Management Program (AMP) Quota Pound (QP) distributions and add a safeguard statement that states, “Nothing in these provisions should be construed or implemented in a fashion that allows the gear switching endorsement limit to exceed the annual vessel QP limit”.

Partial years should be included or excluded based on whichever gives the individual an improved gear switching limit.

Non-endorsed trawl permits be specified as “the lesser of X percentage and 10,000 pounds.”

In addition, the Council requests that Council staff split alternative 2 based on the qualifying options of vessel or permit to reduce complexity and confusion for the analysis.

Moved by Jessica Watson

Second by Corey Niles

Motion passed. Ms. Christa M. Svensson and Ms. Corey Ridings voted no. Ms. Marci Yaremko abstained.

November 2022 Passed Motions (Agenda Item H.3)

Amendments that failed and motions that were withdrawn are not included here.

November 2022, 1st Passed Motion (Hassemer)

I move the Council remove Alternatives 2 and 4 from further consideration as it moves forward to define a preliminary preferred alternative regarding sablefish gear switching.

Moved by Pete Hassemer

Second by Jessica Watson

Motion passed. Ms. Marci Yaremko voted no.

November 2022, 2nd Passed Motion (Niles)

I move that the Council

Consideration for First Receivers

- For the “Gear-switching Participation Criteria”:
A first receiver that owns Sablefish North QS and purchased a minimum of 30,000 pounds of Sablefish North from fixed gear vessels in at least three years (subject to the control date).
- For “Non-Gear-Switching Participant Option 2”:
A first receiver that owns Sablefish North QS and purchased Dover sole, Thornyheads, and Sablefish North from bottom trawl vessels in the IFQ fishery in any of the two years prior to the year in which the above QS conversions to gear-specific QS are conducted.

Participation Criteria – Individual vs Collective and Cooperatives

- Change the “Participation Criteria for Use in QS Conversion Procedure” (p. 14 of Attachment 3) to read:
have owned northern sablefish QS as of September 15, 2017; and for some criteria, have used a vessel or vessels under their ownership, or have been part of a QSA ownership group when at least one member of the group owned a vessel or vessels when it met the participation criteria listed below.
- Add language to the Participation Criteria that has the effect of qualifying members of a Fishermen’s Collective Marketing Act (FCMA) registered cooperative that transferred their sablefish QP to gear switching vessels owned by members of the cooperative.
- Continue to explore the consequences of the “individual vs. collective” approach.

QS transfers and the Control date

- Create exemptions from the Control Date for transfers of QS between accounts that resulted because of changes to accounts that are administrative in nature, result from business reorganizations, and for transfers to family members including via inheritance

(e.g., probate, estate planning). These exemptions would be only for transfers and not acquisitions (i.e., there would be no net increase in the overall amount of any gear QS).

Intermediary Gear-switching qualification

- Add a Gear-switching Participant Option 3 that has the following effect:
Those that meet Option 2 criteria keep 100% of their QS as any gear quota. Those that only meet the Option 1 criteria keep 50% of their QS as any gear quota.

Moved by Corey Niles

Seconded by Christa M. Svensson

Motion Passed. Ms. Corey Ridings voted no; Ms. Marci Yaremko and Mr. Butch Smith abstained.

November 2022, 3rd Passed Motion (Watson)

I move the Council modify Alternative 3 as follows:

- Remove Option 1 under the Endorsement Qualification Options.
- Remove the allowance for low levels of sablefish gear switching landings by vessels that are not fishing under gear-switching endorsed permits.
- Develop a relatively small amount in pounds or percentage of catch over the endorsement's limit to designate as an allowable overage with the exceedance of this amount being considered a violation.
- Leave both expiration options available for further consideration (no expiration and expiration on transfer to new owner or owner added).
- Evaluate restricting the number of gear-switched endorsed permits an individual could own.
- Use the collective approach for the endorsement qualification and limit options.

Moved by Jessica Watson

Seconded by Pete Hassemer

Motion Passed. Ms. Corey Ridings voted no; Ms. Marci Yaremko and Ms. Christa M. Svensson abstained.

November 2022, 4th Passed Motion (Anderson)

Motion Passed: I move to add the following alternative for sablefish gear switching:

Trawl-Only and Any-Gear Quota Share (QS)

The current northern sablefish QS (valid for use with any gear) will be converted to trawl-only QS and any-gear QS (see procedure below).

Procedure for Converting Northern Sablefish QS holdings to Trawl-Only and Any- Gear QS:

NMFS will categorize current individual owners of sablefish north QS based on the participation criteria listed below and convert QS based on the steps listed below. The end result will be that each QS holder would receive the same percentage of the total sablefish QP after the conversion that they would have if the conversion had not been carried out, except designated as trawl-only or any-gear QP.

- QS owners **meeting the gear switching participation criteria** will have their eligible QS converted to any-gear QS (QS in amounts up to their control date holdings).
- QS owned by those **meeting the gear switching participation criteria but in excess of what they owned on the control date** will be converted to trawl- only QS.
- QS owners that **do not meet the gear switching criteria** will have 100 percent of their QS converted to trawl-only QS.
- AMP QP will be distributed to each QS account as any-gear and trawl-only QP in proportion to the any-gear and trawl-only QS in the account.

Individual Approach to Allocation:

In general, these criteria will be applied to individuals (taking into account their ownership interest in QS accounts as reported to NMFS), including individuals within ownership group. For this purpose, trusts, non-governmental entities, and governments will be treated as individuals.

Accumulation Limits: The existing QS control limit (3.0 percent) and annual vessel use limit (4.5 percent) will continue to be applied for northern sablefish quota as a whole (without distinction by gear type).

Gear Switching Participation Criteria:

To qualify as a gear-switching participant: As of and since the control date, an entity must have owned a permit (or permits) that landed northern sablefish QPs with non-trawl gear totaling at least 30,000 pounds per year in at least 3 years between January 1, 2011 and September 15, 2017 (the control date) and had some ownership interest in northern sablefish quota shares (any amount).

Moved by Phil Anderson

Seconded by Bob Dooley

Motion Passed. Ms. Corey Ridings voted no; Ms. Marci Yaremko and Ms. Christa M.

Svensson abstained.

5.0 APPENDIX. BACKGROUND

Trawl Catch Share Program Regulations Pertaining to Control

660.140(d)(4)(iii)*Control*. Control means, but is not limited to, the following:

(A) The person has the right to direct, or does direct, in whole or in part, the business of the entity to which the QS or IBQ are registered, with the exception of those activities allowed under paragraphs (d)(4)(iii)(C) and (G) of this section;

(B) The person has the right to limit the actions of or replace, or does limit the actions of or replace, the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity to which the QS or IBQ are registered, with the exception of those activities allowed under paragraphs (d)(4)(iii)(C) and (G) of this section;

(C) The person, excluding banks and other financial institutions that rely on QS or IBQ as collateral for loans as described under paragraph (d)(4)(iii)(G) of this section, has the right to direct, or does direct, and/or the right to prevent or delay, or does prevent or delay, the transfer of QS or IBQ, or the resulting QP or IBQ pounds;

(D) The person, through loan covenants or any other means, has the right to restrict, or does restrict, and/or has a controlling influence over the day to day business activities or management policies of the entity to which the QS or IBQ are registered, with the exception of those activities allowed under paragraphs (d)(4)(iii)(C) and (G) of this section;

(E) The person, has the right to restrict, or does restrict, any activity related to QS or IBQ or QP or IBQ pounds, including, but not limited to, use of QS or IBQ, or the resulting QP or IBQ pounds, or disposition of fish harvested under the resulting QP or IBQ pounds, with the exception of those activities allowed under paragraphs (d)(4)(iii)(C) and (G) of this section;

(F) The person has the right to control, or does control, the management of, or to be a controlling factor in, the entity to which the QS or IBQ, or the resulting QP or IBQ pounds, are registered, with the exception of those activities allowed under paragraphs (d)(4)(iii)(C) and (G) of this section;

(G) The person, excluding banks and other financial institutions that rely on QS or IBQ as collateral for loans, has the right to cause or prevent, or does cause or prevent, the sale, lease or other disposition of QS or IBQ, or the resulting QP or IBQ pounds; and

(1) To qualify for this exception, a bank or other financial institution must be regularly or primarily engaged in the business of lending and not engaged in or controlled by entities whose primary business is the harvesting, processing, or distribution of fish or fish products.

(2) Any state or federally chartered bank or financial institution that meets the requirement of paragraph (d)(4)(iii)(G)(I) of this section does not need to submit additional information to NMFS.

(3) Any entity that is not a state or federally chartered bank or financial institution, must submit a letter requesting the exception and disclose the identity and interest share of any shareholder with a 2% or more ownership interest in the lender through submission of the Trawl Identification of Ownership Interest Form (see paragraph (d)(4)(iv) of this section). The lender must make subsequent annual submissions of the letter and Trawl Identification of Ownership Interest Form to maintain the exception. Letters requesting the exception and complete Trawl Identification of Ownership Interest Forms may be submitted to NMFS, West Coast Region, Permits Office, ATTN: Fisheries Permit Office, Bldg. 1, 7600 Sand Point Way NE., Seattle, WA 98115. NMFS will only accept complete applications.

(H) The person has the ability through any means whatsoever to control or have a controlling influence over the entity to which QS or IBQ is registered, with the exception of those activities allowed under paragraphs (d)(4)(iii)(C) and (G) of this section.