

NATIONAL MARINE FISHERIES SERVICE REPORT ON IMPLEMENTATION OF REVISED GEAR SWITCHING LIMITATION ALTERNATIVES

In November 2022, the National Marine Fisheries Service (NMFS) provided two reports^{1,2} to the Pacific Fishery Management Council (Council) with preliminary input on timing and the agency's relative workload considerations for each gear switching alternative. Subsequently at that meeting, the Council modified the alternatives. This report provides updated comments on timing and workload for the updated range of alternatives, as well as other anticipated topics of discussion at the April 2023 meeting.

Timing

The changes made in November 2022 do not alter our estimated implementation timing. Once the Council takes final action, we project approximately 18 months for the tasks necessary to implement any action alternative. We continue to maintain that a January 1 effective date will be necessary. If the Council selects anything other than No Action as its final preferred alternative in November 2023 as currently scheduled, NMFS anticipates implementation on January 1, 2026.

Workload/cost

Our general comments on NMFS workload/cost to implement any gear switching action alternative remain unchanged: **mechanisms that require only one-time work to implement would be less costly than any requiring ongoing or recurring tasks.** Alternatives that would result in a one-time permanent conversion of existing northern sablefish quota share (QS) to any-gear or trawl-only QS, appear to be the least costly in the long run.

Alternatives 1 and 2

NMFS workload and cost to implement Alternatives 1 or 2 would be relatively low, with little difference between them. Applying the qualifying criteria in Alternative 1 would require more steps, entailing higher initial workload, but after initial implementation both of these alternatives would require little additional new work to monitor, manage, and enforce.

NMFS is aware of a potential new sub-option for Alternative 2 that would change the proportions of any-gear and trawl-only northern sablefish QS that some participants would receive. A change of this nature would not affect implementation workload, cost, or timing.

¹ Agenda Item H.3.a NMFS Report 1 November 2022, <https://www.pcouncil.org/documents/2022/10/h-3-a-nmfs-report-1-nmfs-report-on-implementation-of-gear-switching-alternatives.pdf/>

² Agenda Item H.3.a Supplemental REVISED NMFS Report 2 November 2022, <https://www.pcouncil.org/documents/2022/11/h-3-a-supplemental-nmfs-report-2/>

Alternative 3

Alternative 3 would have greater long-term costs. With unique annual gear switching limits associated with each gear switching endorsed trawl limited entry permit, Alternative 3 would require in-season tracking of northern sablefish quota pound usage by each endorsed permit. This would include landings and estimated discard mortality, and would require ongoing inseason tracking with fish ticket and observer data, including across mid-year permit transfers between vessels.

Potential gear switching season alternative

Based on Council discussion during workload planning in November 2022, NMFS anticipates possible consideration of an alternative to allow gear switching as under current regulations until it is projected to reach 29 percent of the annual trawl allocation of northern sablefish, at which point it would cease for the remainder of the year (“gear switching season”). **This approach would be relatively simple and low workload and cost to implement (but see discussion on policy considerations below).**

Ongoing inseason tracking and reporting of total northern sablefish quota pound usage by fixed gear, including landings and discards, would be required, along with one-time development of a regulatory mechanism to prohibit fixed gear landings of northern sablefish in the IFQ fishery for the remainder of the calendar year upon projected attainment of the specified sector-wide gear switching limit. Such a mechanism could potentially be a non-discretionary automatic action ([50 CFR 660.60\(d\)](#)), if the impacts were analyzed and taken into account in advance.

Quantitative cost estimation

NMFS will provide cost estimates after the Council identifies a preliminary preferred alternative. After the Council selects a PPA, NMFS West Coast Region Groundfish Branch staff will consult with the Permits and Monitoring Branch, the Northwest Fisheries Science Center’s Scientific Data Management and Fisheries Observation Science programs, NOAA’s Office of Law Enforcement, the Pacific States Marine Fisheries Commission, and others as appropriate to develop a cost estimate that is as comprehensive and detailed as possible.

NMFS appreciates that the Council and public are interested in taking the cost of potential changes into consideration. Because of the broad range of alternatives mechanisms, significant differences between the mechanisms and options, and absence of any clear indication of direction so far, NMFS concluded that waiting until after the Council has selected a PPA before conducting a labor-intensive cost estimation exercise would be the most efficient use of staff time on a task that is incremental for IFQ cost recovery.

Policy considerations

Complexity

Alternative 1 is highly complex. The multiple options and elements of criteria to qualify for and distribute any-gear QS under Alternative 1 make it difficult to understand. In addition, several elements of the participant criteria options, such as Fishermen’s Collective Marketing Act registered cooperatives, family transfers of QS, and business reorganizations, may be challenging to define in regulation and could be open to loopholes or lengthy disputes/appeals. We recognize the intent of these elements is to increase fairness and equity in allocating any-gear QS. **NMFS recommends carefully evaluating the potential outcomes of these additions and whether expected benefits outweigh the drawbacks.**

Divergence from rationalized management

The “29 percent gear switching season” concept diverges from the trawl program’s rationalized management approach.

A new provision that would allow gear switching until the total use of northern sablefish quota by fixed gear is projected to reach an annual limit would move gear switching activity away from the dedicated access approach of the current individual fishing quota (IFQ) program. While northern sablefish would remain in the IFQ system and QS and QP ownership/leasing would not change, a sector-wide limit on the total potential fixed-gear catch without any individual allocation of gear-switching opportunity could lead to competition and a “race to gear switch” each year within the IFQ sector. Past industry input has differed on whether this result would be likely. If it occurred, it might undermine trawl program objectives such as those regarding efficiency, flexibility, minimizing ecological impacts, or safety. If the Council considers adding such an alternative, it should explain how this alternative would meet the purpose and need for action. Input by trawl IFQ participants who use northern sablefish QP for gear switching and/or other strategies may be useful in understanding potential changes in fishery dynamics and how such changes might affect the trawl program overall.

Consistency with goals and objectives of Amendment 20 and the Pacific Coast Groundfish Fishery Management Plan, and National Standards

As with any Council action, consistency with applicable requirements and guidance in statute, regulation, fishery management plans, and other sources is important to consider. We recall attention to [SaMTAAC Agenda Item D.3 Attachment 1 October 2019](https://www.pccouncil.org/documents/2019/10/samtaac-agenda-item-d-3-attachment-1-goals-objectives-and-national-standards.pdf/)³, a useful collection of the goals and objectives of Amendment 20 and the groundfish FMP as well as the MSA’s National Standards, and to the [National Standard Guidelines](https://www.ecfr.gov/current/title-50/chapter-VI/part-600/subpart-D)⁴ (revised in 2016).

³<https://www.pccouncil.org/documents/2019/10/samtaac-agenda-item-d-3-attachment-1-goals-objectives-and-national-standards.pdf/>

⁴<https://www.ecfr.gov/current/title-50/chapter-VI/part-600/subpart-D>

NMFS has previously noted the particular relevance of National Standard 4, which addresses allocation. The alternatives previously adopted by the Council all include some means of allocating gear switching opportunity among IFQ participants. **NMFS recommends the Council consider the factors in making allocations in the National Standard 4 Guidelines at [50 CFR 600.325\(c\)\(3\)](#)**⁵. In particular, the Council should connect its recommendation with the achievement of optimum yield or other FMP objectives; compare the relative benefits and hardships of each alternative; and describe how a recommended alternative promotes conservation and wise use, avoids excessive shares, and addresses other factors in the NS4 guidelines.

⁵ <https://www.ecfr.gov/current/title-50/chapter-VI/part-600/subpart-D/section-600.325>