

FIXED GEAR MARKING AND ENTANGLEMENT RISK REDUCTION; LIMITED ENTRY FIXED GEAR FOLLOW-ON ACTIONS- PURPOSE AND NEED AND RANGE OF ALTERNATIVES

In June 2023, the Pacific Fishery Management Council (Council) provided guidance on the development of a range of alternatives (ROA) for measures related to fixed gear marking and entanglement risk reduction measures for vessels that operate under the Groundfish Fishery Management Plan (FMP) that use pot and longline gear (hereafter “fixed gear vessels”) and follow-on actions for the limited entry fixed gear (LEFG) program. A proposed purpose and need and range of alternatives with some preliminary analysis for both packages (fixed gear marking with entanglement risk reduction measures, and LEFG program changes) are provided below.

Fixed Gear Marking and Entanglement Risk Reduction

Purpose and Need

The following purpose and need was proposed by the National Marine Fisheries Service (NMFS) in June 2023 ([Agenda Item H.4.a, NMFS Report 1, June 2023](#)) with modifications proposed by staff to incorporate all proposed items.

NMFS currently identifies the origin of entanglements in about 50 percent of the entanglements reported, to at least some known category of gear/fishery. Without additional marking requirements, this situation is unlikely to improve, and the high level of uncertainty surrounding the origins of entanglements that continue to occur will remain. The purpose of this action is to expand fixed gear marking requirements and risk reduction measures for entanglement or bycatch in the Pacific Coast groundfish fishery. This action is needed to increase NMFS’ ability to positively attribute protected species entanglements to specific fisheries and ultimately aid in understanding and reducing the risk of protected species entanglement in groundfish pot and longline gear. This action is also needed to improve bycatch reduction of the currently required biodegradable escape panels in fish pot gears.

Range of Alternatives

The following ROA are specific to bottom longline, trap and/or pot gears used in Federal groundfish fisheries. The term “fixed gear” in the alternatives below is representative of only these gear types and does not include other open access (OA) fixed gears including set net and stationery (vertical) hook-and-line gears. Additionally, action alternatives for the items below are not mutually exclusive and therefore an action alternative could be selected for each item if the Council chooses.

Item 1: Buoy marking

No Action: All groundfish longline, trap or pot gears must be marked at the surface and at each terminal end, with a pole, flag, light, radar reflector, and a buoy. No line marking is required. A buoy used to mark fixed gear must be marked with a number clearly identifying the owner or operator of the vessel that is in possession of, deploying, hauling, or carrying on board the fixed

gear. The number may be either the vessel's number, the commercial fishing license number, or buoy brand number (if required by state law) or the vessel documentation number issued by the US Coast Guard (USCG), or, for an undocumented vessel, the vessel registration number issued by the state.

Alternative 1: Gear-specific - Distinguish between gear type (i.e., pots, bottom longline) only with buoy marking.

Suboption a: Require a sablefish-specific large patch, shape, or letter on the polyform buoy. Marked high, often (multiple perspectives), in a pattern distinguishable from other marks.

Suboption b: Cattle ear tags attached to the molded eye of the buoys

Alternative 2: Sector and gear-specific- Distinguish between sector (e.g., LEFG, OA) and gear type. This alternative would be the highest complexity, finest scale possible. It would have the highest number of unique identifiers for identifying buoys by both gear type and fishery sector.

Suboption a: Require a sablefish-specific large patch, shape, or letter on the polyform buoy. Marked high, often (multiple perspectives), in a pattern distinguishable from other marks.

Suboption b: Cattle ear tags attached to the molded eye of the buoys

Description/Discussion

Under No Action, longline, pot and trap gears are required to have surface gear identification as described in [50 CFR 660.219\(a\)](#) and [50 CFR 660.319\(a\)\(1\)](#)¹. Other fixed gear that are subject to the same surface and gear identification requirements, such as set net and stationary hook and line gears, would maintain the current requirements under any action alternative(s). The action alternatives presented above would be in addition to current marking requirements. The two action alternatives have the same suboptions but different levels of specificity for marking- Alternative 1 would be gear-specific (pot or longline) whereas Alternative 2 would have different markings by sector and gear. Based on input from NMFS staff, the alternatives at a minimum need to be able to identify the gear type and therefore a general alternative for all groundfish fixed gear was not included in the proposed ROA. Therefore, the Council should consider if there is an actual need to distinguish across sectors (OA/LE/individual fishing quota [IFQ]) and gear types (pot, longline) or if gear types alone would be sufficient. Council and NMFS staff's preliminary assessment of the alternatives suggest that gear type (i.e., Alternative 1) may be sufficient given other information available to determine the sector in which the entanglement may have occurred. This also aligns with the Groundfish Advisory Subpanel (GAP) recommendation in June 2023 ([Agenda Item H.4.a, Supplemental GAP Report 1, June 2023](#)). However, the GAP also noted that the Council may want to include an additional marking for the OA sector given the sector distinctions in the humpback bycatch report ([Agenda Item H.6.a, NMFS Report 5, June 2023](#)). The Council could also consider combining fisheries if Alternative 2 is included- such as LEFG and IFQ gear switchers- given the high degree of overlap between the fisheries and the relatively few vessels that participate in the IFQ fixed gear fishery compared to LEFG or OA.

¹marked at the surface and at each terminal end, with a pole, flag, light, radar reflector, and a buoy; buoy must be marked with a number clearly identifying the owner or operator of the vessel.

When developing the alternatives and suboptions, the Council and its advisory bodies should prohibit marks required by other fisheries (i.e., Dungeness crab). With regards to suboption a, participants at the gear marking workshop held by Sea Grant noted “this concept had serious potential, but cautioned that it would be best if any newly required mark would not obscure marks already on the buoys so as to avoid the cost of replacing buoys in order to comply.” Enforcement did caution about making the regulations too prescriptive, given the ever-changing technology, and that the current language for buoy marking (shown above in No Action) may be the best route. A best practices document may be a preferred approach for specifics- such as the industry recommended use of vinyl paint rather than sharpies or other means for example (see Item 5).

On suboption b, the use of cattle ear tags, these have been shown to be useful in the state Dungeness crab fisheries in making positive identifications. Participants of the gear marking workshop did suggest that these tags might be more useful than other letter markings on polyform buoys themselves. Currently, the color and shape of cattle tags used in state Dungeness crab fisheries changes each year to help with derelict gear cleanup programs. The Council and NMFS should consider how these tags will interact with these annually changing state tag requirements and whether groundfish tags would change configurations each year or if they would remain constant (which may be simpler).

Item 2: Line marking

The unique identifying color scheme should differentiate in the same manner as selected for buoy markings in Item 1 (either gear-specific, or sector and gear-specific). The choices between the alternatives laid out below determine what portion of the line and how identifying color schemes would be required.

No Action: Lines are not required to be marked in any sector, for any gear authorized for use in the groundfish fishery, including pot and bottom longline gear.

Portion of line marked- Require that some or all of the line (see Alternatives) be marked in a unique color scheme and method:

Alternative 1: All of the line(s) (surface, vertical/float, groundline, anchor)

Alternative 2: Only vertical/float line

Alternative 3: Surface and vertical/float line

Distance of Marking- Require that lines be marked in a unique color scheme for a specified length of the vertical/float line (see Alternatives), starting where it attaches to the buoy closest to the ground line.

Alternative 1: at least 5 fm

Alternative 2: at least 20 fm

Alternative 3: at least 50 fm

Method of Marking: For the portion and distance that a line would require to be marked, the line would be marked in one of the following ways:

Alternative 1: Manufactured in a unique color scheme

Alternative 2: Temporary markings- Require lines to be marked in a unique color scheme (e.g., spray paint/dipped/spliced colored twice/tape) at specific intervals (see suboptions) from the surface buoy

Suboption a: at least every 5 fm

Suboption b: at least every 20 fm

Suboption c: at least every 50 fm

Alternative 3: Transition from other temporary methods to manufactured line as lines need replacing (i.e. bring all lines along) to have comprehensive gear marking by a date to be determined. Suboptions for how many years in future balances (1) timely and (2) low added cost to industry, to be determined.

Description/Discussion

Under No Action, lines are not required to have any distinct marking. In line with the buoy/surface marking alternatives above, the Council may want to consider having unique colors for different sectors (OA/LE) or gear types (pot, longline) and prohibit markings required by other fisheries- such as Dungeness crab. The Council’s selection of an alternative under Item 1 would be mirrored in Item 2. In other words, if Alternative 1 was chosen under Item 1 (buoy marking), then both the buoy marking and the line marking would be gear specific (i.e., pot or longline) without any specification of sector.

There are three choices under line marking that would create an action alternative: portion of line marked, distance of line marked, and the method of marking. For the portion of line marked, this would create a range of alternatives regarding the sections of the line that would have to be marked in the unique color scheme. It could be all of the lines (Alternative 1) or a portion of the line- either just the vertical/float line (Alternative 2) or the surface and vertical/float line (Alternative 3). Prior discussions have appeared to be centered around marking just the vertical/float line; however, based on discussions with NMFS Protected Resources Division, there have been situations where entanglements and lines have been observed but it was difficult to tell whether it was surface or vertical line because there were no buoys observed in that instance. If the line wasn’t marked and no buoys were present, it may be difficult to attribute that line to a gear or fishery. Therefore, the Council may want to consider including Alternative 3 in the range for further analysis. Additionally, the state Dungeness crab fisheries are also considering marking the surface line as well as the vertical/float line so this alternative would be in line with those efforts.

The second issue is the distance the vertical line would be marked starting where it attaches to the buoy closest to the groundline. The Council guidance from June 2023 included three distances (at least 5, 20 and 50 fm). In June 2023, the Enforcement Consultants (EC) noted that “having a continuous mark for the first 5 fathoms (at a minimum) will allow enforcement to effectively evaluate compliance and the gear identified with the specific fishery without having to pull a portion of the gear off the bottom.”

The third issue is the method of marking for the portion of the line determined under the “Portion of Line Marked” alternatives. Under Alternative 1, use of line manufactured in a unique color scheme would be required. Alternative 2 would not require the use of line manufactured in a specific color scheme, but rather would require lines to be marked with a temporary method at

specific intervals shown in the suboptions. Note that under [NMFS Report 1 in March 2023](#), it was noted that spray painted lines seemed to fade quicker over a couple of seasons in the Dungeness crab fishery compared to dipped lines. Other comments from participants at the Sea Grant workshop from the Dungeness crab fishery noted that duct tape was the most cost-effective method, whereas spliced line (thread/tape) was the longest lasting. The Council and its advisory bodies should consider what temporary methods would be permissible. Alternative 2 has three suboptions for the frequency of line marking: at least every 5 fm, 20 fm, or 50 fm. Note that select combinations of suboptions would not be compatible with some alternatives under “Distance of marking”- for example, selecting suboption c under Alternative 2 (every 50 fm) and Alternative 1 (marking for at least the first 5 fm) under “Distance of Marking” alternatives. Alternative 3 would create a transition period in which temporary methods (under Alternative 2) could be used in the beginning and over time replaced with manufactured line (Alternative 1). The time at which lines would need to be replaced would be determined and sub-options developed for how many years in future balances (1) timely and (2) low added cost to industry. Staff is looking to industry for feedback on potential options for the transition time at this meeting.

Item 3: Entanglement Risk Reduction

No Action: Fixed gear vessels are required to use surface gear (buoys and flag poles) at each terminal end of the groundline. [see *Figure 1*]

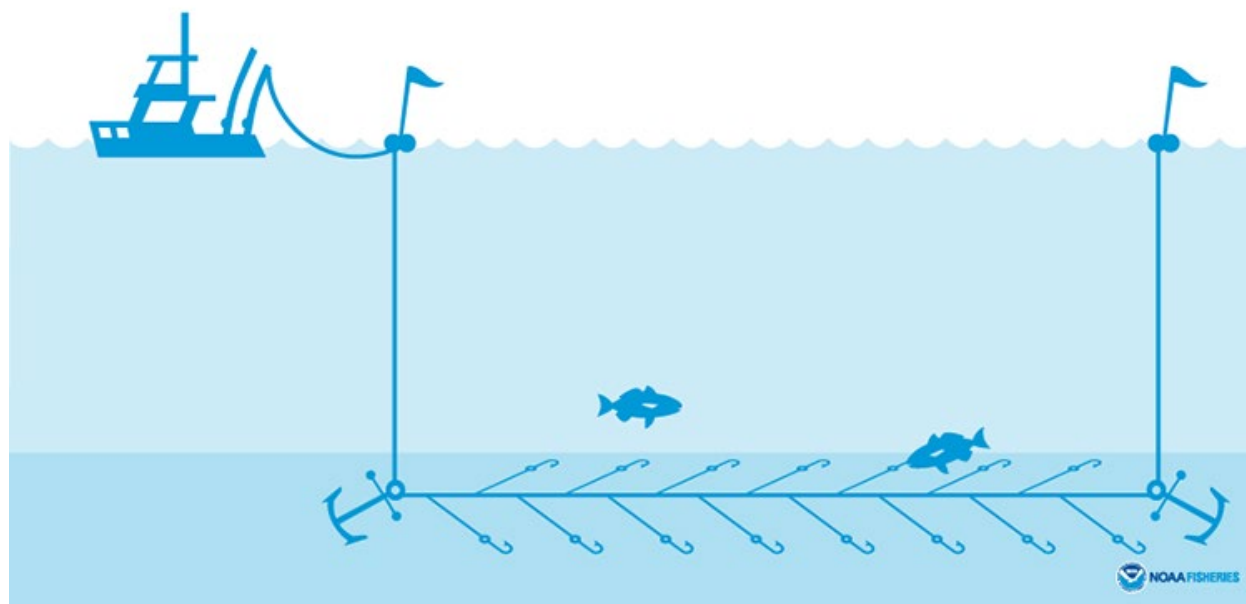


Figure 1. Bottom longline illustration. Bottom longline means a stationary, buoyed, and anchored groundline with hooks attached, so as to fish along the seabed (See 50 CFR 660.11 under definition of “fishing gear”). Currently, this is the only type of hook and line gear authorized for use by a vessel registered to a “longline” endorsed limited entry permit.

Alternative 1: Fixed gear vessels would be allowed to use surface gear on only one end of the groundline.

Description/Discussion

As described under Item 1 (buoy marking), under No Action, vessels using fixed gear are required to use surface gear (buoys and flag poles) on both ends of the groundline (see §§ 660.219(a)(1) and 660.319(a)(1)). However, in an effort to reduce entanglement risk through reducing the number of vertical/float lines in the water, Alternative 1 would allow vessels to use surface gear at only one end of the groundline. The GAP noted in their June 2023 statement that this choice should be left to the vessel operator as “vessels that deploy lighter gear have a higher probability of parting their gear and having surface gear at both ends of the groundline can assist in retrieving hook and/or pot gear.” The EC was not supportive of Alternative 1 in June 2023 and recommended that the requirement to mark both ends of the gear with surface gear be maintained as Alternative 1 would make it very difficult to enforce in closed areas.

Other items for consideration

While not included in the written guidance in June 2023, the Council might want to consider if additional alternatives should be considered under this item. For example, the Council could consider other items highlighted by [public comment in June 2023](#) and in the Conservation Recommendations from the 2020 BiOp including but not limited to:

- Time/area closures
- Authorize use of pop-up gear, potentially in closed areas
- Surface gear limitations

Regarding time and area closures, this would involve establishing time/area closures or areas to avoid for groundfish pot fisheries based on historical and/or real-time data or other tools like models. The [June 2023 Groundfish Endangered Species Workgroup Report](#) noted several ongoing projects that could support development of tools to reduce overlap of whales and pot fisheries and encouraged the Council to support the development of these tools.

Regarding pop-up gear, it was noted in the gear marking workshop report that while “Some agency, NGO, and academic participants suggested that pop-up or ropeless gear would be the most effective for reducing the risk of entanglement, but others also had concerns about gear loss rates and potential gear conflict. Fishing participants were very opposed to implementing ropeless gear at this time. Fishing industry concerns were primarily focused on the maturity and reliability of the technology, very high cost to implement, and whether the benefits in terms of reduced whale entanglement risk would justify the costs for use in a fishery with relatively low numbers of reported whale entanglements.” Therefore, the Council may want to consider whether this measure is appropriate at this time for inclusion.

Surface/gear limitations are also being considered and adopted for implementation in the state Dungeness crab fisheries and could include measures such as limiting the number of surface buoy(s) or amount of line that can trail surface buoy(s). The Council may want to consider if surface/gear limitations are warranted and if so, if they would be better suited to be specified in regulations or developed in a best practices guide.

Item 4: Escape panel

No Action: Traps or pots must have biodegradable escape panels constructed with 21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches (20.3 cm) in diameter results when the twine deteriorates.

Alternative 1: Modify regulations so that the position of the escape panels may not be on the bottom of the pot, with an exception for collapsible pots (e.g., slinky pots).

Description/Discussion

Under No Action, regulations require a biodegradable escape panel intended to reduce bycatch by derelict gear; however, there is no specificity around where that panel may be placed. A biodegradable escape panel that consistently comes to rest on the seafloor is ineffective at reducing bycatch by derelict gear. Alternative 1 would modify the regulations at [50 CFR 660.230\(b\)\(4\)](#) and [50 CFR 660.330\(b\)\(2\)\(iii\)](#) to specify where the panel must be placed to ensure that it does not rest on the seafloor.

Given the nature of collapsible pots, like slinky pots, which do not have a typical “bottom” of the pot, an exception would need to be developed to the panel placement requirements. The Council could use Alaska’s escape panel [regulations](#), that include an exception for slinky pots, as a model for escape panel placement requirements. Note that this action will not revise the No Action the escapement panel size, mesh size, or mesh materials; only the placement/position of the escape panel would be revised. Sample draft regulations could include something like the following. At this meeting, advisory bodies could comment on their functionality related to the purpose and need; however, there will be future opportunities to comment too.

Biodegradable escape panel. A biodegradable escape panel is required in all fish pot/trap gear used to take and retain, possess or land groundfish.

General. Traps or pots must have biodegradable escape panels constructed with 21 or smaller untreated cotton twine and in such a manner that an opening at least 8 inches (20.3 cm) in width or diameter that is parallel to, and within 6 inches (15.24 cm) of, the bottom of the pot, results when the twine deteriorates.

Collapsible pots. A collapsible pot (e.g., slinky pot) is exempt from the biodegradable panel placement requirements described in paragraph (cross reference above paragraph). Instead, a collapsible pot must have either a biodegradable escape panel placed anywhere on the mesh of the collapsible pot, constructed with 21 or smaller untreated cotton twine and in such a manner that an opening at least 8 inches (20.3 cm) in width or diameter results when the twine deteriorates, or one door on the pot must measure at least 8 inches (20.3 cm) in diameter and be wrapped with 21 or smaller untreated cotton thread.

Item 5: Best practices guide

The Council could also consider scoping and potentially recommend that a best practices guide be developed for vessels deploying fishing gear that have known whale entanglements. State Dungeness crab fisheries have started to develop similar guides. As discussed in Item 1 (buoy marking), an example of the information that could be provided in the guide could be what types of temporary buoy marking methods (e.g., spray paint, tape) should be used.

LEFG follow on

Items in this package affect participants in the LEFG primary tier fishery as well as those vessels fishing registered to a LEFG permit without a sablefish endorsement.

Purpose and Need

Council staff, with help from NMFS staff, developed the following purpose and need for consideration:

Based on the most recent limited entry fixed gear (LEFG) primary sablefish program review, the program is working effectively. However, with changing and unpredictable ocean and market conditions, and an aging fleet, there is a continued need to increase the flexibility to all LEFG participants to utilize their quota in the most efficient way possible and encourage new participation. The purposes of this action are to (1) consider allowing LEFG permitted vessels to use different non-trawl gear(s) (besides the gear endorsed on their permit) to harvest their LEFG quotas, (2) increase efficiency and opportunity for LEFG sablefish tier vessels and participants, (3) gather additional socioeconomic information to support future program changes, and (4) reduce administrative burdens, where practicable. This action is needed to provide increased flexibility to LEFG participants while reducing administrative burdens.

Additionally, the NMFS has determined that elements of the LEFG sablefish primary fishery (i.e., tier program) are considered cost recoverable. The purpose of this action is to also develop a cost recovery program. The action is needed to meet the Magnuson-Stevens Act requirements for limited access privilege programs (16 U.S.C. §§ 1853a(e) and 1854(d)(2)).

Range of Alternatives

Item 1: LEFG permit endorsement

No Action: Vessels registered to a LEFG permit(s) would only be able to harvest their limits/quotas with the gear endorsed on a permit. If approved, Amendment 32 and the implementing regulations would provide an exception and allow vessels registered to a LEFG permit to use non-bottom contact groundfish gear to harvest up to their LEFG trip limits within the non-trawl rockfish conservation areas, regardless of the gear endorsement on their LEFG permit.

Alternative 1: Vessels registered to longline-endorsed permits would be permitted to also use slinky pots to harvest their quotas.

Alternative 2: Create a single LEFG endorsed permit (i.e., remove the specific pot and longline endorsements). Vessels registered to a LEFG endorsed permit could utilize either longline or pot gear to harvest their quota.

Alternative 3: Create a single LE non-trawl endorsed permit. Vessels registered to a permit with this endorsement would be permitted to use any legal non-trawl groundfish gear to harvest their quota.

Description/discussion

Under No Action, vessels registered to a LEFG permit(s) would only be able to harvest their limits/quotas with the gear endorsed on a permit- either longline, pot/trap, or a dual endorsement

of longline and pot/trap. If approved, Amendment 32 and the implementing regulations would also provide an exception and allow vessels registered to a LEFG permit to use non-bottom contact groundfish gear to harvest up to their LEFG trip limits within the non-trawl rockfish conservation areas, regardless of the gear endorsement on their LEFG permit.

In response to the recent LEFG primary tier program review, industry asked for the allowance for vessels registered to longline endorsed permits to be able to use slinky pots to harvest their quotas. Slinky pots, which are lightweight collapsible pots currently used in Alaska to avoid whale depredation, are currently allowed off the West coast for vessels registered to pot-endorsed permits and vessels fishing in the open access sector. While the review was specific to the LEFG primary tier fishery, the Council expanded the proposed measure to be applicable to all LEFG permits endorsed for longline gear (Alternative 1), which represents the majority of LEFG endorsements (Table 1). Under No Action, for vessels registered to permit(s) with only a longline endorsement, vessels could fish with slinky pots in the open access trip limit fishery, subject to any crossover provisions described above, but not while in the sablefish tier fishery (50 CFR 660.25(b)(3)(ii)).

Table 1: Number of LEFG endorsed permits by gear type and number of permits with a sablefish endorsement by gear endorsement.

Gear Endorsement	Number of Permits	Registered a/	Number with Sablefish Endorsement	Registered b/
Longline	191	160	132	129
Pot	28	27	28	28
Longline and Pot	4	4	4	4

a/Registered for full year. There were 23 permits that were registered for part of the year (22 longline, 1 pot) and the remaining 9 longline permits were latent (i.e., not registered to a vessel for the entire year).

b/ Registered during the primary season.

In June 2023, the Council and its advisory bodies broadened this item to consider a more holistic approach to considering gear restrictions. Alternative 2 would create a single LEFG gear endorsement allowing the use of longline or pot gear (including slinky pots) to harvest their tiers (if sablefish-endorsed) or LE trip limits. The Council initially considered this option in the original license limitation discussions in Amendment 6.

The goals and objectives of Amendment 6 included reducing capacity with the least disruption to current fishing practices, accommodating historical participation and investments, and reducing conflicts between user groups. Several components of the program aimed at achieving that objective, including limiting the number of vessels in the fishery and putting constraints on increasing capacity of individual vessels. Gear limitations through gear endorsements were seen as a way to meet this objective by preventing vessels from being allowed to switch from a less powerful to a more powerful gear (e.g., longlining to trawling- as noted on page 3-3 of Amendment 6). For the gear endorsements, the Council considered whether there should be a single “fixed gear” endorsement or separate endorsements for longline and pot gears (in addition to a separate trawl gear endorsement). While this would have provided more flexibility to fixed gear vessels and be consistent with how sablefish are allocated, ultimately, the Council chose to keep the endorsements separate for two reasons: 1) Greater constraint on capacity and 2) The connection

between the two fixed gear types did not appear to be stronger than those using pot and trawl gears. On the latter point, during the period analyzed by the LEC (1984-1986), there were two times as many vessels that had at least one landing with trawl and pot gear compared to longline and pot gear. The issuance of separate gear endorsements was intended “to minimize opportunity for expansion of effort... Allowing unrestricted movement between these gears could result in increased harvest capacity directed toward a given species. Movement and flexibility is allowed through the ownership of a permit with more than one gear endorsement or purchase of a second permit. Flexibility achieved through the latter means will help reduce capacity, making the program more effective.” (page 99). If Alternative 2 is kept within the ROA, the impacts to capacity and the goals and objectives of Amendment 6 will need to be considered.

Alternative 3 would create a single LE non-trawl permit in which vessels would be permitted to use any legal non-trawl groundfish gear to harvest their LEFG sablefish tier limits and groundfish trip limits. This is currently what is allowed for vessels fishing in the directed OA sector and for vessels fishing IFQ under the gear switching provisions of the Shorebased IFQ Program. This Alternative is most aligned with the most recent Council recommendations under Amendment 32 that would allow LEFG vessels to fish in the non-trawl RCA with non-bottom contact gears to harvest their LEFG groundfish trip limits. All LEFG vessels would be allowed to use pot and bottom longline gears, and vertical hook and line or other legal configurations. Alternative 3 would also remove applicable crossover provisions (e.g., those listed at [50 CFR 660.60\(h\)\(7\)\(ii\)\(A\)](#)), reducing regulatory and enforcement complexity. Additionally, Alternative 3, could encourage new entrants via OA fishery participants investing into the LEFG fishery to harvest higher limits utilizing OA gear types. As NMFS noted in June 2023, modifications to the gear endorsements can be made if there is a strong and compelling need and rationale.

With any of these alternatives, analysis of potential impacts to target, incidental and/or protected species due to potential shifts in gear utilization would need to be analyzed. There may be a high degree of uncertainty in how many vessels may shift to/from utilizing other fixed gears (i.e., longline to pot gear) or non-trawl gears (i.e., hook and line).

Item 2: Fourth permit stacking

No Action: Vessels fishing in the LEFG tier fishery would be limited to registering three sablefish-endorsed LEFG permits (“stacking”) on their vessel in a given year, regardless of owner-on-board exemption(s).

Alternative 1: Vessels fishing in the LEFG tier fishery would be limited to stacking four sablefish-endorsed LEFG permits on their vessel in a given year as long as at least one of the four permits was subject to the owner-on-board requirements (i.e., not owned by someone with an owner-on-board exemption). Under no circumstances would a vessel be allowed to stack more than four sablefish-endorsed LEFG permits on their vessel in a single year.

Description/Discussion

Under No Action, vessels fishing in the LEFG tier fishery are limited to being registered to three sablefish-endorsed LEFG permits in a given year (i.e. “stacking”; [50 CFR 660.231\(b\)\(3\)\(i\)](#)). In addition to this limit, no individual person, partnership, or corporation in combination may own or hold more than three sablefish-endorsed permits either simultaneously or cumulatively over the primary season ([50 CFR 660.25\(b\)\(3\)\(iv\)\(B\)\(2\)](#)). Vessel owners that have permits that are registered to their vessels are considered to hold (control) the permit. A key component of the

LEFG tier program is the owner-on-board provision, which limits permit ownership to individuals and requires that any person who owns or has interest in a sablefish endorsed permit be on board the vessel registered for use with that permit when it is harvesting sablefish against that permit's cumulative landing limit. Under Amendment 14, the Council granted exemptions to the requirements in order to allow corporations, partnerships, and other entities that owned permits prior to November 1, 2000 to continue to own permits and not be present onboard the vessel when fishing the permit's tier. These exemptions are specific to the permit owner (not the permit they own). The exemptions expire over time with changes in ownership of the corporation or partnership (i.e., addition of new owners but not subtraction of owners from partnerships, corporations, etc.) or the divestiture of tier permit(s) for a period of time. In the previous five years, approximately 28 percent of registered vessels were registered to the maximum of three permits (Table 2).

Table 2. Number of vessels by the number of registered tier permits, 2018-2022.

Number of Permits	2018	2019	2020	2021	2022
1	45	42	45	42	45
2	18	21	23	25	24
3	29	27	28	26	25

Under Alternative 1, vessels would be able to stack up to four permits on their vessel as long as one of the permits registered to the vessel was owned/held (i.e., whoever the permit is registered to) by someone that does not have an owner-on-board exemption and is therefore on board the vessel when fishing that permit's sablefish tier limit. The remaining three permits could be owned/held by someone with or without an owner-on-board exemption. During discussions at the June Council meeting, the GAP noted that the proposal assumed that the three-permit own/control limit were to remain in place ([Agenda Item H.4.a, Supplemental GAP Report 1, June 2023](#)). However, NMFS staff has determined that this is not possible for the three-permit own/control limit to remain in place under Alternative 1 as the own/control provisions apply to not only the permit owner(s) but also to the permit holder(s), whom are typically the owner or operator of the vessel the LEFG permit is stacked on. Also, the own/control limit pertains to the entire season and not just at a single point in time. In other words, even if the fourth permit were owned by a crew member on board the vessel while fishing, the permit would be registered to the vessel and therefore be considered to be "held" by the vessel owner- who would already be at the three-permit limit. Therefore, if the Council is interested in moving this item forward for consideration, the alternative would also modify the three-permit own/control limit to four permits. The alternative would need to be modified as follows:

Alternative 1: Vessels fishing in the LEFG tier fishery would be limited to registering four sablefish-endorsed LEFG permits ("stacking") on their vessel in a given year as long as one of the four permits is subject to the owner-on-board requirements (i.e., not owned by someone with an owner-on-board exemption). Under no circumstances would a vessel be allowed to stack more than four sablefish-endorsed LEFG permits on their vessel in a single year. No individual person, partnership, or corporation in combination may own or hold more than four sablefish-endorsed permits either simultaneously or cumulatively over the primary season.

Table 3 below shows the number of vessels registered to three permits from 2018 to 2022 and whether all of the permits had an owner-on-board exemption (top row) or if at least one of the permits was subject to the owner-on-board requirement. Note that in some situations, the owner-on-board status changed midseason if the permit ownership changed. This table categorizes the vessels associated with those permits based on if there was ever a permit registered to it without an owner-on-board exemption in the season. Between zero to three vessels over the time series saw a change in at least one permit’s exemption status within a given year.

Table 3. Number of vessels with three stacked permits in a given year categorized by if at least one permit was owned by someone subject to the owner-on-board (OOB) requirement.

Year	2018	2019	2020	2021	2022
Vessels with all three permits having OOB exemptions	16	15	15	13	12
Vessels with at least one permit subject to the OOB requirement	13	12	13	13	13

Of the vessels registered to three permits in the last five years, approximately half of vessels (top row of Table 3) could only add a fourth permit under Alternative 1 if the owner of that permit was on board the vessel. This would meet one of the proposed goals of the original proposal to allow crew members to purchase a permit to fish on a vessel as they would be on board the vessel to fish it. On the other hand, the other half of the vessels with three stacked permits are already fishing with at least one permit where the owner has to be on the vessel. This means that the vessel could pick up a fourth permit owned by someone with an owner-on-board exemption and harvest additional quota without changing their current operational dynamics (i.e., wouldn’t require an additional owner on the vessel).

Item 3: Base Permit designation

No Action: NMFS designates the base permit as the permit registered to the vessel for the longest period of time so long as its length endorsement is sufficient for the vessel and unless the vessel requests a different permit as described at 50 CFR 660.25(b)(3)(iii)(C).

Alternative 1: Remove the base permit designation and associated regulations at 50 CFR 660.25(b)(3)(iii)(C).

Description/Discussion

The base permit designation dates back to the development of Amendment 14 to the Pacific Coast Groundfish FMP. As described in [Agenda Item E.4.a, NMFS Report 2, March 2022](#), the provision was originally intended to assist in the administration of gear restrictions and length restrictions under consideration; most of which were ultimately not adopted. In order to operate in the primary tier fishery, vessels must be registered to a limited entry permit with a sablefish endorsement that is within five feet of the vessel length (i.e., endorsement length may be at maximum five feet shorter or longer than the vessel length; 50 CFR 660.25(b)(3)(iii)(B)(1)).

However, it was highlighted during the 2022 program review that the information on the base permit is incomplete, and the length requirement is already covered by a separate regulation within §660.25(b)(3)(iii), subpart C. Therefore, the base permit designation is not necessary to enforce the length requirement. NMFS indicated that the designation of the base permit creates an unnecessary administrative burden on fishery participants and NMFS staff.

Item 4: Permit Price Reporting

No Action: No permit price information is collected when LEFG permits are sold.

Alternative 1: Owners of sablefish-endorsed LEFG permits would be required to disclose the permit price upon sale to a new owner.

Alternative 2: Owners of all LEFG permits (sablefish and non-sablefish endorsed) would be required to disclose the permit price upon sale to a new owner.

Description/Discussion

This item was initially recommended by the Scientific and Statistical Committee (SSC) during the 2014 LEFG Catch Share Program Review ([Agenda Item F.6.b, Supplemental SSC Report, June 2014](#)). In order to gain further insight into the LEFG primary tier fishery, the SSC proposed the routine collection of permit sale prices, which would help to indicate the market value of the fishery. These data would also help evaluate the performance of the tier system during the MSA required limited access privilege program (LAPP) review, contrast performance of this program with that of the trawl catch share program and assess impacts of provisions of the trawl catch share program on those vessels that move between the fisheries. This was also included in the recommendations from the 2022 Program Review.

In June 2023, the GAP noted that this could be a simple addition to the permit transfer application when a permit is sold ([Agenda Item H.4.a, Supplemental GAP Report 1, June 2023](#))

Item 5: Season start time

No Action: The sablefish primary season would continue to start at noon on April 1 and close at noon on December 31.

Alternative 1: Remove the start and end times of the sablefish primary season dates in groundfish regulations.

Description/Discussion

As described in [Agenda Item H.4.a, NMFS Report 1, June 2023](#), “The noon start time was necessary to facilitate monitoring and enforcement of pre- and post-season closure periods that existed when the season was very short (prior to 2001). It is not necessary today, and a midnight open/close time may simplify and improve the accuracy of attributing landings toward tier limits or limited entry DTL limits.” After the June Council meeting, in consultation with NMFS staff, Alternative 1 was modified to remove any time references because it is unnecessary. The intent is to have the fishery open or closed on a given day. This would be an administrative change and need little to no analysis.

Item 6: Cost Recovery

No Action: There would be no cost recovery program for the Tier Program, which is not consistent with the MSA requirements for LAPPs (16 U.S.C. §§ 1853a(e) and 1854(d)(2))

Alternative 1: Develop a cost recovery program for the LEFG primary tier program

Suboption 1: The owner(s) or authorized representative of the vessel that makes landings of sablefish in the Tier Program would be responsible for paying the fee

Suboption 2: The owner(s) or authorized representative of the sablefish-endorsed permit that makes landings of sablefish in the Tier Program would be responsible for paying the fee

Description/Discussion

At the conclusion of the most recent program review, NMFS determined that the LEFG primary tier program had actions that were cost recoverable. While No Action is part of the range of alternatives, NMFS has determined that it is not a viable alternative as it is not consistent with MSA requirements for LAPPs. [Agenda Item H.4.a, NMFS Report 2](#) from June 2023 described Alternative 1, a proposed program that would calculate costs and the fee percentage for the sector based on the ex-vessel value of the sablefish landed. A bill would be generated annually to each vessel owner (suboption 1) with applicable landings. For complete details, please see [Agenda Item H.4.a, NMFS Report 2](#). In June 2023, the GAP recommended that the permit owner (suboption 2), rather than the vessel owner, be responsible for the cost recovery payments because in many cases, the vessel owner may be leasing the permit(s) ([Agenda Item H.4.a, Supplemental GAP Report 1](#)). From 2011-2020, approximately 25 percent of vessels leased their permits during the tier season where 60 percent were thought to be only registered to permits that they owned. The remaining vessels were registered to a mix of permits that they owned or leased. For more information, see [page 43 of the 2022 Program Review](#). Should the vessel owner not pay the cost recovery fee, the permit owner may not be able to utilize his permit for the next year and therefore it was thought that the owner of the permit has the biggest incentive to pay the cost recovery fee.

PFMC
08/11/23