

## OVERVIEW: QUALIFYING REQUIREMENT OPTIONS (ALL ALTERNATIVES)

Three issues have been identified for further Sablefish Management and Trawl Allocation Attainment (Committee) discussion with respect to qualification requirement options:

- Is there a rationale that makes the qualifying requirement options for an alternative particularly suited to that alternative?
- Is there a committee expectation that the qualification requirements from one alternative might be used with another?
- Are there any concerns regarding the degree to which the qualification options rely on the control date (September 15, 2017)?

The elements of the qualifying requirements for each alternative are summarized in Table 1. Alternatives 1 and 2 are based on an evaluation of permit history and Alternative 3 would be based on vessel history. Alternative 2 Option 3 and Alternative 3 Option 2 (shaded) are identical in terms of the criteria, though in the former case the criteria apply to the permit and in the latter to the vessel. In no other places are the criteria the same.

If the Committee's intent is to be able to apply any of the qualifying criteria to any of the alternatives, analysts can structure the analysis to help with that. However, after the preliminary preferred alternative (PPA) is selected, there would likely need to be an augmentation or a revision of the analysis if the PPA/qualifying criteria combination is not one reflected in the current table, because the qualifying criteria impacts on gear switching privileges vary by alternative. For example, in Alternative 1, the criteria determine the number of quota share (QS) accounts that would be able to opt-out if an opt-out option is chosen. This then influences the total amount of quota pounds (QP) that will be available as unrestricted. However, because northern sablefish QS can be added to an opt-out account, the analysis will focus things like projecting which QS accounts are likely to be opted out, evaluating the potential for the amount of sablefish QS in those account to increase, and considering the likelihood that the 10 or 30 percent of unrestricted QP issued to every account without an opt-out will be acquired by a vessel engaged in gear switching. In contrast, for Alternative 2, the focus would be on the number of endorsements issued, the gear switching history of those permits, the likelihood that they will continue or expand that gear switching activity, and the implications of endorsement transferability for future gear switching levels. Additionally, an attempt would be made to project the likelihood and amount of gear switching by non-endorsed permits, the number of which will vary depending on the number permits receiving an endorsement. Similarly, the analytical focus for Alternative 3 qualifying criteria would also be different. In addition to focusing on the vessel instead of the permit, a major area of analysis will be assessing the amount of common ownership between vessels and QS accounts for the purpose of determining the individualized gear switching limits for those vessels. Thus, any mix-and-match of alternatives and qualifying criteria will need to be followed by at least some exploration of the implications of the qualifying option with respect to the alternative with which it was not previously associated.

The third issue for additional committee discussion is the use of the control date in the alternatives. A previous NOAA General Counsel Committee briefing indicated that any period of time can be used as the basis for qualification as long as a sound rationale is well explained and demonstrates consistency with the National Standard Guidelines. Further, use of the control date in and of itself, without additional rationale, would not be adequate. And, based on experience with the challenges to Amendment 20, inclusion of qualification periods that cover time beyond the control date can be of value in demonstrating the consideration of more recent participation and supporting articulation of the rationale for selection criteria that rely on the control date.

Control dates are intended to prevent a flood of effort into a fishery during consideration of the allocation of new access privileges. Their value depends, in part, on the degree to which the Council has historically announced and then relied on the control date in its final policy. There are two sources of effort expansion that might be of concern when a new policy is considered. First is new entry by participants whose primary intent is to secure the access right that is to be allocated—particularly a transferable access right that might be sold in the future. In considering this limitation on such new entrants, it is also recognized that there may be others entering after the control date who may have done so based on normal business operations, rather than being motivated by the possibility of securing a valuable access right.

The second effort expansion of concern is increases in harvest by existing participants seeking to qualify for a larger initial allocation. Again, this is particularly a concern when such rights are to be transferable; and, at the same time, it is recognized that some individuals might be expanding their effort as part of normal business operations that would have occurred even in the absence of new limited entry policy deliberations.

With respect to new entrants, Table 1 (third row from the bottom) indicates that only the qualification options under Alternative 1 would allow an entity to qualify that did not have at least some participation before the control date. At the same time, it should be noted that the structure of Alternative 2 Option 3 (and the identically structured Alternative 3 Option 2) would allow an entity with one gear switched landing in 2016 to qualify based on post-control date fishing for all its other landings. With respect to incentives for the expansion of effort by current participants, all the options except Alternative 3 Option 1 would allow a vessel or permit to accumulate history toward qualifying criteria thresholds though post control date landings (second to last row of Table 1). Thus, while these options might not encourage new entry when the Council announces a control date in the future, they might encourage additional participation. This might be particularly true during the early phases of deliberation when there is generally a greater amount of uncertainty about the amount of landings that might be ultimately required to qualify. As indicated in the last row of the table, none of the options require post-control date landings (as might have been the case if there were a recent participation criteria that relied on 2018-2019 landings).

