FINAL SECRETARIAL REVIEW

Regulatory Impact Review

For a Proposed Regulatory Amendment to

Modify the Medical and Beneficiary Transfer Provisions in the Pacific Halibut and Sablefish Individual Fishing Quota Program

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Abstract: This Regulatory Impact Review (RIR) analyzes management measures that would modify the medical and beneficiary transfer provisions of the Pacific halibut and sablefish individual fishing quota (IFQ) Program. The proposed changes are intended to simplify management of the medical and beneficiary provisions while meeting the objective of having an owner/operator fishery in the catcher vessel sector. The medical lease provision was implemented to allow persons with a legitimate temporary documented medical condition who intended to fish in the near future to temporarily lease their annual quota. The beneficiary lease provision was implemented to allow beneficiaries to lease their annual quota for up to three years after the death of the Quota Share (QS) holder while the estate is settled. The proposed action modifies several elements in each of the two provisions to more closely align with the Council's original intent.

List of Acronyms and Abbreviations

AFSC	Alaska Fisheries Science Center
AKFIN	Alaska Fisheries Information Network
AP	Advisory Panel
BSAI	Bering Sea and Aleutian Islands
CDQ	Community Development Quota
CFR	Code of Federal Regulations
CQE	Community Quota Entity
Council	North Pacific Fishery Management Council
CV	catcher vessel
E.O.	Executive Order
EA	Environmental Assessment
EEZ	Exclusive Economic Zone
EMT	Emergency Medical Transfer
FMP	fishery management plan
FR	Federal Register
FRFA	Final Regulatory Flexibility Analysis
GOA	Gulf of Alaska
Halibut Act	Northern Pacific Halibut Act of 1982
IFQ	Individual Fishing Quota
IRFA	Initial Regulatory Flexibility Analysis
IPHC	International Pacific Halibut Commission
LAPP	Limited Access Privilege Program
LOA	Length Overall
MSA	Magnuson-Stevens Fishery Conservation and Management Act
NMFS	National Marine Fishery Service
NOAA	National Oceanic and Atmospheric Administration
NPFMC	North Pacific Fishery Management Council
OMB	Office of Management and Budget
PPA	Preliminary preferred alternative
PRA	Paperwork Reduction Act
QS	Quota Share
RAM	NMFS Restricted Access Management Program
RFA	Regulatory Flexibility Act
RIR	Regulatory Impact Review
SAFE	Stock Assessment and Fishery Evaluation
SBA	Small Business Administration
Secretary	Secretary of Commerce
SSA	Social Security Administration
TAC	Total Allowable Catch
U.S.	United States

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Executive Summary

This Regulatory Impact Review (RIR) analyzes management measures that would modify the medical and beneficiary transfer provisions in the Pacific Halibut and Sablefish Individual Fishing Quota (IFQ) Program. This analysis combines two action alternatives to reduce redundancies in background information and the description of fisheries. Section 1 provides a concise, brief overview of the IFQ Program including the authority for this action, affected management areas, and the history of the action. Section 2 provides the methodology for the analysis of impacts and the description of fisheries impacted. Section 2.3 provides an analysis of the status quo impacts. Section 2.4 and Section 2.5 are the action alternatives and provide analyses of the impacts of the Medical Transfer Provision and the Beneficiary Transfer Provision, respectively.

The Council developed separate purpose and need statements for these two administrative actions. They are addressed separately in this document.

Purpose and Need and Alternatives

After review of the initial analysis and receiving stakeholder input during its October 2018 meeting, the Council adopted the following purpose and need statement for the both the Beneficiary and Medical Transfer Provisions:

> *The Individual Fishing Quota (IFQ) Program was designed to ensure that the sablefish and halibut fisheries are predominately owner-operated where the quota share (QS) holders fish the annual IFQ. Transfers (leases) of IFQ derived from catcher vessel QS have generally been prohibited. Two transfer provisions, the medical transfer provision and the beneficiary transfer provision, were implemented after the original program to allow 1) QS holders to retain their QS during a temporary medical hardship and 2) a surviving spouse or designated beneficiary to temporarily transfer QS after the QS holder's death. NMFS has identified problems administering these provisions and would like the Council to clarify their intent. The medical transfer provision would benefit from a broader definition of a certified medical professional and a revision to allow the provision to be used for any medical reason within a set of years. The beneficiary transfer provision would benefit from a clarification on who has the authority to transfer IFQ from a decedent's QS and a definition of immediate family member. NMFS and IFQ fishermen would benefit from clarification of the Council's intent for the program and if necessary adjusting the regulations to better reflect the program's objectives.*

The Council developed and approved the following list of alternatives and options for analysis. Its preferred alternatives are denoted by **bold** type.

Alternative 1: Status Quo

Alternative 2: Modify the medical transfer provision.

Element 1: Define "Certified Medical Professional"

Option 1: Replace the current definition with a single, broader definition of certified medical professional, such as "Health care provider." Health care provider could be defined as:

An eligible health care provider is an individual authorized to provide health care services by the State where he or she practices and performs within the scope of their specialty to diagnose and treat medical conditions as defined by applicable Federal, state, or local laws and regulations. A health care provider outside the U.S. and its territories licensed to practice medicine is included in this definition.

Option 2: Define a Certified Medical Professional as all or a sub-set of those individuals defined in the Social Security Act Sections 1861(r) and 1861(s).

Suboption: Option 1 and Option 2 would be limited to U.S. medical professionals.

Option 3: The Council directs staff to review definitions of "immediate family member" that could be used for the medical transfer provision which are more restrictive than those used for designated beneficiary provision regulations.

Element 2: Revise federal regulations to allow the medical transfer provision to be used for any medical reason for:

Option 1: 2 of 5 most recent years

Option 2: 3 of 7 most recent years

Note: Only transfers after implementation of new rule would count towards the limit.

Suboptions apply to either Option 1 or 2:

Suboption 1: Establish a limit on the number of times (based on two options to define years) the medical transfer provision may be used (range of 5 to 10 times).

Suboption 2: Define most recent year as one year (365 days) from the date the medical transfer application was approved by NMFS.

Option 3: To allow QS holders to transfer 100% of IFQ associated with QS held under eligible medical transfer to designee for two years; in the third time a medical transfer is used out of 7 years, the QS holder can transfer 80% of IFQ (by area by species) to designee; in the fourth time, the QS holder can transfer 60% of IFQ; after the fourth transfer, medical transfers would not be allowed during that 7 year period.

Alternative 3: Modify the beneficiary transfer provision.

Element 1: At 50 CFR 679.41(k) modify all references to surviving spouse and immediate family member by adding "estate."

Element 2: Define "immediate family member" in regulations at 50 CFR 679 as follows:

Option 1: US Office of Personnel Management definition

Option 2: Federal Family Medical Leave Act definition

Environmental Assessment

This amendment was determined to qualify for a categorical exclusion. As a result, an Environmental Assessment was not required or prepared for this action.

Regulatory Impact Review

An exemption to the owner onboard provision of the IFQ program was added in 2007 to allow QS holders with a temporary medical condition to transfer IFQ for a limited time and under specific conditions. This provision was not part of the original program because of concerns associated with management of the provision and the desire to maintain the owner onboard structure of the fishery in the catcher vessel sector. The Council is considering amending aspects of the medical transfer regulations to better address

its intent. The Council also implemented a beneficiary transfer provision that would allow QS to be transferred and IFQ to be leased for up to three years after a QS holder dies to allow time for the estate to be settled and the QS permanently transferred to an eligible QS holder.

Medical Transfer Provision

The No Action alternative maintains the medical transfer provision limit of 2 of 5 years for the same medical condition and does not limit the total number of times the medical transfer provision can be used by a QS holder over their lifetime. It also maintains the current definition of a certified medical professional allowed to attest to a medical condition on the transfer application.

The number of transfers and the number of QS units associated with medical transfers has increased over time and stakeholders are concerned that the provision is being used to circumvent the owner onboard design of the fishery. A total of 120 QS holders have used the medical transfer for more than two years, indicating they used it for more than one medical condition or they used the same medical condition over more than five years.

No limit is applied to the number of times that the medical transfer provision may be used by a QS holder, and the 2 of 5 years limit is for the same medical condition. The way the regulations are structured makes it difficult for NMFS staff to deny a complete medical transfer application when applicants change the description of the medical condition, because to do so would require NMFS staff to interpret whether the change in language describes a medical condition that is different from the previous condition. Making those determinations would require NMFS staff to go beyond their expertise and adjudicate medical issues. NMFS prefers not to be placed in the interpretive role, rather the NMFS review should be limited to whether the application meets the technical requirements outlined in regulations.

Medical transfer applications are expected to increase as current QS holders grow older or QS holders seek alternative options to have someone fish their IFQ. As long as the application is complete and does not list the exact same medical condition, the expectation is that RAM would approve all medical transfer applications that are submitted.

Medical transfer rates were speculated to be greater in Areas 2C compared to areas 3A and 3B. It was initially thought that QS holders may be using the medical transfer provision when they are not allowed to use the hired master provision. That was not confirmed since the number of initial issuees using the provision in Area 3A is about the same. Also, QS holders who had not used the hired master provision prior to more restrictions being added to the program in 2014 did not begin using it after the changes were in place. Only one QS holder was reported to do so and they were not an initial recipient of the QS that was transferred under the medical transfer provision. If the initial issuee QS holder doesn't have 20% ownership interest in a vessel, then they may qualify to use the medical transfer.

Lease rates for medical transfers are relatively high (about 30% to 70% of gross ex-vessel value) with most reported rates being about 50%. High lease rates create incentives to have others fish a QS holder’s IFQ since they can generate income from their QS holdings without incurring annual variable costs associated with fishing the IFQ them self.

Alternative 2 – Element 1 provides options to redefine a certified medical professional in regulation. The current definition (No Action alternative) excludes some commonly used, licensed professionals such as chiropractors. Data that are available do not provide information on the number of QS holders that would like to submit an application from a medical services provider that is excluded based on current regulations. However, at least one instance was reported to the analysts by RAM staff of a QS holder that wished to use a chiropractor. RAM informed the QS holder that a chiropractor was not eligible to verify a medical condition on the medical transfer form and the QS holder was required to find an eligible medical professional.

Two options are considered in this paper to change the definition of a certified medical professional. Option 1 would implement a general definition, like the one used on the West Coast for the sablefish IFQ program. That definition would allow any eligible health care provider that is authorized (i.e., licensed or certified) to provide health care services by the State where he or she practices, to attest on the medical transfer form that the medical condition would prevent the QS holder from fishing their IFQ that year. The definition would also allow a health care provider outside the U.S. and its territories licensed to practice medicine to be included in this definition. This broad definition would not specify which individual medical specialty professionals are authorized to attest to medical conditions, a benefit of which is that there would be no need to change the regulations to adjust which medical professionals are authorized if medical specialties change over time. This option is preferred by the NMFS Alaska Region.

Option 2 would specify that authorized medical providers are those (or a subset thereof) listed in the Social Security Act. The medical professionals defined in that Act are also diverse; however, as they are specifically called out by medical specialty, the list could exclude some health care providers that would be authorized under Option 1. Selecting this option would also require the Council to determine if it wishes to define the regulations so they are linked to the Social Security Act language, or for the fishery regulations to duplicate the current list of medical professionals as defined in those regulations. Linking fishery regulations to the Social Security Act's medical list would automatically update the authorized medical professionals for the IFQ medical transfer provision if the Social Security Act list is modified. NMFS staff would need to monitor the Social Security Act to check for any changes. Listing the current medical provider list in the 50 CFR 679 regulations could result in the list becoming outdated and needing modification.

Alternative 2 - Element 2 could implement three important changes to the No Action alternative:

- The limit would be based on any medical condition and not the same medical condition; and
- the number of years the medical transfer provision may be used over a selected number of recent years (2 of 5 - the status quo, 3 of 7 years, or 4 of 7 years with the third and fourth year being limited to 80% and 60% of IFQ resulting from eligible QS holdings by each species and area being allowed to transfer, respectively); and
- a lifetime limit on the number of years the medical transfer provision could be used by a QS holder could be established (range of 5 to 10).

All the options under Alternative 2 – Element 2 would change the limit from "for the same medical condition" to "for any medical condition". This change makes the medical transfer provision more restrictive in terms of the number of years the provision may be used and would help meet the owner onboard objective. Also, since NMFS RAM staff have significant difficulty interpreting what is the same medical condition, especially when there are slight modifications to the language used to describe a condition, changing the regulation to "any" medical condition would eliminate the need for NMFS to make those judgments.

There are three options that determine the number of years the medical transfer provision may be used. To reduce potential abuse of the provision while mitigating impacts relative to legitimate medical issues, the Council initially allowed transfers in 2 of 5 most recent years for the same medical condition. Changing the regulations to apply to any medical condition makes the provision stricter, so the Council is also considering an option for 3 of 7 years and 4 of 7 years with limits on the last two years of usage during the period. A total of 73 QS holders have used the provision 3 or more years. Changing the medical transfer limit to 2 of 5 years for any medical condition would have prevented 31 these QS holders from using the provision one year, 22 QS holders would have been prevented from leasing for two years, and 20 QS holders would have been prevented from leasing three years (based on 2013 through 2017 data). With respect to the option to select 3 of 7 years, a total of 48 QS holders used the medical transfer provision four or more years from 2011 through 2017 (the seven most recent complete years of data

available). Relative to Option 1, 25 fewer QS holders would have been impacted by the change under Option 2. The medical transfer data indicates that more QS holders are using the provision more frequently in recent years, so the number of persons using the provision may be greater in the future.

At its October 2018 meeting the Council added an option that allowed QS holders to use the medical transfer provision for 4 of 7 years, with the last two years being limited to transferring up to 80% or 60% if the IFQ derived from QS holdings in each area by species, respectively. This option was included to provide more time for QS holders to recovery from lengthy illnesses before they are required to sell their QS or not fish the QS. An example reported to staff by the proposers of the option was an individual with cancer that needed extra time before resuming fishing. The structure of the option allows a QS to generate some revenue from his QS holdings, but a level that is quite possibly less profitable than fishing the QS. This option would not be attractive to a QS holder that could potentially fish, which is what the Council is trying to discourage.

An option is also included under Alternative 2 that would limit the total number of years a QS holder could use the medical transfer over his lifetime. This option was included to limit long-term habitual use of the provision, which was not the intent of the Council. Based on a 25-year time horizon and assuming there is no total limit on the number of times the provision may be used, the medical transfer provision could be used by a QS holder in10 out of 25 years (with the option 2 of 5 years), 12 out of 25 years under the option 3 of 7 years, or 16 out of 25 years under the 4 of 7 years option.

Because accounting for all of the medical transfer limits included under Alternative 2 would begin when the new regulations are implemented (assuming they are changed), all QS holders begin in the first year the regulation is in place with no medical transfers credited to their usage limit. This means that all QS holders have a minimum of 2 years to develop a business plan for using medical transfers as part of their business plan relative to their QS holdings.

QS holders who are legitimately unable to fish for more than 2 of 5 years, 3 of 7 years, or 4 of 7 years for a medical reason that they are expected to recover from and after which they anticipate returning to fishing would need to forgo the IFQ's associated annual value or sell their QS during years they are limited by the cap. In the case of the 4 of 7 years option they would also be limited, but to a lesser amount, during the third and fourth years the medical transfer is used over the 7-year period. QS holders in this category would be at the greatest risk of being compelled to leave the fishery by modifying the medical transfer provisions. These individuals may experience high personal medical expenditures at a time when their income is reduced. However, these individuals would still have the opportunity to sell their QS holdings and re-enter the fishery in the future when they are well. Re-entry into the fishery could be complicated by a lack of QS on the resale market or fluctuations in the open market value of QS.

Two suboptions are being considered under Alternative 2. The first would establish a lifetime limit on the number of years the medical transfer could be used. The second would define a year as 365-days from the date the medical transfer was approved, instead of the calendar year it was used.

Suboption 1 would establish a lifetime limit of from 5 to 10 years on the use of the medical transfer provision. This action would not retroactively count any years the medical transfer provision was used prior to changing the regulation. Making the provision forward-looking places all QS holders in a similar situation relative to the number of times they can use a medical transfer, regardless of past usage or their age.

The impact of this action is dependent on the age of the QS holder at the time the provision is implemented (for current QS holders) or the age of a person when they acquire QS in the future. Younger QS holders are more likely to be impacted. For example, if the Council selected a lifetime limit of 5 transfers, a person that is 60 would be at least 71 (11 years) before they reach their life-time limit under 2 of 5 years, at least 69 (nine years) under the 3 of 7 years option, and 68 (eight years) under the 4 of 7 years option. If the limit was increased to 10 years, the QS holder would be at least 85 (25 years) before

the life-time limit would impact them using 2 of 5 years, at least 82 (22 years) if the 3 of 7 years option was implemented, and at least 76 (16 years) under the 4 of 7 years option. A person that was 30 when they acquired QS could potentially reach the 5-year lifetime transfer limit when they are 41 under the 2 of 5 years option, 39 under the 3 of 7 years provision, or 38 under the 4 of 7 years option. Increasing the lifetime limit to 10 years of transfers means the 30-year old QS holder could reach the lifetime limit when they are in their late 40s to mid-50s.

The lifetime limit does achieve the Council's goal of fostering an owner onboard fishery under the IFQ program. However, it is important to consider the impact age has on the individual QS holders and the differing impacts it could have. The Pacific Council included a lifetime limit of 3 years on their medical transfer provision as part of their IFQ sablefish fishery. Their program is relatively young, and the lifetime limit has not been an issue for the vast majority of QS holders. However, staff have indicated that at least one person has gone over the limit and continues to request medical transfers. NMFS has not rejected their applications (as of the time they were contacted) and are determining how to address the situation. If the provision is implemented in the North Pacific it is assumed that any application submitted once the QS holder has reached their lifetime limit would not be approved. The QS holder would have the right to appeal as described in the appeals section of this document.

Suboption 2 would define a year for the medical transfer provision as 365 days from the date the medical transfer application was approved by NMFS. Changing the duration of a medical transfer from the calendar year for which it was approved to 365 days from the date of the approved transfer has impacts on NMFS's ability to monitor and enforce the provision and the number of years a person can actually lease IFQ.

NMFS would be required to modify its data bases to track the date each medical transfer was issued. This issue becomes even more complicated since a QS holder may transfer IFQ on more than one date during the year. During 2016, 54 QS holders reported transfers on different dates during the year and 68 QS holders reported transfers on different dates in 2017. NMFS would need to track the transfers by date and it would complicate management of the transfers in terms of the number of years it used for both recent year limits as well as the proposed lifetime limit. If the transfers extend over more than 365-days, based on the dates of the two or more transfers, it is assumed that the transfer would count as two years. Because of the increased costs to monitor and enforce the program, the increased difficulty of monitoring transfers, and the fact that IFQ is issued for a calendar year, NMFS recommends maintaining the transfer based on the calendar year.

Beneficiary Transfer Provision

Alternative 1, the No Action alternative, limits beneficiary transfer to select immediate family members upon the death of a QS holder. It also requires that the beneficiary transfer form is on file with NMFS if the QS holder does not leave a surviving spouse and he/she wishes to name an immediate family member to be the beneficiary. NMFS may approve an application to transfer QS to the surviving spouse or designated beneficiary, unless a contrary intent is expressed by the decedent in a Will. Any non-traditional family members seeking to use the beneficiary transfer after the death of the QS holder would not be able to benefit from the 3-year lease provision of the IFQ while the estate is being settled.

Alternative 3 would add the deceased QS holder's estate to the list of beneficiaries who can temporarily hold QS for up to three years and would define the person that is authorized to lease the IFQ derived from that QS during that period. NMFS recommends allowing the QS holder's estate to receive QS and that the court-appointed estate representative for that QS holder's estate be authorized to use (if they are eligible to hold QS) or lease the IFQ derived from the estate's QS. NMFS would allow the estate representative to

manage the use of the decedent's QS holdings, but not actually hold the QS for up to three years[1] or until the estate is settled and the QS is transferred to the new owner. The 3-year period has worked in the past and no reason has been found to change that period of time.

The estate holds the assets of a decedent until they are distributed to beneficiaries. While assets are intestate, the court ordered estate representative controls and manages the estate assets for the benefit of the beneficiaries (and creditors). In most states, the estate representative would either be the designated executor of the will or, in the case there was no will, a personal representative appointed by the court.

Adding "estate" to the list of current beneficiaries eligible to receive IFQ after the QS holders' death would have a minimal impact on existing wills and it would have a positive impact on future transfer cases. The 3-year transfer would extend to the estate. If after three years the estate is not settled, the estate representative can determine whether the QS held by the estate should be sold and the proceeds retained by the estate or the estate should continue to hold the QS, but the estate would no longer be eligible to use the beneficiary transfer provisions.

Alternative 3 would define an immediate family member in regulation. 50 CFR 679.41(k) and 680.41(g) currently authorize the surviving spouse or designated beneficiary, who is an immediate family member, to lease IFQ for a 3-year period upon the QS holder's death. Neither the 50 CFR 679.41(k) nor the 50 CFR 680.41(g) regulations define "immediate family member." NMFS would prefer to rely on a single clear definition of "immediate family member" instead of its interpretation.

There is currently no uniform definition of "immediate family member" in state and Federal laws. Variations in the definition make it difficult to define. However, if the Council wanted to consider a revised definition, two options are presented: the U.S. Office of Personnel Management definition and the Federal Family Medical Leave Act definition. Both could have beneficial impacts to existing or future QS holders and their beneficiaries, but the U.S. Office of Personnel Management definition includes more family members. The U.S. Office of Personnel Management includes the spouse, sons and daughters, parents, brothers and sisters, grandparents and grandchildren, domestic partner and their parents, and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship. The spouses of the individual are also generally included. The Federal Family Medical Leave Act definition includes spouse, son, daughter, or parent. Family members not covered by the Federal FMLA include siblings, in-laws, grandparents, and other extended family members unless those individuals stood in the place of a parent to the immediate family member when he or she was a minor. Nonfamily members can also be covered under "the place of a parent," which is defined as having had the responsibility of providing day-to-day care to the family member and of financially supporting the family member in his or her childhood.

Comparison of Alternatives for Decision-making

The following tables summarize the alternatives and option for the action included in this analysis. Table ES-1 summarizes the medical transfer action and Table ES-2 summarizes the beneficiary transfer action.

[1] The QS would be held by the estate and not the estate representative during the 3-year period or until the estate is settled.

Table ES-1 Summary of Medical Transfer Alternatives and Options

Issue	Alternative 1 No Action	Alternative 2, Element 1 Redefine Certified Medical Professional	Alternative 2, Element 2 Revise Limits on use of Medical Transfers
Supports owner onboard intent of the IFQ program	• Holders of CV QS must be onboard the vessel when fishing their IFQ except under specific circumstances. • The owner onboard requirement is waived for a temporary medical condition, after the application is approved by RAM, when the QS is medically unable to fish that year or they are providing care to a family member that prevents them from fishing that year.	• Redefining the types of medical professionals that may attest to the medical condition will not change the owner onboard aspects of the program.	• Changing the regulations that define how often the medical transfer provision may be used from “for the same medical condition” to “any medical condition” makes it less likely QS holders could circumvent the intent of the regulation. • Option 1 would retain the same number of recent years the medical transfer provision may be used by a QS holder (2 of 5 years), but because it applies to any medical condition is stricter than the No Action Alternative. • Option 2 increases the number of years the provision can be used to 3 of 7 years. This makes the provision less strict for persons that are not habitual users of the program. • Option 3 would increase the number of years the medical transfer provision may be used by QS holders but reduces the revenue derived from the transfers during 2 of the 4 year the transfer is used over a 7-year period. • A lifetime limit on the number of years a QS holder may use a medical transfer is included as a suboption and would support the owner onboard objective of the fishery but will have differential impacts depending on the age of the QS holder when the regulation is implemented, or they purchase QS in the future. • Defining a year as 365 days from the date of the transfer approval could allow persons to expand the number of calendar years during which they could transfer IFQ beyond the number intended by the Council.

Issue	Alternative 1 No Action	Alternative 2, Element 1 Redefine Certified Medical Professional	Alternative 2, Element 2 Revise Limits on use of Medical Transfers
Reduce QS holders' hardships while they address a temporary medical condition	• The medical transfer provision was designed and implemented was to reduce hardships associated with the owner onboard provision when QS holders had temporary medical conditions that made them unable to fish.	• Same as the No Action alternative for most QS holders. • QS holders that use chiropractors or other medical professionals to attest to their medical condition would benefit since they would not have to be examined by someone that is currently defined as a certified medical professional. • Allowing licensed medical professionals outside the U.S. to attest to a medical condition may benefit a small group of QS holders, if they are not seeing any U.S. doctors or become ill when traveling outside the U.S.	• The stricter limits on the use of the medical transfer provision would not impact most QS holders. • QS holders that have longer-term, but still temporary medical conditions, would face greater hardships if the limits impact their ability to utilize the IFQ generated from their QS during the recovery period.
Prevents a small group of QS holders from circumventing owner onboard requirements	• A small group of QS holders are using the medical transfer provision almost every year. • The number of QS holders using the medical transfer provision has increased in recent years. • One of the reasons that QS holders are able to repeatedly use the medical transfer provision is submitting slightly different medical conditions.	• Changing the definition of the medical professional that can attest to a temporary condition would be broadened for U.S. providers, but is expected to have a small, if any, impact on persons circumventing the owner onboard provision. • Adding medical professionals outside the U.S. to attest to medical conditions is expected to have minimal impact on persons circumventing the owner onboard provision.	• Changing the regulations that limit the number of years a medical transfer may be used for any medical condition will be more restrictive and more effective at limiting repeat users of the provision. • Including a lifetime limit would prevent QS holders from repeatedly using the provision up to the allowed limit over a longer period. When the life-time limit is reached they would need to sell the QS to derive any more revenue from holding the QS.
Better defines Council's intent	• The No Action alternative would not change the definition of the Council's original intent.	• Clarifying the definition of a certified medical professional better defines the Council's intent regarding the scope of which medical professionals can attest to a temporary medical condition.	• The proposed changes would modify regulations, so the owner onboard requirements are managed and enforced to more tightly limit medical transfers as was originally and currently intended by the Council.

Issue	Alternative 1 No Action	Alternative 2, Element 1 Redefine Certified Medical Professional	Alternative 2, Element 2 Revise Limits on use of Medical Transfers
Clarifies Regulations	• There would be no change in how the regulations are interpreted or implemented.	• The current regulations are clear but are considered to be too narrowly defined. • The intent of this alternative is to broaden the current regulations to be more inclusive of licensed/certified health care providers that are allowed to attest to a temporary medical condition.	• The current definition of the same medical condition is vague and requires RAM/NMFS to make medical judgments that are beyond their expertise. • Changing the definition to any medical condition clarifies that the medical transfer provision may on be used the number of years selected. • If the Council defines a year as 365-days from the approval date of a medical transfer, the regulations would complicate management and interpretation of regulation.
Impacts on Management	• There would be no change in the management of medical transfers. • RAM would not reject complete medical transfer applications because they do not have that authority, nor do they want to be placed in the position of making judgment calls on medical conditions.	• The options will likely reduce the amount of time RAM staff spend educating QS holders on the types of medical professionals that are allowed to attest to the transfer provision. • May also slightly reduce the number of applications that must be returned because they do not meet the regulatory requirements of a certified medical professional. • Option 1, the broad and less specific definition of a certified medical professional would provide the greatest flexibility to NMFS and would not require potential regulatory amendments. • The definitions used by other Federal Agencies could be amended and depending on how the regulations are linked could require modifications.	• The options defining the number of years will have a small impact. • There may be some changes to the data bases if the limit is changed from 2 of 5 years to 3 of 7 years. • Implementing the 4 of 7 year option with limitations applied to the third and fourth year would be the most costly and difficult to manage and enforce. • Separate definitions of an “immediate family member” under the “medical transfer” provision and the “designated beneficiary” provision would be confusing for management and is less effective than defined the number of years the provision could be used. • Changing the definition of a year from a calendar year to 365-days from the approval date of a medical transfer would greatly complicate management because IFQ are issued for a calendar year • QS holders use the medical transfer provision on different dates and multiple times in a year which would complicate regulations • Costs will increase to accommodate changes to the databases and those costs will be passed on to all QS holders through the cost recovery program.
Environmental Impacts	• Environmental impacts are not expected to change	• Same as No Action	• Same as No Action

Issue	Alternative 1 No Action	Alternative 2, Element 1 Redefine Certified Medical Professional	Alternative 2, Element 2 Revise Limits on use of Medical Transfers
Net Benefit Impacts	• Net benefits to the Nation are not expected to change. • Is not expected to change economic impacts on harvests, processors, or communities	• Same as No Action	• Same as No Action, assuming that the IFQ is fished. • If some QS holders are limited by the medical transfer provision and their IFQ is not fished it will have a very small negative impact on net benefits to the Nation. • Very minimal negative impacts to harvesters, processors, and community taxes could also be realized if IFQ is not fished.

Table ES-2 Summary of Beneficiary Transfer Provision Alternatives and Options

Issue	Alternative 1 No Action	Alternative 3, Element 1 Revises 50 CFR 679.41(k) by adding estate.	Alternative 3, Element 2 Define "Immediate Family Member"
Supports owner onboard intent of the IFQ program	• The beneficiary transfer provision is intended to allow a temporary the exemption to the owner onboard provision while to the QS is held by the estate of the deceased QS holder prior to being transferred to a person that hold the QS and fish the IFQ while onboard the vessel.	• Same as No Action alternative	• Same as No Action alternative
Reduce QS holders' families' hardships while they settle the estate	• QS holders that have not completed and submitted the beneficiary transfer form risk not allowing their beneficiaries to transfer the resulting IFQ for a period of 3 years while the estate is being settled.	• Allows the estate of a deceased QS holder to hold his/her QS for up to 3 years, in addition to spouse and immediate family members, while the estate is settled and allows the estate representative to lease the IFQ derived from those holdings during those 3 years. • Adding estate better conforms to how assets are managed while estates are settled and reduces liability of the estate representative.	• An immediate family member is not defined in regulation which may limit the use of the beneficiary transfer for some "non-traditional" families. • Broadly defining an immediate family member may allow some "families" to use transfer IFQ derived from QS held by the estate for up to 3 years.
Better defines Council's intent	• No changes would be made to the persons that can hold QS while the estate is being settled and immediate family member would not be defined in regulation. • RAM would need to base decisions on language in regulation and not necessarily what was intended when the provision was implemented.	• The purpose of this provision is not to penalize beneficiaries of the deceased QS holder while the estate is settled but was intended to provide the opportunity for the rightful heirs to continue benefiting from the IFQ until it is transferred out of the estate.	• Clarifying the definition would provide RAM clear direction on who is an immediate family member, since the intent of the Council was not to exclude certain rightful beneficiaries based on the ambiguity of the term.
Clarifies Regulations	• The current regulations regarding who may hold QS and the understanding who qualifies as an immediate family member would not change. • The current regulations are vague for immediate family members and limiting for who may temporarily hold QS.	• The current regulations are clear but may be too narrowly defined. • The intent of this alternative is to broaden the current regulations to add estate to the persons that may hold QS for up to 3 years while the estate is settled. • Adding estate would create an exemption to only allowing CV QS to be held by an individual	• There is no definition of immediate family member in regulation. • Both options considered would clarify the term used at 50 CFR 679.41(k) so the provision can be managed as intended.

Issue	Alternative 1 No Action	Alternative 3, Element 1 Revises 50 CFR 679.41(k) by adding estate.	Alternative 3, Element 2 Define "Immediate Family Member"
Impacts on Management	• RAM would continue to field questions regarding estate planning and how to access IFQ derived from the deceased QS holdings. • RAM would deny transfer of IFQ if a beneficiary transfer form was not completed.	• RAM staff may spend less time addressing QS holders' questions related to estate planning. • Adding estate would allow the QS to be held by an entity when there is no will (or it is not defined in the will) and there is no spouse or "immediate family member" that is an heir.	• Small positive benefit is projected to result from defining an immediate family member. • A broader definition of immediate family member will reduce the number of applications for IFQ transfer RAM must reject or ask to be resubmitted. • Selecting either option based on other federal definitions of immediate family member would provide RAM greater flexibility and clarity relative to the No Action alternative relative to who may hold QS and lease the resulting IFQ of the deceased. • Selecting a very broad definition of immediate family member would help ensure that the rightful heir(s) would be able to benefit from QS while the estate is being settled.
Environmental Impacts	• No changes in environmental impacts are expected from this action	• Same as the No Action Alternative	• Same as the No Action Alternative
Net Benefit Impacts	• No changes in net benefits to the Nation, harvesters, processors, or communities are anticipated under the No Action alternative.	• Very small positive impacts on net benefits to the Nation if the proposed change allows IFQ to be leased and fished and it would not be fished under the No Action alternative. • Minimal positive impacts to processors and community taxes are expected if the IFQ is fished. • The beneficiaries of the estate would realize the greatest benefits if the IFQ could be fished when the entire annual value would have been forgone under the No Action alternative.	• Same as Alternative 2

1 Introduction

This Regulatory Impact Review (RIR) analyzes management measures that would modify the medical and beneficiary transfer provisions of the Pacific halibut and sablefish individual fishing quota (IFQ) Program. The proposed changes are intended to simplify management of the medical and beneficiary provisions while meeting the objective of having an owner/operator fishery. The medical lease provision was implemented to allow persons with a legitimate temporary documented medical condition who intended to fish in the near future to temporarily lease their annual quota. The beneficiary lease provision was implemented to allow beneficiaries to lease their annual quota for up to three years after the death of the Quota Share (QS) holder. The proposed actions modifies several elements in each of the two provisions to more closely align with the Council's original intent.

The remainder of this section is intended to provide a concise overview of the IFQ Program for the purposes of this action. Please refer to Section 2.4 for additional information on the medical transfer provision and Section 2.5 for additional information on the designated beneficiary provision.

The IFQ Program was designed to ensure that the fixed gear sablefish and Pacific halibut fisheries are predominately owner-operator fisheries where the QS holders fish the annual IFQ allocation. Objective 6 of the original EIS for the IFQ Program was included to "assure that those directly involved in the fishery benefit from the IFQ Program by assuring that these two fisheries are dominated by owner/operator operations." To achieve this objective the program initially allocated QS to persons that were historical participants and limited transfers of catcher vessel QS[2] to documented crewmembers. This means that catcher vessel classes of QS could only be purchased by individuals who were initially issued QS or individuals that are U.S. citizens who were not initially issued QS but have demonstrated 150 days of experience working as a part of harvesting crew in any U.S. commercial fishery.

To help prevent a means of circumventing the owner-operator objective of the IFQ Program, transfer (leasing) of IFQ[3] derived from catcher vessel QS has generally been prohibited since 1998.[4] However, provisions are included in the program that allowed for temporary leasing of catcher vessel IFQ under specific conditions. Those conditions include medical leases and survivorship transfer privileges for up to three years after the QS holder's death. These transfer provisions are the focus of this paper. A third type of lease, military leases, were also defined to accommodate when an individual is called to active duty and is unable to fish their quota. Leases are also allowed through Community Quota Entities (CQE), which hold QS and transfer the IFQ to qualified individuals to fish so that the harvesting and processing provides benefits to small fishing communities. IFQ may also be leased through the guided angler fish transfers provision that was designed to transfer IFQ out of the commercial fishery to guided anglers as part of the Catch Sharing Plan. Leases to CDQ groups were also recently approved by the Council and the final rule (83 FR 52760) was published on October 18, 2018.

A hired master may be used to fish catcher vessel IFQ that is derived from QS initially issued to the QS holder or that was received by transfer prior to February 12, 2010 (sablefish) or July 28, 2014 (halibut) in any regulatory area other than Area 2C for halibut and the Southeast (SE) for sablefish (79 FR 43679). The primary difference between the use of a hired master to fish IFQ and transferring (leasing) IFQ is that leasing IFQ requires an IFQ transfer application, and the IFQ permit is issued in the lessee's name. In contrast, a hired master must obtain a hired master's permit, but their harvest is debited from an IFQ permit authorized under the name of the QS holder. The QS holder remains liable for any fishing violations associated with that permit. Additionally, for the use of hired masters, regulations require the

[2] QS is a portion of the fishery (one unit) that is held by a person and the amount does not change over time.
[3] IFQ is the amount of halibut or sablefish, in pounds, that are issued to the QS holder each year based on the available harvest and the number of QS units held.
[4] Note: NMFS does not define leasing in regulation. In this analysis, leasing and transfer of IFQ are equivalents.

individual QS holder to have a 20% ownership interest in the vessel used to harvest the IFQ, demonstrated for at least a 12-month period.

The IFQ Program 20-year review (NPMFC, 2016) identified issues with the medical and beneficiary transfer provisions. National Marine Fisheries Service (NMFS) staff noted the North Pacific Fishery Management Council (Council) may wish to address through a discussion paper, that was presented in October 2018, and then an analysis.[5]

1.1 Statutory Authority

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801, *et seq*.), the United States has exclusive fishery management authority over all marine fishery resources found within the exclusive economic zone (EEZ). The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the regional fishery management councils. In the Alaska Region, the Council has the responsibility for preparing fishery management plans (FMPs) and FMP amendments for the marine fisheries that require conservation and management, and for submitting its recommendations to the Secretary. Upon approval by the Secretary, NMFS is charged with carrying out the Federal mandates of the Department of Commerce with regard to marine and anadromous fish. The commercial sablefish and halibut IFQ fishery in the EEZ off Alaska is managed under the Fishery Management Plan of both the Gulf of Alaska and the Bering Sea Aleutian Islands. The halibut fishery is managed under regulations promulgated in accordance with the Northern Pacific Halibut Act of 1982. The proposed action under consideration would amend this FMP and Federal regulations at 50 CFR 679. Actions taken to amend FMPs or implement regulations governing these fisheries must meet the requirements of applicable Federal laws, regulations, and Executive Orders.

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the Pacific halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (signed on March 2, 1953) as amended by a Protocol Amending the Convention (signed on March 29, 1979). Regulations developed by the IPHC are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary). After approval by the Secretary of State and the Secretary, the IPHC regulations are published in the Federal Register as annual management measures. The Halibut Act also provides the Council with authority to develop regulations, including limited access regulations that are in addition to, and not in conflict with, approved IPHC regulations. Council–developed regulations may be implemented by NMFS only after approval by the Secretary.

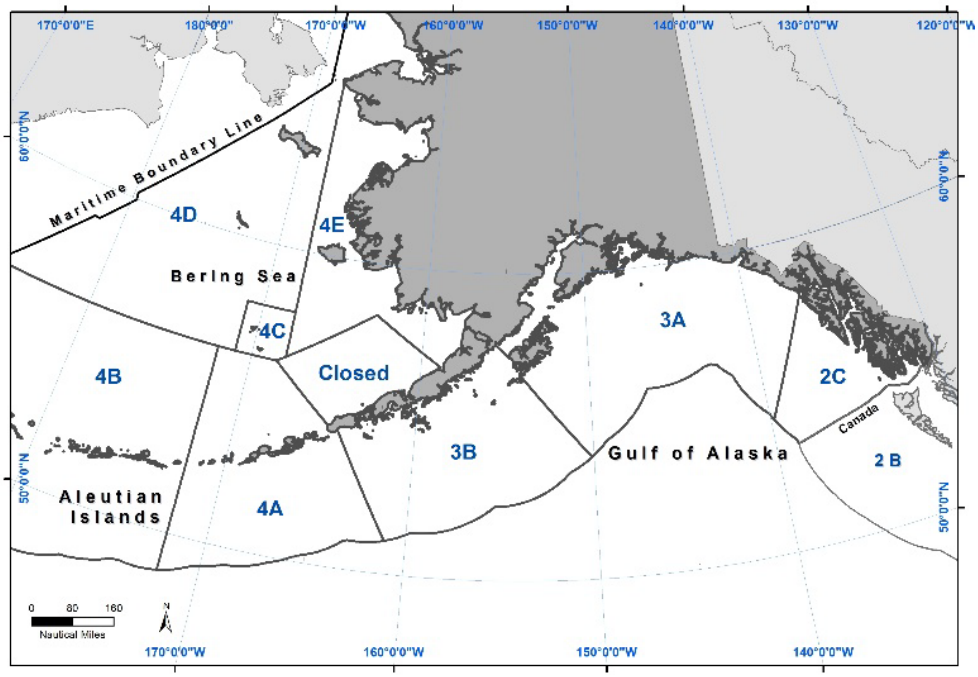
In Federal waters, the Alaska sablefish fishery is managed through the Council's Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands (BSAI) Groundfish Fishery Management Plans (FMPs), subject to Magnuson-Stevens Fishery Conservation and Management Act (MSA) and corresponding Federal regulations.

[5] IFQ Medical Lease Discussion Paper: http://npfmc.legistar.com/gateway.aspx?M=F&ID=f2b68281-7d51-4cae-aad0-0833bb997b6b.pdf
IFQ Beneficiary Lease Discussion Paper: http://npfmc.legistar.com/gateway.aspx?M=F&ID=69afc1f4-cb10-4518-91ec-e31bb2ce2322.pdf

1.2 IFQ Management Areas

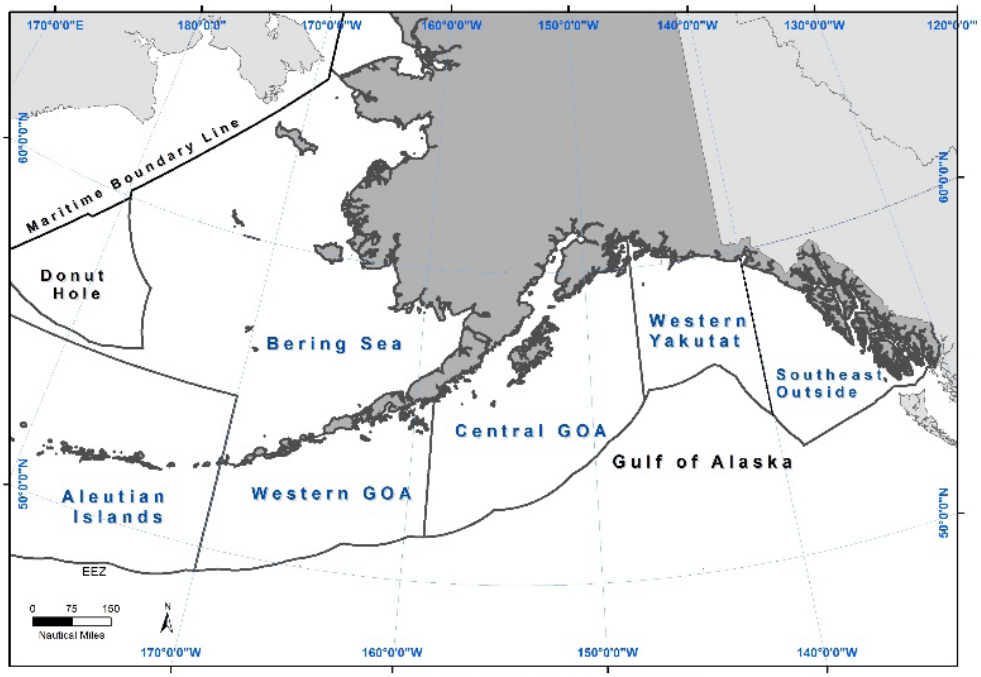
Management areas for the halibut IFQ program are based on the IPHC areas. Sablefish management areas are based on NMFS FMP management areas. A map that includes the halibut IFQ management areas is provided as Figure 1 and the sablefish IFQ management areas are provided as Figure 2. The IFQ management areas cover both the GOA and the BSAI.

Figure 1 Halibut IFQ Management Areas



Source: NMFS Sustainable Fisheries Division.

Figure 2 Sablefish IFQ Management Areas



Source: NMFS Sustainable Fisheries Division.

1.3 History of this Action

December 2016

The IFQ Program 20-year review identified issues with the medical and beneficiary transfer provisions that NMFS staff noted the Council may wish to address. NMFS indicated that an appropriate means to begin considering potential remedies was to develop a discussion paper that identified the issues and offered alternatives for the Council's consideration. The Council determined that an appropriate way to begin the process was to reinstate the IFQ committee.

February 2017

The following purpose and need statement for the designated beneficiary action was developed by NMFS for the February 2017 IFQ Committee:

> *"The IFQ Program regulations authorize a quota share holder's surviving spouse or designated beneficiary, who is an immediate family member, to lease IFQ for a three-year period upon the death of the quota share holder. However, the regulations do not define "immediate family member" for purposes of determining if a designated beneficiary is eligible to transfer QS and/or lease IFQ as a surviving heir in the absence of a surviving spouse. Since the current surviving heir regulations were implemented, the definition of immediate family has changed in many State and Federal jurisdictions, and now may include others connected by birth, adoption, marriage, civil partnership, or cohabitation. NMFS has received requests from quota share holders to use an expanded definition of immediate family member for making determinations on eligibility as a designated beneficiary. NMFS and IFQ Program participants would benefit from a clarification of the Council's intent for administration of this provision."*

NMFS also provided the following information at that meeting relative to the medical transfer provision:

> *"NMFS has identified two challenges with administering the medical transfer provisions: 1) the definition of "certified medical professional" under the medical lease provision may not include commonly used medical care providers such as chiropractors and providers outside the United States, and 2) NMFS staff are increasingly required to make assessments as to whether an IFQ permit holder is applying for a medical transfer in any two of the previous five years for the same medical condition.*
>
> *NMFS suggests that the discussion paper consider whether utilization of the medical transfer provision is meeting the Council's objectives for the provision with respect to: Information indicating that there are a few QS holders who have utilized the medical transfer provision for the majority or all of the years during which medical leasing has been allowed. The repetitive use of the provision may indicate that a select group of shareholders is utilizing it as a means of bypassing the owner-on-board provision altogether. Furthermore, some QS holders may be using the medical lease provision for chronic conditions, from which recovery is unlikely, while the provision was intended to provide relief from fishing for IFQ participants in emergency hardship situations. Medical leasing may also increase in the IFQ fisheries in response to the new hired master rule implemented in 2014."*

February 2018

NMFS staff presented the IFQ committee, the AP, and the Council with two discussion papers that provided background, a description of the issues, and suggested alternatives. The Council, the IFQ Committee, and the Council's Advisor Panel (AP) reviewed the medical and beneficiary transfer provisions discussion papers. After reviewing the discussion papers and listening to public testimony, the Council directed staff to develop an initial review analysis, based on the Purpose and Need Statement and Alternatives the Council approved.

October 2018

At the October 2018 Council meeting, staff presented the AP and the Council with a single initial analysis that provided background and analysis of the alternatives. After review of the analysis, the Council directed staff to draft an analysis for public review based on the newly combined purpose and need statement and alternatives the Council approved. The Council selected preliminary preferred alternatives at this meeting.

February 2019

Staff presented the Council with a final public review analysis that provided background and analysis. The Council was unable to complete the final review due to lack of public notice following the 2018 government shutdown but approved preliminary final determinations. Approval of the preferred alternatives is scheduled for the April 2019 meeting.

April 2019

The Council took final action and approved the preferred alternatives selected from the October 2018 Council meeting.

2 Regulatory Impact Review

This Regulatory Impact Review (RIR) examines the benefits and costs of a proposed regulatory amendment to modify the IFQ program's medical transfer and beneficiary transfer provisions.[6] The preparation of an RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the E.O.:

> *In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and Benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.*

E.O. 12866 requires that the Office of Management and Budget (OMB) review proposed regulatory programs that are considered to be significant. A significant regulatory action is one that is likely to:

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

2.1 Methodology for Analysis of Impacts

The evaluation of impacts in this analysis is designed to meet the requirement of E.O. 12866, which dictates that an RIR evaluate the costs and benefits of the alternatives, to include both quantifiable and qualitative considerations. The costs and benefits of this action with respect to these attributes are described in the sections that follow, comparing the No Action Alternative 1 with the action alternatives. The analyst then provides a qualitative assessment of the net benefit to the Nation of each alternative, compared to no action.

This analysis was prepared using data from NMFS Restricted Access Management (RAM) for QS holders, associated transfer information, and catch accounting system data to report catch of IFQ species, which is the best available data for these types of information. Beyond these data, the analysis relies on a qualitative discussion of the impacts to stakeholders since quantitative data to estimate net benefits of changing the medical leasing provisions are unavailable.

[6] The proposed action has no potential to effect individually or cumulatively on the human environment. The only effects of the action are economic, as analyzed in this RIR. As such, it is categorically excluded from the need to prepare an Environmental Assessment.

Transfer data are used to determine the number of times each QS holder has used the medical transfer provision since it was implemented late in the 2007 fishing year. Information presented is in terms of both the number of times (years) the provision was used, the number of QS units referenced in the transfer, and the number of pounds of IFQ species that were transferred.

This RIR relies on a number of references for both qualitative and quantitative background information from various source. One notable source is the IFQ Program 20-year Review.[7]

2.2 Description of Halibut and Sablefish IFQ Fisheries

The 20-year review of the IFQ program was published in 2016 provides a detailed description of the fishery. The reader is referred to that document for additional background information. The information presented in that document that is most critical to this action was updated with the most recent information that is available and additional information is presented where appropriate.

The Council and NMFS developed the IFQ Program to resolve the conservation and management problems commonly associated with open access fisheries. The Council recommended a limited access system for the fixed gear halibut and sablefish fisheries off Alaska in 1992. NMFS approved the halibut IFQ and sablefish IFQ Programs in January 1993 and implemented the program on November 9, 1993 (58 FR 59375). Fishing under the IFQ Program began on March 15, 1995. The preamble to the proposed rule, published on December 3, 1992 (57 FR 57130), describes the issues leading to the Council's recommendation for the IFQ Program to the Secretary. The Council and NMFS designed the IFQ Program to provide economic stability to the commercial halibut and sablefish fixed gear fisheries and intended the IFQ Program to improve the long-term productivity of the halibut and sablefish fisheries by further promoting the conservation and management objectives of the MSA and the Halibut Act, while retaining the character and distribution of the fishing fleets as much as possible.

One central management component of the IFQ Program is the commercial catch limits and total allowable catch (TAC) established for the IFQ fisheries. Commercial IFQ catch limits are established by the IPHC for halibut. Commercial catch limits are established for discrete management areas. There are eight halibut IFQ regulatory areas (Figure 1) in Alaska, inclusive of Areas 2C through Area 4E.

For the sablefish IFQ fishery, the Secretary determines the TAC available for the directed sablefish fishery, based on the recommendations of the Council. There are two FMP areas (Figure 2), BSAI and GOA. Management areas are further broken out into the Bering Sea, Aleutian Islands, Western GOA, Central GOA, West Yakutat, and Southeast.

All halibut and sablefish QS have regulatory area designations**,** which specify the area in which the IFQ derived from those shares may be harvested. Transferring the IFQ to a different person does not change the area designation assigned to the IFQ. Sablefish and halibut IFQ seasons are typically set simultaneously to reduce waste and discards. The season dates have varied by several weeks since 1995, but the monthly pattern for both fisheries has been from March to November.

In addition to area specifications, halibut and sablefish QS retain a QS class designation, which represent the size and type of vessel that is permitted to harvest that IFQ. There are four vessel classes in the halibut IFQ fishery (A through D) and three in the sablefish IFQ fishery (A through C). After several amendments to the original QS categories, the current vessel lengths and operational modes associated with each QS class categories are depicted in Table 2-1.

[7] https://www.npfmc.org/wp-content/PDFdocuments/halibut/IFQProgramReview_417.pdf

Table 2-1 Vessel length associations by QS class category

IFQ Species	QS Class	Vessel Length Designation
Halibut	A	Any length (also allows for onboard processing)
	B	Catcher vessel any length
	C	Catcher vessel ≤ 60 feet
	D	Catcher vessel ≤ 35 feet (except in halibut Areas 3B, 4B, and 4C where Class D IFQ may be harvested on a vessel ≤ 60 feet)
Sablefish	A	Any length (also allows for onboard processing)
	B	Catcher vessel any length
	C	Catcher vessel ≤ 60 feet

Class A shares in both fisheries are designated for vessels of any size and also provide for the opportunity to process at sea on catcher-processors (i.e., freezer longline vessels). Class A shares are not subject to the owner-on-board provisions, since those shares were traditionally fished by corporate boats that utilized hired skippers. In both fisheries, class B shares are also able to be fished on any size catcher vessel. Class C shares are designated to be fished on catcher vessels (CV) equal to or less than 60 feet (length overall) LOA. In the halibut fishery, class D shares are designated to be fished on catcher vessels less than or equal to 35 feet LOA (with some exceptions).[8] These vessel class designations were intended to maintain the diversity of the IFQ fleets, and the Council intended for the class D QS to be the most likely entry-level opportunity.

The Council developed leasing restrictions to retain the owner-operator nature of the CV fisheries and limit consolidation of QS. The Council only allowed persons who were originally issued catcher vessel QS (B and C for sablefish; B, C, and D for halibut) or who qualified as IFQ crew members to hold or purchase CV QS. Only individuals and initial recipients could hold CV QS and they are required to be on the vessel when the QS is being fished (with a few exceptions). Since 1998, leasing of CV IFQ has generally been prohibited except under a few specific conditions. Transfers of CV IFQ is allowed under six special circumstances at this time:

1. **medical leases,**
2. **survivorship transfer privileges (beneficiary leases),**
3. military leases,
4. leases through CQEs, and
5. IFQ to guided angler fish transfers.
6. IFQ to CDQ groups in years of low halibut abundance in IFQ areas 4BCD.

IFQ permits, and any associated transfers, are valid for a calendar fishing year. If the QS holder wished to transfer their shares the following year, he or she would need to abide by the transfer requirements, submit the appropriate applications, and receive approval by the Regional Administrator through NMFS RAM.

The Council noted that maintaining diversity in the halibut and sablefish fleets and minimizing adverse coastal community impacts were particularly important considerations, since these fisheries had typically been characterized by small vessel participation by thousands of fishermen. One design feature of the program requires IFQ permit holders to be on board the vessel to maintain a predominantly owner-

[8] Class D vessels had not historically operated in the sablefish fishery, due to the fact that this fishery is primarily prosecuted in offshore and deeper waters.

operated fishery. This requirement is intended to ensure that CV IFQ continue to be held by professional, active fishermen, not absentee owners or investment speculators.

An exception to the owner-on-board requirement is provided through the hired master provision for persons who received initial QS allocations in vessel category B, C, and D for halibut, B or C for sablefish (also known as CV QS) (i.e., the "grandfather provision") in areas other than 2C or SE. Initial recipients of CV QS may be absent from the vessel conducting IFQ fishing of his or her shares, provided the QS holder can demonstrate ownership of the vessel that harvests the IFQ halibut or sablefish (now 20% ownership stake in a vessel) and representation of the QS holder on the vessel by a hired master. This exception allowed fishermen who traditionally operated their fishing businesses using hired masters prior to the IFQ Program implementation to continue to hire a master. By limiting the hired master provision to initial recipients, the owner-on-board exception will expire with the eventual transfer of all QS from initial recipients to new entrants ("second generation") to the IFQ fisheries. The use of a hired master is not classified as a transfer of IFQ, since the QS holder does not submit a transfer application and is responsible for the hired master staying within the harvest limits.

The Council has noted that some initial recipients who had not previously hired a master are subsequently doing so and that some who had previously hired a master had increased the number of QS they hold for use by a hired master or are using masters for a higher percentage of their landings. The Council felt that while these practices are in conformance with federal regulations, they are counter to its objective of maintaining an owner-operator fleet. The aforementioned activity conforms to implementation of the program, as NMFS implemented the program by flagging the QS holder as holding the privilege to hire a master, rather than flagging the initially issued QS as associated with the hired master privilege.

In 2010, the Council initiated a regulatory action that restricted initial recipients of CV QS ability to use a hired master (skipper) to harvest their IFQs. The action was implemented in 2014 and prohibited the use of hired skippers for halibut B, C, and D class QS purchased after July 28, 2014 or sablefish B and C class QS purchased after February 12, 2010. Prior to the more stringent hired master provision being implemented, medical transfers accounted for 14.6% of transfers (from 2007-2014). After the change in the hired master provision medical transfers have increased and accounted for an average of 31.3% of all transfers.

Table 2-2 shows the distinct number of non-CDQ halibut and sablefish QS holders and the number of QS units available in each management area by vessel class. Table 2-3 shows the distinct number of non-CDQ halibut and sablefish QS holders and the number of QS units that are not class A shares, which are able to be leased. In 2018, 2,498 QS holders held transferable quota, including initial issuees.

Figure 3 shows the percent of referenced QS units associated with transfers by category since 2000, which was year the beneficiary transfer was implemented. Referenced QS units are used since they are constant over time and are provided in the data for both IFQ leases and QS sales. In the last five years (2013-2017), medical transfers have accounted for 27% of all referenced QS units transferred, beneficiary transfers have accounted for 3.7% of all referenced QS units transferred, and voluntary/other transfers account for 69.3% of referenced QS units transferred. Voluntary transfers include selling and gifting QS.

Table 2-2 All non-CDQ halibut and sablefish QS holders, 2018

	Halibut QS		Sablefish QS		Total QS	
Class/Area	Units	Holders	Units	Holders	Units	Holders
A	9,216,920	68	67,115,862	96	76,332,782	134
2C	1,244,543	25			1,244,543	25
3A	4,773,918	33			4,773,918	33
3B	1,593,155	17			1,593,155	17
4A	619,003	13			619,003	13
4B	553,489	7			553,489	7
4C	18,876	1			18,876	1
4D	413,936	4			413,936	4
AI			17,949,422	26	17,949,422	26
BS			7,470,227	27	7,470,227	27
CG			17,557,104	43	17,557,104	43
SE			6,133,979	35	6,133,979	35
WG			13,671,401	37	13,671,401	37
WY			4,333,729	28	4,333,729	28
B	121,415,000	467	131,948,507	311	253,363,507	607
2C	2,546,653	46			2,546,653	46
3A	68,231,966	275			68,231,966	275
3B	29,716,057	172			29,716,057	172
4A	8,520,047	92			8,520,047	92
4B	7,114,526	53			7,114,526	53
4C	1,389,180	19			1,389,180	19
4D	3,896,571	34			3,896,571	34
AI			10,511,105	42	10,511,105	42
BS			7,235,423	39	7,235,423	39
CG			53,054,808	154	53,054,808	154
SE			13,328,161	74	13,328,161	74
WG			15,591,312	70	15,591,312	70
WY			32,227,698	99	32,227,698	99
C	173,239,792	1,382	116,929,768	506	290,169,560	1,532
2C	46,479,269	590			46,479,269	590
3A	98,829,472	730			98,829,472	730
3B	20,895,820	267			20,895,820	267
4A	4,357,075	81			4,357,075	81
4B	1,330,934	27			1,330,934	27
4C	867,827	12			867,827	12
4D	444,219	10			444,219	10
4E	35,176	6			35,176	6
AI			2,402,662	26	2,402,662	26
BS			3,534,791	31	3,534,791	31
CG			41,062,070	196	41,062,070	196
SE			46,543,075	271	46,543,075	271
WG			6,757,217	52	6,757,217	52
WY			16,629,953	115	16,629,953	115
D	25,996,461	774			25,996,461	774
2C	8,849,019	298			8,849,019	298
3A	12,610,474	320			12,610,474	320
3B	1,644,327	51			1,644,327	51
4A	1,042,990	32			1,042,990	32
4B	252,071	10			252,071	10
4C	1,508,385	28			1,508,385	28
4E	89,195	80			89,195	80
Total	329,868,173	2,271	315,994,137	767	645,862,310	2,498

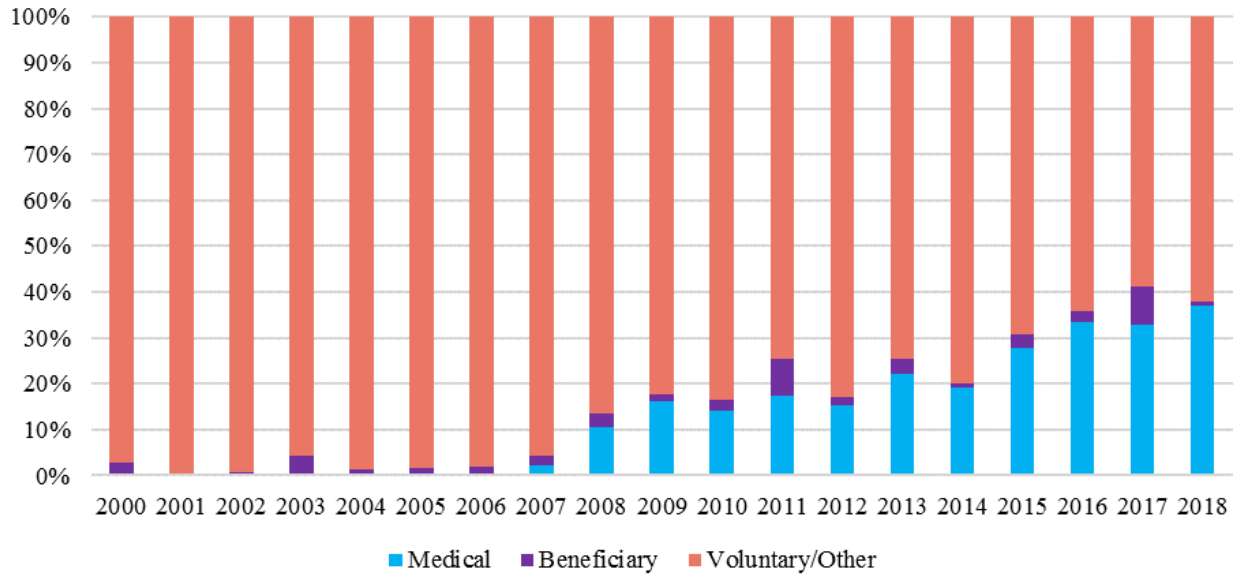
Source: https://alaskafisheries.noaa.gov/sites/default/files/reports/18ifqunitf.csv

Table 2-3 Class B, C, and D halibut and sablefish QS holders, 2018

	Halibut QS		Sablefish QS		Total QS	
Class/Area	Units	Holders	Units	Holders	Units	Holders
2C	57,874,941	881			57,874,941	881
3A	179,671,912	1,153			179,671,912	1,153
3B	52,256,204	418			52,256,204	418
4A	13,920,112	159			13,920,112	159
4B	8,697,531	73			8,697,531	73
4C	3,765,392	48			3,765,392	48
4D	4,340,790	39			4,340,790	39
4E	124,371	86			124,371	86
AI			12,913,767	60	12,913,767	60
BS			10,770,214	66	10,770,214	66
CG			94,116,878	310	94,116,878	310
SE			59,871,236	317	59,871,236	317
WG			22,348,529	105	22,348,529	105
WY			48,857,651	187	48,857,651	187

Source: https://alaskafisheries.noaa.gov/sites/default/files/reports/18ifqunitf.csv

Figure 3 Referenced QS Units Transferred by Category, 2000-2018



Note: Medical Transfers were not an allowed until after the start of the 2007 fishing year.

Source: NMFS RAM.

2.3 Alternative 1: Status Quo

This section describes the impacts of status quo on both Alternative 2 and Alternative 3. The Council can choose both alternatives and their elements or choose a single alternative.

2.3.1 Analysis of Impacts: Alternative 2, No Action

The No Action alternative would retain three components of the medical transfer provision that could be changed under specific elements and options. Those include (1) the medical transfer provision is limited to 2 of 5 years for the same medical condition, (2) the definition of the certified medical professional, and (3) there is no limit on the total number of times the medical transfer provision can be used by a QS holder.

As shown in Figure 5, 120 of the persons using the medical transfer used it more than twice. That indicates they used it for more than one medical condition or they used the same medical condition over more than five years. Table 2-11 shows the years that each QS holder used the medical transfer and shows that some individual had to use multiple medical conditions based on the years and times it was used. Based on the five most recent years of data 73 QS holders used the provision three or more times, so they had to report more than one medical condition.

The definition of a certified medical professional would remain the same and exclude some commonly used, licensed professionals. Data that are available do not provide information on the number of QS holders that would like to submit an application from a medical services provider that is excluded based on current regulations. However, at least one instance was reported to the analysts by RAM staff. It is unknown whether that QS holder was able to utilize the medical transfer after being certified as unable to fish by a person that met one of the criterion.

Because there is no limit on the number of times that the medical transfer provision may be used by a QS holder and there are a vast number of medical conditions that could prevent a QS holder from fishing. It is possible that a QS holder could use the medical transfer every year or almost every year. Figure 5 shows that a small number of QS holders are using it most years and may continue doing so into the future.

Based on the recent transfer information (see Table 4 and Table 2-9), it appears that the number of medical transfers would be expected to continue to increase as current QS holders grow older and it is harder to fish (see Figure 6) or are simply seeking alternative methods to have someone fish their IFQ while they are not on board the vessel. Given the limited options that QS holders have to allow someone else to fish their IFQ, the medical transfer provision appears to be a method to achieve this objective.

Table 2-4 shows that the number of persons and the number of unique transfers has increased over time. During the earlier years, QS holders that used the medical transfer provision on average used the medical transfer provision about 1.5 times per year. The average number of transfers increased to 1.93 per QS holder using the provision in 2017.

Table 2-4 Number of medical transfers, persons that used the medical transfer, and ratio of transfers to persons, 2007-July 2018

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Unique Transfers	19	72	109	99	105	93	112	131	179	252	305	226
Persons Leasing IFQ	15	54	73	66	70	63	70	86	110	145	158	122
Ratio of Transfers to Persons	1.27	1.33	1.49	1.50	1.50	1.48	1.60	1.52	1.63	1.74	1.93	1.85

Source: AKFIN summary of RAM medical transfer data

The proposed rule for medical transfers envisioned it would be up to the medical professional that certified the medical condition to determine if the QS holder has a temporary or permanent medical condition. The final rule clarified that the medical professional would not be required to attest that an

applicant had a reasonable likelihood of recovery, since in some cases it would put the health care provider in a difficult situation, especially if a condition was early in the diagnostic stage. Therefore, the final rule was changed to reflect that concern and removed that requirement from the application. This change placed the determination of whether a QS holder is expected to recover from a reported condition on NMFS staff without any regulatory authority to make such a basis for disapproval of a medical transfer. As a result, NMFS staff have determined, that absent any regulatory requirement a QS holder must be able to recovery from the medical condition, they would not reject applications on the grounds of whether a QS holder's medical condition is considered temporary. NMFS staff made this determination because they do not have the medical expertise to make those decisions and no regulatory authority to disapprove a transfer on this basis. The result is that some conditions that may be permanent conditions are used to qualify for the medical transfer which was not the original intent of the medical transfer provision.

As described above, the No Action alternative regulations are structured so that it is difficult for NMFS staff to deny a complete application for transfer. Retaining the limitation based on the same medical condition causes NMFS staff to be in the position of determining whether a medical condition is the same or different. Making those determinations asks NMFS staff go beyond their expertise and adjudicate medical issues. NMFS prefers not to be placed in the interpretive role and instead would focus on the application's technical requirements outlined in regulations.

The medical provision transfer rates tend to be greater in Areas 2C comparted to areas 3A and 3B. The halibut area in the AI and BS also tend to be relatively high in recent years, especially area 4C. For sablefish, the SE has rates that vary relative to the other GOA areas. Overall, the SE region rates tend to be higher than other regions. However the SE rates were slightly lower than the Central GOA since 2017 and lower than the Western GOA from 2015 through 2017.

Table 2-5 Percent of QS units issued associated with medical transfers, 2007- July 2018

	Halibut								Sablefish						
Year	2C	3A	3B	4A	4B	4C	4D	Total	AI	BS	CG	SE	WG	WY	Total
2007	1.4%	0.0%	0.1%	0.0%	0.0%	8.6%	0.0%	0.4%	0.0%	0.0%	0.0%	0.5%	0.0%	0.0%	0.1%
2008	1.9%	0.7%	0.5%	1.2%	0.0%	9.7%	0.0%	1.0%	0.0%	0.0%	0.2%	2.6%	1.2%	0.6%	0.9%
2009	2.2%	1.2%	0.5%	2.9%	0.9%	4.3%	0.0%	1.3%	0.0%	1.4%	1.4%	2.6%	1.2%	0.7%	1.5%
2010	3.1%	1.0%	0.7%	1.1%	0.0%	4.3%	0.0%	1.4%	0.0%	0.8%	0.2%	3.6%	1.5%	0.0%	1.1%
2011	3.1%	1.2%	0.8%	3.1%	0.9%	5.4%	0.0%	1.6%	0.5%	5.4%	1.2%	3.2%	1.0%	0.0%	1.6%
2012	2.3%	1.5%	0.7%	2.3%	0.0%	9.0%	0.0%	1.6%	0.0%	2.7%	1.0%	0.9%	0.4%	0.0%	0.7%
2013	2.2%	1.5%	1.2%	1.9%	0.7%	3.4%	0.4%	1.6%	0.3%	2.0%	1.5%	2.5%	0.2%	0.6%	1.4%
2014	2.2%	2.1%	1.6%	0.9%	0.9%	0.0%	0.0%	1.9%	0.0%	1.2%	2.1%	4.1%	1.6%	0.8%	2.1%
2015	2.5%	2.8%	2.4%	2.9%	4.7%	0.0%	7.5%	2.8%	0.7%	2.4%	2.6%	2.7%	3.3%	0.9%	2.2%
2016	3.8%	3.5%	3.4%	5.8%	5.9%	7.7%	6.0%	3.8%	0.9%	6.7%	3.2%	4.8%	8.8%	1.3%	3.7%
2017	4.9%	4.7%	4.1%	4.3%	3.0%	10.2%	8.0%	4.7%	0.0%	4.2%	5.8%	4.7%	10.0%	2.9%	5.0%
2018	5.1%	3.7%	4.1%	2.1%	3.4%	10.9%	4.2%	4.1%	0.0%	4.1%	6.5%	6.4%	3.4%	1.6%	4.8%

Source: AKFIN summary of RAM transfer data and 2018 QS units issued.

It was initially thought that QS holders that had previously used the hired master provision may be substituting the provision with medical transfers. However, after reviewing the data that scenario is not confirmed with any certainty. Only one person that had not used the hired master provision prior to adding more restrictions to the program began using the medical transfer provision. That person would not have been eligible to use a hired master.

Lease rates for medical transfers are relatively high ranging from about 30% to 70% of gross ex-vessel value with most reported rates being about 50%. High lease rates create incentives to have others fish a QS holders IFQ. Leasing IFQ at these relatively high rates allows the QS holder to generate income from the QS holdings without incurring annual variable costs to ready a vessel and crew to fish. It also requires less of the QS holders' time and reduces the inherent risk of fishing in Alaska.

QS sales may have significant capital gains tax implications, depending on the change in value paid for the QS and the sale price. Capital gains taxes are assessed on the net change in the value of QS from purchase (allocation) to sale. Capital gains are not subject to taxation until they are "realized," generally considered to occur when the appreciated asset is sold (if a lump sum payment) or when the loan payments are made (if the seller finances the sale or part or the entire value).

Sale of QS would have significant capital gains tax implications if the QS received the entire value of the QS in one year. Capital gains tax liabilities could be mitigated if the sale was financed in part or completely by the seller. The seller would then spread the annual tax liability out over the life of the loan. The amount of the annual tax liability would vary depending on the length and terms of the loan. While this approach could address some or all of the capital gains tax liability issues. The seller would no longer hold the QS and its associated long-term asset value. This may be a strong factor in the QS holder's preference to lease as opposed to selling the QS and generating a long-term revenue stream through self-financing all or part of the loan.

Current (2018) long-term capital gains tax rates depend on the QS holder's taxable income range. [9] For example, a QS holder that is married and filing a joint return would have no capital gains tax liability for a taxable income range up to $77,400, 15% for any taxable income up to $480,050, and 20% for taxable income more than $480,050. As an example, if a QS holder had no other tax liability for the year and sold $1 million worth of QS they would have a long-term capital gains tax of about $200,000. The total amount of taxes paid would vary depending on any state taxes incurred as a result of the sale.

Many QS holders were initially allocated the QS for no cost. The market value of QS holdings has risen over the years and selling the QS holdings could result in capital gains on the entire value of the sale. While capital gains taxes are an issue that the QS holder must address based on their individual circumstances, it is outside the fishery management arena. However, since it has been presented as a concern at past meetings, there are different ways to ease the capital gains burden. Capital gains tax liabilities could be mitigated if the sale was financed in part or completely by the seller. The seller would then spread the annual tax liability out over the life of the loan. The amount of the annual tax liability would vary depending on the length and terms of the loan.[10]

While this approach could address some or all of the capital gains tax liability issues. The seller would no longer hold the QS and its associated long-term asset value. This may be a factor in the QS holder's preference to lease, as opposed to sell, the QS. Since leasing allows the QS holder to generate a long-term revenue stream and retain the underlying asset value as opposed to generating annual income over a fixed number of years through self-financing all or part of the loan and not retaining the underlying QS value.

NMFS incurs costs in developing, reviewing, and managing transfer applications and databases to oversee the medical transfer provision. Some of these costs occurred when the provision was implemented, and others are ongoing costs.

The costs associated with the development of the medical transfer form were realized when the provision was implemented. NMFS RAM processes 420 applications for medical transfer each year and associated costs such as answering questions and interpretations can be collected under the IFQ Cost Recovery Program.[11]

The public reporting burden for completing the medical transfer form by an applicant is estimated to be 1.5 hours per application. Recall that a separate application is required for each medical transfer request. A separate medical transfer request is required each time an amount of IFQ is transferred under the

[9] Assets are held more than one year.
[10] Fishbiz.seagrant.uaf.edu/an-exit-strategy/looking-ahead.html
[11] http://www.cio.noaa.gov/itmanagement/pdfs/0272rev_ext18.pdf

provision. Applications must be submitted each year and do not carry over from year to year since the IFQ is issued annually.

Staff's ability to provide detailed information on the impacts of the medical transfer provision on individual communities is limited because of the confidentiality restrictions and the limited number of transfers by community. However, the medical transfer provision allows IFQ to be harvested when it would not if the QS holder was unable to fish and there was not medical exemption available that year, providing a benefit to communities. Also, because the IFQ was transferred and not the QS, the impacts are realized for one year and not over the lifetime of the QS. Lease rates were about 50% of the ex-vessel value, on average, meaning the QS holder may be generating an amount of income that is comparable to fishing the QS themselves. Both these factors mean that communities still benefit from QS holdings in their community even if they are leased for one (or more years). Based on the structure of the medical transfer provision, the impacts on the communities are thought to be relatively small and may be positive or negative depending on the factors described above.

There were 138 communities listed as the city of the QS holder that transferred IFQ and 78 cities were listed for the person receiving the IFQ through medical transfer. Table 2-6 shows the percentage of IFQ medical transfers that were between persons in the same or different communities. Over the entire period, about one-third of the IFQ was transferred to a person reported to be in the same community. The percentage transferred to persons in a different community has varied by year ranging from 51% to 76% being transferred to different communities since 2008 (the first full year transfers were allowed).

Table 2-6 Medical transfers between persons in the same or different communities, 2007 through July 2018

Community	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Different	43%	63%	73%	55%	51%	74%	65%	69%	76%	72%	73%	69%	68%
Same	57%	37%	27%	45%	49%	26%	35%	31%	24%	28%	27%	31%	32%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: AKFIN summary of RAM medical transfer data

Of the IFQ that was transferred to a different community, Homer and Sitka received the most net pounds[12] of IFQ transferred into their communities. These communities average net increase was about 13% (or 1.54 million pounds of IFQ overall years – 130,000 pounds per year -in each community) of the total medical transfers. No other community's net increase was over 4% (about 40,000 pounds per year) of the total medical transfers. The two communities with the largest percentage of total medical transfers leaving their community were Seldovia, AK and Everett, WA. The average percentage of the total medical transfers leaving each of those communities was about 6.5% of the total medical transfers over the 2007 through 2018 period. No other community's net loss was more than 3.5% (35,000 pounds) of the total reported medical transfers.

Table 2-7 provides information on the 2007 through July 2018 medical transfers by the population of the QS holder's community that sold the IFQ. The top row of each section of the table shows the population of the IFQ seller's community when it was an Alaskan community. If the community is outside Alaska, the community population is listed as non-Alaska. The rows in each section under the first row show the population of the community of the buyer of the IFQ.

QS holders from small Alaska communities, with a reported population of less than 500 people in 2016, transferred the IFQ within their community when it was sold to a person in a small community. The majority of the small community IFQ transfers were purchased by persons in larger Alaska communities. QS holders whose address was reported to be in a "mid-size" Alaska community, sold about half their IFQ to persons within their community. A small percentage (0.05%) was sold to persons that reside in a

[12] Net pounds in this case is the difference between the pounds of IFQ transferred into the community less the pounds of IFQ transferred out of the community under the medical transfer provision.

small community. Relatively equal amounts were sold to persons in large Alaska communities and communities outside of Alaska.

Table 2-7 Percentage of medical transfers (IFQ pounds) between and within community by Alaskan community population

Community Population (2016)	Percentage Transferred Outside Community	Within Community	Total
<500	4.87%	0.93%	5.79%
<500	0.00%	0.93%	0.93%
500-5,000	0.42%	0.00%	0.42%
>5,000	3.41%	0.00%	3.41%
Non-Alaska	1.04%	0.00%	1.04%
500-5,000	7.86%	7.03%	14.89%
<500	0.05%	0.00%	0.05%
500-5,000	1.04%	7.03%	8.07%
>5,000	3.02%	0.00%	3.02%
Non-Alaska	3.76%	0.00%	3.76%
>5,000	21.33%	22.29%	43.62%
<500	0.56%	0.00%	0.56%
500-5,000	6.21%	0.00%	6.21%
>5,000	10.96%	22.29%	33.25%
Non-Alaska	3.60%	0.00%	3.60%
Non-Alaska	33.77%	1.92%	35.69%
<500	0.29%	0.00%	0.29%
500-5,000	5.40%	0.00%	5.40%
>5,000	16.37%	0.00%	16.37%
Non-Alaska	11.72%	1.92%	13.64%
Total	67.83%	32.17%	100.00%

Source: RAM transfer data and Alaska Department of Commerce, Community, and Economic Development (https://www.commerce.alaska.gov/dcra/DCRAExternal/)

Additional information on the percentage of IFQ transferred between the residence of the seller and buyer is reported in the appendix. Data in the appendix show the percentage of IFQ transferred using the medical transfer provision from 2007 through July 2018 by Alaska borough/census area and non-Alaska communities. The information in those tables are not provided by individual community to protect confidential information and to reduce the size of the tables. The information in those tables show the same general trend of relatively few IFQ being transferred to small communities from outside the community. Medical transfers appear to result in more IFQ being sold to persons in larger communities. However, depending on the lease arrangements, much of the profit from the sale may still remain in the smaller communities.

The overall net impact of medical transfer on processors are also thought to be relatively small, with the net impact being positive. The medical transfer provision is intended to allow IFQ to be caught when the owner cannot be onboard the vessel. This benefits processors because more halibut and sablefish are being delivered to plants. There may be distributional effects, since transferred IFQ may be processed in a different plant than traditionally used by the QS holder.

2.3.2 Analysis of Impacts: Alternative 1, No Action

Under Alternative 1, the beneficiary transfer provision would be limited to select immediate family members. Any non-traditional family members seeking the beneficiary transfer after the death of the QS holder would not be able to lease the IFQ for up to 3 years, only permanently transfer the QS.

In addition, as QS prices continue to increase, more and more QS holders would include their QS in their estate that is documented by a will. It is anticipated that retaining Alternative 1 would lead to additional difficulties in NMFS allowing beneficiary transfers.

2.4 Alternative 2: Medical Transfer Provision

2.4.1 Background

Medical transfers were not included in the original design of the IFQ Program because the Council prioritized its policy of maintaining a fishing fleet of owner-operators in the IFQ fisheries by restricting leasing provisions. The Council rejected initial proposals for a medical transfer provision based on the potential for abuse and the lack of technical expertise at NMFS to determine the medical condition of an applicant. Following a few reported instances of injured or ill IFQ holders being transported on and off fishing vessels to meet owner-onboard requirements, the Council recommended, and NMFS approved, the temporary medical transfer provision. In recommending the medical transfer provision, the Council attempted to balance its objective to limit long-term leasing of QS to promote an owner-onboard fishery with its recognition that a medical transfer provision would provide a mechanism for QS holders to retain their QS during bona fide medical hardships.

The final rule (72 FR 44795, August 9, 2007) eliminated the requirement that NMFS disapprove an application for a second medical transfer unless a health professional attested to a reasonable likelihood of recovery of the applicant. This requirement was eliminated because the Council motion adopting this action did not have that requirement and this requirement would put an applicant's doctor or other health professional and the applicant in a difficult situation if the doctor could not attest that the applicant had a reasonable likelihood of recovery if the patient is in the early stages of diagnosis and treatment of a disease or condition. Instead, potential abuse was to be limited by other elements in the Council's motion, such as the usage cap in a 5-year period.

The IFQ Program currently includes a temporary medical transfer provision that allows a QS holder of class B, C, and D shares that are not eligible to use a hired master to temporarily lease their annual IFQ to another individual if the QS holder or an immediate family member has a temporary medical condition that prevents them from fishing.[13] The provision is intended to provide a mechanism for QS holders who are experiencing a temporary medical condition that would prevent them from fishing during a season to transfer their annual IFQ to another qualified individual. The temporary medical transfer provision was implemented in 2007 (72 FR 44795, August 9, 2007). Prior to implementation of this provision, the QS holder would be required to divest of their QS or allow the IFQ to go unfished during years they could not be on board the vessel. Medical transfers are not intended to be a mechanism for persons unable or unwilling to participate in the fishery, as an owner onboard in the long-term can continue to receive economic benefits from their QS holdings. QS holders are allowed to sell their QS holdings for market value rather than indefinitely leasing the IFQ derived from those quota shares.

To limit potential abuse of the medical transfer provision, the provision is limited (a) to individuals who are not eligible to use hired masters; (b) to catcher vessel IFQ derived from QS held by the applicant; (c) to include a requirement for certification by specific types of medical providers who must describe the condition (and care required if for a family member), and to certify the inability of the QS holder to participate in IFQ fisheries.

[13] Class A shares are do not require the owner to be onboard the vessel and SE sablefish and 2C halibut IFQ may not be fished by a hired master. A shares that may be fished on Catcher/Processor vessels, B shares which may be fished on a catcher vessel of any length, C shares on a catcher vessel less than or equal to 60 ft LOA, and D shares which may be fished on a catcher vessel less than or equal to 35 ft LOA. Because 100% of the area 4E halibut is assigned to the CDQ fishery the non-trawl gear halibut catch in that area is not impacted by this action.

Regulations at 50 CFR 679.42(d) define both emergency waivers and medical transfers. Each provision defines a circumstance where the person authorized to fish IFQ halibut or sablefish are not required to be aboard the vessel during fishing operations or sign the IFQ landing report. [14] An emergency waiver is defined at 50 CFR 679.42(d)(1) and states that

> *"in the event of extreme personal emergency **during a fishing trip** involving a person authorized to fish IFQ halibut or sablefish, the requirements or paragraph (c)(1) of this section may be waived. The waiving of these requirements under this provision shall apply to IFQ halibut or IFQ sablefish retained on the **fishing trip** during which the emergency occurred."*

The medical transfer provision is defined at 50 CFR 679.42(d)(2) and applies to the fishing year and not just the trip where the medical emergency occurred. Those regulations state that:

> *"In the event of a medical condition affecting a QS holder or an immediate family member of a QS holder that prevents the QS holder from being able to participate in the halibut or sablefish IFQ fisheries, a medical transfer may be approved for the IFQ derived from the QS held by the person affected by the medical condition.*
>
> *(i) General. A medical transfer will be approved if the QS holder demonstrates that:*
>
> *(A) He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition that precludes participation by the QS holder; or*
>
> *(B) He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition involving an immediate family member that requires the QS holder's full-time attendance."*

An applicant for a temporary medical transfer must document the QS holder's medical condition by submitting an affidavit to NMFS from a licensed medical doctor, an advanced nurse practitioner, or a primary community health aide, that describes the medical condition affecting the applicant (or applicant's family member) that prevents participation in the fishery for the calendar year.[15] In the case of a family member's medical emergency, the affidavit must describe the necessity for the QS holder to care for an immediate family member who suffers from the medical condition. The QS holder must resubmit the application on an annual basis if their condition continues. The Council and NMFS limited the length of time that QS holders may use the medical transfer provision for the same medical condition. NMFS will not approve a medical condition transfer if the QS holder has been granted a medical transfer in two of the previous five years for the same medical condition.

The Council recommended clearly defining which medical professionals would be allowed to sign the medical declaration. The current regulations define certified medical professionals in three categories ''licensed medical doctor,'' ''advanced nurse practitioner,'' and ''primary community health aide'' based on definitions implemented by the State of Alaska. Certified medical professional definitions include practitioners in states other than Alaska but rely heavily on well-established and longstanding definitions of the proposed terms within the State of Alaska system and the medical profession. Since these definitions were implemented NMFS staff believes that the definitions, that are focused on State of Alaska terminology and that exclude some legitimate and commonly used medical providers, may be too narrow.

2.4.1.1 Approved Medical Transfers

Table 2-8 reports the number of transfers and the pounds of halibut and sablefish IFQ that was transferred by year using the medical transfer provision. Both 2007 and 2018 report partial years of data and are

[14] In addition to the QS and IFQ transfer provisions at 50 CFR 679.41.
[15] https://alaskafisheries.noaa.gov/sites/default/files/mt_app.pdf

included to show all of the transfer information to date.[16] 2008 represents the first year in which the medical lease provision was fully utilized. The 2018 fishing year was still in progress when this paper was drafted and is only provided through July 19 and it is anticipated that the number of amount of transfers reported for 2018 increased once the fishing year was completed.

Since 2012, the number of transfers and the associated number of QS units have shown steady increases. The number of QS units associated with the medical transfers in 2012 (6.9 million) is slightly less than the 2008 through 2012 average of over 7.2 million QS units per year. From 2014 through 2017, the average number of QS units associated with medical transfers increased by about 2.6 times the 2008 through 2012 average and in 2017 it was 3.8 times the 2008 through 2012 average. The number of QS units associated with medical transfers are compared since they are stable and do not float with the amount of catch available on an annual basis.

Ex-vessel values are reported as the estimated values of IFQ transferred during the year in millions of 2010 dollars. Average ex-vessel prices for 2007 through 2016 were derived from the most recent Economic SAFE (Fissel, et al., 2017) and 2017 ex-vessel prices were taken from the 2017 halibut and sablefish cost recovery fee estimates (Sustainable Fisheries AKR, 2018) and adjusted to 2010 dollars using a CPI deflator of 1.12.[17] Ex-vessel prices for 2017 were based on cost recovery fee prices because 2017 prices were not available from the Economic SAFE.

Sale of QS would have significant capital gains tax implications if the QS received the entire value of the QS in one year. Capital gains tax liabilities could be mitigated if the sale was financed in part or completely by the seller. The seller would then spread the annual tax liability out over the life of the loan. The amount of the annual tax liability would vary depending on the length and terms of the loan. While this approach could address some or all of the capital gains tax liability issues. The seller would no longer hold the QS and its associated long-term asset value. This may be a strong factor in the QS holder's preference to lease as opposed to selling the QS and generating a long-term revenue stream through self-financing all or part of the loan.

Table 2-8 Medical transfers of IFQ, 2007-July 2018

Year	Transfers	Sellers	Buyers	IFQ (lbs)	QS Units	IFQ Ex-vessel in Millions of 2010 Dollars
2007	19	15	15	319,120	1,497,150	$1.36
2008	72	54	53	1,337,000	5,353,014	$5.31
2009	109	73	67	1,570,344	7,925,353	$4.85
2010	99	66	58	1,203,565	7,093,967	$5.24
2011	105	70	65	1,301,948	8,944,855	$7.40
2012	93	63	60	921,267	6,869,574	$4.52
2013	112	70	62	1,292,934	8,620,939	$4.79
2014	131	86	67	1,283,101	11,317,331	$5.66
2015	179	110	92	1,497,799	14,449,186	$7.05
2016	252	145	110	2,151,895	21,438,163	$10.67
2017	305	158	123	3,340,540	27,364,162	$16.82
2018	226	122	96	3,013,219	24,964,668	
Total	**1702**	**449**	**361**	**19,232,732**	**145,838,362**	

Source: AKFIN summary of RAM transfer data

[16] The medical lease provision did not go into effect until September 10, 2007 (72 FR 44795).
[17] Page 319 for halibut and page 326 for sablefish.

Table 2-9 shows similar information to Table 4 but it is broken out by IFQ species. This table is provided to show that the medical transfer trends for both halibut and sablefish are similar. The result is expected since both species are managed under the same IFQ program regulations that were implemented at the same time.

Table 2-9 Medical transfers by species, 2007-July 2018

Year	Transfers	Sellers	Buyers	IFQ (lbs)	QS Units	IFQ Ex-vessel in Millions of 2010 Dollars
			Halibut			
2007	19	15	15	319,120	1,497,150	$1.25
2008	72	54	53	1,337,000	5,353,014	$4.13
2009	109	73	67	1,570,344	7,925,353	$3.41
2010	99	66	58	1,203,565	7,093,967	$3.82
2011	105	70	65	1,301,948	8,944,855	$4.98
2012	93	63	60	921,267	6,869,574	$3.45
2013	112	70	62	1,292,934	8,620,939	$3.24
2014	131	86	67	1,283,101	11,317,331	$3.49
2015	179	110	92	1,497,799	14,449,186	$4.84
2016	252	145	110	2,151,895	21,438,163	$7.19
2017	305	158	123	3,340,540	27,364,162	$10.19
2018	226	122	96	3,013,219	24,964,668	
Total	**1,288**	**408**	**321**	**11,181,509**	**83,314,803**	
			Sablefish			
2007	2	2	2	42,288	276,354	$0.11
2008	17	13	15	395,807	2,286,212	$1.18
2009	22	17	18	459,401	3,645,777	$1.44
2010	19	15	17	385,358	2,757,665	$1.42
2011	18	15	16	499,847	3,875,774	$2.41
2012	11	11	11	286,348	1,829,549	$1.08
2013	25	21	20	588,928	3,445,013	$1.55
2014	33	29	25	673,621	5,238,771	$2.17
2015	46	37	35	646,291	5,548,187	$2.21
2016	68	49	38	930,368	9,291,971	$3.48
2017	88	58	51	1,535,153	12,398,412	$6.63
2018	65	43	41	1,607,813	11,929,874	
Total	**414**	**137**	**144**	**8,051,223**	**62,523,559**	

Source: AKFIN summary of RAM transfer data

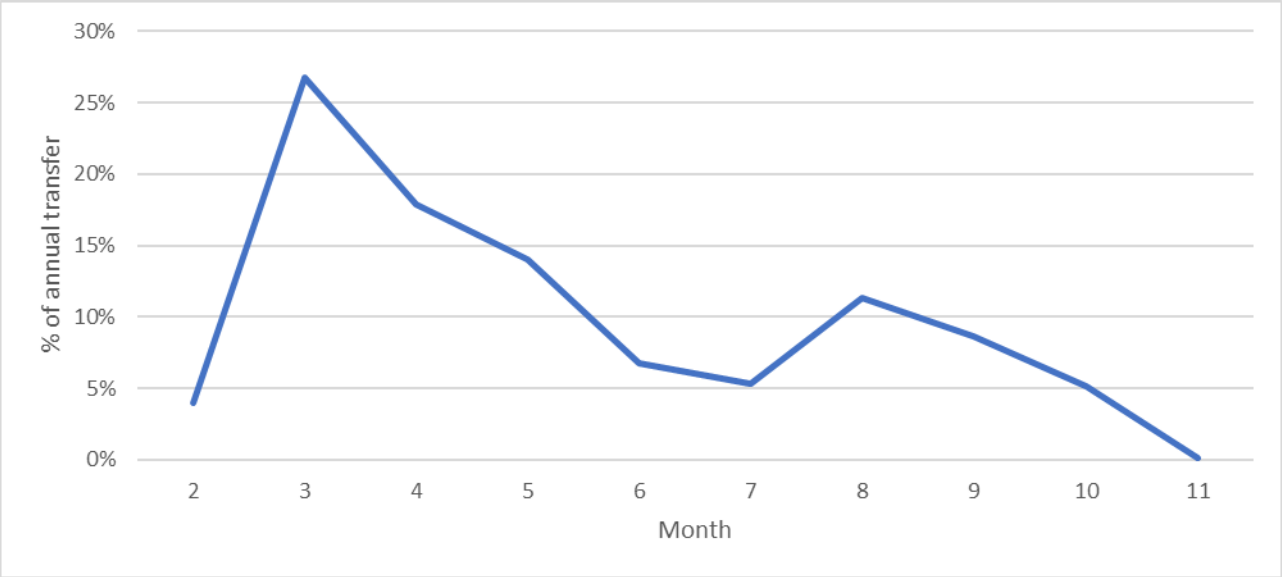
Figure 4 shows the percentage of QS units associated with medical transfers that was transferred by month during the years 2008 through 2017. The IFQ fishing season typically runs from mid-March to early to mid-November.[18] Transfers that occurred in February took place prior to the start of the fishing year. November transfers occurred late in the fishing year but only apply to IFQ issued for that year. The greatest percentage of transfers are reported to occur in March, April, and May. However, about 35% of the transfers were recorded in the second half of the year.

Medical transfers are annual transfers of IFQ. Because IFQ is issued for one fishing year, the transfer of IFQ cannot occur over two calendar years. As a result, transfers that take place late in the season cannot be carried over into the next year. If the QS holder wanted to lease IFQ over two seasons, he/she would

[18] https://alaskafisheries.noaa.gov/sites/default/files/ifq_cdq_seasons.pdf

need to reapply to have the IFQ transferred a second time. The second application would count as the second year toward their limit of 2 of 5 years for the same medical condition.[19]

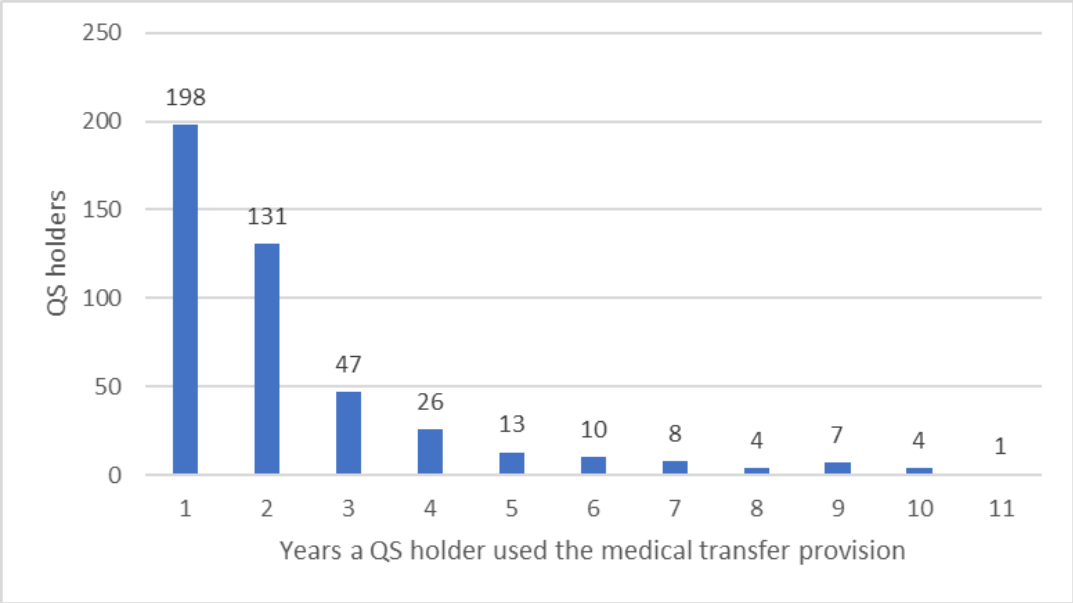
Figure 4 Percentage of medical transfer by month, 2007-2018 average



Source: AKFIN summary of RAM transfer data

Figure 5 reports the number of years that a QS holder used the medical transfer provision from 2007 through July 19, 2018. Just over 73 percent (329 of the 449 QS holders that used the medical transfer provision) used the medical transfer provision once or twice. Over 92 percent used the provision four times or less and just under 95 percent used the provision six times or less.

Figure 5 Number of years QS holders used the medical transfer provision, 2007-July 2018



[19] Assuming the application for medical transfer identified the same medical condition both years.

Source: AKFIN summary of RAM transfer data

Table 2-10 shows the number of persons using the medical transfer by the number of times and year(s) they used the transfer. The number of persons that have used the medical transfer provision for one or two years has increased substantially after 2013. This indicates QS holders that have not used the provision in the past are beginning to use the provision in greater numbers. The underlying reasons for the increases cannot be derived from the available data. For example, it is not possible to determine if the underlying reason is an aging population of QS holders, resulting in increased use of medical transfers for legitimate medical reasons or if QS holders are healthy enough to be on-board the vessel but are using the provision to avoid the owner-on-board requirements.

Table 2-10 Count of persons using the IFQ medical transfer by number of years the medical transfer was used and the year it was used, 2007-July 2018

Years	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Transferred	QS Holders												
1	5	16	15	11	13	8	15	9	18	24	29	35	198
2	6	18	21	19	23	16	13	18	20	33	49	26	131
3		6	8	8	6	10	7	10	18	29	24	15	47
4		3	5	5	5	4	6	11	17	20	15	13	26
5	1	1	3	3	2	1	3	10	10	10	12	9	13
6	1	2	6	5	3	4	6	5	7	8	7	6	10
7	1	1	1	2	5	6	5	8	5	7	8	7	8
8		3	4	3	3	3	3	3	3	2	2	3	4
9	1	2	5	5	5	6	7	7	7	7	7	4	7
10		1	4	4	4	4	4	4	4	4	4	3	4
11		1	1	1	1	1	1	1	1	1	1	1	1
Total	15	54	73	66	70	63	70	86	110	145	158	122	449
	% of B, C, and D QS holders												
1	0.2%	0.5%	0.5%	0.4%	0.5%	0.3%	0.6%	0.3%	0.7%	0.9%	1.1%	1.4%	
2	0.2%	0.6%	0.7%	0.7%	0.8%	0.6%	0.5%	0.7%	0.8%	1.2%	1.9%	1.0%	
3	0.0%	0.2%	0.3%	0.3%	0.2%	0.4%	0.3%	0.4%	0.7%	1.1%	0.9%	0.6%	
4	0.0%	0.1%	0.2%	0.2%	0.2%	0.1%	0.2%	0.4%	0.7%	0.8%	0.6%	0.5%	
5	0.0%	0.0%	0.1%	0.1%	0.1%	0.0%	0.1%	0.4%	0.4%	0.4%	0.5%	0.4%	
6	0.0%	0.1%	0.2%	0.2%	0.1%	0.1%	0.2%	0.2%	0.3%	0.3%	0.3%	0.2%	
7	0.0%	0.0%	0.0%	0.1%	0.2%	0.2%	0.2%	0.3%	0.2%	0.3%	0.3%	0.3%	
8	0.0%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	
9	0.0%	0.1%	0.2%	0.2%	0.2%	0.2%	0.3%	0.3%	0.3%	0.3%	0.3%	0.2%	
10	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%	0.1%	0.2%	0.2%	0.2%	0.2%	0.1%	
11	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
Total	0.5%	1.8%	2.4%	2.3%	2.4%	2.3%	2.6%	3.3%	4.2%	5.5%	6.2%	4.9%	

Source: AKFIN summary of RAM transfer data

Table 2-11 shows the information reported in Figure 5 and Table 2-10 in greater detail (by person and year). Each person the IFQ was transferred from is show in the table. Cells in the table are blackened to represent years the medical transfer provision was used by that QS holder. The cells were sorted by the number of times the QS holder used the medical transfer provision from 2007 through 2018 and by the most recent year the QS holder used the provision.

The top section of the table shows the persons that used the medical transfer provision seven or more times. The top row is the person that transfer IFQ during 11 years. The only year the QS holder did not use the provision was in 2007. The next four rows represent the persons that used the provision 10 years

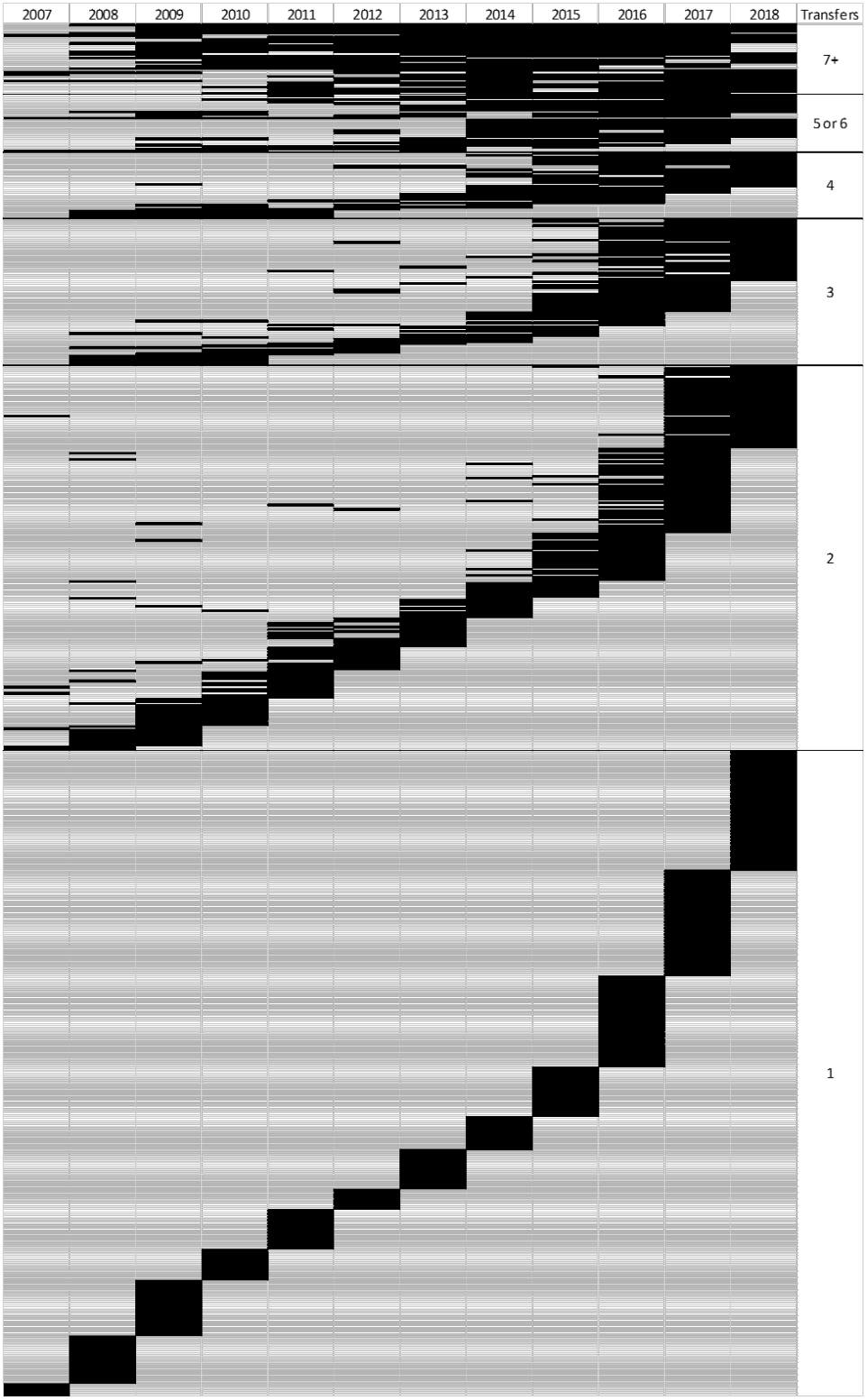
and so on. The number of rows in each section (number of years the provision was used) corresponds to the total column in Table 2-10.

The information shows that while the greatest use of medical transfers have occurred in recent years, there are individuals that were consistent users of the provision that had not used it as of July 2018 when the data were provided. This could indicate their intent not to use the medical transfer provision in 2018 or they intend to lease the IFQ later in the fishing year.

Many individual initial QS recipients can hire a master if they document that they hold a 20 percent ownership interest in a harvesting vessel.[20] Those QS holders can use the hired master provision to have their IFQ fished when they are not aboard the vessel, so they do not need the medical transfer provision if they are unable to fish their own quota.

[20] The ownership interest must have been held for 12 months prior to the QS holder's use of a hired master.

Table 2-11 Medical transfers by person, year, and number of years



Source: AKFIN summary of RAM transfer data

Information in Section 2.5.3.2 the IFQ Program 20-year review (NPMFC, 2016) shows the use of hired masters in the catcher vessel sector. That paper references that the reliance on hired master use in the IFQ fisheries may indicate that shareholders expect to earn more from using hired masters now and potentially selling QS in the future than from selling the shares now and investing that money elsewhere. Hired master usage in the halibut catcher vessel IFQ has ranged from 40% to 50% of landings since 2000. In the sablefish fishery the percentage is slightly higher at 50% to 60% of landings. Hired master landings as a percent of total harvest has been decreasing recently. The slight decrease may reflect the continuing transfer of catcher vessel QS to second-generation shareholders, who may not use hired masters.

Seventeen different QS holders used the hired master provision at least one year from 2009 through 2014 and used the medical lease provision since it was implemented, but did not use the hired master provision after 2014. The medical transfers of those persons are shown in Table 2-12. Nine of those QS holders are represented in the 2015 through 2018 columns of the table. These QS holders represent the maximum number of persons (and medical transfer amounts) that could have lost their ability to use the hired master provision and switched to the using the medical transfer provision.

Table 2-12 QS holders using the medical transfer provision that used a hired master until 2014

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Persons using the medical transfer	2	3	5	3	3	5	4	6	7	5	17
IFQ pounds	c	c	71,481	c	c	31,363	32,384	61,720	104,254	119,196	501,912
QS associated with transfer	c	c	613,617	c	c	322,655	581,512	617,120	1,464,334	1,068,668	5,492,100
						Percentage of all medical transfers					
Persons using the medical transfer	13.3%	5.6%	7.1%	4.5%	4.3%	5.8%	3.6%	4.1%	4.4%	4.1%	3.8%
IFQ pounds	c	c	9.1%	c	c	4.0%	3.1%	4.2%	5.1%	6.0%	4.2%
QS associated with transfer	c	c	6.9%	c	c	2.9%	4.0%	2.9%	5.4%	4.3%	3.8%

Source: AKFIN summary of RAM medical transfer data

Table 2-13 represents the number of medical transfers used by initial issuees. The number of transfers by initial issuees has approximately doubled since 2014, after regulations restricted using a hired master were implemented. Initial issuees are using the medical transfer provision at a greater rate, but it is difficult to determine with certainty whether there is a direct linkage between the hired master and medical transfer provision regulations based only on these data.

Compared to Table 2-6, the number of initial issuees that used the medical transfer provision was less than half of the total number of QS holders that used the medical transfer provision. The actual percentage varies by year.

Table 2-13 Initial issuees who used the medical transfer, 2007-2018

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Area	Number of QS holders												
2C	7	20	22	25	20	14	14	24	26	37	47	47	140
3A	4	14	20	21	23	21	15	23	39	42	50	57	139
3B	1	5	7	8	7	7	6	9	15	17	18	22	51
4A	1	2	4	3	3	2	2	3	8	8	10	11	25
4B					1			2	2	3	3	6	10
4C		1	2	2	1		1	1	3	4	4	2	7
4D								1	2	3	3	3	5
AI			1	1	1		1	1	3	4	5	5	9
BS		2	2	1		1	1	3	4	4	6	6	12
CG	2	3	7	5	6	7	3	9	12	18	16	18	45
SE	2	9	10	11	8	6	8	15	18	20	25	25	69
WG			2	2	2		1	2	5	6	7	6	14
WY	2	2	8	7	6	5	1	6	8	13	14	15	40
Total	9	26	30	33	33	28	23	36	49	63	69	74	207
	Percentage of all QS holders in the area												
2C	0.6%	1.7%	1.9%	2.3%	1.9%	1.4%	1.4%	2.5%	2.8%	4.0%	5.3%	5.3%	
3A	0.2%	0.9%	1.4%	1.5%	1.6%	1.6%	1.2%	1.8%	3.2%	3.5%	4.3%	4.9%	
3B	0.2%	1.1%	1.5%	1.8%	1.5%	1.5%	1.3%	2.0%	3.4%	3.9%	4.3%	5.2%	
4A	0.5%	1.1%	2.1%	1.7%	1.7%	1.2%	1.2%	1.8%	4.9%	4.9%	6.2%	6.7%	
4B					1.2%			2.5%	2.6%	4.1%	4.1%	8.0%	
4C		1.8%	3.8%	3.8%	1.9%		1.9%	1.9%	5.9%	8.0%	8.2%	4.0%	
4D								2.4%	4.9%	7.3%	7.5%	7.5%	
AI			1.4%	1.4%	1.5%		1.5%	1.5%	4.6%	6.1%	7.9%	8.1%	
BS		2.4%	2.5%	1.3%		1.3%	1.3%	4.0%	5.3%	5.4%	8.8%	8.3%	
CG	0.5%	0.8%	2.0%	1.5%	1.8%	2.1%	0.9%	2.8%	3.7%	5.7%	5.2%	5.6%	
SE	0.5%	2.4%	2.7%	3.0%	2.2%	1.7%	2.2%	4.3%	5.2%	6.0%	7.9%	7.6%	
WG			1.6%	1.7%	1.7%		0.9%	1.7%	4.4%	5.2%	6.5%	5.6%	
WY	0.9%	0.9%	3.8%	3.4%	2.9%	2.4%	0.5%	3.0%	4.0%	6.6%	7.5%	7.9%	
Total	0.3%	0.9%	1.0%	1.2%	1.2%	1.1%	0.9%	1.4%	2.0%	2.5%	2.9%	3.1%	

Source: NMFS RAM.

Table 2-14 shows the number of QS holders that used the medical transfer provision and the hired master provision. The table is limited to QS holders that both used the medical transfer provision and used the hired master provision after 2014 (through July 2018). Transfers of 2C (halibut) or SE (sablefish) IFQ represent medical transfers in that area when the QS holder used the hired master provision in other areas. For those QS holders that met those criteria, it also shows the number of years they used the hired master provision from 2009 through 2014. That information is provided in the left-hand column of the table. The break in data after the 2014 fishing year is intended to show changes that occurred after the hired master provision was implemented during the latter part of 2014.

Reading the table, the upper left had cell indicates that one area 2C QS holder used the medical transfer provision in 2007 and used the hired master provision four times from 2009 through 2014 and at least once after 2014. The use of the hired master provision after 2014 would have been in an area other than 2C.

Table 2-14 QS holders that used the hired master provision after 2014 and used the medical transfer provision

Years Hired Master Used 2009-2014	2007	2008	2009	2010	2011	2012	2013	2014	2015	2017	2018	Total
4	1											1
5		1	1	1								1
6	1				2				1			3
2C Total	2	1	1	1	2				1			5
0							1	1				1
1										1		1
2				1	2	2				1		3
4											1	1
6									1	1	1	2
3A Total				1	2	2	1	1	1	2	2	7
2										1		1
6									1	1	1	2
3B Total									1	2	1	3
5		1										1
6									1			1
4A Total		1							1			2
2					1	1						1
6										2	3	4
CG Total					1	1				2	3	5
5		1	1	1	1			2	2			3
6			1	2	2	1		1				4
SE Total		1	2	3	3	1		3	2			7
Total	2	2	2	4	6	3	1	4	3	3	5	19

Source: AKFIN summary of RAM transfer data and hired master usage

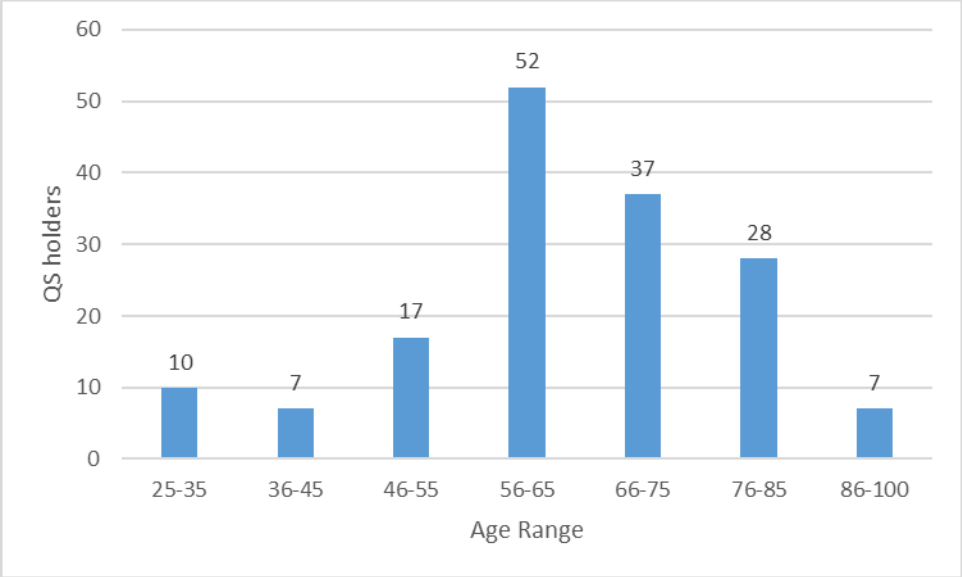
A total of 19 QS holders used the medical lease provision from 2007 to July 2018 and also used a hired master between the start of 2015 and July 2018. Most of those QS holders also used the hired master provision from 2009 through 2014. Only one QS holder used the hired master provision for the first time after 2014 and also used the medical transfer provision from 2007 through July 2018. That person acquired the QS in 2013 and used the medical transfer provision from 2013 through 2016. However, there is no strong trend to indicate that persons are using the medical transfer provision in place of the hired master provision.

Because data describing medical conditions and age are highly confidential, staff are limited in the amount of information that can be presented on the age of a QS holder and the medical conditions that were reported on medical transfer forms[21]. Age information that can be presented includes groupings of persons by age ranges. 10-year age grouping are presented in Figure 6.[22] Medical transfer data in that figure and is based on 2017 transfers, which is the most recent full year of medical transfer data available. The data indicate that over 78% of the medical transfers in 2017 were associated with QS holders that were at least 56 years old, and over 45% of medical transfers were made by QS holders that were at least 66 years old.

[21] For this reason age information was not provided by region or by QS holder's residence.

[22] Except the oldest grouping that covers 15 years.

Figure 6 Number of QS holders by age group that used a medical transfer in 2017



Source: RAM data

Because of the confidential nature of storing medical data, the medical reasons provided for transfers are not included in the data available to analysts. RAM staff did provide examples of the reasons QS holders have used to request a medical transfer. Reasons provided include breast feeding, pregnancy, caring for family member. NMFS RAM has indicated that one condition that is often reported as the reason for a medical transfer is back injuries. If the back condition is reported as a malady affecting a specific vertebra one year and a back condition that affects different vertebra other years (for example, thoracic vertebra vs cervical vertebra vs lumbar vertebra), NMFS has difficulty determining whether it is the same medical condition. The same holds true for conditions like arthritis. If it is reported for the right hand one year and left hand the next year, NMFS must determine of it the same medical condition. NMFS staff has neither the expertise nor do they want to be put in situations where they are required to make these types of judgment calls regarding medical conditions.

2.4.1.2 IFQ Cost relative to IFQ values

When the Council was conducting its initial review of this document it requested additional information on whether QS holders are expected to be able to repay QS loans based on past and current market conditions. Staff was unable to access information on the current standing of QS loans. That financial information is confidential and cannot be disclosed. However, to provide some information on the state of the QS market and the loans that are outstanding relative to IFQ values a series of tables was generated and are presented in this section.

The information is a crude approximation of the borrower's ability to repay a loan based on the revenue generated from the IFQ. The approach used is similar to the business valuation approach used in some industries where the value of a business is determined as a multiple of the annual revenue. In healthy businesses, the multiplier is typically in less than 4.5. Meaning that a person would pay less than 4.5 times the annual revenue of the business as a purchase price. Exceeding that amount could indicate the buyer is paying too high of a premium for the business. In this example, any ratio smaller than that amount represents a relatively small QS loan cost relative to the annual gross income generated from selling the IFQ.

Whether the ratio selected is appropriate for the IFQ fishery is difficult to determine because it does not consider other costs. Selecting the appropriate multiplier depends on the type of business, the

predictability of sales from year-to-year and many other factors. Therefore, the actual price a person should be willing to pay for QS is more complicated and should consider the QS's ability to generate a stream of profits over a number of years. The approach used here does not attempt to consider the loan interest or the firm's overall cost structure, but instead simply relies on an estimated gross revenue stream relative to the original purchase price of the QS.

Table 2-15 presents the background information used to generate the valuation ratios for halibut in Area 2C. The information presented is in nominal dollars, because it is assumed that nominal dollars are used to pay off the balance of a loan. Inflation is accounted for by the interest rate charged on the loan. The example presented in this section used a 0% interest rate to simplify the illustration, but it is understood that the current rate for commercial fishery QS loans[23] is approximately 7.0%.

Table 2-15 QS price, QS to IFQ ratio, and IFQ price in Area 2C, 2000 through 2017

Year	QS Price Paid	QS/IFQ ratio	Ex-vessel halibut price	$/Lb paid for IFQ	QS Price to IFQ price ratio
2000	$1.19	7.09	$2.62	$8.46	3.23
2001	$1.26	6.79	$2.11	$8.57	4.06
2002	$1.14	7.02	$2.22	$7.98	3.60
2003	$1.45	7.02	$2.95	$10.14	3.43
2004	$2.45	5.67	$3.04	$13.89	4.58
2005	$3.14	5.45	$3.08	$17.11	5.56
2006	$3.01	5.60	$3.75	$16.86	4.49
2007	$2.60	7.00	$4.41	$18.20	4.13
2008	$2.11	9.59	$4.33	$20.25	4.67
2009	$1.62	11.86	$3.08	$19.19	6.23
2010	$1.60	13.53	$4.73	$21.64	4.58
2011	$1.17	25.56	$6.40	$29.91	4.67
2012	$1.55	22.70	$5.98	$35.14	5.87
2013	$2.06	20.05	$5.16	$41.26	8.00
2014	$2.40	17.94	$6.26	$43.03	6.88
2015	$3.00	16.17	$6.32	$48.42	7.66
2016	$3.93	15.16	$6.63	$59.57	8.99
2017	$4.44	14.12	$5.87	$62.63	10.67

Source: AKFIN summary of RAM transfer prices, QS to IFQ ratios, and annual ex-vessel prices

Table 2-16 shows the ratios of the price paid for a pound of IFQ (QS price per unit multiplied by the QS to IFQ ratio in that area by year) to the average annual ex-vessel price of halibut in Area 2C. Assuming the ratio should fall below 4.5, based on this papers rough estimate, the loans taken out from 2000 through 2004 tend to fall in that range. Those cells are shaded different hues of green. The loans taken out during those years have always been below the 4.5 ratio and are currently below 2.5. This may indicate that those loans are more likely to be covered by the current revenue stream. From 2005 through 2010, the ratios were initially above 4.5 but have declined and are currently below 4.5. In the years after 2010, the ratio was initially greater than 4.5 and in most cases has increased. This trend is different than past years when the trend was for the ratio to decrease over time. In the most recent years ratio has been over 6.0 and over 10.0 in 2017. The years when the ratio is high it unlikely the QS loan could be repaid with just the revenue from the IFQ sales associated with those QS.

[23] https://www.commerce.alaska.gov/web/ded/FIN/InterestRates.aspx

Table 2-16 Ratio of price paid per pound of IFQ to annual average ex-vessel prices for halibut in area 2C

Ex-vessel price year \ QS Purchase Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
2000	3.23																	
2001	4.00	4.06																
2002	3.82	3.87	3.60															
2003	2.86	2.90	2.70	3.43														
2004	2.79	2.82	2.63	3.34	4.58													
2005	2.75	2.78	2.59	3.29	4.51	5.56												
2006	2.25	2.28	2.13	2.70	3.70	4.56	4.49											
2007	1.92	1.94	1.81	2.30	3.15	3.88	3.83	4.13										
2008	1.95	1.98	1.84	2.34	3.21	3.95	3.89	4.20	4.67									
2009	2.75	2.78	2.59	3.29	4.51	5.55	5.47	5.91	6.58	6.23								
2010	1.79	1.81	1.69	2.15	2.94	3.62	3.57	3.85	4.29	4.06	4.58							
2011	1.32	1.34	1.25	1.58	2.17	2.67	2.63	2.84	3.16	3.00	3.38	4.67						
2012	1.41	1.43	1.33	1.69	2.32	2.86	2.82	3.04	3.38	3.21	3.62	5.00	5.87					
2013	1.64	1.66	1.55	1.97	2.69	3.32	3.27	3.53	3.93	3.72	4.20	5.80	6.81	8.00				
2014	1.35	1.37	1.28	1.62	2.22	2.73	2.70	2.91	3.24	3.07	3.46	4.78	5.62	6.59	6.88			
2015	1.34	1.36	1.26	1.60	2.20	2.71	2.67	2.88	3.20	3.04	3.42	4.73	5.56	6.53	6.81	7.66		
2016	1.28	1.29	1.20	1.53	2.10	2.58	2.54	2.75	3.06	2.90	3.27	4.51	5.30	6.23	6.49	7.31	8.99	
2017	1.44	1.46	1.36	1.73	2.37	2.91	2.87	3.10	3.45	3.27	3.69	5.09	5.98	7.03	7.33	8.25	10.15	10.67

Source: AKFIN summary of RAM transfer prices, QS to IFQ ratios, and annual ex-vessel prices

Considering the 2017 ratio (10.67), it means that it would take 10.67 years to pay off the loan if all the revenue from the sale of the IFQ were paid against the loan and the loan had an interest rate of 0%. It also assumes that the QS holder does not have any other expenses associated with having the QS fished. As discussed in other sections of this document the lease rate for QS is about 50% of the ex-vessel value. If that represents the cost of fishing the IFQ then the net ex-vessel value is half the gross and it would take twice as long to repay the loan. If the loan was for 15 years the buyer would not be generating sufficient income from just the IFQ sales associated with the QS to pay the loan. Taking loans with high ratios where the buyer is not able to pay for the loan with current market conditions could indicate the buyer is speculating that the QS to IFQ ratio will improve, the ex-vessel price will increase, or the QS prices will continue to increase.

Table 2-17 presents the background information used to generate the valuation ratios for halibut in Area 3A. It is structured like the table developed for Area 2C presented earlier.

Table 2-17 QS price, QS to IFQ ratio, and IFQ price in Area 3A, 2000 through 2017

Year	QS Price Paid	QS/IFQ ratio	Ex-vessel halibut price	$/Lb paid for IFQ	QS Price to IFQ price ratio
2000	$0.90	10.10	$2.60	$9.04	3.48
2001	$1.20	8.45	$2.03	$10.10	4.98
2002	$1.02	8.17	$2.23	$8.29	3.73
2003	$1.37	8.17	$2.89	$11.19	3.87
2004	$1.82	7.38	$3.04	$13.42	4.42
2005	$2.24	7.26	$3.07	$16.28	5.30
2006	$2.43	7.34	$3.78	$17.80	4.71
2007	$2.96	7.06	$4.40	$20.87	4.74
2008	$2.97	7.63	$4.40	$22.70	5.16
2009	$2.53	8.52	$3.12	$21.59	6.93
2010	$2.43	9.25	$4.69	$22.50	4.80
2011	$2.43	12.88	$6.33	$31.27	4.94
2012	$1.96	15.52	$5.74	$30.39	5.30
2013	$1.63	16.76	$5.10	$27.26	5.35
2014	$1.44	25.27	$6.26	$36.37	5.81
2015	$2.62	23.73	$6.31	$62.28	9.87
2016	$2.07	25.20	$6.51	$52.08	8.00
2017	$2.23	23.89	$5.81	$53.26	9.16

Source: AKFIN summary of RAM transfer prices, QS to IFQ ratios, and annual ex-vessel prices

Table 2-18 and Table 2-20 provide similar information for halibut in Areas 3A and 3B, respectively. The information presented for those areas show similar trends as reported for Area 2C. Those trends indicate that loans made before 2005 may be in the best financial condition and those made after 2011 in the worst financial condition. However, that is not intended to imply that the overall business associated with the QS is in a strong or weak condition, since it is not possible to account for all the incentive associated with the purchase of the QS.

Table 2-18 Ratio of price paid per pound of IFQ to annual average ex-vessel prices for halibut in area 3A

Ex-vessel price year \ QS Purchase Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
2000	3.26																	
2001	4.17	4.23																
2002	3.80	3.85	3.59															
2003	2.92	2.96	2.76	3.50														
2004	2.79	2.82	2.63	3.34	4.58													
2005	2.75	2.79	2.60	3.30	4.52	5.57												
2006	2.24	2.26	2.11	2.68	3.67	4.52	4.46											
2007	1.92	1.95	1.81	2.30	3.15	3.88	3.83	4.13										
2008	1.92	1.95	1.81	2.30	3.16	3.89	3.83	4.14	4.60									
2009	2.71	2.75	2.56	3.25	4.46	5.49	5.41	5.84	6.50	6.16								
2010	1.80	1.83	1.70	2.16	2.96	3.65	3.60	3.88	4.32	4.09	4.62							
2011	1.34	1.35	1.26	1.60	2.20	2.70	2.67	2.88	3.20	3.03	3.42	4.73						
2012	1.47	1.49	1.39	1.77	2.42	2.98	2.94	3.17	3.53	3.34	3.77	5.21	6.12					
2013	1.66	1.68	1.57	1.99	2.73	3.36	3.31	3.57	3.97	3.76	4.25	5.87	6.89	8.09				
2014	1.35	1.37	1.27	1.62	2.22	2.73	2.69	2.91	3.23	3.06	3.45	4.78	5.61	6.59	6.87			
2015	1.34	1.36	1.26	1.61	2.20	2.71	2.67	2.88	3.21	3.04	3.43	4.74	5.57	6.54	6.82	7.67		
2016	1.30	1.31	1.23	1.56	2.13	2.63	2.59	2.79	3.11	2.95	3.32	4.59	5.39	6.33	6.61	7.43	9.14	
2017	1.45	1.47	1.37	1.74	2.39	2.94	2.90	3.13	3.48	3.30	3.72	5.15	6.05	7.10	7.40	8.33	10.25	9.16

Source: AKFIN summary of RAM transfer prices, QS to IFQ ratios, and annual ex-vessel prices.

Table 2-19 shows the background information used to generate the valuation ratios for halibut in Area 3B. Like for the other areas, the QS to IFQ ratio has increased faster than the IFQ price in recent years.

Table 2-19 QS price, QS to IFQ ratio, and IFQ price in Area 3B, 2000 through 2017

Year	QS Price Paid	QS/IFQ ratio	Ex-vessel halibut price	$/Lb paid for IFQ	QS Price to IFQ price ratio
2000	$2.16	3.59	$2.55	$7.74	3.03
2001	$2.67	3.26	$2.00	$8.69	4.35
2002	$2.19	3.15	$2.20	$6.90	3.13
2003	$2.56	3.16	$2.87	$8.11	2.83
2004	$3.26	3.47	$2.96	$11.33	3.83
2005	$2.95	4.13	$3.01	$12.19	4.05
2006	$2.87	5.00	$3.78	$14.31	3.79
2007	$2.89	5.88	$4.30	$17.02	3.96
2008	$3.95	4.97	$4.33	$19.64	4.54
2009	$3.04	4.97	$3.02	$15.11	5.00
2010	$3.40	5.48	$4.65	$18.62	4.00
2011	$3.32	7.22	$6.34	$23.96	3.78
2012	$2.61	10.69	$5.57	$27.85	5.00
2013	$1.37	12.63	$4.81	$17.28	3.59
2014	$1.08	19.09	$6.09	$20.64	3.39
2015	$1.43	20.45	$6.13	$29.23	4.77
2016	$2.01	20.00	$6.42	$40.27	6.27
2017	$2.41	17.26	$5.61	$41.60	7.41

Source: AKFIN summary of RAM transfer prices, QS to IFQ ratios, and annual ex-vessel prices

Table 2-20 Ratio of price paid per pound of IFQ to annual average ex-vessel prices for halibut in area 3B

Ex-vessel price year \ QS Purchase Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
2000	3.54																	
2001	4.52	5.06																
2002	4.10	4.59	3.77															
2003	3.15	3.52	2.89	3.90														
2004	3.06	3.42	2.81	3.79	4.54													
2005	3.00	3.36	2.76	3.72	4.46	5.41												
2006	2.39	2.67	2.20	2.96	3.55	4.31	4.71											
2007	2.10	2.35	1.93	2.60	3.12	3.78	4.14	4.85										
2008	2.09	2.33	1.92	2.59	3.10	3.76	4.11	4.82	5.24									
2009	2.99	3.34	2.74	3.70	4.44	5.38	5.89	6.90	7.51	7.14								
2010	1.94	2.17	1.78	2.41	2.89	3.50	3.83	4.49	4.88	4.64	4.84							
2011	1.43	1.59	1.31	1.77	2.12	2.57	2.81	3.29	3.58	3.41	3.55	4.93						
2012	1.62	1.82	1.49	2.01	2.41	2.92	3.20	3.75	4.08	3.88	4.04	5.62	5.46					
2013	1.88	2.10	1.72	2.33	2.79	3.39	3.70	4.34	4.72	4.49	4.68	6.50	6.32	5.67				
2014	1.49	1.66	1.36	1.84	2.20	2.67	2.92	3.43	3.73	3.55	3.70	5.14	4.99	4.48	5.97			
2015	1.48	1.65	1.35	1.83	2.19	2.66	2.90	3.40	3.70	3.52	3.67	5.10	4.96	4.45	5.93	10.16		
2016	1.41	1.57	1.29	1.74	2.09	2.53	2.77	3.25	3.53	3.36	3.50	4.87	4.73	4.24	5.66	9.69	8.11	
2017	1.61	1.80	1.48	1.99	2.39	2.90	3.17	3.72	4.05	3.85	4.01	5.57	5.42	4.86	6.48	11.10	9.28	7.41

Source: AKFIN summary of RAM transfer prices, QS to IFQ ratios, and annual ex-vessel prices

2.4.2 Analysis of Impacts for Alternative 2: Modify the medical transfer provision

The list of alternatives and option the Council approved for analysis at their October 2018 meeting is as follows and the Council's preferred alternative are in bold:

Alternative 2: Modify the medical transfer provision.

Element 1: Define "Certified Medical Professional"

Option 1: Replace the current definition with a single, broader definition of certified medical professional, such as "Health care provider." Health care provider could be defined as:

An eligible health care provider is an individual authorized to provide health care services by the State where he or she practices and performs within the scope of their specialty to diagnose and treat medical conditions as defined by applicable Federal, state, or local laws and regulations. A health care provider outside the U.S. and its territories licensed to practice medicine is included in this definition.

Option 2: Define a Certified Medical Professional as all or a sub-set of those individuals defined in the Social Security Act Sections 1861(r) and 1861(s).

Suboption: Option 1 and Option 2 would be limited to U.S. medical professionals.

Option 3: The Council directs staff to review definitions of "immediate family member" that could be used for the medical transfer provision which are more restrictive than those used for designated beneficiary provision regulations.

Element 2: Revise federal regulations to allow the medical transfer provision to be used for any medical reason for:

Option 1: 2 of 5 most recent years

Option 2: 3 of 7 most recent years

Note: Only transfers after implementation of new rule would count towards the limit.

Suboptions apply to either Option 1 or 2:

Suboption 1: Establish a limit on the number of times (based on two options to define years) the medical transfer provision may be used (range of 5 to 10 times).

Suboption 2: Define most recent year as one year (365 days) from the date the medical transfer application was approved by NMFS.

Option 3: To allow QS holders to transfer 100% of IFQ associated with QS held under eligible medical transfer to designee for two years; in the third time a medical transfer is used out of 7 years, the QS holder can transfer 80% of IFQ (by area by species) to designee; in the fourth time, the QS holder can transfer 60% of IFQ; after the fourth transfer, medical transfers would not be allowed during that 7 year period.

2.4.2.1 Description of Alternatives

Maintaining the status quo regulations for a certified medical professional at 50 CFR 679.2 would limit the professions that could sign the medical transfer form to advanced nurse practitioners, licensed medical doctors, and primary community health aides.

The status quo also limits the number of years that the medical transfer provision may be used for the same medical condition to two of the five most recent years. If a QS holder had a **different** medical condition that was certified as preventing the QS holder from fishing, they would also be able to transfer their IFQ for up to two of the five most recent years because of that condition.

Element 1 would redefined the certified medical professional using a broader definition. Two alternative definitions and a suboption that could apply to either option included in the Council's motion. The first option would replace the current definition with a broader definition such as health care provider. The

health care provider definition would be a more general definition that allows any individual that is licensed or certified to provide health care services by the State where he or she practices and performs within the scope of their specialty to diagnose and treat medical conditions as defined by applicable Federal, state, or local laws and regulations to sign the medical transfer form. A health care provider outside the U.S. and its territories licensed or certified to practice medicine by their Country's licensing board is included in this definition. This option would allow individuals that were excluded under the status quo (e.g., chiropractors) to sign the medical transfer form.

The second option under Alternative 2 would define a Certified Medical Professional using the Social Security Act (SSA) for administering health insurance provisions for the aged and disabled (Title 18, Sections 1861(r) and 1861(s)) as a guide. Those regulations apply to licensed physicians and chiropractors as well as certified nurse-midwife services, qualified psychologist services, and clinical social worker services. The Council could select all the professions listed in the SSA or a subset to meet its objectives for this amendment. The Council also included a sub-option that would limit the medical providers that could certify medical conditions to those licensed and providing services in the U.S.

Alternative 3 would change the regulations from allowing a medical transfer for the same medical condition for two of five years to allowing a medical transfer for any medical condition that prevents the QS holder from fishing that year. Two options that define the number of years medical transfers would be allowed are considered, either two of five or three of seven[24].

The provision also includes a suboption that would limit the total number of times medical transfer could be used by a QS holder. The range considered is 5 through 10 times over a QS holder's life. The number of "times" the provision is used would be calculated based on the number of "years" it was used.

Two definitions of "years" are considered. The first is a calendar year; the second is 365 days from the time the medical transfer application was approved by NMFS. Applying the 365-day duration to an approved medical transfer could allow the person to transfer IFQ for two calendar years using a single application. Since IFQ is issued for a calendar year this would substantially change management and enforcement of the medical transfer provision.

Option 3 was included to allow QS holders to transfer 100% of IFQ associated with QS that was eligible for transfer under the medical transfer provision for two years. The third year that QS holder used the medical transfer provision during a seven year period, he/she may only transfer 80% of their IFQ (by area by species). The fourth year the medical transfer provision is used by a QS holder during a seven-year period, the QS holder may only transfer 60% of IFQ. After the fourth year the medical transfer provision is used during the seven-year period, additional transfers would not be allowed. This option was included to allow QS holders that are unable to fish to receive a decreasing value for their IFQ leases. It is expected to provide more time for QS holders that anticipate returning to the fishery but need to more time to recover, than is provided under the other options.

2.4.2.2 Alternatives Considered but Rejected

The Council considered alternative State of Alaska (State) and Federal definitions for a medical professional. State definitions of a medical professional use terms that are specific to Alaska healthcare providers that are not used in other states and regions. For example, a *primary community health aide* must complete training offered at specific locations within Alaska. The Community Health Aide Program is unique to Alaska and to the Indian Health Service. The program was designed to provide medical care in Alaska Native villages that are off the road system, too small to support a physician or

[24] Based on the most recent years

mid-level provider (Physician Assistant or Nurse Practitioner).[25] Medical definitions used by Federal Aviation Administration to certify pilots only included physicians and was also considered to be too restrictive.

The Council also considered and rejected alternatives that would allow an IFQ transfer for any reason for a specific number of years. This option would have eliminated the need to collect highly confidential medical information and define a medical professional that could certify a medical condition that met the transfer provision requirements. This alternative was rejected for further consideration because it was too broad and was determined to not meet the objectives of the IFQ Program.

The Council considered and rejected two suboptions under this Alternative. Suboption 1 would establish a limit on the number of times (based on two options to define years) the medical transfer provision may be used (range of 5 to 10 times). Public testimony spoke out against this suboption because it would impact young QS holders more than older QS holders. Suboption 2 would define most recent year as one year (365 days) from the date the medical transfer application was approved by NMFS. This suboption could lead to confusion by QS holders and by NMFS staff and would create an additional level of complexity beyond the annual permitting process.

2.4.3 Element 1: Define "Certified Medical Professional"

Defining a certified medical professional is an important aspect of this action because it sets the boundaries for who is allowed to attest to a QS holder not being physically able to fish his/her IFQ. The options under consideration by the Council would broaden the current definition while limiting the persons to those who are licensed/certified by the state or country they practice. The current definition under the status quo prohibits commonly used licensed medical providers from attesting to medical conditions they treat. This creates additional work for NMFS RAM if they have to reject an application for medical transfer and consult with the QS holder on who may sign the form. If the definition is too broad it could create more opportunities for QS holders to submit applications that may be outside the intent of the provision.

Alternative 2, Element 1 would redefined the certified medical professional using a broader definition. Two alternative definitions and a suboption that could apply to either was included in the Council's motion. The first option would replace the current definition with a wide-ranging definition such as health care provider. The health care provider definition would be a more general definition that allows any individual that is authorized to provide health care services by the State where he or she practices and performs within the scope of their specialty to diagnose and treat medical conditions as defined by applicable Federal, state, or local laws and regulations to sign the medical transfer form. A health care provider outside the U.S. and its territories licensed to practice medicine by their Country's licensing board is included in this definition. This option would allow individuals that were excluded under the status quo (e.g. chiropractors) to sign the medical transfer form. The option also would allow health care providers outside the U.S. to sign the medical transfer form, unless the Council also selected the suboption that would continue to exclude them.

Maintaining the status quo regulations for a certified medical professional at 50 CFR 679.2 would limit the professions that could sign the medical transfer form to advanced nurse practitioners, licensed medical doctors, and primary community health aides. Those professions are defined as:

1. *Advanced nurse practitioner* means a registered nurse authorized to practice in any state who, because of specialized education and experience, is certified to perform acts of medical diagnosis

[25] http://www.akchap.org/resources/chap_library/Referral_Physician/CHAM_CHAP_Overview.pdf

and the prescription and dispensing of medical, therapeutic, or corrective measures under regulations adopted by the state Board of Nursing.

2. *Licensed medical doctor* means a person who is licensed, certified, and/or registered in accordance with applicable Federal, state, or local laws and regulations, and is authorized to conduct the practice of medicine as defined by the state in which the person resides.
3. *Primary community health aide* means a person who has completed the first of three levels of community health aide training offered by the Norton Sound Health Corporation at the Nome Hospital, the Kuskokwim Community College in Bethel, the Alaska Area Native Health Service in Anchorage, or another accredited training center.

Based on the cases that NMFS RAM staff has received, it is not anticipated that any option under Alternative 2, Element 1 would lead to increased abuse of the medical transfer provision. NMFS RAM staff see that any expansion of the definition over the status quo would be beneficial to QS holders would need medical care and would benefit RAM staff if they need to reject fewer applications based solely on the specialty of the health care provider that attested to the medical condition. It is anticipated that the current definitions (advanced nurse practitioner, licensed medical doctor, and primary community health aide) would be encompassed by any new, broader definition.

2.4.3.1 Option 1: Replace the current definition with a single, broader definition of certified medical professional, such as "Health care provider." Health care provider could be defined as:

The Council can may replace the three current definitions with one expanded definition. NMFS RAM staff would be able to accept medical transfers from a chiropractor and other common providers. In addition, the expanded definition would remove the region-specific term Primary Community Health Aide. The Primary Community Health Aide would continue to be an accepted health care provider under Option 1. The Council could use the following language if they wish to select this option:

> *"An eligible health care provider is an individual authorized to provide health care services by the State where he or she practices and performs within the scope of their specialty to diagnose and treat medical conditions as defined by applicable Federal, state, or local laws and regulations. A health care provider outside the U.S. and its territories licensed to practice medicine is included in this definition."*

The West Coast limited entry fixed gear sablefish primary fishery requires a letter from a "Certified Medical Practitioner" as part of the medical transfer of IFQ.[26] West Coast fishery regulations do not explicitly define that term. It is intended to be a general broad definition to cover a wide variety of licensed medical professionals. This approach has worked for managing medical transfers in that area and could be used in Alaska. Using the same language as being currently used in other areas would provide more consistency.

Block F part 4 of the current medical transfer form would need to be updated. That section of the form could be changed to require the certified medical professional to list their state license number (or the equivalent within the country they practice) and the type of medical certificate they are issued by the state or county he/she practices.

The Council could consider requiring that the certified medical practitioner only attest to medical conditions they are licensed to treat. That restriction would prevent a certified medical profession from attesting that a condition would prevent a QS holder from fishing when they are not licensed (certified) to treat that condition.

[26] see §660.231(b)(4)(ii)(B).

Using a general definition would provide NMFS with more flexibility to adapt to changes in the types of health care providers that are licensed. The burden of approving medical licensing of various types of medical providers would fall upon the individual states. This would be accomplished by NMFS requiring that the license number be reported on the transfer form. If a question relative the validity of the license arose, NMFS or an enforcement agency could verify the license with the state that was reported to have issued the license. NMFS would not be required to pass judgment on the types of medical treatment a person is seeking, as the current limited definition does. Instead any medical provider licensed by a state could certify medical conditions on a medical transfer application.

This option is consistent with the methodology used on the West Coast and provides the greatest flexibility to NMFS. It also would not require modifying regulations as medical professional definition may change in the future.

The overall impact of medical transfers on communities and processors was discussed under the No Action alternative. Changing the definition of a certified medical professional is not expected to have a discernable impact on those entities.

2.4.3.2 Option 2: Define a Certified Medical Professional as all or a sub-set of those individuals defined in the Social Security Act Sections 1861(r) and 1861(s).

This option is more specific relative to the types of certified medical providers that would be allowed to attest to medical conditions that would prevent a QS holder from fishing that year. The specific list of licensed providers is provided below. Both this option and option 1 are more inclusive than the No Action alternative. This option would include chiropractors where the No Action alternative does not. This option would exclude licensed medical providers like acupuncturists and other alternative medicine providers. So, while the list of medical providers covered in the Social Security Act Sections 1861(r) and 1861(s) are comprehensive for the current standard medical practitioners, it is possible that RAM could still be asked to accept an application from a certified medical provider that is not on the list. RAM would be required to reject the application, like the current No Action alternative. If an acupuncturist was licensed by a state and attested to the medical condition under option 1, RAM could accept the application as complete.

The Council could also accept the lists as they are currently reported in the SSA or it could reference the sections and allow the regulations for medical transfers to change if those sections of the SSA are modified. This approach provides more flexibility if the Council selects all the providers listed in 1861(r) and 1861(s). If a subset of the medical practitioners listed in the sections were selected, simply referencing the sections in regulations would not work as more clarification would be necessary.

The second option under Alternative 2 would define a Certified Medical Professional using the Social Security Act (SSA) for administering health insurance provisions for the aged and disabled (Title 18, Sections 1861(r) and 1861(s)) as a guide. If bullet number 6 is selected as part of the Council's preferred alternative it would continue the ban on medical professionals outside the U.S. from signing the medical transfer form. The SSA defines the term "physician" as:[27]

1. A doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which he performs such function or action.

2. A doctor of dental surgery or of dental medicine who is legally authorized to practice dentistry by the State in which he performs such function and who is acting within the scope of his license when he performs such functions.

[27] https://www.ssa.gov/OP_Home/ssact/ssact-toc.htm

3. A doctor of podiatric medicine…but only with respect to functions which he is legally authorized to perform as such by the State in which he performs them.

4. A doctor of optometry, but only for purposes…which he is legally authorized to perform as a doctor of optometry by the State in which he performs them.

5. A chiropractor who is licensed as such by the State (or in a State which does not license chiropractors as such, is legally authorized to perform the services of a chiropractor in the jurisdiction in which he performs such services)…only with respect to treatment by means of manual manipulation of the spine (to correct a subluxation) which he is legally authorized to perform by the State or jurisdiction in which such treatment is provided.

6. A doctor of one of the arts, specified in 1 through 5, legally authorized to practice such art in the country in which the…services…are furnished.

Section 1861(s) further defines "medical and other health services" to mean (1) physicians' services, (2) certified nurse-midwife services, (3) qualified psychologist services[28], and (4) clinical social worker services.[29] The Council could select all the professions listed above or a subset to meet its requirements.

2.4.3.3 Suboption: Option 1 and Option 2 would be limited to U.S. medical professionals.

This sub-option would restrict certified medical providers licensed outside the U.S. from being eligible to attest to a QS holder's ability to participate in the fishery and sign the medical transfer form. As stated earlier, to the analyst's knowledge there has only been one case were a medical transfer form was submitted or a QS holder contacted RAM about submitting a medical transfer form signed by certified medical provider outside the U.S. Projecting the number of times this provision would be utilized, if included in the action, cannot be done precisely. However, because regulation requires that a person be a citizen of the United States at the time of application of QS (50 CFR 679.4(a)(2)(C)) all QS holders are U.S. citizens. QS holders most likely to use a certified medical provider outside the U.S. fall into three categories:

1. U.S. citizens that get sick or injured while on vacation outside the U.S. and are unable to return home before the application for a medical transfer must be submitted;
2. U.S. citizens that are living outside the U.S. for an extended period of time that do not wish to return the U.S. to be examined by their U.S. certified medical provider; or
3. U.S. citizens that are traveling outside of the U.S. seeking medical treatments that are currently not approved for use in the U.S. or seeking more affordable medical treatment than they have access to in the U.S.

Based on the list of expected reasons for a person to use a certified medical provider outside the U.S. the Council will need to weigh the convince of allowing QS holders in these circumstances to use a certified medical provider where they are seeking treatment outside the U.S. to sign the affidavit versus their U.S. certified medical provider. Requiring a U.S. certified medical provider to sign the form may mean that a

[28] The term "qualified psychologist services" means such services…furnished by a clinical psychologist which the psychologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's service.

[29] The term "clinical social worker services" means services performed by a clinical social worker (as defined in paragraph (1)) for the diagnosis and treatment of mental illnesses (other than services furnished to an inpatient of a hospital and other than services furnished to an inpatient of a skilled nursing facility which the facility is required to provide as a requirement for participation) which the clinical social worker is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service.

QS holder would need to make a special trip back to the U.S. to see a local provider. This may be difficult depending on a person's health. However, it is expected that in most cases the person would be overseas for a relatively short period of time and would have a certified medical professional that they also use in the U.S. That provider could sign the form if they recently saw the patient for that condition.

In summary, there are valid reasons a QS holder may utilize a certified medical provider outside the U.S. and would like him/her to be able to attest to the medical condition on the medical transfer form. Allowing those providers to sign the form may slightly increase then number of medical transfers that are requested. The number of QS holders using providers outside the U.S. may increase by an undetermined amount because it is more covenant. Whether that means he/she would be attempting to shop for providers that would be willing to certify a condition, when U.S. providers would not, is unknown and would be conjecture by the analysts. However, the decision regarding who is allowed to certify medical conditions is a policy call that is unlikely to substantially increase or decrease the number and amount of medical transfers that are issued each year, given current conditions. The limitations on the number of times that the transfer provision may be used over a given number of years or in a lifetime are likely to have a much greater impact in the number of QS holders that use the provision in a given year.

2.4.3.4 Option 3: Benefits of limiting "immediate family member" definition

At the October 2018 Council meeting, the Council directed staff to review definitions of "immediate family member" that could be used for the medical transfer provision which are more restrictive than those used for designated beneficiary provision regulations. As part of this action to modify the beneficiary transfer provision (Alternative 3), the Council could decide on a definition of immediate family member that is broad enough to improve implementation of the beneficiary transfer provision while limiting potential abuse under the medical transfer provision.

The concerns of abuse of the medical transfer provision stem from the care of an "immediate family member." Under a broad definition, there are concerns that more people will abuse the temporary transfer mechanism by caring for immediate family members that would not have been considered an immediate family member under the current definition. Based on discussions with NMFS RAM staff, the abuse of the medical transfer is not attributed to the definitions of immediate family member. Instead, it appears that the abuse is from the regulations around "same medical condition," which is analyzed in-depth in Section 2.4.4.

NMFS recommends having only one definition of immediate family member in regulation that would be applied to both the medical transfer and designated beneficiary provisions. Two definitions of immediate family member in regulation would be difficult to differentiate and unnecessary to implement the Council's objective. NMFS does not anticipate increased use of the medical transfer stemming from a single definition of immediate family member as long as it is coupled with a specific set of years for any medical condition.

Based on concerns from the Council, it is recommended to use a concise definition that works for both provisions, provided in Section 2.5.4. The Council could also require that the person is responsible for the day-to-day care of the immediate family member, if it is still concerned that a QS may try to use the medical transfer provision allowing the care for another person if the definition of immediate family member is thought to be too broad. However, such a provision could be difficult to verify and enforce.

2.4.4 Element 2: Revise federal regulations to allow the medical transfer provision to be used for any medical reason and define use limits

Alternative 2, Element 2 would change the regulations from allowing a medical transfer for the same medical condition for two of five years to allowing a medical transfer for any medical condition that prevents the QS holder from fishing that year. Three options that define the number of years medical transfers would be allowed are considered. Two of the options were considered in the initial review draft and included either 2 of 5 or 3 of 7 years.[30] A third option that allows medical transfers during 4 of 7 years with the amount of IFQ that may be transferred limited the last two years it is used during the 7-year period. This option was added during the October 2018 Council meeting and is described in Section 1.3.

Under all the options, Element 2 would change the limit from for the same medical condition to for any medical condition. Initially it may seem that the change makes the provision less restrictive, but the impact is to reduce the number of times the medical transfer provision could be used. When the limit was applied to the same medical condition QS holders could potentially use the medical transfer provision every year, if he/she reported a new medical condition every two year or the QS holder reported three medical conditions for two years each over a 5-year period. Applying the provision to any medical condition means that the medical transfer provision may only be used 2 of 5 or 3 of 7 years, depending on the option selected. Changing the medical condition listed does not allow the QS holder to reset the 2 of 5 or 3 of 7-year limit.

The proposed rule (71 FR 211, November 1, 2006) mentions that subsequent applications for medical transfers based on the same medical condition would be denied unless a certified medical professional attests to a reasonable likelihood of recovery. Furthermore, NMFS would not approve a medical transfer if the applicant has received a medical transfer in any 2 of the previous 5 years for the **same** medical condition.

NMFS RAM staff have significant difficulty interpreting this phrase. “Same medical condition” leads to staff interpretations, which was not the intent of the original Council action but was the product of a NMFS decision at the final rule. The burden of proof was placed on the medical provider who would prepare an affidavit and “the form would explain the rule and the consequences of the professional’s assertions.”[31] However, with the publication of the final rule (72 FR 44795, August 9, 2007), NMFS eliminated the requirement that NMFS disapprove an application for a second medical transfer unless a health professional attested to a reasonable likelihood of recovery of the applicant. This was eliminated for two reasons: 1) The Council motion for this action did not have that requirement. 2) The requirement would put an applicant’s doctor and the applicant in a difficult situation if the doctor could not attest that the applicant had a reasonable likelihood of recovery, especially if the applicant was in the early stages of diagnosis and treatment of a condition.

NMFS has cited their concerns for reducing the power of the affidavit and continues to rely on the transfer limitations of using the medical transfer provision for multiple years. It is anticipated that transfers after implementation of a new rule would count towards the limit.

Since reliance on staff interpretations has become increasingly difficult and was not the original intent of the Council, an important change to reduce abuse of the provision while mitigating impacts on legitimate medical issues would be to allow transfers in 2 of 5 most recent years (or 3 of 7 years or 4 of 7 years) for **any** medical condition.

The impacts would continue to benefit QS holders experiencing temporary hardships. The cost would accrue to those who have used the medical transfer every year for a different medical condition.

[30] Based on the most recent years
[31] https://www.npfmc.org/wp-content/PDFdocuments/halibut/IFQ1104.pdf

While exploring alternatives, the analysts looked to other regions who have similar owner-on-board requirements in their catch share programs. The West Coast Region has an exception in their limited entry fixed gear sablefish primary fishery where §660.231 (b)(4)(ii)(B) states:

> *(ii) The person who owns or who has ownership interest in a sablefish-endorsed limited entry permit is prevented from being on board a fishing vessel because the person died, is ill, or is injured. The person requesting the exemption must send a letter to NMFS requesting an exemption from the owner-on-board requirements, with appropriate evidence as described at paragraph (b)(4)(ii)(A) or (B) of this section. All emergency exemptions for death, injury, or illness will be evaluated by NMFS and a decision will be made in writing to the permit owner within 60 calendar days of receipt of the original exemption request.*
>
> > *(B) Evidence of illness or injury that prevents the permit owner from participating in the fishery shall be provided to NMFS in the form of a letter from a certified medical practitioner. This letter must detail the relevant medical conditions of the permit owner and how those conditions prevent the permit owner from being onboard a fishing vessel during the primary season. An exemption due to injury or illness will be effective only for the fishing year of the request for exemption and will not be granted for more than three consecutive or total years. NMFS will consider any exemption granted for less than 12 months in a year to count as one year against the 3-year cap. In order to extend an emergency medical exemption for a succeeding year, the permit owner must submit a new request and provide documentation from a certified medical practitioner detailing why the permit owner is still unable to be onboard a fishing vessel. An emergency exemption will be conveyed in a letter from NMFS to the permit owner and is required to be on the vessel during fishing operations.*

All of the options considered in this section define a limit on the number of years the medical transfer provision may be used. Because medical transfers have been allowed since late in the 2007 calendar year, it is important to give proper consideration of circumstances that define which transfers would count against the proposed limits. When considering this issue, the Council determined that it was appropriate to only count transfers that are approved after implementation of new rule. This would treat all QS holders the same should the new regulations be implemented. Counting medical transfers that have already been approved could eliminate the ability of some QS holders from being eligible to use the provision in the near future or in more extreme cases the QS hold could have used his/her life time limit and would never again be eligible to use the medical lease provision. Because the QS holders may not have anticipated the proposed changes, they may not have been able to (or expected to) project the implications the proposed changes would have on their businesses. By counting only transfers that are approved after the new regulations are in place, it is the responsibility of the QS holder to understand the regulations and their impacts when making business decisions.

It is anticipated that NMFS would determine what information would be collected on a new medical transfer form, including the medical condition, after the Council determines a preferred alternative.

2.4.4.1 Option 1: 2 of 5 most recent years

When the initial medical transfer provision went through the Council process in 2004, 2 of 5 most recent years became the Council's preferred alternative and the current status quo. The Council is considering retaining that option but applying it to any medical condition instead of the same medical condition.

The Council originally selected allowing medical transfers for 2 of 5 years for the same medical condition. Table 2-21 shows that 73 QS holders have used the provision during 3 or more years out of the universe of QS holders who have used the medical transfer any year. Changing the medical transfer limit to 2 of 5 years for any medical condition would have prevented 31 these QS holders from using the

provision one year, 22 QS holders would have been prevented from leasing for two years, and 20 QS holders would have been prevented from leasing three years.

Table 2-21 Years QS holders that have ever used the medical transfer provision used it from 2013 through 2017

Years Used	QS holders	Avg. IFQ lbs. transferred
0	158	
1	148	20,449
2	70	25,439
3	31	24,207
4	22	13,543
5	20	18,280

Source: AKFIN summary of RAM transfer data

The table above also shows the average number of IFQ pounds that QS holders transferred in 2017. If the person did not have a medical transfer in 2017, that record was excluded from the average to avoid including zeros in the average. The intent was to determine the average of QS holders that had reported a medical transfer that year. QS holders that used the provision for two years transferred the most IFQ per QS holder and QS holders that used the provision four years on average transferred the smallest amount.

Assuming an average lease price of $2.50 per pound for 2017, the average lease value per QS holder would have been about $34,000 for the QS holders that used the provision 4 years and $64,000 for QS holders that used it two years. [32] These amounts could represent a substantial annuity if leasing was not limited.

The issues associated with capital gains taxes were discussed under the No Action alternative. To the extent the options under this Alternative are more stringent, it could cause QS holders to sell their QS instead of leasing it based on reporting a different medical condition. Those QS holders would need to determine the best method to address capital gains for their individual circumstance.

Table 2-22 provides three examples of the how a person could potentially use the medial transfer provision for any reason for 2 of the 5 most recent years. The table shows a 25-year time horizon and assumes there is no total limit on the number of times the provision may be used. Because the limit would begin when the new regulations are implemented (assuming they are changed) all QS holders begin in year-1 with no medical transfers credited to their usage limit. So, all QS holders that intend to use the medical transfer provision are given a minimum of two years to develop a business plan for their QS holdings.

Table 2-22 Scenario examples a medical transfer could be used over a 25-year period based on 2 of 5 years

	Year																									
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	Times used
QS Holder 1	T	T				T	T				T	T				T	T				T	T				10
QS Holder 2	T		T			T		T			T			T		T			T	T				T	T	10
QS Holder 3					T	T				T	T				T	T				T	T				T	9

Notes; T means a medical transfer was used, a shaded cell means the medical transfer is not available using 2 of 5 years as the limit, and a blank cell means the medical transfer is available that year.

Person that are legitimately unable to fish for more than 2 of 5 years for a medical reason that they are expected to recover from and return to fishing, would need to forgo fishing and the IFQ's associated

[32] See Table 2-9 and assume that the lease price was about 50% of the ex-vessel value.

annual value or sell their QS. Persons in this category could be at the greatest risk by modifying the medical transfer provisions. These individuals may experience high personal expenditures at a time when their income is reduced. However, these individuals would still have the opportunity to sell their QS and re-enter the fishery in the future when they are well. Re-entry into the fishery could be complicated by a lack of QS on the resale market or fluctuations in the market value of QS on the open market.

The overall impact of medical transfers on communities and processors was discussed under the No Action alternative. Changing the number of years a QS holder may use the medical transfer provision is not expected to have a substantial impact on those entities. The changes proposed may increase the amount of QS that is sold instead of being leased. It is not possible to predict who will purchase QS that is sold and where they live or which processors they would use. However, overall the impacts are anticipated to be small on both communities and processors of changing the medical transfer provision to better meet the Council's goals and objectives.

2.4.4.2 Option 2: 3 of 7 most recent years

A total of 48 QS holders used the medical transfer provision four or more years from 2011 through 2017 (the seven most recent complete years of data available). Had the proposed changes under this option been in place during this time period, these 48 QS holders would have had to forgo at least one year of using the medical lease provision and its associated revenue. Relative to Option 1, 25 fewer QS holders would have been impacted by the change. However, given that the data indicates that more QS holders are using the provision more frequently in recent years (Table 2-11), the numbers of persons that would want to use the provision may be greater in the future.

Table 2-23 and Table 2-24 shows that 37 QS holders have used the provision during 3 or more years out of the universe of QS holders who have used the medical transfer any year. In other words, over 8% of the persons using the provision used it 3 or more times.

Table 2-23 Years QS holders that have ever used the medical transfer provision used it from 2011 through 2017

Years Used	QS holders	Avg. IFQ lbs. transferred
0	108	
1	169	21,115
2	87	24,360
3	37	24,003
4	19	14,029
5	12	27,156
6	7	10,595
7	10	11,031

Source: AKFIN summary of RAM transfer data

The option to allow a QS holder to use the medical transfer for any medical condition for 3 of the 7 most recent years is less restrictive than the 2 of 5-year option, as shown in Table 2-24. The maximum number of times a QS holder could use the provision of 25 years is 12 times. Depending on the pattern of use, the number of times it is used over 25-year period decreases from the maximum number.

Table 2-24 Scenario examples a medical transfer could be used over a 25-year period based on 3 of 7 years

	Year																									
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	Times used
QS Holder 1	T	T	T					T	T	T					T	T	T					T	T	T		12
QS Holder 2	T		T		T			T		T		T			T		T		T			T		T		11
QS Holder 3					T	T	T					T	T	T					T	T	T					9

2.4.4.3 Option 3: 4 of 7 most recent years with limitations the last two years

At the October 2018 Council meeting, the Council decided to explore a third option under Element 2. The concept of Option 3 was introduced in public testimony. Option 3 would allow QS holders to transfer 100% of IFQ associated with the QS held under eligible medical transfer to designee for two years. The third year a medical transfer is used during a seven-year period, the QS holder may only transfer 80% of the eligible IFQ (by area by species) to designee. The fourth year the medical transfer provision is used during a seven-year period, the QS holder may only transfer 60% of IFQ. Medical transfers would not be allowed more than four years during the seven-year period.

The Council will have to determine if this option addresses concerns in a way that aligns with the purpose and need statement. The gradual step-down approach was intended to provide a less abrupt break in income if a QS holder had a long-term illness from which they anticipate recovering and returning to fishing.

If Option 2 was compared to Option 3 (since they are both 7 year periods), there are some key variations in the benefits that QS holders would receive. Option 2, which allows for a medical transfer for any 3 of 7 years before the QS holder must decide to not fish for the remainder of the years during the 7-year period or sell of the quota. Option 3 would allow the QS holder to transfer portions of his or her IFQ each year for 4 years. The portion of the IFQ that would not be transferred under Option 3 could either 1) be sold as QS with unfished IFQ, 2) be fished by the QS holder for the remainder of the year, or 3) remain in the water.

If a person needed to use the medical transfer provision only 3 years during the 7 year period, Option 2 would be more beneficial because they could transfer all of their quota in that time under Option 2. Option 3 would only allow a transfer of 80% of their quota, even if they do not intend to use their 4th and final year. Option 1 would be the most restrictive since the QS holder would not be allowed to transfer any IFQ. As shown in Table 2-10, 376 QS holders who have invoked this transfer provision have used the transfer 3 years or less in comparison to 73 QS holders who have used it 4 years or more, with 26 of the 73 QS holders using the provision for 4 years. QS holders that are eligible to use the medical transfer provision wanting to transfer IFQ in either 3 or 4 years are most impacted by the option selected.

The advantage to Option 3 is increased flexibility for QS holders who may have a long-term illness who would otherwise have to sell their QS, hold their QS, or decide not to fish their IFQ beyond the years specified in Options 1 and 2. However, this approach would add complexity to regulations and be more difficult and costly to implement. NMFS RAM staff would not only need to track how many years they medical transfer provision has been used, but they would also need to determine the percentage of IFQ that could be transferred in each year.

Option 3 would be applied for each IFQ species and area. That would mean that in the third year the medical transfer provision was used, if a QS holder holds 2C halibut and CG sablefish they are allowed to transfer up to 80% of the eligible halibut IFQ held in 2C and 80% of the sablefish IFQ in the CG. A QS holder would not be allowed to transfer more than 80% of a species from any area. She could transfer less than 80%. Stated differently, a QS holder would not be allowed to transfer all of their highest valued IFQ and less than 80% of their lower valued IFQ to maximize revenue and keep the total of IFQ transferred at

80% or less of the QS holder's total IFQ. The same situation would apply to the fourth year when the 60% transfer limit is used in place.

Under Option 3, the number of years used during the 7-year period would be calculated in the same manner as the other options. The only differences would be the number of years allowed and the application of 80% and 60% IFQ transfer limitation. To simplify implementation and use of this provision, the years in which a QS holder would be subject to the 80% or 60% transfer limitation could not be taken out of order. NMFS would allow up to 100% of IFQ to be transferred in years 1 and 2 up to 80% in year 3, and up to 60% in year 4. A QS holder would not be allowed to use the 60% transfer limit the first year they use the provision and save the 100% limit for another year. It is unlikely a QS holder would want to do that unless they had already fished 20% to 40% of their IFQ before getting injured/sick. Allowing the QS to pick the percentage used on an annual basis would complicate management of the provision and increase costs. Programming costs to implement changes to the RAM Permits database would be borne by all QS holders as part of the cost recovery fee, unless the cost recovery fee had already reached the 3% limit of the ex-vessel value.

While it is not possible to determine the cost structure for all QS holders, it is assumed that decreasing the transfer limit beyond the proposed limits would not generate a net return greater than the opportunity cost of fishing the IFQ themselves. The discussion earlier in this document indicated that on average QS holders are paid about 50% of the ex-vessel value of the IFQ landed. Assuming that lease rate is reflective of the level it is more profitable to transfer IFQ than be on board the vessel where it is fished, reducing the transfer limit to less than that percentage would reduce the economic incentive to lease rather than fish the IFQ themselves. In percentage terms, to generate the same revenue the QS holder receives by leasing 100% of their IFQ at a 50% lease rate, she would need to lease 80% of her IFQ at 62.5% of the ex-vessel value or 60% of her IFQ at 83.3% of the ex-vessel value. These lease rates may be too high for the harvester to cover their costs and would result in the harvester decreasing their profitability or the QS holder lowering their lease rate and not covering the opportunity cost of harvesting the IFQ themselves.[33]

Table 2-25 provides examples of the years that the 4 of 7 year option with limits on two of the years could be used. The table is structured like the previous examples except that the years that allow 80% or 60% of the IFQ by species and area to be transferred are designated by the ".8 T" and ".6 T" cells, respectively.

Table 2-25 Scenario examples a medical transfer could be used over a 25-year period based on 4 of 7 years

	Year																								
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
QS Holder 1	T	T	.8T	.6T				T	T	.8T	.6T				T	T	.8T	.6T				T	T	.8T	.6T
QS Holder 2						T	T						T	T	.8T	.6T									
QS Holder 3				T	T	.8T			.6T		T	T			.8T	.6T		T	T			.8T	.6T		

The 4 of 7-year option would allow the QS holder to use a medical transfer a maximum of 16 of the 25 years. Eight of those years would be subject to limited percentage transfers and eight would be full transfer years.

At the February 2019 Council meeting, the Council requested additional information on this option, including a qualitative discussion on the impacts on overage and underage provisions and cost estimates for administering this Option 3 under Element 2.

[33] Opportunity cost is the loss of potential gain from other alternatives when one alternative is chosen.

The key issues identified for the Council to consider if they pursue this option were:

- Would the overage underage provision count towards the forced reduction in IFQ starting in year 3?
- Under Option 3, would the QS holder be able to sell QS with partially fished IFQ? If they did, would the unfished IFQ be "reactivated" for the sale?

Implications with Overage and Underage Provisions

The Council was interested in implications this approach would have on the existing overage and underage provisions in the IFQ Program. This section provides a brief overview of this provision and for more information, please see Section 2.3.4.1 in the 20-year IFQ Program Review.

The overage/underage provision is a 10% adjustment policy which has been in place since the start of the IFQ Program. Different rules and accounting measures apply to the overage and underage provisions.

The overage provision was implemented to help ensure that small overages in IFQ harvests would be deducted from the following year's IFQ to avoid citations for unintentionally exceeding annual IFQ allocations. The policy allows a person's annual IFQ account to be adjusted in the year following a determination that the person harvested or landed IFQ species in an amount is greater than the amount available in the person's annual IFQ account and if the amount greater than the amount available does not exceed 10 percent of the amount available in the person's annual IFQ account at the time of landing.

The underage provision allows up to 10 percent of a person's total annual IFQ account for a current fishing year will be added to that person's annual IFQ account the following year. This provision was included, in part, because it is difficult for harvesters to determine whether their catch is exactly equal to the amount of IFQ they are allocated. Harvests that wish to avoid exceeding their annual allocation can take a risk averse approach and slightly under-harvest their allocation without giving up the privilege to catching that IFQ the following year. This underage adjustment to the annual IFQ allocation is specific to IFQ species, IFQ regulatory area, and vessel category for which an IFQ is calculated.

If the Council decided to move forward with Option 3, NMFS staff anticipates that there would be more use of the underage provision each year because not all of the IFQ could be fished by persons using the medical transfer provision in the 3rd or 4th year. Given increasing trends in the use of the IFQ medical lease provision it is anticipated that overtime more QS holders would use the provision for the 3rd and perhaps 4th years.

Programming would be complicated beginning after year 2 when the system would have to have fully implemented changes that would allow NMFS RAM to monitor and verify transfer limitations in the 3rd and 4th year under this medical transfer provision. This means that in year 1, year 2, and year 3 of the program, up to 10% of initial allocation of IFQ would be rolled over to the following year, if it were not fished the previous year. In the fourth and fifth year of the program all QS holders using medical transfer provision would be allowed to roll over 10% of their initial IFQ allocation from the previous year, because they were not allowed to lease their entire allocation. In those years they could fish his or her own IFQ derived from the QS held plus the unfished 10% rolled over from the previous year, or sell the QS. The complexity in programming is a cost that would be passed on to all QS holders under the IFQ Program cost recovery system.

Best Cost Estimates for Administering Option 3

NMFS staff cannot provide exact cost estimates to administer this option but can assume staff costs would increase when they would be tracking the years and applying the appropriate allowed percentage to

transfer for a given year. Staff time related to IFQ transfers varies from year to year depending on the number of transfers in a given year and most IFQ permitting and programming falls under IFQ Program cost recovery. The costs are incremental and they would now have been incurred except for the IFQ Program. Cost recovery for the IFQ Program cannot exceed 3% for a year and if costs are higher than 3%, then NMFS incurs the additional costs of administering the IFQ Program.

Determining what percent of the annual IFQ pounds that would not be eligible to transfer under the medical provision for Option 3 would require additional costs beyond what would be necessary to implement Options 1 and 2. The transfer process for the IFQ Program is complex and each new exception and regulation implemented can be cumbersome and require months of programming. Programming overages and underages and making account adjustments to each IFQ permit is a substantial process each winter.

NMFS Information Services Division typically accounts for about 10% to 20% of the annual cost recovery fee.[34] Modifications of the overage and underage provisions would increase the costs associated with developing and maintaining the database necessary to track and allocate annual IFQ. However, the exact cost cannot be determined without knowing the exact changes that must be made to the programming and the contractor's estimated time to implement the changes. Those changes would need to be made before the IFQ are issued for the third fishing year after regulatory change is implemented. Once the changes are made to the programing it is not expected to increase the lag period at the end of each IFQ fishing season when QS holders cannot make transfers while their accounts are adjusted.

Additional Comments on Implementing Option 3

The Council may want to consider how to balance an additional layer of complexity in an already complicated program with providing flexibility for a host of situations. Option 3 is one of a suite of solutions to an administrative action that would likely impact a limited number of QS holders.

The original intent of the medical transfer provision was to provide a short-term solution to a medical hardship that kept the ailing QS holder off the vessel. While the soft landing of Option 3 provides additional flexibility for QS holders, especially if the illness persisted into the 4th year, it creates an unintended consequence that the QS holder could feel compelled to get back onboard the vessel by the third year for only 20% of his QS. In addition, Option 3 would be combined with Option 2, so NMFS RAM would be administering two options. Option 3 would benefit those battling chronic conditions more than intermittent needs to transfer, such as pregnancy.

Unfished quota from Option 3, especially in years 3 and 4, would be intended to remain in the water for the benefit of the halibut resource. This could be amended under future actions if the Council wished to create a quota pool to benefit entry level harvesters or for some other reason. However, these types of future actions are beyond the scope of this paper and are not considered in detail, but could have implications of transfers of QS blocks, etc.

2.4.4.4 Suboptions apply to Option 1, 2, or 3:

The Council is considering two suboptions that could apply to either option that defines the number of years the medical transfer could be used. Suboption 1 would place a lifetime limit on the number of years a medical transfer could be granted to a QS holder. Suboption 2 would define a year as 365 days from the approval of the medical transfer instead of the current calendar year.

[34] https://alaskafisheries.noaa.gov/sites/default/files/ifq_cost_recovery_report_2017.pdf

2.4.4.4.1 Suboption 1: Establish a limit on the number of times (based on two options to define years) the medical transfer provision may be used (range of 5 to 10 times)

This suboption could be selected with either Option 1,Option 2, or Option 3 and would imposed a limit on the total number of years a QS holder could use the medical transfer provision after the date of implementation of the regulation. This action would not retroactively count any years the medical transfer provision was used prior to making this change. Making the provision forward looking, places all QS holders in a similar situation relative to the number of times they can use a medical transfer in the future.

The Council should consider the impact of establishing a cumulative limit on the number of times the medical transfer can be used. The impact of this action is dependent on the age of the QS holder at the time the provision is implemented (for current QS holders) or the age a person when the acquire QS in the future. Younger QS holders are more likely to be impacted later in life than current QS holders that are older. For example, if the Council selected a lifetime limit of 5 medical transfers, a person that is 60 would be at least 71 before they reach their life-time limit under 2 of 5 years, at least 69 under the 3 of 7 years option, or 68 under the 4 of 7 years option. If the limit was increased to 10 years, the QS holder would be at least 85 before the life-time limit went into effect using 2 of 5 years, at least 82 if the 3 of 7 years option was implemented, or 76 under the 4 of 7 years option. A person that was 30 when they acquired QS could potentially reach the 5-year lifetime transfers limit when they are 38 under the 4 of 7 years options, 39 under 3 of 7-year provision, or 41 under the 2 of 5-year option. Increasing the lifetime limit to 10 years of transfers means the 30-year old QS holder could reach the lifetime limit when they are in their mid-40s to mid-50s, depending on the option selected.

While the lifetime limit does achieve the Council's goal of fostering an owner on-board fishery under the IFQ program, as shown above the impacts of the action on QS holders could be age dependent. Given the sensitive nature of regulations relative to age it is important to consider this issue when selecting preferred alternatives.

The Pacific Council included a lifetime limit of 3 years on their medical transfer provision as part of their IFQ sablefish fishery. The program is relatively young and the lifetime limit has not been an issue for the vast majority of QS holders. However, staff have indicated that at least one person has gone over the limit and continues to request medical transfers. NMFS has not rejected their applications as of the time they were contacted and are determining how to address the situation. If the provision is implemented in the North Pacific it is assumed that any application submitted when the QS holder has reached their lifetime limit would not be approved. The QS holder would have the right to appeal as described in the appeals section of this document.

2.4.4.4.2 Suboption 2: Define most recent year as one year (365 days) from the date the medical transfer application was approved by NMFS.

Changing the duration of a medical transfer from the calendar year for which it was approved to 365 days from the date of the approved transfer has impacts on NMFS ability to monitor and enforce the provision and the impact on the number of years a person can actually use the medical transfer. Proposed rule (71 FR 211, November 1, 2006) mentions: "The Council also recommended several additional restrictions to the medical transfer provision to prevent potential abuse. Medical transfers would be valid for only the calendar year in which the permit is issued. For instance, an individual who receives a medical transfer for a medical condition near the end of the season in November 2006 would have to apply for and receive a new medical transfer prior to the new IFQ season in 2007 if his or her medical condition persists.

The proposed rule for the medical transfer provision states "the Council also recommended several additional restrictions to the medical transfer provision to prevent potential abuse. Medical transfers would be valid for only the calendar year in which the permit is issued. For instance, an individual who receives a medical transfer for a medical condition near the end of the season in November 2006 would have to apply for and receive a new medical transfer prior to the new IFQ season in 2007 if his or her

medical condition persists." The proposed rule recognized that Council's concern that allowing a single medical transfer to cover multiple years could create opportunities for QS holders to expand the provision beyond that intended by the Council, by allowing a single use of the transfer provision to be used for two fishing years. This could allow a small group of QS holders that are the primary users of the medical transfer provision to use the provision beyond the Council's original intent and could reduce the effectiveness of the use limits defined earlier in this section.

Defining a year as 365-days from approval of the transfer is also complicated by the fact that a QS holder may use the medical transfer provision multiple times a year on different dates. During 2016, 54 QS holders reported transfers on different dates and in 2017, 68 QS holders reported transfers on different dates. The QS holders that used the medical transfer used it from 1 to more than 4 times a year. Because of the multiple transfers in a year, the number of medical transfers in a year would need to be tracked based on the dates and it would complicate management of the transfers in terms of the number of years it used in recent years as well as for the potential lifetime limit. It is assumed that since the duration of these transfers would exceed 365-days, the proposed language would require that it count as two (or more) years that the provision was used.

The suboption would also require substantial and potentially costly changes to the NMFS databases and management systems. NMFS issues IFQ for one fishing year. If the transfer covers more than one year, NMFS would need to monitor the start date of each transfer and track when the transfer date ends. This would require changes to the data sets. NMFS would also need to determine what happens to any IFQ that has not been harvested when the medical transfer expires. Returning the IFQ to the QS holder and notifying the QS holder of how much IFQ remains to be fished would likely be complicated.

Because this suboption does not address the Council's intent of limiting leases and it would be costly[35] and more difficult to manage and enforce, NMFS recommends not selecting this suboption. The agencies preference is to manage leases of IFQ on an annual basis corresponding to how IFQ is issued.

2.5 Alternative 3: Beneficiary Transfer Provision

2.5.1 Background

The 20-year review of the IFQ program and Section 2.2 provide more detail of the fishery and the participants. The reader is referred to those resources for additional background information on the IFQ Program. This section is intended to summarize background information relevant to beneficiary transfer action.

To help prevent a means of circumventing the owner-operator objective of the IFQ Program, leasing of IFQ derived from catcher vessel shares has generally been prohibited since 1998. One of the defined provisions in 50 CFR 679.41(k) allows for temporary leasing of catcher vessel IFQ is the survivorship transfer privileges that may be granted for up to three years after the QS holder's death. The intent of this transfer is for the surviving spouse, or an immediate family member designated by the QS holder, to benefit for a certain period of time. NMFS may approve an application to transfer QS to the surviving spouse or designated beneficiary, unless a contrary intent is expressed by the decedent in a will and provided that sufficient evidence has been provided to verify the death of the individual.[36]

To transfer QS under this beneficiary provision, the surviving spouse, or the designated beneficiary named on the Beneficiary Designation form by the QS holder, submits an Application for Transfer of

[35] Any increases in cost would be borne by the QS holders, as a whole, under the cost recovery program, if the total of all recoverable costs is less than 3% of the exvessel value of the fishery.

[36] https://alaskafisheries.noaa.gov/sites/default/files/beneficiary_form.pdf

QS/IFQ Form. These forms are processed by NMFS RAM which is responsible for managing Alaska Region permit programs, including those that limit access to the federally-managed fisheries of the North Pacific. NMFS RAM responsibilities include providing program information to the public, determining eligibility and issuing permits, processing transfers and related activities.

NMFS may approve an application to transfer QS to the surviving spouse or designated beneficiary, unless a contrary intent is expressed by the decedent in a will and provided that sufficient evidence has been provided to verify the death of the individual. Typically, NMFS requires the death certificate and the will to accompany a QS transfer. Legally, the will trumps the Beneficiary Designation form even if the QS holder submits a form to NMFS. NMFS will allow the transfer of IFQ only resulting from the QS transferred to the beneficiary by right of survivorship, for a period of three years following the death of the QS holder. After the three-year period expires, the spouse or designated beneficiary must either quality to hold the QS or transfer the QS. To designate the surviving spouse, or in the absence of a surviving spouse, an immediate family member must be designated as the beneficiary. QS/IFQ can only be held by a U.S. citizen.

In 2000, a final rule (65 FR 78126, December 14, 2000) modified language in paragraph 679.41(k) to expand the existing survivorship transfer provisions to include a family member designated as beneficiary to whom the survivorship transfer privileges would extend in the absence of a surviving spouse:

> *(k) Survivorship transfer privileges.—(1) On the death of an individual who holds QS or IFQ, the surviving spouse or, in the absence of a surviving spouse, a beneficiary designated pursuant to paragraph (k)(2) of this section, receives all QS and IFQ held by the decedent by right of survivorship, unless a contrary intent was expressed by the decedent in a will. The Regional Administrator will approve an Application for Transfer to the surviving spouse or designated beneficiary when sufficient evidence has been provided to verify the death of the individual.*
>
> *(2) QS holders may provide the Regional Administrator with the name of a designated beneficiary from the QS holder's immediate family to receive survivorship transfer privileges in the event of the QS holder's death and in the absence of a surviving spouse.*
>
> *(3) The Regional Administrator will approve, for 3 calendar years following the date of death of an individual, an Application for Transfer of IFQ from the surviving spouse or, in the absence of a surviving spouse, from a beneficiary from the QS holder's immediate family designated pursuant to paragraph (k)(2) of this section to a person eligible to receive IFQ under the provisions of this section, notwithstanding the limitations on transfers of IFQ in paragraph (h)(2) of this section.*

The number of beneficiary transfers varies by year with 2017 having the second most transfers reported. Concern over this issue has resulted in an increasing number of QS holders trying to determine how to preserve the 3-year lease opportunity for their heirs. As a result, it is anticipated that there will be more scrutiny of the designated beneficiary issues and it may be appropriate to address these issues to help reduce the number of estate planning questions addressed to NMFS staff.

NMFS staff do not have the capacity or legal expertise to advise QS holders, estate representatives, or surviving beneficiaries on asset management beyond what is stated in regulations. NMFS identified several regulatory modifications that would reduce the burden on both staff and beneficiaries. The intent of this proposed action is to address those issues. In addition, NMFS does not want to be in a position where it must review wills to determine how QS holdings should be divided among heirs. These issues can quickly become complicated when QS blocks are held and there are several heirs listed in the will. NMFS wants the role of dividing a person's QS holdings to be filled by the person appointed in the will or appointed by the courts to have that responsibility and not agency staff.

There is no regulatory definition of "immediate family member." NMFS has received inquiries about the definition it is using for an immediate family member. NMFS has also received requests to use an

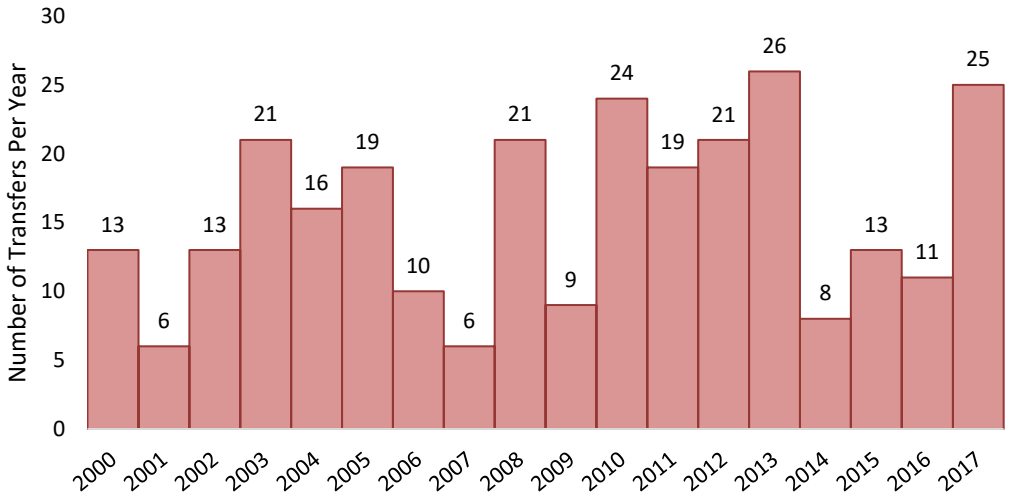
expanded definition of immediate family member in making determinations about the person named on a QS/IFQ Beneficiary Designation form or processing survivorship transfers.

In addition, there have been requests to consider permitting transfers to the estate in addition to spouses and immediate family members while the estate of the deceased QS holder is administered. NMFS and participants would benefit from a clarification of the Council's intent for administration of this provision.

2.5.1.1 Designated Beneficiary Transfers

Figure 7 provides a summary of the QS holders that used the designated beneficiary transfer provision from 2000-2017. Data in Figure 7 represent a total of 281 QS beneficiary transfers approved by NMFS. The average for 2000-2008 was 14 transfers per year compared to 19 annual transfers for 2009-2017. NMFS expects that requests for beneficiary transfers to increase as the age of QS holders increases. In this section, the data include all transfers by area and by species (both halibut and sablefish).

Figure 7 Distinct Beneficiary Transfers per Year, 2000-2017



Source: NMFS RAM.

Table 2-25 provides a summary of beneficiary transfers by recipient. Most recipients of transfers (over 89% each year) were defined as family members. The data did not provide a further break down of the type of family member.

Table 2-25 Number of Transfers by Relationship

Year	Unrelated	Business Partner/ Friend	Family	Pct. Family Member
2008	1	0	20	95%
2009	0	0	9	100%
2010	0	0	24	100%
2011	2	0	17	89%
2012	0	0	21	100%
2013	1	0	25	96%
2014	2	0	6	75%
2015	0	0	13	100%
2016	0	0	11	100%
2017	0	0	25	100%

Source: NMFS RAM.

Since 2000, 30 million QS units have been transferred by the beneficiary transfer provision. Table 2-26 provision. The number of QS units transferred varied from a low of less than 134,000 units in 2001 to a high of almost 7 million units in 2017.

Table 2-26 provides a summary of beneficiary transfers as a percent of total transfers in a year. The first column is the year, the second column is the count of transfers by year, the third column is the amount of QS transferred to a beneficiary, the fourth column is the amount of IFQ associated with the QS transferred to a beneficiary from column three, the fifth column is the total amount of QS transferred for any reason each year, and the fifth column is beneficiary transfers as a percent of all QS transferred each year. In a given year, beneficiary transfers account for 5.1% of total QS transferred. In 2017, the percent of beneficiary transfers increased and accounted for 23.4% of total QS transfers in the IFQ Program.

Table 2-26 Annual Beneficiary Transfers and Total QS Transfers, 2000-2017

Year	Count of Persons Transferring	QS Transferred to Beneficiary	Associated IFQ Transferred to Beneficiary (lbs.)	Total QS Transferred	% of Total QS Transferred
2000	13	1,922,206	60,958	47,023,569	4.1%
2001	6	133,687	32,903	55,592,276	0.2%
2002	13	545,286	51,783	47,550,491	1.1%
2003	21	3,208,740	261,163	54,250,943	5.9%
2004	16	749,917	131,175	38,336,427	2.0%
2005	19	902,695	101,726	41,741,775	2.2%
2006	10	890,957	100,183	39,033,639	2.3%
2007	6	1,182,754	129,726	49,640,017	2.4%
2008	21	1,568,647	193,920	43,646,845	3.6%
2009	9	817,587	108,697	24,485,993	3.3%
2010	24	1,250,586	102,966	40,202,367	3.1%
2011	19	4,105,109	160,963	34,585,972	11.9%
2012	21	825,997	78,735	22,292,318	3.7%
2013	26	1,297,083	97,412	19,086,146	6.8%

Year	Count of Persons Transferring	QS Transferred to Beneficiary	Associated IFQ Transferred to Beneficiary (lbs.)	Total QS Transferred	% of Total QS Transferred
2014	8	512,761	22,692	30,390,574	1.7%
2015	13	1,657,486	78,945	22,358,658	7.4%
2016	11	1,711,534	78,424	24,095,780	7.1%
2017	25	6,906,067	434,655	29,493,102	23.4%
Grand Total	**281**	**30,189,099**	**2,227,026**	**663,806,892**	

Source: NMFS RAM and NMFS RAM Transfer Reports.

2.5.2 Alternatives

The list of alternatives and option the Council approved for analysis at their October 2018 meeting is as follows. The preferred alternatives are shown in **bold.**

Alternative 3: Modify the beneficiary transfer provision.

Element 1: At 50 CFR 679.41(k) modify all references to surviving spouse and immediate family member by adding "estate."

Element 2: Define "immediate family member" in regulations at 50 CFR 679 as follows:

Option 1: US Office of Personnel Management definition

Option 2: Federal Family Medical Leave Act definition

2.5.2.1 Description of Alternatives

NMFS identified two main issues that created problems for NMFS RAM staff and beneficiaries of QS holders that are described in detail in Sections 2.5.3 and 2.5.4. If beneficiary regulations were amended, the 3-year right to transfer IFQ to a permitted IFQ holder will be available with or without a will.

Alternative 1, the no action alternative, would not provide relief for NMFS staff, beneficiaries, and representatives of estates in situations where they are processing beneficiary transfer applications and the information is in conflict with the will. Section 2.3 describes this alternative and its impacts.

Alternative 3, Element 1 would modify references at 50 CFR 679.41(k) to include estate in addition to surviving spouse and immediate family members. The QS holdings would be included in the estate and the estate representative would have the capacity to transfer the associated IFQ for 3 years after the QS holders' death. This would not impact existing wills or beneficiary forms. Section 2.5.3 describes this alternative and its associated impacts.

Alternative 3, Element 2 would define "immediate family member" to clarify who is eligible to lease IFQ under the beneficiary transfer. Section 2.5.4 describes this alternative and its associated impacts.

2.5.2.2 Alternatives Considered but Rejected

There were several alternatives under consideration that were rejected because they were determined not to achieve the Council's objective. Those alternatives are described in this section.

In the discussion paper, it was acknowledged that court-appointed representation can be cost prohibitive and a non-court appointed estate representative could be a sub option to manage QS holdings. This option was rejected due to concerns that this could create dependence on interpretations for NMFS RAM staff if there was a conflict of interest on who was representing the estate outside of the legal system.

Under Alternative 3, Element 2, a third option that used the State of Alaska definition of immediate family member was under consideration. This option was originally considered because several other IFQ Program elements reflect State of Alaska terms, but it was rejected because NMFS would prefer to reference federal terms instead of individual states.

The Council considered but rejected removing the Beneficiary Transfer provision entirely. Removing the provision would relieve NMFS of a legal duty to decipher wills and other estate documents and to determine which individuals are considered immediate family members. However, if the Beneficiary Transfer provision was removed, the surviving spouse, designated immediate family member, or estate representative would not be able to lease IFQ under the beneficiary transfer provision and would need to permanently transfer the QS to a qualified individual or fish the quota if they are qualified. The limitations placed on leasing could impose significant hardships on the heirs and unless they are qualified to receive QS or IFQ through transfer.

2.5.3 Element 1: Adding Estate to Beneficiaries List

NMFS recommends a regulatory amendment to clarify that an estate could receive QS and the court-appointed estate representative for the QS holder's estate would be authorized to use (if they are eligible to hold QS) or lease the IFQ derived from the estates' QS for the benefit of the estate for a period of three years following the QS holder's death. Under this option, NMFS would allow the estate representative to manage the use of the decedent's QS holdings by allowing the representative to transfer IFQ annually on behalf of the estate. The estate representative could make decisions regarding the use of the QS for up to three years, or until the estate is settled, and the QS is transferred to the new owner. Including the estate to the list of successive beneficiaries (spouse, immediate family member) would not impact the existing order of priority.

A representative of the estate would be required to submit court-issued documents to demonstrate their eligibility to NMFS that they are legally representing the estate before they could use or lease the IFQ. This addition would provide clear and consistent eligibility criteria for NMFS to determine if a person is eligible to transfer QS held by the estate of the deceased QS holder as well as use or lease the IFQ derived from those QS holdings. It is important to note that allowing the estate to receive the QS for the purpose of this regulation supersedes the requirement that a QS holder must have designated an immediate family member with NMFS RAM.

The estate owns the assets of a decedent until they are distributed to beneficiaries. While assets are intestate, the representative controls and manages the estate assets for the benefit of the beneficiaries (and creditors). In most states, the estate representative would either be the designated executor of the will or, in the case there was no will, a personal representative appointed by the court. The executor is a person named in the will to serve as the estate representative. The representative administers the estate of someone who died with a will or intestate (without a will). Eligibility for appointment as a personal representative requires that a person must have the capacity to execute contracts.

Most states have an order of priority for appointment of the personal representative. For example, under Section 3-203 of the Uniform Probate Code, the order is:

1. the person named in the will as executor;
2. the surviving spouse (if beneficiary under the will);
3. any other beneficiary under the will;
4. the surviving spouse (even if not a beneficiary under the will or if the decedent died intestate);
5. any other heir; and
6. if 45 days have passed since the decedent's death, any creditor.

At the February 2018 Council meeting, the Council heard testimony that language using estate representative instead of estate created an unintentional legal issue for the executor. Alternative 2 has been modified to clarify that the QS holdings will go to the estate and the estate representative will manage the QS holdings on behalf of the estate.

Adding estate to the list of current beneficiaries eligible to receive IFQ after the QS holders' death would have a minimal impact on existing wills and it would have a positive impact on future transfer cases. The 3-year transfer would extend to the estate. If after three years the estate is not settled, the estate representative can determine whether the QS held by the estate should be sold and the proceeds retained by the estate or the estate should continue to hold the QS, but the estate would no longer be eligible to use the beneficiary transfer provisions to lease the annual IFQ.

The impacts on communities and processors of implementing the changes proposed under Alternative 3 are negligible. To the extent they may exist they cannot be quantified since analysts do not have access to QS holder's wills, nor do they want such access. Any impacts that are realized will be for three or fewer years in duration and would be a net benefit since it could allow IFQ to be fished when it could not under the No Action alternative.

2.5.4 Element 2: Define Immediate Family Member

There is no regulatory definition of "immediate family member." This creates administrative issues for NMFS as cultural understandings of family are evolving and has increasingly become an issue for aging QS holders and estate planning. NMFS would prefer to rely on a clear definition instead of an interpretation. 50 CFR 679.41(k) and 680.41(g) authorize the surviving spouse or designated beneficiary, who is an immediate family member, to lease IFQ for a three-year period upon the death of the QS holder. Neither the 50 CFR 679.41(k) nor the 50 CFR 680.41(g) regulations define "immediate family member."

In recent years, NMFS has received transfer applications from heirs to a QS holder's estate who do not meet the traditional definition of immediate family member (a person's parents, spouse, siblings, and children). NMFS notes that since the current surviving heir regulations were implemented, the definition of immediate family has changed in many state and Federal jurisdictions, and now may include others connected by birth, adoption, marriage, civil partnership, or cohabitation, such as: grandparents, great-grandparents, grandchildren, great-grandchildren, aunts, uncles, siblings-in-law, halfsiblings, cousin, adopted children, step-parents/step-children, and cohabiting partners. NMFS has received inquiries about how "immediate family member" is defined and has received requests to use an expanded definition of immediate family member as described above in making determinations on accepting the person named on the Beneficiary Designation form or processing survivorship transfers. Given the societal changes that have occurred in recent years, NMFS and IFQ Program participants would benefit from a clarification of the Council's intent for administration of this provision.

Of the over 2,450 individual QS holders, only about 340 (14%) have completed a Beneficiary Designation form.[37] One possible reason for few QS holders completing the form is that many QS holders may think that naming someone in their will grants that person the authority to lease the IFQ for 3 years after their death. If the person listed in the will is not the surviving spouse, that understanding is incorrect. The beneficiary listed in a will that is not the surviving spouse will not be eligible to transfer the IFQ as a beneficiary. Instead, regulations state the QS holder may provide the Regional Administrator with the name of a beneficiary in their immediate family that has the authority to lease the QS for up to three years. If there is no surviving spouse and no beneficiary name was provided to NMFS on an approved

[37] NMFS RAM data accessed January 11, 2018.

Beneficiary Designation form, those dealing with the QS holder's estate are left with only one option - to transfer the QS.

There is currently no uniform definition of "immediate family member" in state and Federal laws. Variations in the definition make it difficult to define. However, if the Council wanted to consider a revised definition, two options are presented in Sections 2.5.4.1 and 2.5.4.2. The Council could also select specific elements from each of the options to create its own definition. The two options presented cover all or almost all of the individuals that could be considered as an immediate family member and are used by other Federal agencies.

Either option presents no likely negative impacts to existing or future QS holders and their beneficiaries. QS holders and their future beneficiaries will likely benefit from a definition to reduce concerns over their estate. After this action is implemented, NMFS anticipates that outreach to QS holders will increase awareness of the beneficiary process. NMFS RAM recommends a broader definition to encompass more familial situations. It is anticipated that NMFS would modify the existing beneficiary designation form to include the definition the Council has identified.

The impacts on communities and processors of implementing the changes proposed under Alternative 2 are negligible. To the extent they may exist they cannot be quantified since analysts do not know who would benefit from defining an immediate family member. Any impacts that are realized will be for three or fewer years in duration and would be a net benefit since it could allow IFQ to be fished when it could not under the No Action alternative.

2.5.4.1 Option 1: US Office of Personnel Management definition

The Council could decide to use the definition of immediate relative that the U.S. Office of Personnel Management (OPM) employs. For their purposes an “immediate relative” is an individual with any of the following relationships: [38], [39]

1. spouse, and parents thereof;
2. sons and daughters, and spouses thereof;
3. parents, and spouses thereof;
4. brothers and sisters, and spouses thereof;
5. grandparents and grandchildren, and spouses thereof;
6. domestic partner and parents thereof, including domestic partners of any individual in 1 through 5 of this definition; and
7. any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

2.5.4.2 Option 2: Federal Family Medical Leave Act definition

The Council could decide to use the definition of immediate family member for the Federal Family Medical Leave Act (FMLA) of 1993. That definition would include a:

1. spouse,
2. son,
3. daughter, or
4. parent.

Under the FMLA, a “spouse” means a husband or wife, including those in same-sex marriages, which were made legal in all 50 United States as of June 26, 2015. The FMLA defines the term “parent” as “a

[38] https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/definitions-related-to-family-member-and-immediate-relative-for-purposes-of-sick-leave/
[39] https://www.ecfr.gov/cgi-bin/text-idx?SID=f20386fac06fc5282a7770bc76f07e8f&mc=true&node=se5.1.630_1803&rgn=div8

biological, adoptive, step or foster father or mother, or any other individual who stood in the place of a parent when he or she was a minor. “Son or daughter” means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in the place of a parent who is either under age 18 or age 18 or older and “incapable of self-care because of a mental or physical disability.”

Family members not covered by the Federal FMLA include siblings, in-laws, grandparents, and other extended family members unless those individuals stood in the place of a parent to the immediate family member when he or she was a minor. Nonfamily members can also be covered under “the place of a parent,” which is defined as having had the responsibility of providing day-to-day care to the family member and of financially supporting the family member in his or her childhood.

2.6 Council’s Preferred Alternatives

As part of the IFQ 20-year review in 2016, NMFS identified problems administering the medical transfer and beneficiary transfer provisions. The Council has developed proposed regulatory changes to clarify its intent regarding management of these programs. Both are administrative actions that would benefit both IFQ fishermen and NMFS. The Council motion reaffirmed support for the preferred alternatives that were selected in October 2018 and again at the February 2019 Council meeting. The Council would like to review the regulation changes when developed consistent under section 303C of the MSA.

Alternative 2 would modify the medical transfer provision to align with the Council’s original intent. And Element 1 would expand the current accepted health care providers with a new, broader definition. This Element would provide a QS holder with a temporary medical condition that prevents him/her from fishing during a year greater flexibility when selecting a health care provider for treatment and verifying the condition on the medical transfer application. Element 2 changes the medical transfer provision to be managed based on approving medical transfers for any medical condition, instead of the same medical condition. The change would remove the obligation of differentiating medical conditions for NMFS staff. This provision would apply the medical transfer limits such that a QS holder could only use the medical transfer provision during 3 of the 7 most recent years. Only medical transfers approved after implementation of the new rule would count towards the new limit.

Option 3 under Element 2 would be more complex to manage, more costly for NMFS to implement, and would increase the challenges of issuing annual IFQ on a timely basis. These issues were addressed in the analysis and in the staff presentation. Because of the increased costs and complexity relative to the benefit of allowing transfers over a longer period with step-downs in the percentage of IFQ that could be transferred, this element was not selected as part of the preferred alternative. Option 3 was not the most effective at accomplishing the goals of the IFQ Program within this suite of alternatives. Implementing the step-down approach would be complicated and would be expected to increase costs recoverable in the future. Implementing the step-down approach and not allowing an increasing amount of QS to be transferred under the medical transfer would possibly have the unintended consequence of fishermen fishing the QS not eligible under the transfer. While the soft landing of Option 3 provides additional flexibility for QS holders, especially if the illness persisted into the 4th year, it creates an unintended consequence that the QS holder could feel compelled to get back onboard the vessel by the third year for only 20% of his QS.

The Council approved extending the number of years a medical transfer could be used from 2 of the 5 most recent years to 3 of the 7 most recent years, which would increase flexibility for those who need it. A year is defined as a calendar year. The Council considered using 365-days from the time of transfer, but after analysis of that issue the Coucnil determined that using 365-days would complicate the management of the provision. It would also allow persons to use the provision more than is intended by the Council. Option 2 would allow IFQ participants to fully transfer their IFQ in the third year, in comparison to Option 3. The Council did not cap the total number of years the medical transfer could be used to allow

flexibility for those who need it and because it could be more a distributional burden for those who enter the fishery at a younger age.

Any time the medical transfer is used by a QS holder during a year it counts as one year of usage, regardless of the portion of the QS holdings the person transferred. For example, if a QS holder held QS in 2C and 3A and only used the medical lease provision for the 3A QS it would count as one year the medical transfer was used for all QS holdings.

Alternative 3 would modify the beneficiary transfer provision. This action is intended to improve and simplify the process of approving beneficiary transfers without causing undue negative impacts on QS holder's estate planning. Under Element 1, NMFS will modify all references to surviving spouse and immediate family member in regulation by adding the term "estate." Without this change the QS holder's estate would not be eligible to hold QS for 3-years under the beneficiary transfer provision. Element 2 would define "immediate family member" using a definition established by the US Office of Personnel Management that better reflects societies' range of immediate family and provides greater flexibility to QS holders and their beneficiaries.

2.7 Appeals Process

When NMFS RAM issues an initial administrative determination (IAD) on behalf of the Regional Administrator to deny a medical or beneficiary transfer, the QS holder would be able to file an appeal. Section 303A of the MSA authorizes limited access privilege programs (LAPPS) and requires NMFS to "include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges." To fulfill that requirement, NMFS adopted a rule (79 FR 7056, February 6, 2014) at 15 CFR part 906, which would designate the National Appeals Office (NAO), a division within NMFS Office of Management and Budget, as adjudicator for appeals in future LAPPs established under section 303A of the MSA. NAO adjudicates initial administrative determinations, agency actions that directly and adversely affect an appellant. Although not exclusively, NAO proceedings are for appeals of denials of permits or other limited access privileges. Typically, NAO will be used for informal administrative appeals.

The former procedure for appealing an IAD to the NMFS' Alaska Office of Administrative Appeals was described at 50 CFR 679.43. However, NMFS has centralized the appeals process in the National Appeals Office, which operates out of NMFS' headquarters in Silver Spring, MD. The National Appeals Office is now charged with processing appeals that were filed with the Offices of Administrative Appeals, Alaska Region. The procedure for appealing an IAD through the National Appeals Office is at 15 CFR 906 (79 FR 7056, February 6, 2014). As part of this action, the regulations at 50 CFR 679.43 will be updated to reflect the correct appeal process available to QS holders.

If the appeal is based on the Rehabilitation Act of 1973, the procedure defined in this section would be followed. A successful appeal requires that an individual can demonstrate eligibility pursuant to the provisions of the Rehabilitation Act of 1973 at 29 U.S.C. 794 (a). The appeal would be directed to the NAO.

2.8 Draft Regulation Changes

This sections explains the draft regulation changes based on the Council's selected PPA. At this time, the Council should consider these changes as not final and subject to change. Deleted text is in ~~strikethrough~~. New language is in **bold**.

2.8.1 §679.2 Definitions.

~~*Advanced nurse practitioner* means a registered nurse authorized to practice in any state who, because of specialized education and experience, is certified to perform acts of medical diagnosis and the prescription and dispensing of medical, therapeutic, or corrective measures under regulations adopted by the state Board of Nursing.~~

~~*Licensed medical doctor* means a person who is licensed, certified, and/or registered in accordance with applicable Federal, state, or local laws and regulations, and is authorized to conduct the practice of medicine as defined by the state in which the person resides.~~

~~*Primary community health aide* means a person who has completed the first of three levels of community health aide training offered by the Norton Sound Health Corporation at the Nome Hospital, the Kuskokwim Community College in Bethel, the Alaska Area Native Health Service in Anchorage, or another accredited training center.~~

Health care provider **is an individual authorized to provide health care services by the State where he or she practices and performs within the scope of their specialty to diagnose and treat medical conditions as defined by applicable Federal, state, or local laws and regulations. A health care provider outside the U.S. and its territories licensed to practice medicine is included in this definition.**

Immediate family member **includes an individual with any of the following relationships to the QS holder:**

1. **Spouse, and parents thereof;**
2. **Sons and daughters, and spouses thereof;**
3. **Parents, and spouses thereof;**
4. **Brothers and sisters, and spouses thereof;**
5. **Grandparents and grandchildren, and spouses thereof;**
6. **Domestic partner and parents thereof, including domestic partners of any individual in 1 through 5 of this definition; and**
7. **Any individual related by blood or affinity whose close association with the QS holder is the equivalent of a family relationship.**

2.8.2 §679.41 Transfer of quota shares and IFQ.

(k) *Survivorship transfer privileges*—(1) On the death of an individual who holds QS or IFQ, the surviving spouse or, in the absence of a surviving spouse, a beneficiary designated pursuant to paragraph (k)(2) of this section **or the estate representative**, receives all QS and IFQ held by the decedent by right of survivorship, unless a contrary intent was expressed by the decedent in a will. The Regional Administrator will approve an Application for Transfer to the surviving spouse**,** ~~or~~ designated beneficiary**, or estate representative** when sufficient evidence has been provided to verify the death of the individual.

(2) QS holders may provide the Regional Administrator with the name of a designated beneficiary from the QS holder's immediate family to receive survivorship transfer privileges in the event of the QS holder's death and in the absence of a surviving spouse.

(3) The Regional Administrator will approve, for 3 calendar years following the date of death of an individual, an Application for Transfer of IFQ from the surviving spouse or, in the absence of a surviving spouse, from a beneficiary from the QS holder's immediate family designated pursuant to paragraph (k)(2) of this section **or an estate representative** to a person eligible to receive IFQ under the provisions of this section, notwithstanding the limitations on transfers of IFQ in paragraph (h)(2) of this section.

2.8.3 §679.42 Limitations on use of QS and IFQ.

(2) *Medical transfers.* In the event of a medical condition affecting a QS holder or an immediate family member of a QS holder that prevents the QS holder from being able to participate in the halibut or sablefish IFQ fisheries, a medical transfer may be approved for the IFQ derived from the QS held by the person affected by the medical condition.

(i) *General.* A medical transfer will be approved if the QS holder demonstrates that:

(A) He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition that precludes participation by the QS holder; or

(B) He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition involving an immediate family member that requires the QS holder's full time attendance.

(ii) *Eligibility.* To be eligible to receive a medical transfer, a QS holder must:

(A) Possess one or more catcher vessel IFQ permits; and

(B) Not qualify for a hired master exception under paragraph (i)(1) of this section.

(iii) *Application.* A QS holder may apply for a medical transfer by submitting a medical transfer application to the Alaska Region, NMFS. A QS holder who has received an approved medical transfer from RAM may transfer the IFQ derived from his or her own QS to an individual eligible to receive IFQ. A medical transfer application is available at *http://alaskafisheries.noaa.gov* or by calling 1-800-304-

4846. Completed applications must be mailed to: Restricted Access Management Program, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668. A complete application must include:

(A) The applicant's (transferor's) identity including his or her full name, NMFS person ID, date of birth, Social Security Number or Tax ID, permanent business mailing address, business telephone and fax numbers, and e-mail address (if any). A temporary mailing address may be provided, if appropriate;

(B) The recipient's (transferee's) identity including his or her full name, NMFS person ID, date of birth, Social Security Number or Tax ID, permanent business mailing address, business telephone and fax numbers, and e-mail address (if any). A temporary mailing address may be provided, if appropriate;

(C) The identification characteristics of the IFQ including whether the transfer is for halibut or sablefish IFQ, IFQ regulatory area, number of units, range of serial numbers for IFQ to be transferred, actual number of IFQ pounds, transferor (seller) IFQ permit number, and fishing year;

(D) The price per pound (including leases) and total amount paid for the IFQ in the requested transaction, including all fees;

(E) The primary source of financing for the transfer, how the IFQ was located, and the transferee's (buyer's) relationship to the transferor (seller);

(F) A written declaration from a ~~licensed medical doctor, advanced nurse practitioner, or primary community health aide~~ **health care provider** as ~~those persons are~~ defined in §679.2. The declaration must include:

(*1*) The identity of the ~~licensed medical doctor, advanced nurse practitioner, or primary community health aide~~ **health care provider** including his or her full name, business telephone, permanent business mailing address (number and street, city and state, zip code), and whether the individual is a ~~licensed medical doctor, advanced nurse practitioner, or primary community health aide~~ **health care provider**;

(*2*) A concise description of the medical condition affecting the applicant or applicant's family member including verification that the applicant is unable to participate in the IFQ fishery for which he or she holds IFQ permits during the IFQ season because of the medical condition and, for an affected family member, a description of the care required; and

(*3*) The dated signature of the ~~licensed medical doctor, advanced nurse practitioner, or primary community health aide~~ **health care provider** who conducted the medical examination;

(G) The signatures and printed names of the transferor and transferee, and date; and

(H) The signature, seal, and commission expiration of a notary public.

(iv) *Restrictions.* (A) A medical transfer shall be valid only during the calendar year for which the permit is issued;

(B) A medical transfer will be issued only for the IFQ derived from the QS held by the applicant;

(C) NMFS will not approve a medical transfer if the applicant has received a medical transfer in any ~~2~~ **3** of the previous ~~5~~ **7** years for ~~the same~~ **any** medical condition.

(v) *Medical transfer evaluations and appeals*—(A) *Initial evaluation.* The Regional Administrator will evaluate an application for a medical transfer submitted in accordance with paragraphs (d)(2)(iii) and (d)(2)(iv) of this section. An applicant who fails to submit the information specified in the application for a medical transfer will be provided a reasonable opportunity to submit the specified information or submit a revised application.

(B) *Initial administrative determinations (IAD).* The Regional Administrator will prepare and send an IAD to the applicant if the Regional Administrator determines that the application provided by the applicant is deficient or if the applicant fails to submit the specified information or a revised application. The IAD will indicate the deficiencies in the application, including any deficiencies with the information on the revised application. An applicant who receives an IAD may appeal under the appeals procedures set out at §679.43.

2.8.4 §679.43 Determinations and appeals.

(a) General. This section describes the procedure for appealing initial administrative determinations made in this title under parts 300, 679, 680, and subpart E of part 300 of this chapter.

(b) Who may appeal. Any person whose interest is directly and adversely affected by an initial administrative determination may file a written appeal. For purposes of this section, such persons will be referred to as "applicant" or "appellant."

(c) Submission of appeals. ~~Appeals must be in writing and must be mailed to the: National Marine Fisheries Service, Office of Administrative Appeals (OAA), P. O. Box 21668, Juneau, AK 99802-1668, or delivered to National Marine Fisheries Service, Attention: Appeals (OAA), 709 W. 9th Street, Room 453, Juneau, AK 99801.~~

(c) Appeal. An appeal to an initial administrative determination must be submitted under the appeals procedure set out at 15 CFR part 906.

2.9 Number and Description of Directly Regulated Small Entities

The IFRA estimates the number of directly regulated small entities based on size criteria established for industry sectors defined by the Small Business Administration (SBA). According to the SBA criteria, the groundfish fishery is defined as a finfish harvesting sector. An entity primarily involved in finfish harvesting is a small entity if it is independently owned and operated and not dominant in its field of operation (including its affiliates), and if it has combined annual gross receipts not in excess of $11.0 million for all its affiliated operations worldwide.

Table 2-2 shows the estimated number of QS holders in the BSAI and GOA halibut and sablefish fisheries directly regulated by the proposed action. Fishing vessels are considered small entities if their

total annual gross receipts, from all their activities combined, are less than $11.0 million. This analysis will focus on the number of entities that held QS in 2018, and for the purposes of the analysis, all class B, C, and D QS holders are assumed to be small entities since they fish on catcher vessels that are classified as small entities. QS holders that fish B, C, and D quota are assumed to be directly regulated by this action. There were 2,418 QS holders (2018) that held class B, C, or D QS in the halibut and sablefish IFQ fisheries who could be impacted by this action. All of those QS holders are considered to be small entities using the SBA small entity criteria for harvest on catcher vessels.

The estimated impacts on these entities are described in Section 2.4 and Section 2.5 of this paper. The medical transfer provisions will in general benefit the majority of QS holders as will the proposed changes to the designated beneficiary provision. The proposed change that is anticipated the have the greatest, potential negative impact on certain QS holders, is the limit on the number of medical transfers for any medical condition.

2.10 Net Benefit Impacts of the Proposed Changes

Neither the medical transfer provision nor the beneficiary transfer provision are projected to have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, local or tribal governments or communities. The provisions could have differential economic impacts on QS holders. Some QS holders may realize economic conditions that cause them to sell the QS or not fish the QS. Because of the lost value associated with not fishing the QS it is assumed that few QS holders make that choice. Choosing not to fish would reduce the value derived from the fishery and any overall net benefits to the Nation. Because of the economic incentive to have the QS fished, it is assumed the reductions of net National benefits will be very small, if they exist. Also, because the QS holders must be U.S. Citizens and markets for halibut and sablefish are not expected to change substantially based on who harvests the fish under the medical transfer provision and the designated beneficiary, transfers are also expected to have a very small impact on net National benefits if they exist.

The actions proposed in this amendment do not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. NMFS will continue to work with the IPHC to manage the halibut fishery and will have the authority to manage the sablefish fishery. Any appeals that arise will be addressed using the methods established by NMFS and will not interfere with the actions taken by other agencies.

The proposed actions will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients. The intent of the amendments is to clarify regulations specific to IFQ and QS transfer provisions and to reinforce the Council's intent of having an owner operated IFQ fishery in the CV sector and to reduce agency/QS holder burden associated with the beneficiary transfer provision.

The proposed actions do not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. The actions slightly modify existing regulations to better reflect Council intent, reduce the management burden on RAM, and clarify regulations for QS holders.

3 Magnuson-Stevens Act and FMP Considerations

3.1 Magnuson-Stevens Act National Standards

Below are the 10 National Standards as contained in the MSA and a brief discussion of how each alternative is consistent with the National Standards, where applicable. In recommending a preferred alternative, the Council must consider how to balance the national standards.

National Standard 1 — Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

None of the alternatives considered for this action would affect the status of the halibut or sablefish stock in the BSAI or GOA. This action is administrative in nature and does not have a substantial impact on achieving optimum yield. However, greater flexibility for beneficiary transfers may allow a small portion of the overall amount of IFQ to be harvested during the three years when it is held by the estate - when it would not have been allowed under the current regulations.

National Standard 2 — Conservation and management measures shall be based upon the best scientific information available.

The information in this analysis represents the most current, comprehensive information available to the Council. The preferred alternatives has the potential to improve how the medical transfer and beneficiary transfer provisions are implemented to be more consistent with the IFQ Program's original objectives.

National Standard 3 — To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

The proposed action is consistent with the management of individual stocks as a unit or interrelated stocks as a unit or in close coordination. This action is administrative and had no impact on National Standard 3.

National Standard 4 — Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be; (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation, and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The medical and beneficiary are fair and equitable. They are applied the same to all QS holders that are required to be onboard the vessel when their IFQ are harvested. They also are intemded to provide opportunities for QS holders that have a temporaty medical condition to lease their IFQ for about 43% of the years in order to allow time to recover.

Any transfers must be made to persons that have documented sea time as a crew member. That provision ensures that any medical or beneficiary transfers are made to persons with a knowledge of commercial fishing that allows them to employ sound conservation practices.

Stricter limits on transfers of IFQ may result in persons selling their QS instead of leasing the IFQ. The excessive share provisions of National Standard 4 were included in the IFQ program deter any person or other entity from acquiring an excessive share of fishing privileges. The preferred alternatives are fair and equitable taking into account the objectives of the IFQ Program and the diversity of the IFQ fleet.

National Standard 5 — Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

The proposed action considers efficiency in the utilization of the halibut and sablefish fisheries to the extent practicable. This action is an administrative action that does not modify the existing efficiencies in the IFQ Program.

National Standard 6 — Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

The purpose of the medical transfer provision and the beneficiary transfer provision are to allow contingencies in the halibut and sablefish IFQ program fisheries. These specific transfer provisons were designed to allow fishermen is specific situations to develop a contingency plan to participate in the fisheries, while not substantially altering the owner onboard nature of the fishery.

National Standard 7 — Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

The proposed action does not duplicate any other management action. This action improves the process for QS holders to transfer IFQ under the medical and beneficiary provisions. This action does not increase administrative burden or complicate the annual specifications publication and implementation process compared to the status quo. Therefore, the proposed measure would minimize cost.

National Standard 8 — Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of National Standard 2, in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

This action is not expected to have adverse impacts on communities or affect community sustainability. This action improves the process to transfer IFQ under the medical and beneficiary provisions, minimizing adverse economic impacts on fishing communities.

Appendix 4 does provide information on the amount of IFQ that was transferred, using the medical transfer provision, within and between communities. On an annual basis, some communities benefit from additional IFQ harvests and landings that result from the medical tranfers while others may realize a decrease in economic activity. In terms of the beneficiary transfers, the proposed chamges are expected to allow IFQ to be harvested when it could not be under current rules. This will benefit all communities that relize increase economic activity derived from the harvesting and processing of those fish.

National Standard 9 — Conservation and management measures shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

Due to the administrative nature of this action, there is no impact on bycatch including to minimize bycatch or avoidance of bycatch.

National Standard 10 — Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

The preferred alternative is not expected to have a measurable effect on safety at sea. However, having the medical transfer provision available if the QS holder cannot be onboard the vessel to fish their IFQ could promote safety of human life at sea. The preferred alternative would not modify existing safety regulations, authorized gear, the size or type of vessels that may be used in the fishery, or otherwise affect

the amount of species that could be harvested. The preferred alternative would not result in any changes in harvest limits that would be likely to encourage unsafe fishing practices.

3.2 Council's Ecosystem Vision Statement

In February 2014, the Council adopted, as Council policy, the following:

> **Ecosystem Approach for the North Pacific Fishery Management Council**
>
> ***Value Statement***
>
> The Gulf of Alaska, Bering Sea, and Aleutian Islands are some of the most biologically productive and unique marine ecosystems in the world, supporting globally significant populations of marine mammals, seabirds, fish, and shellfish. This region produces over half the nation's seafood and supports robust fishing communities, recreational fisheries, and a subsistence way of life. The Arctic ecosystem is a dynamic environment that is experiencing an unprecedented rate of loss of sea ice and other effects of climate change, resulting in elevated levels of risk and uncertainty. The North Pacific Fishery Management Council has an important stewardship responsibility for these resources, their productivity, and their sustainability for future generations.
>
> ***Vision Statement***
>
> The Council envisions sustainable fisheries that provide benefits for harvesters, processors, recreational and subsistence users, and fishing communities, which (1) are maintained by healthy, productive, biodiverse, resilient marine ecosystems that support a range of services; (2) support robust populations of marine species at all trophic levels, including marine mammals and seabirds; and (3) are managed using a precautionary, transparent, and inclusive process that allows for analyses of tradeoffs, accounts for changing conditions, and mitigates threats.
>
> ***Implementation Strategy***
>
> The Council intends that fishery management explicitly take into account environmental variability and uncertainty, changes and trends in climate and oceanographic conditions, fluctuations in productivity for managed species and associated ecosystem components, such as habitats and non-managed species, and relationships between marine species. Implementation will be responsive to changes in the ecosystem and our understanding of those dynamics, incorporate the best available science (including local and traditional knowledge), and engage scientists, managers, and the public.
>
> The vision statement shall be given effect through all of the Council's work, including long-term planning initiatives, fishery management actions, and science planning to support ecosystem-based fishery management.

In considering this action, the Council is consistent with its ecosystem approach policy. This proposed action would revise the medical and beneficiary transfer provisions in the IFQ Program to reduce administrative issues associated with interpretation of current regulations, but would not alter management that explicitly takes into account environmental variability and uncertainty, changes and trends in climate and oceanographic conditions, fluctuations in productivity for managed species and associated ecosystem components, and relationships between marine species.

3.3 Local and Traditional Knowledge

Per National Standard 2 – Scientific Information (a)(6)(ii)(C) *Relevant local and traditional knowledge (e.g., fishermen's empirical knowledge about the behavior and distribution of fish stocks) should be obtained, where appropriate, and considered when evaluating the BSIA* [best scientific information available] (50 CFR 600.315[40])

There are no known documented sources of traditional knowledge or local knowledge that could contribute to the analysis of the management actions being considered in this document, based in part on the nature of the proposed management actions. Specifically, the proposed management actions are essentially transfer of IFQ issues rather than an issue involving changing stock assessments, changes in area management, changes in quota based on conservation measures, or the like. That is not to say that traditional knowledge and/or local knowledge that could inform the analysis of impacts of management actions on specific communities or sets of communities does not exist. Rather, that information is not currently known to have been documented or otherwise readily accessible to the study team.

[40] The National Standard 2 guidelines referenced in this SIA, current as of December 20, 2018, are from the Electronic Code of Federal Regulations (CFR) Title 50, Chapter VI, Part 600, Subpart D, Section 600.315 (cited as 50 CFR 600.315) are available at https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=6b0acea089174af8594db02314f26914&mc=true&r=SECTION&n=se50.12.600_1315 accessed 12/31/18.

4 Appendix: Medical transfers by location

From area / To area	% of IFQ
Aleutians East Borough	
Aleutians East Borough	46.39%
Aleutians West Census Area	1.65%
City and Borough of Juneau	1.12%
City and Borough of Sitka	5.12%
City and Borough of Yakutat	0.86%
Kenai Peninsula Borough	7.06%
Ketchikan Gateway Borough	0.00%
Kodiak Island Borough	4.36%
Matanuska-Susitna Borough	1.79%
Municipality of Anchorage	7.16%
Petersburg Census Area	1.84%
Southeast Fairbanks Census Area	0.68%
Valdez-Cordova Census Area	0.23%
Non-Alaskan Community	21.73%
Aleutians West Census Area	
Aleutians East Borough	3.63%
Aleutians West Census Area	38.22%
Denali Borough	8.73%
Kenai Peninsula Borough	8.96%
Kodiak Island Borough	0.00%
Municipality of Anchorage	3.64%
Non-Alaskan Community	36.81%
Bethel Census Area	
City and Borough of Yakutat	8.68%
Kenai Peninsula Borough	25.54%
Non-Alaskan Community	65.78%
Bristol Bay Borough	
Aleutians East Borough	9.61%
Aleutians West Census Area	23.28%
Kenai Peninsula Borough	28.84%
Kodiak Island Borough	27.42%
Matanuska-Susitna Borough	2.57%
Municipality of Anchorage	10.13%
Non-Alaskan Community	-1.84%
City and Borough of Juneau	
Aleutians East Borough	0.53%
Aleutians West Census Area	1.59%
City and Borough of Juneau	39.24%
City and Borough of Sitka	6.98%
City and Borough of Wrangell	0.89%
City and Borough of Yakutat	0.42%
Fairbanks North Star Borough	0.08%
Hoonah-Angoon Census Area	0.78%
Kenai Peninsula Borough	4.90%
Ketchikan Gateway Borough	0.40%
Kodiak Island Borough	0.68%
Matanuska-Susitna Borough	0.54%
Municipality of Anchorage	4.85%
Municipality of Skagway	0.02%
Petersburg Census Area	19.48%
Prince of Wales-Hyder Census Area	0.81%
Southeast Fairbanks Census Area	0.17%
Valdez-Cordova Census Area	0.91%
Non-Alaskan Community	16.72%

From area / To area	% of IFQ
City and Borough of Sitka	
Bristol Bay Borough	0.02%
City and Borough of Juneau	5.09%
City and Borough of Sitka	43.86%
City and Borough of Wrangell	0.62%
City and Borough of Yakutat	0.43%
Fairbanks North Star Borough	0.07%
Hoonah-Angoon Census Area	1.37%
Kenai Peninsula Borough	4.22%
Ketchikan Gateway Borough	0.59%
Kodiak Island Borough	2.87%
Kusilvak Census Area	0.00%
Matanuska-Susitna Borough	0.47%
Municipality of Anchorage	1.46%
Municipality of Skagway	0.19%
Nome Census Area	3.64%
Petersburg Census Area	8.32%
Prince of Wales-Hyder Census Area	0.46%
Southeast Fairbanks Census Area	0.15%
Valdez-Cordova Census Area	0.48%
Non-Alaskan Community	25.67%
City and Borough of Wrangell	
City and Borough of Juneau	0.39%
City and Borough of Sitka	4.84%
City and Borough of Wrangell	24.80%
City and Borough of Yakutat	0.38%
Fairbanks North Star Borough	0.11%
Hoonah-Angoon Census Area	1.51%
Kenai Peninsula Borough	7.01%
Ketchikan Gateway Borough	3.03%
Matanuska-Susitna Borough	0.64%
Municipality of Anchorage	2.27%
Petersburg Census Area	5.47%
Prince of Wales-Hyder Census Area	1.93%
Valdez-Cordova Census Area	0.02%
Non-Alaskan Community	47.60%
City and Borough of Yakutat	
City and Borough of Juneau	0.33%
City and Borough of Sitka	0.21%
City and Borough of Yakutat	55.56%
Kenai Peninsula Borough	10.65%
Kodiak Island Borough	2.37%
Matanuska-Susitna Borough	1.01%
Municipality of Anchorage	5.94%
Petersburg Census Area	4.29%
Prince of Wales-Hyder Census Area	1.39%
Valdez-Cordova Census Area	4.23%
Non-Alaskan Community	14.00%
Denali Borough	
Aleutians West Census Area	12.75%
Kenai Peninsula Borough	0.25%
Petersburg Census Area	35.88%
Non-Alaskan Community	51.12%

From area / To area	% of IFQ
Dillingham Census Area	
Aleutians East Borough	9.47%
Kenai Peninsula Borough	2.80%
Municipality of Anchorage	9.22%
Non-Alaskan Community	78.51%
Fairbanks North Star Borough	
Aleutians West Census Area	0.89%
City and Borough of Juneau	2.79%
City and Borough of Sitka	3.90%
City and Borough of Yakutat	5.22%
Fairbanks North Star Borough	8.81%
Kenai Peninsula Borough	37.37%
Kodiak Island Borough	0.00%
Matanuska-Susitna Borough	2.10%
Municipality of Anchorage	14.40%
Petersburg Census Area	3.60%
Southeast Fairbanks Census Area	0.34%
Valdez-Cordova Census Area	1.84%
Non-Alaskan Community	18.73%
Hoonah-Angoon Census Area	
Aleutians East Borough	0.28%
City and Borough of Juneau	12.95%
City and Borough of Sitka	13.82%
City and Borough of Wrangell	2.58%
City and Borough of Yakutat	1.73%
Hoonah-Angoon Census Area	20.86%
Kenai Peninsula Borough	2.45%
Ketchikan Gateway Borough	0.12%
Kodiak Island Borough	1.52%
Matanuska-Susitna Borough	0.89%
Municipality of Anchorage	0.22%
Petersburg Census Area	23.64%
Prince of Wales-Hyder Census Area	1.70%
Southeast Fairbanks Census Area	0.88%
Valdez-Cordova Census Area	0.94%
Non-Alaskan Community	15.40%
Kenai Peninsula Borough	
Aleutians East Borough	1.10%
Aleutians West Census Area	2.14%
Bethel Census Area	0.15%
Bristol Bay Borough	0.02%
City and Borough of Juneau	1.59%
City and Borough of Sitka	2.27%
City and Borough of Wrangell	0.08%
City and Borough of Yakutat	1.20%
Denali Borough	0.00%
Fairbanks North Star Borough	0.37%
Hoonah-Angoon Census Area	0.25%
Kenai Peninsula Borough	53.47%
Ketchikan Gateway Borough	0.00%
Kodiak Island Borough	2.75%
Matanuska-Susitna Borough	2.00%
Municipality of Anchorage	9.11%
Municipality of Skagway	0.70%
Nome Census Area	0.19%
Petersburg Census Area	2.48%
Prince of Wales-Hyder Census Area	0.00%
Southeast Fairbanks Census Area	0.18%
Valdez-Cordova Census Area	1.27%
Non-Alaskan Community	18.69%

From area / To area	% of IFQ
Ketchikan Gateway Borough	
Aleutians East Borough	0.42%
City and Borough of Juneau	2.49%
City and Borough of Sitka	9.49%
City and Borough of Wrangell	4.55%
Hoonah-Angoon Census Area	3.44%
Kenai Peninsula Borough	0.02%
Ketchikan Gateway Borough	26.80%
Kodiak Island Borough	1.41%
Matanuska-Susitna Borough	0.37%
Municipality of Anchorage	0.34%
Petersburg Census Area	20.86%
Prince of Wales-Hyder Census Area	2.03%
Southeast Fairbanks Census Area	0.44%
Valdez-Cordova Census Area	1.65%
Non-Alaskan Community	25.70%
Kodiak Island Borough	
Aleutians East Borough	0.38%
Aleutians West Census Area	0.44%
City and Borough of Juneau	0.60%
City and Borough of Sitka	3.42%
City and Borough of Yakutat	0.77%
Denali Borough	0.26%
Dillingham Census Area	1.36%
Fairbanks North Star Borough	0.03%
Hoonah-Angoon Census Area	0.06%
Kenai Peninsula Borough	6.20%
Kodiak Island Borough	46.57%
Matanuska-Susitna Borough	1.56%
Municipality of Anchorage	6.01%
Municipality of Skagway	0.34%
Petersburg Census Area	1.92%
Prince of Wales-Hyder Census Area	0.06%
Southeast Fairbanks Census Area	2.33%
Valdez-Cordova Census Area	0.92%
Non-Alaskan Community	26.77%
Kusilvak Census Area	
City and Borough of Sitka	0.35%
City and Borough of Wrangell	10.40%
Non-Alaskan Community	89.25%
Lake and Peninsula Borough	
Aleutians East Borough	0.46%
Kenai Peninsula Borough	98.00%
Lake and Peninsula Borough	1.54%
Matanuska-Susitna Borough	
Aleutians East Borough	0.00%
Bristol Bay Borough	0.12%
City and Borough of Juneau	0.13%
City and Borough of Sitka	4.08%
City and Borough of Yakutat	0.39%
Fairbanks North Star Borough	1.24%
Hoonah-Angoon Census Area	0.50%
Kenai Peninsula Borough	14.38%
Kodiak Island Borough	6.16%
Matanuska-Susitna Borough	8.97%
Municipality of Anchorage	14.84%
Municipality of Skagway	3.85%
Petersburg Census Area	3.99%
Southeast Fairbanks Census Area	0.09%
Valdez-Cordova Census Area	2.09%
Non-Alaskan Community	39.17%

From area / To area	% of IFQ
Municipality of Anchorage	
Aleutians East Borough	3.89%
Aleutians West Census Area	0.45%
Bristol Bay Borough	0.02%
City and Borough of Juneau	0.62%
City and Borough of Sitka	1.22%
City and Borough of Wrangell	0.09%
City and Borough of Yakutat	0.87%
Fairbanks North Star Borough	0.14%
Hoonah-Angoon Census Area	0.76%
Kenai Peninsula Borough	14.13%
Ketchikan Gateway Borough	0.04%
Kodiak Island Borough	3.50%
Matanuska-Susitna Borough	4.35%
Municipality of Anchorage	24.30%
Municipality of Skagway	1.25%
Petersburg Census Area	2.74%
Prince of Wales-Hyder Census Area	0.02%
Southeast Fairbanks Census Area	0.23%
Valdez-Cordova Census Area	1.53%
Non-Alaskan Community	39.85%
Municipality of Skagway	
City and Borough of Sitka	1.96%
Fairbanks North Star Borough	0.84%
Kenai Peninsula Borough	27.89%
Kodiak Island Borough	2.04%
Matanuska-Susitna Borough	5.96%
Municipality of Anchorage	1.27%
Municipality of Skagway	39.09%
Petersburg Census Area	8.98%
Prince of Wales-Hyder Census Area	0.06%
Valdez-Cordova Census Area	0.77%
Non-Alaskan Community	11.15%
Nome Census Area	
City and Borough of Juneau	64.90%
Kenai Peninsula Borough	15.04%
Municipality of Anchorage	0.00%
Non-Alaskan Community	20.06%
Northwest Arctic Borough	
Kenai Peninsula Borough	100.00%
Petersburg Census Area	
Aleutians East Borough	0.04%
Bristol Bay Borough	0.02%
City and Borough of Juneau	3.97%
City and Borough of Sitka	9.15%
City and Borough of Wrangell	1.40%
City and Borough of Yakutat	0.28%
Hoonah-Angoon Census Area	3.01%
Kenai Peninsula Borough	3.27%
Ketchikan Gateway Borough	2.71%
Kodiak Island Borough	2.72%
Matanuska-Susitna Borough	0.47%
Municipality of Anchorage	2.80%
Municipality of Skagway	0.12%
Petersburg Census Area	36.28%
Prince of Wales-Hyder Census Area	0.39%
Southeast Fairbanks Census Area	0.16%
Valdez-Cordova Census Area	1.00%
Non-Alaskan Community	32.22%

From area / To area	% of IFQ
Prince of Wales-Hyder Census Area	
City and Borough of Juneau	9.92%
City and Borough of Sitka	10.46%
City and Borough of Wrangell	0.77%
City and Borough of Yakutat	3.12%
Hoonah-Angoon Census Area	1.90%
Kenai Peninsula Borough	1.72%
Ketchikan Gateway Borough	2.22%
Matanuska-Susitna Borough	0.22%
Municipality of Anchorage	0.15%
Municipality of Skagway	0.02%
Petersburg Census Area	19.68%
Prince of Wales-Hyder Census Area	28.81%
Non-Alaskan Community	20.98%
Southeast Fairbanks Census Area	
City and Borough of Juneau	1.69%
City and Borough of Yakutat	2.07%
Hoonah-Angoon Census Area	0.92%
Kenai Peninsula Borough	5.47%
Kodiak Island Borough	5.24%
Prince of Wales-Hyder Census Area	0.59%
Southeast Fairbanks Census Area	33.15%
Non-Alaskan Community	50.87%
Valdez-Cordova Census Area	
Aleutians West Census Area	0.00%
Bristol Bay Borough	1.60%
City and Borough of Juneau	0.21%
City and Borough of Sitka	1.00%
City and Borough of Yakutat	2.00%
Fairbanks North Star Borough	0.64%
Hoonah-Angoon Census Area	0.82%
Kenai Peninsula Borough	15.04%
Kodiak Island Borough	2.15%
Matanuska-Susitna Borough	2.59%
Municipality of Anchorage	1.92%
Municipality of Skagway	1.10%
Petersburg Census Area	1.70%
Valdez-Cordova Census Area	37.70%
Non-Alaskan Community	31.53%
Yukon-Koyukuk Census Area	
City and Borough of Sitka	100.00%
Non-Alaskan Community	
Aleutians East Borough	0.36%
Aleutians West Census Area	1.02%
Bethel Census Area	0.00%
Bristol Bay Borough	0.07%
City and Borough of Juneau	1.74%
City and Borough of Sitka	7.25%
City and Borough of Wrangell	0.19%
City and Borough of Yakutat	0.29%
Denali Borough	0.16%
Dillingham Census Area	0.19%
Fairbanks North Star Borough	0.24%
Hoonah-Angoon Census Area	0.53%
Kenai Peninsula Borough	9.55%
Ketchikan Gateway Borough	0.24%
Kodiak Island Borough	8.39%
Kusilvak Census Area	0.01%
Matanuska-Susitna Borough	0.83%
Municipality of Anchorage	7.38%
Municipality of Skagway	0.03%
Nome Census Area	0.00%
Northwest Arctic Borough	0.04%
Petersburg Census Area	4.42%
Prince of Wales-Hyder Census Area	0.17%
Southeast Fairbanks Census Area	0.59%
Valdez-Cordova Census Area	1.08%
Non-Alaskan Community	55.23%

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