



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
*National Marine Fisheries Service*  
P.O. Box 21668  
Juneau, Alaska 99802-1668

May 20, 2022

Mr. Simon Kinneen  
Chairperson  
North Pacific Fishery Management Council  
1007 West Third, Suite 400  
Anchorage, Alaska 99501-2252

Dear Mr. Kinneen,

Enclosed is a draft analysis that National Marine Fisheries Service (NMFS) is developing to evaluate the benefits and costs of waiving medical transfers approved in 2020, 2021, or 2022 toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C). NMFS staff will present an overview of this draft analysis to the North Pacific Fishery Management Council (Council) and the IFQ Committee at their upcoming meetings in May and June 2022.

The options considered in the draft analysis are being developed in response to the high number of Individual Fishing Quota (IFQ) medical transfers that were approved during the COVID-19 pandemic in 2020 and 2021. In those same years, the Council recommended, and NMFS enacted, emergency rules allowing the temporary transfers of IFQ to provide Quota Share (QS) holders flexibility in times of restrictive health and travel mandates. Because many of the medical transfer applications in 2020 and 2021 were filed and approved by NMFS prior to the effective dates for the emergency rules in each year, these medical transfers currently count toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C). Waiving medical transfers approved in these years would provide eligible QS holders more flexibility to utilize the medical transfer provision in future years.

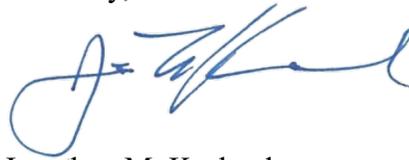
At this time, NMFS intends to propose regulations to waive medical transfers approved during 2020, 2021, and 2022 under section 305(d) of the Magnuson-Stevens Act, which authorizes the Secretary of Commerce to develop regulations necessary to implement fishery management plans and the Halibut Act. At the June 2022 meeting, NMFS requests the Council and IFQ Committee identify any questions or other areas of concern with the draft analysis. **It is not necessary for the Council to make a recommendation to NMFS for this action to move forward, but the Council may provide feedback or request to review a later draft of the analysis or draft regulations at a future Council meeting.** Unless further review at a subsequent meeting is requested by the Council, we would address questions or concerns raised by the Council or the public in a draft proposed rule.



We expect to publish a proposed rule for this action in the fall of 2022 followed by a final rule in the spring of 2023. This timing would provide relief to any affected IFQ participants that may be otherwise restricted from using a medical transfer in 2023.

If you have any additional questions, please contact Mason Smith at [mason.smith@noaa.gov](mailto:mason.smith@noaa.gov) or 907-58-7459.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan M. Kurland". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Jonathan M. Kurland  
Administrator, Alaska Region

Enclosure

**DRAFT**  
**Regulatory Impact Review**  
**for a Regulatory amendment**  
**to Revise the Medical Transfer Limitation of the**  
**Halibut and Sablefish IFQ Program**  
**May 2022**

Lead Agency: Mason Smith (mason.smith@noaa.gov)  
National Marine Fisheries Service, Alaska Region  
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**Abstract:** This Regulatory Impact Review (RIR) evaluates the costs and benefits of waiving medical transfers approved in 2020, 2021, or 2022 toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C). Between 2020 and 2021, numerous participants used the medical transfer provision to transfer their Individual Fishing Quota (IFQ) due to health concerns associated with the COVID-19 pandemic in those years. In those same years, NMFS enacted emergency rules allowing the temporary transfers of IFQ to provide Quota Share (QS) holders flexibility in times of restrictive health and travel mandates. As many of the medical transfers in 2020 and 2021 were approved prior to the emergency rules in each year, waiving these transfers toward the approval limitation will provide eligible QS holders more flexibility to utilize the provision under more normal circumstances as intended.

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## Executive Summary

This Regulatory Impact Review (RIR) provides a draft evaluation of the benefits and costs of a proposed regulatory amendment to modify the IFQ Program transfer provisions to waiving medical transfers approved in 2020, 2021, or 2022 toward the approval limitation of having not used the provision in any three of the previous seven calendar years. This action would apply exclusively to individual Quota Share (QS) Holders eligible to use the medical transfer provision of the IFQ Program. The measures under consideration include no action (Alternative 1), or the waiving of medical transfers approved in 2020, 2021, or 2022 (Alternative 2).

### Purpose and Need

The purpose of this action is to consider if medical transfers approved during the COVID-19 pandemic should count toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C). Beginning March 16, 2020, NMFS will not approve a medical transfer if the applicant has received a medical transfer in any 3 of the previous 7 calendar years for any medical condition. Since 2020, numerous participants used the medical transfer provision due to health concerns associated with the COVID-19 pandemic. As many of these transfers were completed prior to the approval of emergency actions to allow more widespread use of temporary transfers in 2020 and 2021, waiving these transfers toward the approval limitation will provide eligible QS holders more flexibility to utilize the medical transfer provision in future years. At the April 2022 Council Meeting, NMFS informed the Council of their intent to prepare an analysis to consider the impacts of not counting medical transfers approved between 2020 and 2021 toward the approval limitation of having not used the provision in any three of the previous seven calendar years. The medical transfer provision is intended to provide a transfer mechanism for individuals experiencing a temporary medical condition preventing them from fishing their IFQ.

### Alternatives

**Alternative 1:** No action. Use of the medical transfer provision will not be approved if the applicant has received a medical transfer in any three of the previous seven calendar years starting March 16, 2020.

**Alternative 2:** Revise the years in which medical transfers count toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C). Medical transfers approved in the following years do not count toward the approval limitation of three in the previous seven calendar years:

Option 1: 2020

Option 2: 2021

Option 3: 2022

### Comparison of Alternatives for Decision-making

The No Action Alternative (Alternative 1) would maintain the status quo condition. Some IFQ QS holders have used the medical transfer provision in 2020 and 2021 due to the health risks associated with the COVID-19 pandemic prior to the approval of the emergency rules authorizing the use of temporary IFQ transfers in those years. Effective February 14, 2020, the use of the medical transfer provision is restricted if the applicant has received a medical transfer in any three of the previous seven calendar years. For individuals using the medical transfer provision for a third time in 2022, the flexibility to use the provision would be restricted starting in 2023. The options under Alternative 2 consider waiving medical transfers approved in 2020, 2021, or 2022, in any combination, toward the approval limitation. This would waive the counting of the medical transfers filed due to the health risks associated with the COVID-19 pandemic prior to the approval of the emergency rules authorizing the use of temporary IFQ transfers in those years, providing eligible QS holders more flexibility to utilize the provision under more normal circumstances as intended.

# 1. Introduction

In response to the COVID-19 pandemic, the North Pacific Fishery Management Council (Council) recommended, and the Secretary enacted, emergency regulations to allow temporary transfer of halibut and sablefish Individual Fishing Quota (IFQ) for the 2020 (85 FR 38100, June 25, 2020) and 2021 (86 FR 16542, March 30, 2021) fishing seasons. These regulations provided IFQ Program participants flexibility to harvest their IFQ in times of restrictive health and travel mandates, and were enacted under the authority of Section 305(c) of the Magnuson-Stevens Act.

On February 10, 2022, the Council recommended the Secretary enact emergency regulations to allow the same temporary transfer of IFQ for the 2022 fishing season.<sup>1</sup> At that time, the Council believed an emergency existed due to the unexpected continuation of the COVID-19 pandemic posed risks to harvesters and processors and continues to cause unforeseen management and operational issues in fisheries. In response to the Council<sup>2</sup>, NMFS denied this request on the basis that continued impacts of the COVID-19 pandemic no longer met the criteria for emergency action, and that the existing medical transfer and hired master provisions of the IFQ Program provided flexibility to most participants who would have otherwise benefited from temporary IFQ transfers in 2022.

At the April 2022 Council Meeting<sup>3</sup>, NMFS informed the Council of their intent to prepare an analysis and consult with the Council to consider the impacts of not counting medical transfers approved between 2020 and 2021 toward the approval limitation of having not used the provision in any three of the previous seven calendar years. The medical transfer provision was intended to provide a transfer mechanism for individuals experiencing a temporary medical condition preventing them from fishing their IFQ. To account for temporary conditions, the use of the provision is only available during years when medical transfers have not been used in three of the previous seven calendar years (85 FR 8477; February 14, 2020). Between 2020 and 2021, numerous participants used the medical transfer provision due to health concerns associated with the COVID-19 pandemic. As many of these transfers were completed prior to the approval of temporary transfers in those years, waiving these transfers toward the approval limitation will provide eligible QS holders more flexibility to utilize the provision under more normal circumstances as intended.

This analysis provides background on the conditions in the fishery and a draft evaluation of the impacts of not counting medical transfers approved during the COVID-19 pandemic toward the approval limitation of having not used the provision in any three of the previous seven calendar years.

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<sup>1</sup> Council Motion: <https://meetings.npfmc.org/CommentReview/DownloadFile?p=bd9bd0b2-8200-4de0-8421-a372bd3d903f.pdf&fileName=B2%20IFQ%20transfer%20ER%20Council%20Feb%202022%20request.pdf>.

<sup>2</sup> NMFS Letter to Council: <https://meetings.npfmc.org/CommentReview/DownloadFile?p=4c710a0d-898e-410e-99c6-33406bbe2a7e.pdf&fileName=B2%20IFQ%20transfer%20ER%20NMFS%20response.pdf>.

<sup>3</sup> April NMFS Management Report: <https://meetings.npfmc.org/CommentReview/DownloadFile?p=75ec0cf6-be0c-45be-9da4-0143dcf94288.pdf&fileName=B2%20NMFS%20Report.pdf>.

## 2. Regulatory Impact Review

This Regulatory Impact Review (RIR)<sup>4</sup> examines the benefits and costs of a proposed regulatory amendment to modify the IFQ Program transfer provisions to waiving medical transfers approved in 2020, 2021, or 2022 toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C). 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 nevertheless 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 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, the environment, public health or safety, or State, 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 E.O. 12866.

### 2.1. 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 North Pacific Fishery Management Council (NPFMC) 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 of Commerce (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.

NMFS manages the groundfish fisheries in the EEZ off Alaska under the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska (GOA) and under the FMP for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI). The Council prepared the FMPs under the authority of

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<sup>4</sup> Analysts have determined that this action would not have the potential to have an effect individually or cumulatively on the human environment. This action would be categorically excluded from the need to prepare an Environmental Assessment.

the Magnuson-Stevens Act, 16 U.S.C. 1801 et seq. Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

The International Pacific Halibut Commission (IPHC) develops regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea. The IPHC's regulations are subject to approval by the Secretary of State with the concurrence of the Secretary. NMFS promulgates the IPHC's regulations as annual management measures pursuant to 50 CFR 300.62. The final rule implementing the 2020 annual management measures published March 13, 2020 (85 FR 14586).

The Halibut Act, 16 U.S.C. 773c (a) and (b), provides the Secretary with general responsibility to carry out the Convention and the Halibut Act. In adopting regulations that may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act, the Secretary is directed to consult with the Secretary of the department in which the U.S. Coast Guard is operating, currently the Department of Homeland Security.

The Halibut Act, 16 U.S.C. 773c (c), 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. Regulations developed by the Council may be implemented by NMFS only after approval by the Secretary. The Council has exercised this authority in the development of the IFQ Program for the commercial halibut and sablefish fisheries, codified at 50 CFR part 679, under the authority of section 5 of the Halibut Act (16 U.S.C. 773c (c)) and section 303(b) of the Magnuson-Stevens Act (16 U.S.C. 1853(b)).

This action is authorized under section 305(d) of the Magnuson-Stevens Act, which authorizes the Secretary of Commerce to develop regulations necessary to implement FMPs. Specifically, this action is necessary to implement IFQ transfer provisions consistent with section 3.7.1.4 of the BSAI FMP and the GOA FMP.

## **2.2. Purpose and Need**

The purpose of this action is to consider if medical transfers approved during the COVID-19 pandemic should count toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C). Beginning March 16, 2020, NMFS will not approve a medical transfer if the applicant has received a medical transfer in any 3 of the previous 7 calendar years for any medical condition. Since 2020, numerous participants used the medical transfer provision due to health concerns associated with the COVID-19 pandemic. As many of these transfers were completed prior to the approval of emergency actions to allow more widespread use of temporary transfers in 2020 and 2021, waiving these transfers toward the approval limitation would provide eligible QS holders more flexibility to utilize the medical transfer provision in future years. At the April 2022 Council Meeting, NMFS informed the Council of their intent to prepare an analysis to consider the impacts of not counting medical transfers approved between 2020 and 2021 toward the approval limitation of not using the provision in any three of the previous seven calendar years. The medical transfer provision is intended to provide a transfer mechanism for individuals experiencing a temporary medical condition preventing them from fishing their IFQ.

## **2.3. Alternatives**

This section describes the Alternatives developed by NMFS to modify the medical transfer limitation of the halibut and sablefish IFQ Program.

**Alternative 1:** No action. Use of the medical transfer provision will not be approved if the applicant has received a medical transfer in any three of the previous seven calendar years starting March 16, 2020.

**Alternative 2:** Revise the years in which medical transfers count toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C). Medical transfers approved in the following years do not count toward the approval limitation of three in the previous seven calendar years:

Option 1: 2020

Option 2: 2021

Option 3: 2022

### **2.3.1. Alternative 1: No Action**

This alternative would maintain the status quo condition. Some IFQ QS holders have used the medical transfer provision in 2020 and 2021 due to the health risks associated with the COVID-19 pandemic prior to the approval of the emergency rules authorizing the use of temporary IFQ transfers in those years. Due to the new limitation restricting use of the medical transfer provision if the applicant has received a medical transfer in any three of the previous seven calendar years, for any individuals using the medical transfer provision for a third time in 2022, the flexibility to use the provision would be restricted starting in 2023.

### **2.3.2. Alternative 2: Revise the years in which medical transfers count toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C).**

The options under this alternative consider not counting medical transfers approved in 2020, 2021, or 2022 toward the approval limitation of having not used the provision in any three of the previous seven calendar years. The options can be selected individually or in combination. For each option selected, the regulations implementing the medical transfer provision would be revised to not count medical transfers approved in that year toward the limit on use.

### 3. Description of Fisheries

The fixed gear halibut and sablefish fisheries off Alaska are managed under the IFQ program. The 20-year review of the IFQ program was published in 2016 and provides a detailed description of the fisheries, their history, and management (NPFMC 2016). The reader is referred to the 20-year review for additional background information, however a concise overview is provided here. The information presented in this document is what the analysts considered most critical and relevant to the Council’s recommendation for emergency action.

The Council and NMFS developed the IFQ Program to resolve the conservation and management challenges commonly associated with open access fisheries. The Council recommended a limited access privilege program (LAPP) for the fixed gear halibut and sablefish fisheries off Alaska in 1992. NMFS approved the halibut IFQ and sablefish IFQ Programs in 1993 and implemented them 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 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. 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 annual pattern for both fisheries has been from March to November.

The IFQ Program is a catch share program where participants are given a proportional annual allocation based on the amount of QS they hold and the catch limit set by the IPHC for halibut or by the Secretary for sablefish. There are eight halibut IFQ regulatory areas (Figure 3-1) in Alaska, inclusive of Areas 2C through 4E. For the sablefish IFQ fishery, there are two FMP areas (Figure 3-2): BSAI and GOA. Management areas are further broken out into the Bering Sea, Aleutian Islands, Western GOA, Central GOA, West Yakutat, and Southeast. Only sablefish harvested in the EEZ are managed under the IFQ Program. State water sablefish fisheries are managed by the State of Alaska. QS was originally issued to participants based on participation in the fisheries during historical qualifying periods in each of these areas and is generally restricted to use on the size class of vessel it was originally earned on.

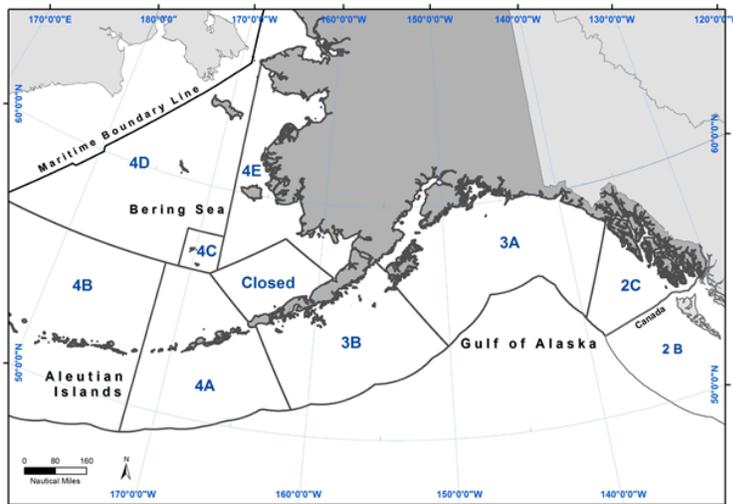


Figure 15 to Part 679. Regulatory Areas for Pacific Halibut Fishery  
a. Map

Figure 3-1. Halibut IFQ Regulatory Areas

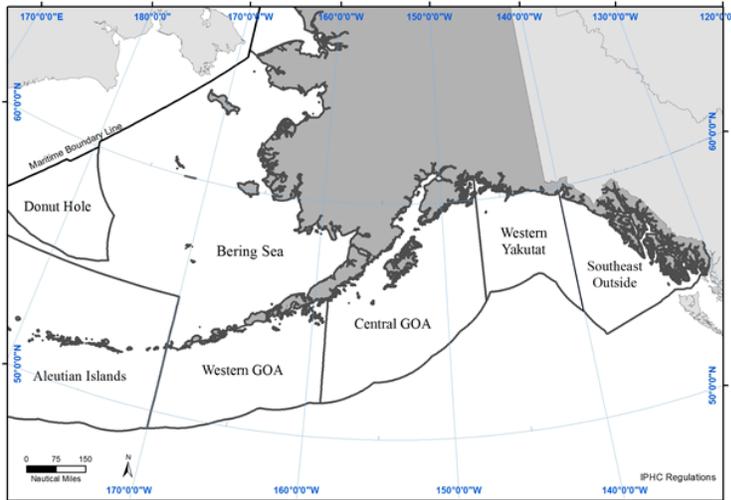


Figure 14 to Part 679. Sablefish Regulatory Areas and Districts

**Figure 3-2. Sablefish IFQ Regulatory Areas**

All halibut and sablefish QS have regulatory area designations that specify the vessel size class and area in which the IFQ derived from those shares may be harvested. QS is the allocation privilege to the individual and the IFQ is the annual poundage derived from the QS, issued by NMFS. Transferring the IFQ to a different person does not change the vessel category or regulatory area designation assigned to the 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 3-1.

**Table 3-1. 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 provide 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 vessels owned by a corporation that utilized hired masters. The IFQ derived from Class A QS can be freely transferred to eligible IFQ participants but it is still subject to IFQ use caps. For both halibut and sablefish, Class B shares are also able to be fished on any size vessel. Class C QS is designated to be harvested on CVs less than or equal to 60 feet LOA. In the halibut fishery, Class D QS is designated to be harvested on CVs less than or equal to 35 feet LOA (with some exceptions). These vessel class designations were intended to maintain the diversity of the IFQ fleets. The Council intended for the Class D QS to be the most likely entry-level opportunity.

Class B, C, and D QS may be held by individuals or non-individuals including corporations, partnerships, or other non-individual entities. Regulations governing the use of Class B, C, and D QS differ depending upon if the entity holding the QS is an individual or a non-individual. Table 3-2 shows that the majority of CV halibut and sablefish QS was held by individual QS holders in 2021.

**Table 3-2. Halibut and Sablefish class B, C, and D QS holdings by Individuals and non-individuals in 2021.**

	Entity type holding QS	Percentage
Sablefish QS	Individual	78%
	Non-individual	22%
Halibut QS	Individual	85%
	Non-individual	15%
Halibut and Sablefish QS (combined)	Individual	82%
	Non-individual	18%

Shown in Table 3-3, the total value for the IFQ fisheries was approximately \$110 million for halibut and \$63 million for sablefish in 2021. Total halibut landings and ex-vessel revenues have trended downwards in recent years, with a recovery in price in 2021 (NMFS 2022).

**Table 3-3. Prices, Landings, and Estimated Ex-vessel Revenues for the IFQ Fisheries, 2015-2021**

Year	Halibut			Sablefish		
	Average Price per Pound	Total Landings (in millions of lbs.)	Total Value (in millions of \$)	Average Price per Pound	Total Landings (in millions of lbs.)	Total Value (in millions of \$)
2015	\$6.42	16.7	\$107.3	\$3.78	20.2	\$76.6
2016	\$6.67	16.8	\$111.8	\$4.34	17.9	\$77.7
2017	\$6.32	17.6	\$111.5	\$4.84	19.9	\$96.5
2018	\$5.35	15.9	\$84.9	\$3.68	20.8	\$76.5
2019	\$5.30	16.5	\$87.4	\$2.96	21.2	\$62.7
2020	\$4.12	15	\$61.8	\$1.82	22.7	\$41.3
2021	\$6.40	17.3	\$110.7	\$1.92	32.7	\$62.7

Source: AKFIN and NMFS AKRO: <https://www.fisheries.noaa.gov/sites/default/files/akro/21ifqland.htm>

2021 IFQ Cost Recovery Report: <https://media.fisheries.noaa.gov/2022-01/ifq-cost-recovery-report-2021-akro.pdf>

Notes: Prices are nominal and based on an average of reported statewide prices across all areas reported on fish tickets.

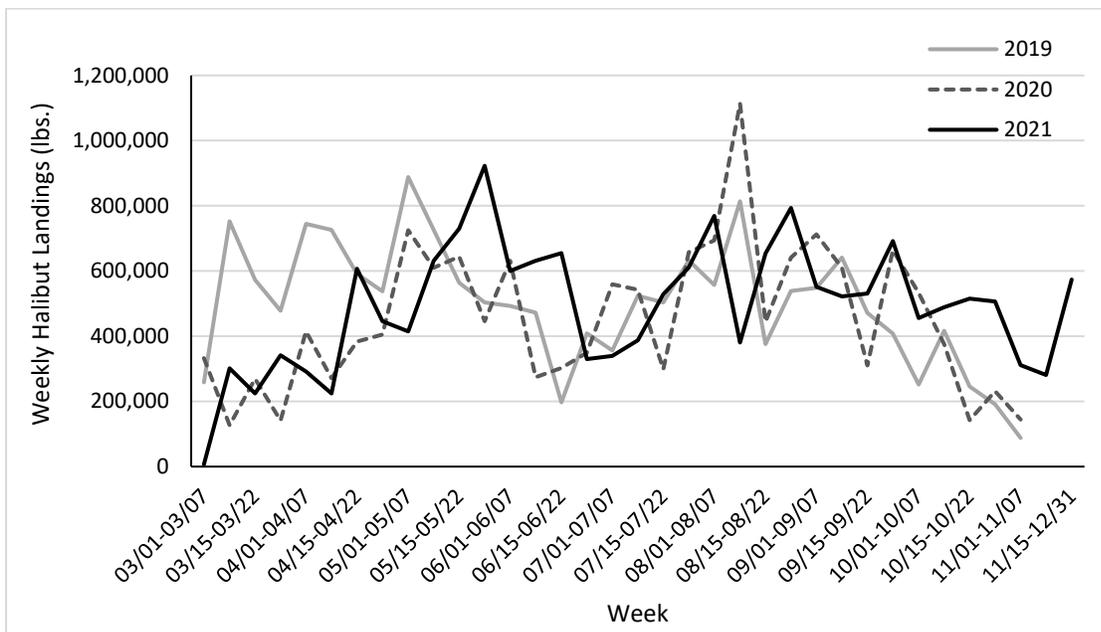
The IFQ Program provides significant flexibility to participants by allowing them to harvest their IFQ allocations at any point during the nine month IFQ season. Despite this flexibility, landings over time in the IFQ fisheries generally follow consistent seasonal patterns resulting from opportunities to participate in other fisheries, market conditions, vessel availability, seasonal employment, and other factors.

Landings of IFQ halibut during 2021 were 2.3 million pounds higher than in 2020, proportional to the 2.5 million pound increase in TAC (Table 3-3; Figure 3-3). Prior to implementing the emergency transfer rule, halibut landings were down relative to 2019 during the same period. From the season opener to May 7, halibut landings were approximately 54 percent lower than in 2019; a significant decrease despite the 9 percent decrease in TAC. The implementation of the temporary transfer provision in 2020 provided much needed flexibility for harvesters in the halibut IFQ fishery (Figure 3-3). However, despite the added flexibility provided by the implementation of temporary transfers in 2020, numerous IFQ holders

contacted NOAA Fisheries and provided public testimony regarding the difficulty they encountered in harvesting allocated IFQ in 2020. NOAA Fisheries also received numerous questions from IFQ holders regarding the 10 percent rollover provisions and options to transfer back or return IFQ near the end of the 2020 fishing season.

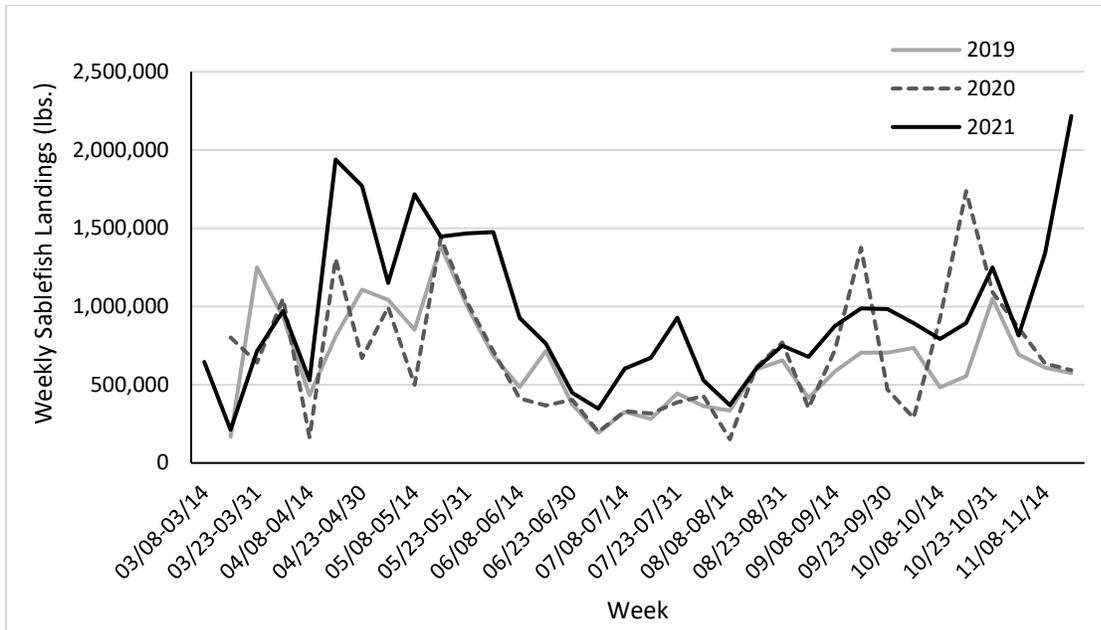
Sablefish IFQ landings in 2020 were 10 million pounds higher than in 2019, proportional to the 11.7 million pound increase in TAC (Table 3-3; Figure 3-4). Sablefish landings did not see major reductions for the 2020 season relative to 2019.

IFQ participants must weigh costs (typical expected costs as well as additional expenses associated with quarantining when entering the State of Alaska) against the benefits of fishing their IFQ. Demand and ex-vessel prices for IFQ halibut have been falling and were considerably lower 2020 than in 2019 due to lack of markets and restaurant closures. Improved prices in 2021 may encourage IFQ participants to travel to fish their IFQ in 2022.



**Figure 3-3. Weekly Halibut IFQ Landings, 2019-2021**

Source: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/fisheries-catch-and-landings-reports>



**Figure 3-4. Weekly Sablefish IFQ Landings, 2019-2021**

Source: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/fisheries-catch-and-landings-reports>

Table 3-4 shows the total number of vessels between 2019-2021 that harvested IFQ species in the BSAI and the GOA by vessel category.

**Table 3-4. Vessels that harvested IFQ species by BSAI and GOA, 2019-2021.**

		BSAI	GOA	Total <sup>1</sup>
<b>2019</b>	<30 ft MLOA	12	88	100
	30-60 ft MLOA	62	640	702
	>60 ft MLOA	27	59	86
	<b>Total</b>	<b>101</b>	<b>787</b>	<b>888</b>
<b>2020</b>	<30 ft MLOA	10	73	83
	30-60 ft MLOA	51	611	662
	>60 ft MLOA	25	58	83
	<b>Total</b>	<b>86</b>	<b>742</b>	<b>828</b>
<b>2021</b>	<30 ft MLOA	7	74	81
	30-60 ft MLOA	52	606	658
	>60 ft MLOA	26	52	78
	<b>Total</b>	<b>85</b>	<b>732</b>	<b>817</b>

Source: AKFIN

Note: BSAI and GOA do not exactly align with IFQ management areas; for instance, 4A is in both the BSAI and GOA.

<sup>1</sup>Note: vessels fishing in both the BSAI and GOA would be double-counted in this total.

### 3.1. Transfers of Catcher Vessel IFQ

The Council developed transfer restrictions to retain the owner-operator nature of the CV fisheries and limit consolidation of QS. Only persons who were originally issued CV QS (B and C for sablefish; B, C, and D for halibut) or who qualified as IFQ crew members are allowed to hold or purchase CV QS.<sup>5</sup> Only individuals and initial recipients are eligible to hold CV QS and they are required to be on the vessel when the QS is being fished (with a few exceptions). Since 1998, transfers, or leasing, of CV IFQ has generally been prohibited except under a few specific conditions. Temporary transfers of CV IFQ have been allowed under seven special circumstances:

1. Medical transfers
2. Beneficiary (survivorship) transfer privileges
3. Military transfers
4. Transfers through Community Quota Entities
5. IFQ to guided angler fish transfers
6. IFQ transferred to Community Development Quota groups in years of low halibut abundance in Areas 4BCD.
7. 2020 and 2021 Only: Temporary emergency transfers

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, they 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 impacts to coastal communities were particularly important considerations when developing transfer provisions and restrictions. Prior to the IFQ Program, these fisheries had typically been characterized by small vessel participation involving thousands of fishermen. One feature of the program designed to maintain a predominantly owner-operated fishery requires most IFQ permit holders to be onboard the vessel. This requirement is intended to ensure that CV IFQ continues to be held by professional, active fishermen.

Temporary IFQ transfers are valid from the date they are approved through the duration of the fishing season in which they are issued. IFQ may only be transferred once during any fishing season. Once a QS holder temporarily transfers IFQ, that IFQ may only be fished by the transferee receiving it.

In 2010, the Council initiated a regulatory action that restricted the ability of initial CV QS recipients to use a hired master to harvest IFQs acquired after a specified date. The action was implemented in 2014 and prohibited the use of hired masters to harvest halibut B, C, and D class IFQ derived from QS purchased after July 28, 2014 or sablefish B and C class QS purchased after February 12, 2010. Prior to the implementation of more stringent hired master provisions, medical transfers accounted for 14.6 percent of transfers from 2007-2014. After the change in the hired master provision, medical transfers have increased and account for an average of 31.3 percent of all transfers annually (from 2014 until 2018). Between 2019 and 2021, medical transfers decreased to just 6% of all transfers in 2021 due to the flexibility provided by the temporary emergency transfers (Table 3-5).

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<sup>5</sup> Note: In order to receive IFQ temporarily or QS permanently, individuals must obtain a Transfer Eligibility Certificate (TEC). Persons must have 150 or more days of experience working as a part of a harvesting crew in any U.S. commercial fishery.

**Table 3-5. Quota share transfer activity, 2019-2021**

	<b>QS Transfer Activity</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Halibut</b>	Regular QS/IFQ Transfers; 679.41(d), (e)	319	181	280
	Emergency Waivers and Medical Transfers; 679.42(d)	262	413	74
	Temporary IFQ Transfers ("lease") 679.41(f), (k), (l), (m), (n), (o), (p) <sup>1</sup>	59	464	905
	Sweep-up of Small Blocks 679.41(e)(2),(3)	17	8	30
	<b>Total - Halibut Transfers</b>	<b>657</b>	<b>1066</b>	<b>1,289</b>
<b>Sablefish</b>	Regular QS/IFQ Transfers; 679.41(d), (e)	125	97	169
	Emergency Waivers and Medical Transfers; 679.42(d)	121	165	28
	Temporary IFQ Transfers ("lease") 679.41(f), (k), (l), (m), (n), (o), (p) <sup>1</sup>	25	142	336
	Sweep-up of Small Blocks 679.41(e)(2),(3)			4
	<b>Total - Sablefish Transfers</b>	<b>271</b>	<b>404</b>	<b>537</b>
<b>Both Species</b>	Regular QS/IFQ Transfers; 679.41(d), (e)	444	278	449
	Emergency Waivers and Medical Transfers; 679.42(d)	383	578	102
	Temporary IFQ Transfers ("lease") 679.41(f), (k), (l), (m), (n), (o), (p) <sup>1</sup>	84	606	1,241
	Sweep-up of Small Blocks 679.41(e)(2),(3)	17	8	34
	<b>Total - All Transfers<sup>2</sup></b>	<b>928</b>	<b>1,470</b>	<b>1,826</b>

<sup>1</sup> Temporary IFQ Transfers ("lease") include the following :

- 679.41(d) Regular QS/IFQ Transfers
- 679.41(f) Transfer of QS or IFQ with restrictions.
- 679.41(k) Survivorship transfer privileges
- 679.41(l) Transfer of QS to CQEs
- 679.41(m) Temporary Military transfers
- 679.41(o) Transfer of IFQ to CDQ groups.
- 679.41(p) Temporary IFQ transfer for 2020 and 2021.

<sup>2</sup> Note: guided angler fish (GAF) and manual transfers are excluded from totals.

### 3.1.1. Use of a Hired Master

Initial recipients (excluding areas 2C for halibut or SE for sablefish) of CV QS may be absent from the vessel conducting IFQ fishing of his or her QS, provided the QS holder can demonstrate ownership of the vessel that harvests the IFQ halibut or sablefish (20 percent ownership) and representation of the QS holder on the vessel by a hired master (Table 3-6). This exception allows 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 use of this owner-on-board exception will decline and eventually cease with the transfer of all QS from initial recipients to new entrants ("second generation"). 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. While not technically a transfer, use of a hired master provides the flexibility of a transfer in that it allows an individual's IFQ to be harvested by another person without requiring the QS holder to directly participate in the fishery.

In halibut Area 2C and the sablefish Area SE, the Council prohibited hired master use by any individuals, including initial recipients. In these areas the use of hired masters was restricted to non-individual entities only. The intent of this additional restriction on hired master use in Areas 2C and SE was to maintain what had historically been an owner-operated fleet in these areas.

The hired master provision has been amended on several occasions since the implementation of the IFQ Program to address Council objectives and the emergence of de facto leasing relationships between some initial recipients and their hired masters.

**Table 3-6. Hired master use privilege by QS area and QS holder**

Area	Initial Recipients	2nd Generation
Halibut Areas (Except 2C)	Yes	No
Halibut Area 2C	No	No
Sablefish Areas (Except Southeast Outside District)	Yes	No
Sablefish Area Southeast Outside District	No	No

In consideration of this action, those who can hire a master to fish their IFQ are not eligible to use the medical transfer provision. Those who can typically hire a master include initial recipients in all areas except for Southeast Alaska. Both initial recipients of Southeast Alaska halibut and sablefish QS and second generation QS holders are eligible to use the medical transfer provision. QS holders who own QS in multiple areas would make landings in different parts of the State to fish their QS. Many QS holders live outside of Alaska and travel into the State of Alaska to fish their QS.

Effective December 1, 2014, NMFS published a final rule to prohibit an initial QS recipient from using a hired master to harvest IFQ derived from catcher vessel QS received by transfer, with a limited exception for small amounts of QS. This final rule was necessary to maintain progress toward a predominantly owner-onboard fishery. This rule limits the use of a hired master for CV QS acquired by an initial recipient by transfer after December 1, 2014. This may mean that a QS holder may hold QS subject to different limitations depending upon the timing of when the QS was received by transfer.

At the start of the 2022 IFQ season, 42% (1,067) of the 2,528 individuals issued halibut and sablefish IFQ permits were initial recipients with vessel ownership of 20% in the past 12-months, and thus eligible to use the hired master provision, leaving the remaining 58% (1,461) eligible to use the medical transfer provisions (Table 3-7). Between 2019 and 2021, roughly 16% (175) of eligible QS holders used the hired master provision (Table 3-7). The remaining 892 individuals hold roughly 35% of the total individual IFQ and would have been ineligible to use the medical transfers due to their qualification to use a hired master. In 2021, 203 of these individuals used the temporary transfer provision.

**Table 3-7. Number of Persons and Amount of IFQ by IFQ Permits and Hired Master (HM) Eligibility, 2022**

		Individual IFQ Permits (2022)	Eligible to use HM (2022)	Used HM (2019-2021)	Eligible but Did not Use HM (2019-2021)
<b>Total</b>	<b>Persons</b>	2,528	1,067	175	892
	<b>IFQ lb.</b>	53,947,890	23,030,592	15,045,533	7,985,059

Source: NMFS Restricted Access Management (RAM) division sourced through AKFIN

### 3.1.2. Medical Transfers

The IFQ Program includes a temporary medical transfer provision at 50 CFR 679.42(d)(2) that allows a quota holder not otherwise qualified to hire a master to temporarily transfer their annual IFQ to another individual if the quota holder or their immediate family member have a temporary medical condition that prevents them from fishing. 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 individual. The provision was not intended to create an avenue for those chronically unable to participate in the fishery to maintain the benefits of IFQ harvests or otherwise facilitate non-medical transfers of IFQ. The temporary medical transfer provision was implemented in 2007.

An applicant for a temporary medical transfer must document his or her medical condition by submitting an affidavit to NMFS from a healthcare provider that describes the medical condition affecting the applicant and attests to the inability of the applicant to participate in the IFQ fishery for which they hold QS. In the case of a family member's medical emergency, the affidavit must describe the necessity for the quota holder to tend to an immediate family member who suffers from the medical condition. The Council and NMFS limited the number of instances that QS holders may use the provision for any medical condition. NMFS will not approve a medical transfer if the QS holder has been granted a medical transfer in any three of the previous seven years for a medical condition (starting on March 16, 2020).

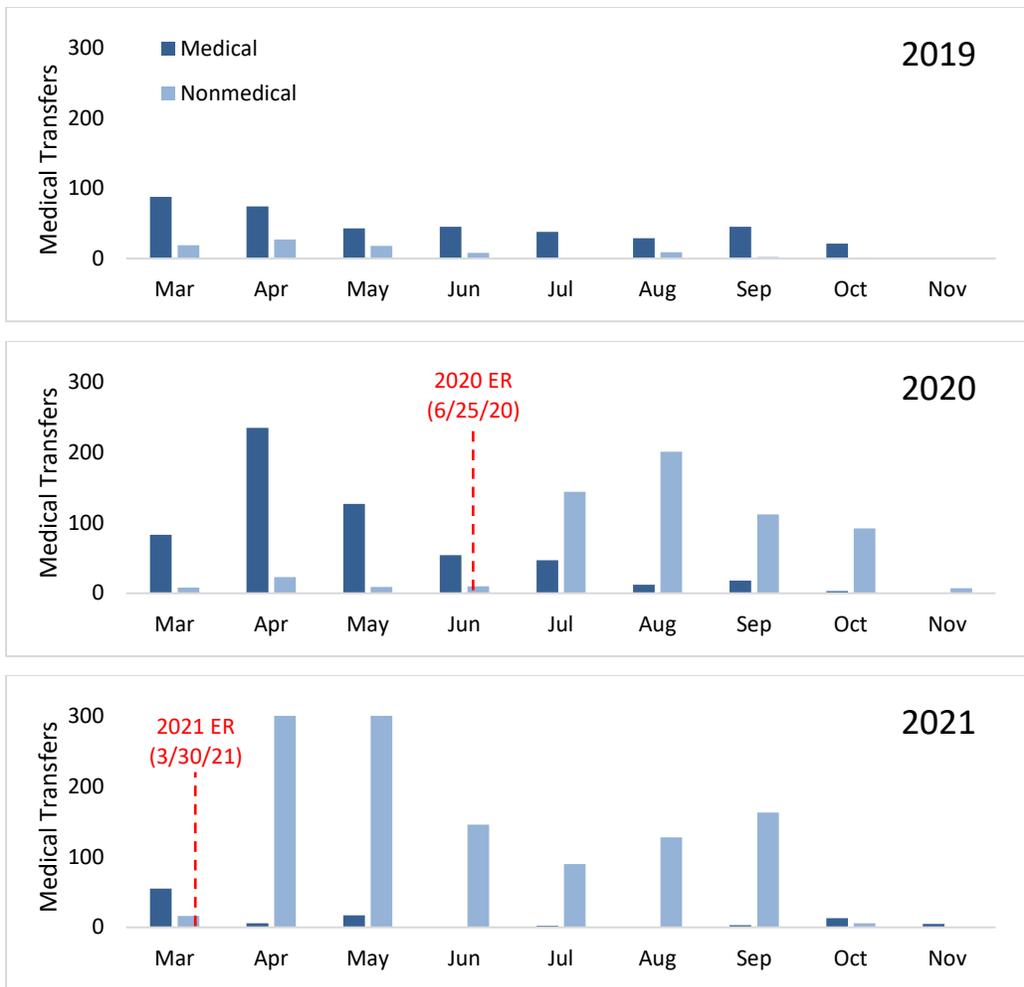
Medical transfers were not included in the original design of the IFQ Program because the Council prioritized its policy objective to maintain a fishing fleet primarily consisting of owner-operators by narrowly restricting transfer provisions. The Council rejected initial proposals for a medical transfer provision based on the potential for abuse and the lack of technical expertise at NMFS to determine disability. Following a few reported instances of injured or ill QS 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 balanced its objective to limit long-term leasing of quota with its recognition that a medical transfer provision would provide a mechanism for quota holders to retain their quota during bona fide medical hardships.

Generally speaking, most individuals (in contrast to corporations or other non-individual entities that hold QS) initial QS recipients can hire a master; however, they cannot do so in the halibut Area 2C management area (2C) or the Southeast sablefish IFQ management area (SE). An individual must own a minimum of 20 percent interest in a harvesting vessel for 12 months immediately preceding the date of application to hire a master. Individual initial recipients who hold quota in the 2C or SE management areas or who do not own a vessel have been approved for temporary medical transfers.

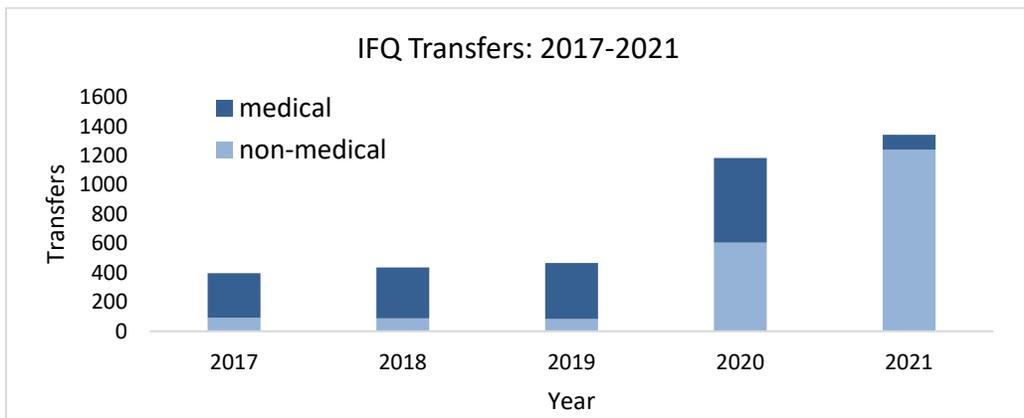
Figure 3-5 shows the amount of medical transfers by month between 2019 and 2021. In the month of April 2020 alone, NMFS Restricted Access Management Program (RAM) received 215 applications. Following the emergency action for temporary transfers in March of 2020, non-medical transfers increased substantially by July of that year, and remained dominant throughout 2021 (Figure 3-5). Medical transfers decline substantially in 2021, with 102 transfers compared to 579 in 2020 (Figure 3-5).

Annually, non-medical transfers accounted for the vast majority, 92% (1,241), of the total 1,343 transfers by individuals in 2021 (Figure 3-6; Table 3-8; Table 3-9).

Of the 326 unique individuals who used a medical transfer in 2020, 313 of them did so after March 16, (96%) and count toward the limitation of use of the medical transfer provision. As of May 12, 2022, NMFS has approved more than 250 medical transfers in 2022. Because the 2022 fishing season is still in progress and it's not possible to know how many QS holders may use the medical transfer provision in 2022, this analysis includes years for which we have complete data.



**Figure 3-5. Emergency Medical IFQ Transfers by month in 2019, 2020, and 2021. The vertical red dashed lines in 2020 and 2021 show the relative timing of the effective dates of emergency actions to allow temporary transfer of IFQ in 2020 and 2021.**



**Figure 3-6. Total Annual Temporary IFQ Transfers from 2017 through 2021. Emergency Medical Transfers are shown in dark blue above. All other temporary IFQ Transfers (including IFQ Temporary Transfers authorized by emergency actions in 2020 and 2021) are shown in light blue below.**

**Table 3-8. Medical Transfer Transactions, 2017-2021**

	<b>Transfers</b>	<b>IFQ (lb.) Transferred</b>	<b>Persons Transferring</b>	<b>Persons Receiving</b>
<b>Halibut</b>	<b>1,202</b>	<b>6,022,207</b>	<b>819</b>	<b>559</b>
2021	74	396,271	57	45
2020	413	2,133,048	292	166
2019	262	1,324,546	175	125
2018	236	1,103,787	162	122
2017	217	1,064,555	133	101
<b>Sablefish</b>	<b>514</b>	<b>8,134,823</b>	<b>352</b>	<b>279</b>
2021	28	879,074	21	19
2020	166	2,996,102	115	79
2019	121	1,636,863	83	65
2018	111	1,649,895	75	65
2017	88	972,889	58	51
<b>Total</b>	<b>1,716</b>	<b>14,157,030</b>	<b>1,171</b>	<b>838</b>
2021	102	1,275,345	78	64
2020	579	5,129,150	407	245
2019	383	2,961,409	258	190
2018	347	2,753,682	237	187
2017	305	2,037,444	191	152

Source: NMFS Restricted Access Management (RAM) division sourced through AKFIN

**Table 3-9. Non-medical Transfers Transactions, 2017-2021**

	<b>Transfers</b>	<b>IFQ (lb.) Transferred</b>	<b>Persons Transferring</b>	<b>Persons Receiving</b>
<b>Halibut</b>	<b>1,552</b>	<b>7,928,817</b>	<b>1,009</b>	<b>651</b>
2021	905	4,815,906	608	311
2020	464	1,986,097	322	200
2019	59	391,739	26	45
2018	61	355,001	29	47
2017	63	380,074	24	48
<b>Sablefish</b>	<b>561</b>	<b>11,272,776</b>	<b>384</b>	<b>276</b>
2021	337	7,401,660	225	148
2020	142	2,248,607	106	79
2019	25	507,839	16	14
2018	28	626,216	18	18
2017	29	488,454	19	17
<b>Total</b>	<b>2,113</b>	<b>19,201,593</b>	<b>1,393</b>	<b>927</b>
2021	1,242	12,217,566	833	459
2020	606	4,234,704	428	279
2019	84	899,578	42	59
2018	89	981,217	47	65
2017	92	868,528	43	65

Source: NMFS Restricted Access Management (RAM) division sourced through AKFIN

Table 3-10 provides a matrix of individual IFQ permit holders which used medical transfers in each year (gray boxes) for each column, and the associated number of identical permit holders that used medical transfers in each year prior as you progress down each row. Of the 2,678 permits active between 2020 and 2021, 42 participants have used the emergency medical transfer twice (Table 3-10). If any of these participants use the medical transfer for a third time in 2022, they will have maxed out their ability to use the medical transfer for three out of any seven-year period and will be unable to use this provision for the 2023 fishing year.

**Table 3-10. Total number of IFQ permit holders which used a medical transfer provision by year (gray boxes) and associated numbers of identical permit holders that used the provision in each year prior, dating back to 2012.**

		Year									
		2021	2020	2019	2018	2017	2016	2015	2014	2013	2012
Prior Years Identical Permits Used	2021	67									
	2020	42	326								
	2019	19	125	187							
	2018	15	83	112	164						
	2017	12	55	71	84	118					
	2016	9	37	47	53	68	112				
	2015	9	27	34	37	42	59	78			
	2014	7	21	25	26	27	34	39	58		
	2013	4	12	15	16	16	18	20	22	39	
	2012	4	10	11	11	11	11	11	11	17	36

## 4. Analysis of Impacts

This section analyzes two alternatives: (1) no action, and (2) medical transfers approved in 2020, 2021, or 2022, in any combination do not count toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C).

### 4.1. Alternative 1: No Action

In this alternative, the existing halibut and sablefish IFQ Program would not be modified. IFQ participants who are eligible to use medical transfers could continue to do so. The most recent modifications to the medical transfer provision continues to allow eligible QS holders to transfer their IFQ in the event that they have any medical condition that keeps them from fishing their IFQ themselves (85 FR 8477, February 14, 2020). This rule became effective March 16, 2020 (85 FR 8477, February 14, 2020). As such, any medical transfer application approved by NOAA Fisheries after March 16, 2020 counts toward this limitation.

A medical transfer could be approved if a medical professional agrees that the potential risk of serious illness due to infection with the COVID-19 to the QS holder should prevent that individual from going fishing. NMFS will accept any brief description for any medical condition that a health care provider determines appropriate including being high risk for serious illness due to infection with the COVID-19 virus. QS Holders with underlying conditions that put them at high risk of serious illness if infected with the COVID-19 virus or a family member with underlying conditions could consult with a health care provider and use a medical transfer during those times.

As shown in Table 3-10, up to 42 IFQ participants have used the medical transfer provision since implementation of the limitation of 3 in any 7 years (effective March 16, 2020) and could begin to be limited in their use of the medical transfer provision starting in 2023. Some of these transfers may have occurred prior to the March 16, 2020 effective date. However, as shown in Figure 3-5, the majority of transfers occurred beginning in April of that year. As the temporary transfer was not authorized for the 2022 fishing year (NMFS letter to Council, March 30, 2022), it is reasonable to assume that many of these participants may use the medical transfer provision in 2022 if they have a medical condition preventing them from fishing their IFQ.

### 4.2. Alternative 2: Revise the years in which medical transfers count toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C).

The options considered under this alternative would revise the years in which approved medical transfers would count toward the medical transfer restriction specified at 50 CFR 679.42(d)(2)(iv)(C). This would include all medical transfers that were approved due to any medical condition including the health risks associated with the COVID-19 pandemic. Since 2020, numerous participants used the medical transfer provision due to health concerns associated with the COVID-19 pandemic prior to the approval of the emergency rules authorizing the widespread use of temporary IFQ transfers in 2020 and 2021. The net effect of this alternative would provide additional flexibility to QS holders to use medical transfers in future years when they would otherwise be constrained by the limit of three in the most recent seven year period resulting in a delay of when this limitation may become constraining.

If a QS holder uses a medical transfer three times in a seven year period, and the QS holder (or a family member that they must care for) experiences a medical condition that prevents them from fishing, they would be required to divest his or her QS or allow the IFQ to go unfished during years they could not be on board the vessel. In considering the options available under this Alternative, they may be selected

individually or in combination. The options include not counting medical transfers in 2020 and 2021, when the Council recommended and NMFS implemented emergency action to allow widespread use of temporary IFQ transfers. A third option includes not counting medical transfers in 2022.

In 2022, the NMFS denied the Council's third request to implement emergency action to allow widespread use of temporary IFQ transfers. As of May, numerous QS holders used medical transfers in 2022. If options 1 and 2 are selected and 2022 is not, then those medical transfers in 2022 would count as the first of up to three uses in the seven year period from 2022 through 2028. If all three option years are selected, then all QS holders would effectively have a clean slate starting with the 2023 calendar year and the limitation would not have the potential to constrain the use of medical transfers for any QS holder until the 2026 fishing season.

This alternative would not be likely to affect markets, prices, or processor capacity for halibut or sablefish. This action would not modify any vessel size classes, limits on at-sea processing, or restrictions on corporate leasing. This action would not modify the existing provision that allows rollovers of unharvested IFQ to the next fishing year. Use of the medical transfer provision in any year is entirely voluntary.

#### **4.2.1. IFQ Participants**

In total, 351 unique QS Holders used a medical transfer in either 2020 or 2021 and would benefit from selecting Option 1 in combination with Option 2. This alternative would provide the greatest benefit to a potential of 42 QS Holders who used the medical transfer provision in *both* 2020 and 2021 and would be restricted from using the provision beginning in 2023, should they choose to use it for a third year in 2022 due to any health condition, including health conditions associated with the COVID-19 pandemic. These 42 QS Holders represents a small proportion, roughly three percent, of the 1,461 able to use the medical transfer provision in 2022 (those unable to use the hired master provision) (Table 3-7). While this represents a small number of QS Holders, the waiver of medical transfers approved in 2020 and 2021 would provide relief to those which used the provision prior to the authorization of temporary transfers each year which would have provided the same flexibility at no cost.

#### **4.2.2. Management Considerations**

The IFQ program was designed to limit leasing and temporary transfers of IFQ in order to maintain the owner onboard structure of the fishery. However, in providing the medical transfer provision, temporary relief was provided for hardships associated with QS Holders having temporary medical conditions that made them unable to fish. By limiting the use of medical transfers to three out of any seven years, the rule implemented in 2020 (85 FR 8477; February 14, 2020) was designed to curtail the long-term abuse of the medical transfer provision. When the rule was designed, it was not expected that a global pandemic would affect the operation of an IFQ fishery in Alaska. While this action would extend flexibilities using the medical transfer provision, the intent to limit the long-term abuse of the provision would remain the same, while still providing relief for those needing to use the provision for temporary medical conditions in the future.

## 5. National Standards

*To be completed prior to submission of Secretarial Review Draft Analysis.*

Below are the 10 National Standards as contained in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). In recommending a preferred alternative, consistency with the national standards must be considered.

A brief discussion of this action with respect to each National Standard will be prepared for final action.

**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.

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

**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.

**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.

**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.

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

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

**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.

**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.

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

## 6. North Pacific Halibut Act Considerations

The fisheries for Pacific halibut are governed under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773-773k). For the United States, the Halibut Act gives effect to the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea. The Halibut Act also provides authority to the Regional Fishery Management Councils, as described in § 773c:

*(c) Regional Fishery Management Council involvement*

*The Regional Fishery Management Council having authority for the geographic area concerned may develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with regulations adopted by the International Pacific Halibut Commission (IPHC). Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited entry criteria set forth in section 1853(b)(6) of this title. If it becomes necessary to allocate or assign halibut fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen, based upon the rights and obligations in existing Federal law, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of the halibut fishing privileges.*

The Halibut Act provides that the Council may develop regulations, including limited access regulations, to govern the fishery, provided that the Council's actions are in addition to, and not in conflict with, regulations adopted by the International Pacific Halibut Commission (IPHC). Implementation of the Council's recommendation would not require changes to IPHC regulations.

This action would revise specific administrative provisions of the IFQ Program and would apply equally to all fishery participants without discrimination between residents of different states.

## **7. Preparers and Persons Consulted**

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