

Preliminary Final Determination

The Council recommends the following purpose and need statement and suite of alternatives. The preferred alternatives are shown in **bold**.

Purpose and Need Statement:

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 recommends the following suite of alternatives for the proposed action to modify the IFQ medical and beneficiary transfer provisions.

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