

IFQ/CQE Transfer, Beneficiary Changes

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1 Introduction

In December 2024, after receiving the Halibut and Sablefish Individual Fishing Quota Program (IFQ Program) Review, the North Pacific Fishery Management Council (Council) tasked staff to prepare a discussion paper to consider the following changes to the IFQ Program:

1. Explore options to allow the automation of in-season transfers of Community Quota Entities (CQE)-held Quota Share (QS) between eligible residents.
2. Potential changes to the criteria to be eligible to receive QS or IFQ by transfer (Transfer Eligibility Certificate):
 - a. Waive or reduce the transfer eligibility requirements for CQE eligible community residents fishing CQE-held quota share.
 - b. Allow time as crew on a tender vessel operating in support of a commercial fishery managed by the State of Alaska or in a Federal commercial fishery in the EEZ off Alaska to count towards the 150 days of sea time required for a Transfer Eligibility Certificate.
 - c. Establish a regulatory minimum age to be eligible to receive IFQ or QS by transfer. Discuss administrative and legal considerations of establishing a minimum age less than the interim policy of 18 years old (e.g. 16 years old).

The Council also requested that the paper include information on the amount of QS held by beneficiaries beyond the 3-year period during which the NMFS Regional Administrator will approve an application for transfer of IFQ. This would allow the Council to assess the scope of retention of QS by beneficiaries who do not have a Transfer Eligibility Certificate and whether changing the survivorship transfer privilege regulations at 50 CFR 679.41(k) may be warranted.

2 Current IFQ Transfer Requirements

The IFQ Program was designed to ensure that the sablefish and halibut fisheries are predominately owner-operator fisheries where the QS holders fish the annual IFQ allocation. As described in the original

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For definition of acronyms and abbreviations, see online list: <https://www.npfmc.org/library/acronyms>

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EIS, Objective 6 of 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.*”² To achieve this objective, halibut and sablefish catcher vessel QS and associated IFQ (Category B, C and D) include owner-on-board requirements for IFQ holders and transfer restrictions with limited exceptions. These exceptions allow catcher vessel IFQ to be transferred through survivorship or beneficiary IFQ leases, medical leases, military leases, IFQ leases from CQEs to residents and annual transfer of commercial halibut IFQ as guided angler fish (GAF) to charter halibut holders. More detailed information regarding the transfer of quota shares and IFQ Program provisions are found in §679.41.

Persons applying to receive QS or IFQ by transfer must submit an Application for Eligibility to Receive QS/IFQ³ to the Regional Administrator. If a person is deemed eligible to receive QS/IFQ by transfer, NMFS issues a Transfer Eligibility Certificate (TEC) to that person. Initial recipients of QS are also eligible to receive QS or IFQ by transfer (and have been provided TECs upon request). Community Development Quota (CDQ) groups and approved CQEs do not need to submit an Application for Eligibility.

TEC eligibility criteria, specified at §679.41(d)(6)(i), require persons must have 150 or more days of experience working as part of a harvesting crew in any U.S. commercial fishery. For purposes of this requirement, “harvesting” means work that is directly related to the catching and retaining of fish. Work in support of harvesting, but not directly related to it, is not considered harvesting crew work. For example, work on a fishing vessel only as an engineer or cook, or work preparing a vessel for a fishing trip would not be considered work of a harvesting crew. Applicants must list the species, gear, location, dates, actual days fishing, duties performed, vessel name and ownership information as well as a reference who is able to verify the harvesting crew experience listed on the application. The requirement of working for 150 days as part of the harvesting crew in any U.S. commercial fishery was included in the implementation of the IFQ program, reflecting the Council’s intent to require entrants in the IFQ fishery to be individuals who have commercial fishing experience and to “assure that IFQs remain in the hands of fishermen who have a history of past participation and current dependence on the fishery” (57 FR 57130).

Reasons for disapproving an Application for Eligibility may include fewer than 150 days of experience working as an IFQ crewmember, lack of compliance with citizenship or corporate ownership requirements, an incomplete application of eligibility, and any payments due and owing resulting from Federal fishery violations (50 CFR 679.41(d)(6)).

RAM currently uses available data, such as internal eLandings data and other publicly available data to research commercial fishing experience claimed in applications for eligibility to receive QS or IFQ by transfer. RAM does not always have access to systems with supporting data when an applicant’s commercial fishery activity involved participation in a U.S. commercial fishery outside of Alaska. Ultimately, RAM also relies on legal attestation of experience listed by the applicant. Currently, the NMFS RAM Division does not have internal access to the State of Alaska Commercial Fishing Entry Commission (CFEC) commercial crewmember license database and CFEC information is not currently required for applications. New administrative processes and collaboration with the State of Alaska would be required to allow for access to and verification of CFEC permits for TEC applications. Additional CFEC data could prove useful in proving and verifying commercial fishing participation for TEC applicants alongside eLandings data and further enable the NMFS RAM Division to create a new process to verify CFEC crewmember licenses.

² https://alaskafisheries.noaa.gov/sites/default/files/analyses/Amd15_20seis.pdf

³ https://media.fisheries.noaa.gov/dam-migration/application-for-eligibility-to-receive-qs_ifq-akro-noaa-fisheries.pdf?null=

3 Community Quota Entities (CQEs)

The Council recommended the CQE program in 2002 in response to concerns about migration of QS out of small Gulf of Alaska coastal communities (69 FR 23681, April 30, 2004). Eligible communities⁴ can form non-profit corporations called CQEs to purchase catcher vessel QS. The IFQ resulting from the QS must be leased to community residents annually. In effect, the CQE remains the holder of the QS, creating a long-term asset for the community to use to benefit the community and its residents. The CQE Program was also intended as a way to promote ownership by individual residents, as individuals can lease annual IFQ from the CQE and leverage this to eventually purchase their own QS.

To be eligible to purchase QS, a CQE must be incorporated as a non-profit and submit an application to NMFS. The application also requires a statement describing the procedures that will be used to determine the distribution of IFQ to residents of the community, including: (A) procedures used to solicit requests from residents to lease IFQ; and (B) criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria. There are no regulatory requirements in the CQE program for what the criteria should include or how to prioritize applicants. However, the Council included three performance standards in its final motion developing the program, which outline their intent regarding the distribution and use of community-held QS. The performance standards are: 1) equitable distribution of IFQ leases within a community, 2) the use of IFQ by local crew members, 3) the percentage of IFQ resulting from community-held QS that is fished on an annual basis⁵. In this way the Council helped direct the overall intent of the selection criteria while allowing flexibility for the unique goals of each individual community. As of August 2025, 24 communities had approved CQEs⁶, seven of which hold halibut or sablefish QS (Table 3-1).

Table 3-1 CQE QS holdings 2025

City	Species	Area	QS Units	2025 IFQ pounds	% of Area QS pool
Adak	Halibut	4B	1,369,350	106,288	14.76%
Adak	Sablefish	AI	1,976,539	650,092	6.19%
Hoonah	Halibut	2C	119,352	6,179	0.20%
Old Harbor	Halibut	3A	191,618	6,131	0.10%
Old Harbor	Halibut	3B	162,299	7,396	0.30%
Kodiak	Halibut	3A	786,942	25,178	0.43%
Perryville	Halibut	3B	148,710	6,777	0.27%
Port Lions	Halibut	3A	328,404	10,507	0.18%
Thorne Bay	Halibut	2C	8,904	461	0.02%

Source: <https://www.fisheries.noaa.gov/alaska/commercial-fishing/permits-and-licenses-issued-alaska#community-quota-entities>

The CQE program was amended to include Adak in 2014, modeled after the GOA CQE program to provide sustained participation for rural residents and allow for entry-level opportunities for fishermen residing in fishery dependent communities (79 FR 8870, February 14, 2014). Some participation requirements for the Adak CQE are less restrictive than those in the GOA. Certain community residents of Adak, AK are not required to meet the 150-day experience as harvesting crew to be eligible to receive IFQ if they are receiving only halibut IFQ in regulatory area 4B or sablefish IFQ in the regulatory area of the Aleutian Islands subarea that is derived from QS held by a CQE on behalf of Adak, AK. When adding

⁴ Eligibility to participate in the CQE program was limited to communities with fewer than 1,500 people, documented historical participation in the IFQ fisheries, direct access to saltwater on the Gulf of Alaska, and no road access to a larger community.

⁵ Review of the Community Quota Entity (CQE) Program under the Halibut/Sablefish IFQ Program. Final Report – March 2010. <https://www.npfmc.org/wp-content/PDFdocuments/halibut/CQEREport210.pdf>

⁶ <https://www.fisheries.noaa.gov/sites/default/files/akro/25cquenamescontacts.htm>

the community of Adak, AK to the list of eligible communities that may be represented by a CQE as specified in Table 21 to part 679, the “Council recommended removing the 150-day experience requirement for eligible community residents of Adak. The intent was to accommodate younger residents of Adak who may seek employment but lack the 150 days of experience as a crew member. Many younger fishermen have experience operating a vessel out of Adak fishing subsistence halibut, but in the western Aleutian Islands there are few commercial fisheries in which they can gain the necessary number of days of experience as crew members, compared to what is available for residents of GOA communities. This is in part due to fewer fishermen operating out of the Aleutian Islands on whose vessels one might be employed as a crew member” (78 FR 68390, November 11, 2013).

The Adak CQE also has less restrictive residency requirements. When the CQE program expanded to Adak, the Council recommended allowing the CQE to lease IFQ to non-CQE residents for five years to provide adequate time to accrue benefits to the community of Adak through deliveries, provide crew opportunities for residents, and earn revenue that could assist the purchase of additional QS. The intent of the time limitation was to explicitly tie the potential long-term benefits of QS held by an Aleutian Islands CQE to the residents of Adak. The limitation ended March 17, 2019, and the Adak CQE was required to lease the annual IFQ derived from QS only to eligible community residents of Adak until the residency requirement was waived for another five years beginning in 2023 (88 FR 12259, February 27, 2023) with the intent of creating more opportunities for the Adak CQE to fully harvest its allocation. The Adak CQE residency requirement is removed through February 28, 2028 (50 CFR 679.41(g)(6)(ii)). Persons who are not eligible community residents of Adak need to meet the 150-day requirement to be eligible to receive a TEC and receive IFQ derived from the QS held by an Aleutian Islands CQE.

3.1 In-season Transfers of IFQ from CQE-held QS

A CQE is allowed to lease (i.e., transfer the annual IFQ) to one or more residents of the community(ies) it represents, so that the annual IFQ derived from the QS held on behalf of a community can be fished. Each IFQ lease must be made on an annual basis (69 FR 23681, April 30, 2004) and is thus valid from the time of transfer until the end of the IFQ fishing season (50 CFR 679.4(a)(1)(i)(B)). This may lead to unfished quota if a situation arises where the resident holding the IFQ is unable to harvest the IFQ.

Regulations implementing the IFQ Program at 50 CFR Part 679.41 and 679.42 do not include regulations specifying a process nor criteria for the return of IFQ to a QS holder (including CQEs) after an authorized transfer. In addition, the IFQ permit system is not designed to accommodate these types of transactions. The current system does not track IFQ amounts based on where it originated from so if a resident receiving CQE derived IFQ also has their own IFQ and has already harvested some of their personal IFQ, there is no way to determine which IFQ has been harvested (the individual’s or the CQE’s). For example, if an individual holding QS resulting in 10,000 lbs. of IFQ then receives another 10,000 lbs. of IFQ by transfer from a CQE, they are issued a new IFQ permit with the total balance of 20,000 lbs. when the transfer is approved. If they then go fishing and harvest 5,000 lbs., they would have 15,000 lbs. remaining on their permit, but NMFS cannot parse out which IFQ was harvested, the individual’s IFQ or the CQE derived IFQ.

Currently, NMFS evaluates requests for the return of transferred IFQ on a case-by-case basis⁷, taking into account the potential hardship that may be caused if the IFQ is not returned, if the origin of the IFQ pounds can clearly be traced as well as the following policy considerations:

⁷ As previously outlined in an October 2020 B2 NMFS Management Report regarding the temporary transfer emergency rule (85 FR 38100, June 25, 2020). <https://meetings.npfmc.org/CommentReview/DownloadFile?p=daea93d1-0d98-4a73-843d-1ac4ad8a59fa.pdf&fileName=B2%20NMFS%20Management%20Report.pdf>

- Did the transferee receive any other IFQ transfers from the same area this year?
- Were there any IFQ landings made with the permit # in question this year?
- Does the transferee hold any of his/her own QS in the same area you are transferring pounds to?
- Is there disagreement between the two parties about the return of transferred IFQ pounds?

If the answer to any of the above considerations is ‘Yes’, NMFS will not return the transferred IFQ pounds to the QS holder. These considerations are necessary because the IFQ system was not designed to track or process transactions for the purpose of returning IFQ to the QS holder after temporary transfer. If the IFQ is untouched and free of these constraints, NMFS can initiate a return using a manual and technical backend process requiring case specific programming. This is a complicated and time-consuming process, which may not leave sufficient time for any returned CQE derived IFQ to be re-transferred to a new recipient for harvest within a single IFQ fishing season.

Changing the regulations to allow for in-season transfer of IFQ between CQE residents may facilitate participation in CQE fisheries and would also address the third performance standard of the CQE program relevant to “the percentage of IFQ resulting from community-held QS that is fished on an annual basis.” However, automating IFQ returns and in-season transfers would require substantial reprogramming to have an automated system perform the checks listed above. Any direct transfer between CQE residents would be considered a sublease, which is not allowed, and would also present challenges in terms of fulfilling CQE requirements and criteria to distribute IFQ among residents.

NMFS is in the process of re-designing the IFQ permits application as part of a larger project to design an integrated fisheries application (IFA) that is adaptive and supports the needs of all system stakeholders. The application will utilize new technology, improve data quality, and streamline permitting processes as well as simplify programming modifications necessary to implement regulatory changes. Changes to the current transfer functions will require a technical assessment, prioritization, and eventual programming into IFA as the IFQ program is built into the new system. NMFS has documented many IFQ business requirements and is actively planning IFQ needs and development timelines in IFA.

3.2 Waive or Reduce the Transfer Eligibility Requirements for CQEs

NMFS requires that CQEs develop criteria for determining how to distribute IFQ among community residents. Many communities have developed specific and comprehensive criteria to distribute IFQ, based on the goals and objectives of the community. For example, some communities may emphasize providing IFQ to new entrants versus long-term participants (or vice-versa), while others may focus on ensuring that the resident IFQ holder’s crew is comprised of resident crewmembers. Some communities have employed a ‘point system’, while others have developed other types of rating criteria. Regardless of the criteria employed, an individual must hold a TEC to be eligible to receive IFQ from a CQE except for the Adak CQE (as described in Section 3 above).

During the IFQ Program Review some public testimony stated that young residents of CQE communities currently lack both the 150 days of experience working in a commercial fishing harvesting capacity and the opportunity to secure that experience. Reducing or eliminating that requirement would allow young people to participate in harvesting CQE in a community able to secure that quota. This is similar to the rationale for the Adak CQE not requiring recipients of IFQ to have 150 days harvesting experience. Expanding the pool of community residents eligible to receive IFQ from CQE held QS may also help to achieve one of the principal goals of the CQE program, to provide access to halibut and sablefish resources to community residents that do not currently have access to these resources (68 FR 59564, October 16, 2003).

4 Allow Time on Tenders to Count Towards Harvest Experience for TEC

The term “tendering” refers to the fishing practice where one vessel (the tender) takes the unprocessed catch from a second fishing vessel and transports the catch to port. This practice allows the fishing vessel to resume fishing without the delay associated with traveling to port and returning to the fishing area. Tender vessels will anchor in sheltered areas within State waters, in wind-sheltered bays or close to shore. The delivering catcher vessel will tie up to the tender while the catch is pumped onboard. Fish is pumped through a dewatering box and weigh box. Anecdotally, the transfer of personnel between the vessels is commonplace as they are tied up together. The vessel captain comes across to the tender to sign the fish ticket; some tender vessels may also provide support services to catcher vessels which have been on the grounds for a longer time period.

One tendering vessel can service multiple fishing vessels, depending on its capacity and the regulations that limit tendering activity. A tender vessel is defined in regulations as a vessel that is used to transport unprocessed fish or shellfish received from another vessel to an associated processor (50 CFR §679.2). A tender vessel can be a support vessel, supplying a fishing vessel with water, fuel, provisions, fishing equipment, fish processing equipment or other supplies, or transporting processed fish, but does not process fish (50 CFR §679.2).

To work as a tender, a vessel must be associated with a shoreside processor. While some tender vessels are directly owned by the processor, many others are independent operators working under a contract with a processor. A few tender vessels operate as such year-round, but many others participate both as a catcher vessel and as a tender vessel during different times of the year. Vessels are prohibited from acting as a tender until all fish that has been harvested by the vessel has been offloaded.

Currently, to be eligible for a TEC in the IFQ fishery, persons must have 150 or more days of experience working as part of a harvesting crew in any U.S. commercial fishery. Work in support of harvesting, but not directly related to it, is not considered harvesting crew work. Therefore, time on tenders is not considered towards eligibility to receive QS or IFQ. If the Council would like to revise the eligibility requirements for a TEC in the IFQ fishery and expand the definition of eligible experience to include tendering, it would allow more opportunities for individuals to obtain the requisite experience for a TEC. This would create additional pathways for new individuals to enter the IFQ QS market and increase the pool of eligible buyers. Expanding the eligible entities in the QS market could increase the competition for QS and could result in elevated prices. However, the effect of this potential competition on the market value of QS is unknown.

Table 4-1 shows the number of vessels, days and crew participating in tendering activity in salmon and groundfish fisheries in state and federal waters off Alaska from 2015-2024. The days listed are the number of days that a tender took a landing from a vessel. Due to transit time to and from the catcher vessel and the processor the number of days is likely an underestimate of the total days that tenders were active. The number of crew is the average number of crew listed when the vessel is fishing. This may be different than the number of crew positions when the vessel is tendering, however tendering crew numbers are not available. This table does not represent the total amount of tendering effort available as potential experience for TEC requirements, it is simply a representation of the potential additional effort from tendering in the salmon and groundfish fisheries in Alaska.

Table 4-2 shows the number of vessels, days landings are made onboard and average crew participating in fishing activity in state and federal waters off Alaska from 2015-2024. Similarly to the tendering data, the days listed are only the number of days the vessel made a landing of fish onboard the vessel, which is an underestimate of the total days the vessel was fishing. This table does not represent the total amount of fishing effort available as potential crew harvesting experience for TEC requirements, it is simply a representation of the potential effort from harvesting in Alaska. Data are not available to describe the

universe of existing crew opportunities on harvesting vessels that could be used for experience towards a TEC, however the opportunities shown in Table 4-2 have decline over the past 10 years.

Table 4-1 Tendering participation in salmon and groundfish 2015-2024

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Vessels tendering	504	528	576	577	623	550	552	546	544	493
Days landings taken	14,317	15,454	18,506	16,276	20,446	14,906	17,569	15,590	16,133	11,936
Avg crew while fishing	4.00	4.23	3.17	3.61	3.39	3.60	3.40	3.46	3.28	3.17

Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive_FT

Table 4-2 Fish harvesting participation in all commercial fisheries off Alaska 2015-2024

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Vessels fishing	6,059	5,836	5,654	5,481	5,565	5,054	5,091	5,010	4,856	4,567
Days fish landed onboard	148,511	134,553	131,006	120,278	132,089	101,414	108,417	103,251	100,026	88,997
Avg crew	3.29	3.31	3.39	3.39	3.41	3.20	3.18	3.28	3.24	3.25

Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive_FT

The Crab Rationalization (CR) Program has similar requirements of 150 days sea time as part of a harvesting crew in any U.S. commercial fishery to be eligible to receive QS. There are separate categories of QS in the CR program for crew (C-shares) and owners, and currently tendering does not count towards the sea time requirement to receive any CR QS. However, the Council is reviewing an alternative to revise the eligibility requirements to purchase/receive C-shares by transfer to allow time tendering in any Federal or State commercial fishery off Alaska to count toward the 150-day eligibility.⁸ The CR Program also includes *active* participation requirements to receive and retain C-shares. The Council took action in December 2023 to recommend adding tendering to the type of activity that would count as “active,” to provide additional flexibility especially when crab fishery TACs are low and crew opportunity is diminished. Effective May 31, 2024, NMFS issued regulations stating that active participation requirements can be satisfied by participating in crew activity in any combination on board fishing or tender vessels in commercial fisheries managed by the State of Alaska or a U.S. commercial fishery in Federal waters off Alaska (89 FR 47872; 50 CFR 680.40(g) & (m)).

Including tendering experience for TEC eligibility would remain consistent with the recent changes the Council has made to retention requirements and is considering making to transfer requirements for C-shares in the CR Program. Tendering does not count towards sea time to be eligible to receive owner shares in the CR Program however, and the Council is not considering adjusting this requirement. The IFQ program does not distinguish between crew and owner shares, therefore changes to the IFQ requirement would create inconsistencies with the owner share eligibility requirement in the CR Program. Currently, if an *Application for CR Program Eligibility to Receive QS/IFQ by Transfer*⁹ documents 150 days of harvesting participation, and is approved, the individual automatically qualifies for a TEC for the halibut/sablefish IFQ fisheries. If the Council recommends different eligibility criteria be implemented for the two programs, any administrative efficiencies would be lost and these processes would have to be adjusted to implement the different criteria for each program depending on potential changes recommended by the Council to C-share eligibility and IFQ eligibility.

⁸ C5 Crab C-shares scheduled for initial review at this meeting (October 2025)

⁹ <https://www.fisheries.noaa.gov/s3/dam-migration/app-for-cr-program-eligibility-to-receive-qs-pqs-or-ifq-ipq-by-transfer-akro-noaa-fisheries-.pdf>

5 Minimum Age to be Eligible to Receive IFQ or QS by Transfer

On October 3, 2022, the NMFS Alaska Regional Administrator established an interim policy that set the minimum age for the issuance of an IFQ TEC at 18 years old. The NMFS RAM Division has historically received applications from very young applicants, raising questions and concerns leading to discussion and development of an interim policy. NMFS developed the interim policy to provide the agency with a consistent approach for addressing TEC applications until it is superseded by a change in Federal regulation. Harvest crew experience, minimum age requirements under contractual law, and other legal and enforcement considerations (summarized in Table 5-1) were taken into account for the decision.

Applicants must use experience working as an IFQ crewmember (unless they are a community resident of Adak, AK) to qualify for IFQ or QS transfer (50 CFR 679.41(d)(6)). IFQ crewmember is defined at 50 CFR 679.2 to mean any individual who has at least 150 days experience working as part of the harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS. To serve as a crewmember in the state of Alaska, individuals are required to have an Alaska Commercial Crewmember's license or hold a Commercial Fishery Entry Commission (CFEC) fishing permit. Minors 11 years of age or older can obtain an annual crewmember license (AS 16.05.480). Individuals holding a crewmember's license are not required to hold a state or Federal ID bearing a photograph until they are over 16 years of age (5 AAC 39.110). CFEC permits are generally only allowed to be transferred to those who demonstrate the present ability to engage actively in the fishery, with a presumption that translates to a minimum age of 10 for setnet permits and 16 years old for all other permits (20 AAC 05.1707).

Federal and state labor laws also vary when it comes to a minimum age for employment in commercial fishing. Federal and state minimum age requirements for employment prohibit and protect minors under the age of 18 from operating specific machinery (such as hydraulic pot and line haulers, as well as winches) often necessary for commercial fishing. Generally, Federal law sets 16 as a minimum age for employment (29 CFR 570.2(a)(1)). However, the employment of minors between 14 and 16 is allowed by Federal regulation as long as it meets specific conditions specified elsewhere in regulation and does not interfere with their schooling, health, and well-being and is not deemed to be oppressive child labor (29 CFR 570.31). Federal parental exemptions allow minors under 16 years of age to be employed by their parents in occupations other than manufacturing, mining, or occupations declared hazardous by the Secretary of Labor (29 CFR 570.2(a)(2)). Under Alaska state regulations, minors under the age of 18 are allowed to work in commercial fishing, and individuals under the age of 18 may work under the direct supervision of a parent in a business owned and operated by a parent or on a boat owned and operated by their parent (AS 23.10.350(e)).

Federal and state labor laws further detail how many hours minors can work each week. Minors 14 and 15 years old may only work outside of school hours, no more than 18 hours in any week when school is in session and no more than 40 hours in any one week when school is not in session according to Federal regulation (29 CFR 570.35). Alaska state law permits minors under the age of 16 to work between the hours of 5am and 9pm, for a total of 9 hours of school and work combined in one day, no more than 23 hours per week outside of school hours and no more than 6 days per week (AS 23.10.340).

Although age requirements vary between state and Federal labor laws, NMFS must consider requirements governed by contractual law. Contractual law regulates the creation and enforcement of legally binding agreements between parties such as the underlying sales agreement required for QS/IFQ transfer. Under Alaska law, a person is not considered to have arrived at majority until the age of 18, after which the person has control over his or her own actions and business, and is subject to all liabilities of citizens of full age (AS 25.20.010). A contract with individuals under the age of 18 generally cannot be enforced as such contracts are voidable by the minor (RLR v. State, 487 P.2d 27, 34 (Alaska 1971)). Since sales agreements are part of the QS transfer process, these legal considerations should be taken into account.

There is also the issue of a minor's capacity to fully comprehend and competently carry out his or her duties as a QS and IFQ permit holder. The IFQ Program contains a requirement that the permit holder be aboard the vessel at all times during a fishing trip (50 CFR 679.42(c)) and fishing can be inherently dangerous. A QS and IFQ permit holder's responsibilities are complex and include, but are not limited to:

- Carrying on board the vessel a legible copy of any IFQ permit used by the permitted person to harvest IFQ halibut or IFQ sablefish at all times that such fish are retained on board. §679.4(d)(1)(ii).
- Complying with the Recordkeeping & Reporting requirements provided at paragraphs (e), (g), (k) and (l) of Section 679.5. Id. § 679.5(a)(2)(iii).
- Not violating the prohibitions applicable to IFQ fisheries. Id. § 679.7(f).
- Conducting a properly debited landing. Id. § 679.40(h).
- Understanding and complying with the limitations on QS and IFQ use, including area and vessel category restrictions. Id. § 679.42(a), (h).
- Being potentially jointly and severally liable with vessel owners and operators for exceeding vessel limitations. Id. § 679.42(h).
- Being aboard the vessel at all times during the fishing trip and being present during the landing. Id. § 679.42(c).
- Being responsible for cost recovery fees for landings of his or her IFQ halibut and sablefish, including any halibut landed as guided angler fish (GAF). Id. § 679.45(a)(1).
- Being responsible for collecting his or her own fee during the calendar year in which the IFQ fish and/or GAF are landed. Id. § 679.45(a)(3)(i).

Related to the aforementioned duties is the issue of whether minors would fully understand that, in the event of a violation, they would be exposed to potential liability for civil penalties and permit sanctions.

NOAA OLE prefers consistency in regulations to promote compliance and ease of understanding, and to improve enforceability. Enforcement officers and special agents could pursue enforcement action against minors for noncompliance with Federal regulations, although consideration should be given to exposing minors to potential liability for civil penalties and citations.

Table 5-1 Minimum age requirements under relevant permits and regulations

Permit/Regulation	minimum age
NMFS interim policy for TEC	18
Alaska Commercial Crewmembers License	11
Commercial Fishery Entry Commission (CFEC) fisheries permit	16 (10 for setnet)
Federal employment	16 (14 under specific conditions, hour restrictions)
Operate hydraulic pot and line haulers, winches	18
Contractual law/majority age under AK law	18

Absent clear direction in the regulations governing the IFQ Program, all relevant labor and contractual laws, as well as compliance and enforcement considerations, must be weighed when determining a minimum age for IFQ eligibility. NMFS recommends initiating an action to establish a minimum age in regulation to be eligible to receive IFQ or QS by transfer based on all applicable laws. This would allow the Council and NMFS to consider a range of options for what the minimum age should be for an individual to receive IFQ or QS by transfer under the IFQ Program.

6 QS Held by Beneficiaries Beyond Three Years

In 1996, NMFS amended IFQ Program regulations to allow for a temporary transfer of QS to surviving spouses of deceased QS holders. This provision allowed “a surviving spouse to transfer the total IFQ resulting from QS for a period of 3 years and thereby obtain pecuniary benefit from the QS for that period.” NMFS determined that 3 years would provide the surviving spouse with adequate time to resolve permanently any issues that may arise due to receiving QS or IFQ by right of survivorship, including subsequent transfers (61 FR 41523, August 9, 1996). The survivorship transfer provisions in 50 CFR 679.41(k) have since been expanded to include an immediate family member who can be designated as a beneficiary, and to add estate representative to the list of people who can receive IFQ held by the decedent (65 FR 78126, December 14, 2000; 66 FR 27908, May 21, 2001; 85 FR 8477, February 14, 2020).

Following a QS holder's passing, the NMFS Regional Administrator will approve an application for transfer of IFQ for a period of 3 calendar years following the date of death of an individual to a designated beneficiary (§ 679.41(k)(3)). The intent of this provision is to provide continued income and allow time for the beneficiary to fish the associated IFQ, lease the IFQ to other qualified fishery participants, and/or become qualified to obtain a TEC and retain the QS at the end of the 3-year beneficiary period.

In preparation for IFQ permit issuance for the 2024 IFQ fishing year, NMFS identified an increase in the amount of QS held by beneficiaries beyond the 3-year beneficiary window.¹⁰ In past years, the amount of QS held by beneficiaries beyond the 3-year window that do not hold a TEC had been relatively small. In the past, when the QS has been held by a person beyond the 3-year beneficiary window, NMFS had still issued the resulting IFQ permit with poundage to the beneficiary. Beginning with the 2025 IFQ fishing season, NMFS did not issue IFQ to beneficiaries that had exceeded the 3-year beneficiary window and did not hold a valid TEC. Seven beneficiary accounts expired in 2024 and thus did not receive IFQ in 2025 due to being beyond the three-year window. There are currently 20 beneficiaries, representing a total of 8,791,913 QS units, whose accounts will expire at some point through 2028 and will not receive IFQ the following year unless they acquire a TEC (Table 6-1).

Table 6-1 Number of beneficiary accounts with no TEC and the year they expire (after which IFQ will not be issued unless a TEC is acquired)

	2025	2026	2027	2028
Beneficiary accounts	2	8	9	1

Source: NMFS RAM

All beneficiaries that are out of compliance with the 3-year window will be notified and will no longer be issued IFQ to better align NMFS practices with the intended use of the beneficiary provision. As a result of not issuing IFQ to beneficiaries that have held QS for more than 3 years, those QS units will not be included in the QS pool for issuance of IFQ in 2025 and beyond, allowing the resulting IFQ pounds to be distributed among other QS holders in the issuance pool.

QS held by beneficiaries is difficult to track in the existing legacy computer system, known as ALDERS. NMFS is working to improve the systems used to administer the IFQ Program through the development of an Integrated Fisheries Application (IFA) software program. The IFQ Program will be implemented in the IFA program in a future fishing year. Until then, NMFS continues to evaluate the current program and

¹⁰ Halibut and sablefish IFQ beneficiary issues were included in the April 2024 B2 report to the Council: <https://meetings.npfmc.org/CommentReview/DownloadFile?p=57e10dcd-6900-4626-a00f-e35386615c7f.pdf&fileName=B2%20NMFS%20Management%20Report.pdf>

improve tracking mechanisms for existing IFQ Program provisions. Under the current system, the beneficiary provision is monitored through manual checks and data reporting to verify how many years the QS has been held by the beneficiary.

The regulations governing the beneficiary provision of the IFQ Program do not provide guidance to NMFS about what should happen to QS held by a beneficiary after the 3-year window following the date of death. If the beneficiary does not acquire a TEC, then they are no longer eligible to receive annual IFQ. Because of the increasing use of the beneficiary provision, it is possible that an ever-increasing amount of QS could continue to be held by beneficiaries after the 3-year window. If those beneficiaries hold onto the QS beyond 3 years and do not become active participants in the fishery, then there is the possibility that the annual QS pool would continue to shrink due to QS being removed from the annual pool for which annual IFQ is issued. NMFS recommends that the Council consider whether to change the survivorship transfer privilege regulations at 50 CFR 679.41(k) to govern what happens to QS held by a beneficiary beyond 3-years.

7 Next Steps

If the Council chooses to move forward with an action related to one or more of these issues, it should consider the appropriate path forward, given the scope of the potential action. Previous “IFQ Omnibus” actions have addressed multiple, disparate IFQ issues in the same analysis. This can lead to efficiencies in the Council and regulatory process, but can also increase analytical complexity to describe multiple, unrelated problems in a single purpose and need statement, each with a different suite of potential solutions. If the Council identifies a purpose and need that is relevant to all alternatives, those can be developed into a single initial review draft analysis. Otherwise, it may be more appropriate to develop multiple analyses if the alternatives are not sufficiently related.

8 Contributors and Persons Consulted

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