

IFQ Beneficiary Lease Provision

Discussion Paper

February 2018¹

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1 Introduction

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

To help prevent a means of circumventing the owner-operator objective of the IFQ Program, leasing of IFQ derived from catcher vessel shares has generally been prohibited since 1998. However, provisions are included in the program that allowed for temporary leasing of catcher vessel IFQ under specific conditions. One of the defined conditions is the survivorship transfer privileges that may be granted for up to three years after the QS holder’s death. The intent of this transfer is for the surviving spouse, or an immediate family member designated by the QS

¹ Prepared by Stephanie Warpinski (NMFS Sustainable Fisheries) and Darrell Brannan (NPFMC/NMFS Contractor).

² Except for non-individual entities (businesses, partnerships, etc.) which were initial recipients of catcher vessel QS and able to acquire catcher vessel QS until December 1, 2014.

holder, to benefit for a certain period of time. National Marine Fisheries Service (NMFS) provides a Beneficiary Designation form for QS holders, however, of the over 2,450 individual QS holders, only about 340 (14%) have completed a form.

NMFS has received inquiries about the definition it is using for an immediate family member. NMFS has also received requests to use an expanded definition of immediate family member in making determinations about the person named on a QS/IFQ Beneficiary Designation form or processing survivorship transfers. NMFS and IFQ Program participants would benefit from clarification of the North Pacific Fishery Management Council's (Council) intent for administration of this provision. The IFQ Program review identified issues with the beneficiary transfer provision that NMFS staff noted the Council may wish to address.³ NMFS also indicated that an appropriate means to begin considering potential remedies was to develop a discussion paper that identified the issues and offered alternatives for the Council to consider. The Council accepted that approach and requested the preparation of this discussion paper based on the IFQ committee recommendations.

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

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

2 Management Authority

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

³ https://www.npfmc.org/wp-content/PDFdocuments/halibut/IFQProgramReview_417.pdf

IPHC regulations. Such Council–developed regulations may be implemented by NMFS only after approval by the Secretary.

In Federal waters, the Alaska sablefish fishery is managed through the Council's Gulf of Alaska and Bering Sea and Aleutian Islands Groundfish Fishery Management Plans (FMPs), subject to Magnuson-Stevens Fishery Conservation and Management Act and corresponding Federal regulations. The Council may amend the sablefish IFQ Program through amendments to the Gulf of Alaska and Bering Sea and Aleutian Islands Groundfish FMPs, as well as connected or independent Federal regulations. Such amendments must be approved by the Secretary before they can be implemented by NMFS.

3 Issues Considered

Under current regulations, surviving spouses or designated beneficiaries who are immediate family members may lease the IFQ for a three-year period upon the death of the QS holder; however, there is no regulatory definition of “immediate family member.” NMFS has received requests to use an expanded definition of immediate family member in making determinations on accepting the person named on a QS/IFQ Beneficiary Designation Form (Beneficiary Designation Form) or processing survivorship transfers (see Appendix). NMFS and participants would benefit from a clarification of the Council’s intent for administration of this provision.

As QS holders grow older, an increasing number are trying to determine how to preserve the 3-year lease opportunity for their heirs. As a result, it is anticipated that there will be more scrutiny of the designated beneficiary issues and it may be appropriate to address these issues to help reduce the number of estate planning questions addressed to NMFS staff that are outside of their areas of expertise.

3.1 Beneficiary Transfer Form

To transfer QS under this beneficiary provision, the surviving spouse, or the designated beneficiary named on the Beneficiary Designation form by the QS holder, submits an Application for Transfer of QS/IFQ Form. These forms are processed by NMFS Restricted Access Management (RAM) Division. RAM is responsible for managing Alaska Region permit programs, including those that limit access to the federally-managed fisheries of the North Pacific. RAM responsibilities include providing program information to the public, determining eligibility and issuing permits, processing transfers and related activities.

On the Beneficiary Designation Form, QS holders may provide NMFS with the name of a designated beneficiary to receive survivorship transfer privileges in the event of the QS holder’s death. If the QS holder does not leave a surviving spouse, he/she may name an immediate family member to be the beneficiary. NMFS may approve an application to transfer QS to the surviving spouse or designated beneficiary, unless a contrary intent is expressed by the decedent in a will and provided that sufficient evidence has been provided to verify the death of the individual. Typically, NMFS requires the death certificate and the will to accompany a QS transfer. Legally, the will trumps the Beneficiary Designation form even if the QS holder submits a form to NMFS.

NMFS will allow the transfer of IFQ only resulting from the QS transferred to the beneficiary by right of survivorship, for a period of three years following the death of the original QS holder. After the three-year period expires, the spouse or designated beneficiary must either qualify to hold the QS or transfer the QS. To designate the surviving spouse, or in the absence of a surviving spouse, an immediate family member must be designated as the beneficiary and for these purposes QS/IFQ can only be held by a U.S. citizen.

3.2 Regulations

In 2007, a final rule (72 FR 153) modified language in paragraph 679.41(k) to expand the existing survivorship transfer provisions to include a family member designated as beneficiary to whom the survivorship transfer privileges would extend in the absence of a surviving spouse:

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

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

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

This provision was consistent with the Council's intent for the IFQ Program, as evidenced by sections 14.4.7.1.4(5) and 4.4.1.1.4(5), respectively, of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska, which state:

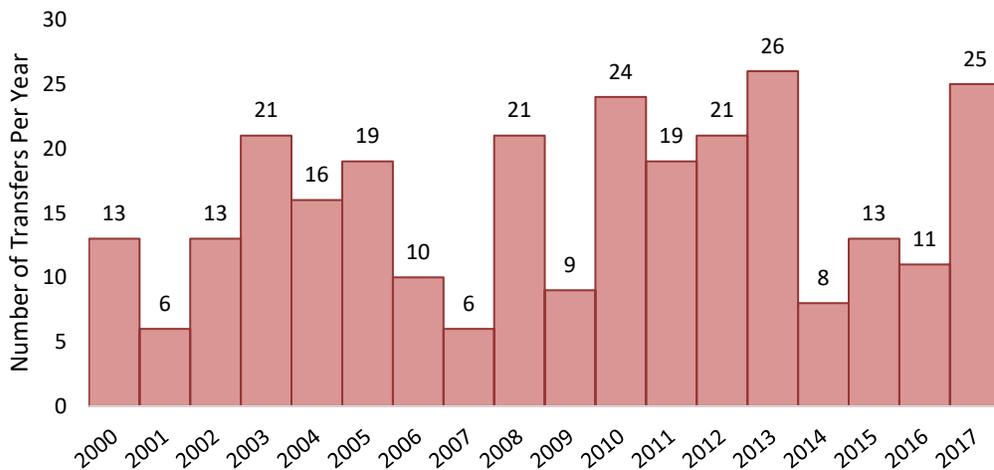
The Secretary may, by regulation, designate exceptions to [the transfer provisions] to be employed in cases of personal injury or extreme personal emergency which allows the transfer of [IFQ resulting from QS assigned to vessel categories B, C, or D] for limited periods of time.

50 CFR 679.41(k) provides that individuals who hold Pacific halibut or sablefish QS may provide NMFS with the name of a designated beneficiary to receive survivorship transfer privileges in the event of the QS holder's death. NMFS may approve an application to transfer QS to the surviving spouse or designated beneficiary, unless a contrary intent is expressed by the decedent in a will and provided that sufficient evidence has been provided to verify the death of the individual. NMFS will allow the transfer of IFQ only (temporary lease) resulting from the QS transferred to the beneficiary by right of survivorship, for a period of 3 years following the death of the original QS holder.

3.3 Designated Beneficiary Transfers

Figure 1 provides a summary of the QS holders that used the designated beneficiary transfer provision from 2000-2017. Data in Figure 1 represent a total of 281 QS beneficiary transfers approved by NMFS. The average for 2000-2008 was 14 transfers per year compared to 19 annual transfers for 2009-2017. NMFS expects that requests for beneficiary transfers to increase as the age of QS holders increases. In this section, the data include all transfers by area and by species (both halibut and sablefish).

Figure 1 Distinct Beneficiary Transfers Per Year, 2000-2017



Source: NMFS RAM.

Table 1 provides a summary of the types of transfers that NMFS tracks. Most recipients of transfers (over 89% each year) were defined as family members. In over half the years considered, all of the transfers were to family members (as designated on the forms). When transfers were not to a family member they were to a person that was not related, but not considered a business partner.

Table 1 Number of Transfers by Relationship

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

Source: NMFS RAM.

Since 2000, 30 million QS units have been transferred by the beneficiary transfer provision. Table 2 provides a summary of the number of transfers and the total amount of QS units transferred by year under this provision. The number of QS units transferred varied from a low of less than 134,000 units in 2001 to a high of almost 7 million units in 2017.

Table 2 Distinct Number of Transfers and IFQ Transferred under Beneficiary Transfer Provision

| Year | Number of Annual Transfers | QS Transferred by Beneficiary Transfer |
|--------------------|-----------------------------------|---|
| 2000 | 13 | 1,922,206 |
| 2001 | 6 | 133,687 |
| 2002 | 13 | 545,286 |
| 2003 | 21 | 3,208,740 |
| 2004 | 16 | 749,917 |
| 2005 | 19 | 902,695 |
| 2006 | 10 | 890,957 |
| 2007 | 6 | 1,182,754 |
| 2008 | 21 | 1,568,647 |
| 2009 | 9 | 817,587 |
| 2010 | 24 | 1,250,586 |
| 2011 | 19 | 4,105,109 |
| 2012 | 21 | 825,997 |
| 2013 | 26 | 1,297,083 |
| 2014 | 8 | 512,761 |
| 2015 | 13 | 1,657,486 |
| 2016 | 11 | 1,711,534 |
| 2017 | 25 | 6,906,067 |
| Grand Total | 281 | 30,189,099 |

Source: NMFS RAM.

Table 3 provides a summary of beneficiary transfers as a percent of total transfers in a year. The first column is the year, the second column is the count of transfers by year, the third column is the amount of QS transferred to a beneficiary, the fourth column is the total amount of QS transferred for any reason each year, and the fifth column is beneficiary transfers as a percent of all QS transferred each year. In a given year, beneficiary transfers account for 6.8% of total QS transferred. In 2017, the percent of beneficiary transfers increased and accounted for 23.4% of total QS transfers in the IFQ Program.

Table 3 Annual Beneficiary Transfers and Total QS Transfers

| Year | Count of Persons Transferring | QS Transferred to Beneficiary | Total QS Transferred | % of Total QS Transferred |
|------|-------------------------------|-------------------------------|----------------------|---------------------------|
| 2008 | 21 | 1,568,647 | 43,646,845 | 3.6% |
| 2009 | 9 | 817,587 | 24,485,993 | 3.3% |
| 2010 | 24 | 1,250,586 | 40,202,367 | 3.1% |
| 2011 | 19 | 4,105,109 | 34,585,972 | 11.9% |
| 2012 | 21 | 825,997 | 22,292,318 | 3.7% |
| 2013 | 26 | 1,297,083 | 19,086,146 | 6.8% |
| 2014 | 8 | 512,761 | 30,390,574 | 1.7% |
| 2015 | 13 | 1,657,486 | 22,358,658 | 7.4% |
| 2016 | 11 | 1,711,534 | 24,095,780 | 7.1% |
| 2017 | 25 | 6,906,067 | 29,493,102 | 23.4% |

Source: NMFS RAM and NMFS RAM Transfer Reports.

3.4 Definition of “immediate family member”

Under the beneficiary lease provision, surviving spouses or designated beneficiaries who are immediate family members may lease IFQ resulting from QS held by the deceased for a three-year period after the death of the QS holder. However, there is no regulatory definition of “immediate family member.” This creates administrative issues for NMFS as cultural understandings of family are evolving and has increasingly become an issue for aging QS holders and estate planning.

50 CFR 679.41(k) and 680.41(g) authorize the surviving spouse or designated beneficiary, who is an immediate family member, to lease IFQ for a three year period upon the death of the QS holder. Neither the 50 CFR 679.41(k) nor the 50 CFR 680.41(g) regulations define “immediate family member” and that creates administrative issues for NMFS.

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

To date, there has only been one Beneficiary Designation form that NMFS questioned the immediate family member designation listed. In that case the person was listed as “partner,” which falls outside of the current interpretation of the definition of an immediate family member. That Beneficiary Designation form examination was the catalyst for considering that there can be

many meanings of "immediate family." The objective of redefining "immediate family" in regulations is to prevent NMFS staff from determining whether or not the person listed on the Beneficiary Designation form may be considered "immediate family."

Of the over 2,450 individual QS holders, only about 340 (14%) have completed a Beneficiary Designation form.⁴ One possible reason for few QS holders completing the form is that many QS holders may think that naming someone in their will grants that person the authority to lease the IFQ for 3 years after their death. If the person listed in the will is not the surviving spouse, that understanding is incorrect. **The beneficiary listed in a will that is not the surviving spouse will not be eligible to transfer the IFQ as a beneficiary.** Instead, regulations state the QS holder may provide the Regional Administrator with the name of a beneficiary in their immediate family that has the authority to lease the QS for up to three years. If there is no surviving spouse and no beneficiary name was provided to NMFS on an approved Beneficiary Designation form, those dealing with the QS holder's estate are left with only one option - to transfer the QS.

NMFS RAM staff report being asked for advice by the family members of the deceased or their representatives dealing with the QS holder's estate on how to address these issues. In one instance, a surviving spouse was named on the Beneficiary Designation form and the will named a son to receive the QS. In this instance, the wife cannot lease the QS since the will's intent trumps the Beneficiary Designation form. However, NMFS cannot allow the son to lease the IFQ, so the only option left was for the son to sell the QS.

NMFS is not an estate planning organization and is not capable of responding to these questions beyond what is stated in regulations. In addition, NMFS does not want to be in a position where it must review wills to determine how QS holdings should be divided among heirs. These issues can quickly become complicated when QS blocks are held and there are several heirs listed in the will. NMFS wants the role of dividing a person's QS holdings to be filled by the person appointed in the will or appointed by the courts to have that responsibility and not agency staff.

4 Recommendations

This section provides recommendation for stakeholders to consider to address issues associated with designated beneficiary transfers. Section 4.1 is based on a NMFS recommendation to replace the immediate family definition with a court-appointed representative or estate representative. Selecting this option would also eliminate the need to define an immediate family member for the purpose of transfers of QS associated with an estate. If the immediate family member language is retained in regulation, Section 4.2 provides options to redefine that term to more closely represent current descriptions of "families."

4.1 Remove any reference to "immediate family member" and replace with estate representative

NMFS recommends a regulatory amendment to clarify that a court-appointed representative or an estate representative for the QS holder's estate would be authorized to receive the deceased's QS and/or lease the IFQ derived from that QS for a period of three years following the QS

⁴ NMFS RAM data accessed January 11, 2018.

holder's death.⁵ Under this option, NMFS **would remove references to surviving spouse or designated beneficiary in regulations** and allow the estate representative to manage the use of the decedent's QS holdings. NMFS recommends this approach because it would create a minimal burden for a person to demonstrate to NMFS that they are a representative for an estate. Such a representative could submit court-issued documents to demonstrate their eligibility. In addition, this approach would provide clear and consistent eligibility criteria for NMFS to determine if a person is eligible to transfer QS and/or lease IFQ previously held by a deceased QS holder.

In most states, the **estate representative** would either be the designated executor of the will or, in the case there was no will, a personal representative appointed by the court. Court-appointed representation can be cost prohibitive and a non-court appointed estate representative could be a sub option to manage QS holdings.⁶ The executor is a person named in the will to serve as deceased's personal estate representative. The representative administers the estate of someone who died intestate (without a will). Eligibility for appointment as a personal representative requires that a person must have the capacity to execute contracts. Most states have an order of priority for appointment of the personal representative. For example, under Section 3-203 of the Uniform Probate Code, the order is:

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

Based on the NMFS recommendation, regulations at 50 CFR 679.41(k) would be amended to read:

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

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

~~(32) The Regional Administrator will approve, for 3 calendar years following the date of death of an individual, an Application for Transfer of IFQ from the **estate representative**~~

⁵ Note: NMFS would need to determine how to include both court-appointed and non court-appointed representatives. Appropriate and inclusive terminology would be explored in the analysis. At this time, estate representative is a placeholder for the legal representative of a deceased QS holder's estate.

⁶The cost of a court-appointed representative can be prohibitive and as this action moves forward, cost estimates could be an item for the analysis.

~~surviving spouse or, in the absence of a surviving spouse, from a beneficiary from the QS holder's immediate family designated pursuant to paragraph (k)(2) of this section to a person eligible to receive IFQ under the provisions of this section, notwithstanding the limitations on transfers of IFQ in paragraph (h)(2) of this section.~~

4.2 Redefine "immediate family member"

There is currently no uniform definition of "immediate family member" in state and Federal laws. Variations in the definition make it difficult to define. However, if the Council wanted to consider a revised definition, three options are presented below.

Option 1: Use the State of Alaska definition of immediate family for Public Officers and Employees found in Alaska Statute 39.52.960 (11). "Immediate family member" under that definition means:

1. the spouse of the person;
2. another person cohabiting with the person in a conjugal relationship that is not a legal marriage;
3. a child, including a stepchild and an adoptive child, of the person;
4. a parent, sibling, grandparent, aunt, or uncle of the person; and
5. a parent or sibling of the person's spouse.

In the past, NMFS has mirrored State of Alaska regulations or definitions, but it is not recommended for this current issue.

Option 2: Use the definition of immediate relative that the U.S. Office of Personnel Management (OPM) employs. For their purposes an "immediate relative" is an individual with any of the following relationships:⁷

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

Option 3: Use the definition of immediate family member for the Federal Family Medical Leave Act (FMLA) of 1993. That definition would include a:

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

⁷ <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/definitions-related-to-family-member-and-immediate-relative-for-purposes-of-sick-leave/>

Under the FMLA, a “spouse” means a husband or wife, including those in same-sex marriages, which were made legal in all 50 United States as of June 26, 2015. The FMLA defines the term “parent” as “a biological, adoptive, step or foster father or mother, or any other individual who stood in the place of a parent when he or she was a minor. “Son or daughter” means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in the place of a parent who is either under age 18 or age 18 or older and “incapable of self-care because of a mental or physical disability.”

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

The Council could also select specific elements from each of the options to create its own definition. The three options presented cover all or almost all of the individuals that could be considered as an immediate family member.

4.3 Additional options

Option 1: The Council may consider removing the Beneficiary Transfer provision entirely. Removing the provision would relieve NMFS of a legal duty to decipher wills and other estate documents and to determine which individuals are considered immediate family members. However, if the Beneficiary Transfer provision was removed, the surviving spouse, designated immediate family member, or estate representative would not be able to lease IFQ (except through medical transfers or other authorized circumstances) and instead would need to permanently transfer the QS to a qualified individual or fish the quota them self. The limitations placed on leasing could impose significant hardships on the heirs and unless they are qualified to receive QS or IFQ through transfer.

Option 2: NMFS RAM reports that some beneficiaries have leased the annual IFQ they are issued as a result of the beneficiary transfer of QS for three years. After three years, those QS holders continue to lease their IFQ through a medical transfer. The surviving beneficiary may consider the lease payments as a long-term revenue stream, which was not the intent of the beneficiary lease provision. The three year lease provision was intended to remove some hardship for surviving beneficiaries while the estate is being settled.

The Council could address long-term leasing of QS transferred under the Beneficiary Transfer provision through changes proposed under the medical transfer provision. This would maintain a fishing opportunity for spouses or family members that are qualified to hold QS and allow for transfer of QS in a timely manner to other qualified IFQ participants for those that do not intend to fish in the future.

5 References and Persons Consulted

NMFS. (December 2016). *Twenty-Year Review of the Pacific Halibut and Sablefish Individual Fishing Quota Management Program*. Retrieved from https://www.npfmc.org/wp-content/PDFdocuments/halibut/IFQProgramReview_417.pdf

NPFMC. (February 2017). *C4 IFQ Committee Report Draft Motion*. Retrieved from <https://www.npfmc.org/halibutsablefish-ifq-program/#IFQComm>

Persons Consulted

Rachel Baker, NMFS SFD

Sam Cunningham, NPFMC

Tracy Buck, NMFS RAM

Clydina Bailey, NMFS RAM

Tom Meyer, NMFS GCAK

6 Appendix: QS/IFQ Beneficiary Designation Form

| | | | |
|---|---|--|---|
|  | <p>QS/IFQ BENEFICIARY DESIGNATION FORM</p> | <p>U.S. Dept. of Commerce/NOAA National Marine Fisheries Service (NMFS) Restricted Access Management Program (RAM) P.O. Box 21668 Juneau, AK 99802-1668 (800) 304-4846 toll free / 586-7202 in Juneau (907) 586-7354 fax</p> |  |
|---|---|--|---|

Quota share (QS) holders may provide NMFS with the name of a designated beneficiary to receive survivorship transfer privileges in the event of the QS holder's death.

If the QS holder does not leave a surviving spouse, he/she may name an immediate family member to be the beneficiary. NMFS may approve an application to transfer QS to the surviving spouse or designated beneficiary, **unless a contrary intent is expressed by the decedent in a Will** and provided that sufficient evidence has been provided to verify the death of the individual.

NMFS will allow the transfer of individual fishing quota (IFQ) only (lease) resulting from the QS transferred to the beneficiary by right of survivorship, for a period of 3 years following the death of the original QS holder

Use this form to designate the surviving spouse, or in the absence of a surviving spouse, an immediate family member to be the beneficiary for these purposes.

QS/IFQ can only be held by a U.S. citizen.

| <i>BLOCK A - IDENTIFICATION OF QS HOLDER</i> | | |
|---|-------------------------|-----------------------------|
| 1. Name: | 2. NMFS Person ID: | |
| 3. Business Mailing Address: | | |
| 4. Business Telephone Number: | 5. Business Fax Number: | 6. Business E-mail Address: |
| <i>BLOCK B - IDENTIFICATION OF BENEFICIARY</i> | | |
| 1. Name: | 2. NMFS Person ID: | |
| 3. Business Mailing Address: | | |
| 4. Business Telephone Number: | 5. Business Fax Number: | 6. Business E-mail Address: |

BLOCK C - RELATIONSHIP OF BENEFICIARY TO QS HOLDER

Is the beneficiary named on this form the spouse of the QS holder?

YES [] NO []

If NO, explain the family relationship of the beneficiary to the QS holder:

BLOCK D - SIGNATURE

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, the information presented here is true, correct, and complete.

Signature of QS Holder:

Date:

Printed Name of QS Holder (*If completed by an authorized representative, **attach** authorization*):

Notary Public:

ATTEST

Affix Notary Stamp or Seal Here:

Commission Expires:

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden estimate or any other aspect of this collection of information, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

**INSTRUCTIONS
QS/IFQ BENEFICIARY DESIGNATION FORM**

50 CFR 679.41(k) provides that individuals who hold Pacific halibut or sablefish Quota Share (QS) may provide NMFS with the name of a designated beneficiary to receive survivorship transfer privileges in the event of the QS holder's death.

NMFS may approve an application to transfer QS to the surviving spouse or designated beneficiary, unless a contrary intent is expressed by the decedent in a Will and provided that sufficient evidence has been provided to verify the death of the individual.

NMFS will allow the transfer of individual fishing quota (IFQ) only (lease) resulting from the QS transferred to the beneficiary by right of survivorship, for a period of 3 years following the death of the original QS holder.

QS/IFQ can only be held by a U.S. citizen.

GENERAL INFORMATION

Type or print legibly in ink and retain a copy of completed application for your records.

Please allow at least 10 working days for your application to be processed.

An application may be submitted to NMFS by mail or delivery. Fax submittal is not acceptable due to the Notary requirements. RAM will not process an application that does not bear original signatures (faxed applications will be returned).

When completed, submit the original application

by mail to: **NMFS, Alaska Region
Restricted Access Management (RAM)
P.O. Box 21668
Juneau, AK 99802-1668**

or deliver to: **Room 713, Federal Building
709 West 9th Street**

Items will be sent to you by first class mail, unless you provide alternate instructions and include a prepaid mailer with appropriate postage or corporate account number for express delivery. Additional information is available from RAM, as follows:

Website: <http://www.alaskafisheries.noaa.gov/ram/default.htm>

Telephone (toll free): 800-304-4846 (press "2")

Telephone (in Juneau): 907-586-7202 (press "2")

e-Mail: RAM.Alaska@noaa.gov

COMPLETING THE APPLICATION

BLOCK A – IDENTIFICATION OF QS HOLDER

1. Enter name of QS holder
2. NMFS Person ID: NMFS will supply this number, if you do not already have one.

3. Enter permanent mailing address, including street or P.O. Box, city, state, and zip code.
4. Business Telephone Number, Business Fax Number, and Business E-mail address (if available)

BLOCK B – IDENTIFICATION OF BENEFICIARY

1. Enter name of beneficiary.
2. NMFS Person ID: NMFS will supply this number, if you do not already have one.
3. Enter permanent mailing address, including street or P.O. Box, city, state, and zip code.
4. Business Telephone Number, Business Fax Number, and Business E-mail address (if available)

BLOCK C -- RELATIONSHIP OF BENEFICIARY TO QS HOLDER

Indicate if the beneficiary named on this form is the spouse of the QS holder.

If NO, explain the family relationship of the beneficiary to the QS holder:

BLOCK D -- SIGNATURE

All signatures must be witnessed by a Notary Public (or, in some remote areas, the community Postmaster or Postmistress).

The QS Holder must enter printed name, signature, and date signed. Signature indicates that the information presented is true, correct, and complete.

The Notary Public must enter name, date commission expires, and apply Notary Public stamp or seal.