

## IFQ Committee Meeting Agenda and Briefing January 30, 2017 Seattle, WA

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### AGENDA

1. Call to Order and Introductions
2. [Initial Review](#) of Area 4 Halibut IFQ Leasing by CDQ Groups (document linked)
3. Issues tasked to the Committee for review
  - a. Sweep-ups of small blocked QS units
  - b. Use of the medical lease provision
  - c. Definition of *immediate family member* under the beneficiary lease provision
  - d. Impact of QS loss in rural Alaska communities; Definition of *rural*
  - e. PRESENTATION: Rural participation and aging of the IFQ fleet (Dr. Courtney Carothers, UAF)
  - f. Geographical distribution of new entrant QS ownership
  - g. Use of hired masters
4. PUBLIC TESTIMONY
5. Final comments to the Council on the finalized 20-year review document
6. Other business
  - a. Approval of minutes
  - b. Other/future Committee business

### ADDITIONAL REFERENCE MATERIAL (links)

- Finalized IFQ Program [20 Year Review](#); [Executive Summary](#)
- Committee members were emailed a list of new or revised sections in the Program Review on January 9, 2017
- Any additional items will be posted as they become available to both our [Committee Webpage](#) and the NPFMC's electronic [Agenda for the February 2017 Meeting](#) (see Agenda Item C-4)

The Council received a draft document and presentation of the first comprehensive review of the Halibut and Sablefish IFQ Program in October 2016. Based on a scope determined through several iterations of discussion at Council meetings, the document was framed around the 10 original objectives of the IFQ program, in addition to the topic of entry opportunities in these two fisheries.

Overall, the SSC, AP, and the Council found the document to be thorough and responsive to the recommendations provided during the scoping of this document. The Council approved the document as final and complete with the addition of further discussion as suggested by the SSC and AP, to the extent practicable. The changes made between the October draft and the Final draft are outlined in an attached document. The final review is available at: <http://www.npfmc.org/halibutsablefish-ifq-program/>

Based on findings from the IFQ Program Review as well as discussion at the Council meeting, the Council identified several topics to be considered by the newly reconstituted IFQ Committee. Specifically, the Council motion stated:

*The Council directs the IFQ Implementation Committee to evaluate the following issues and provide recommendations to the Council on potential future revisions to the IFQ program:*

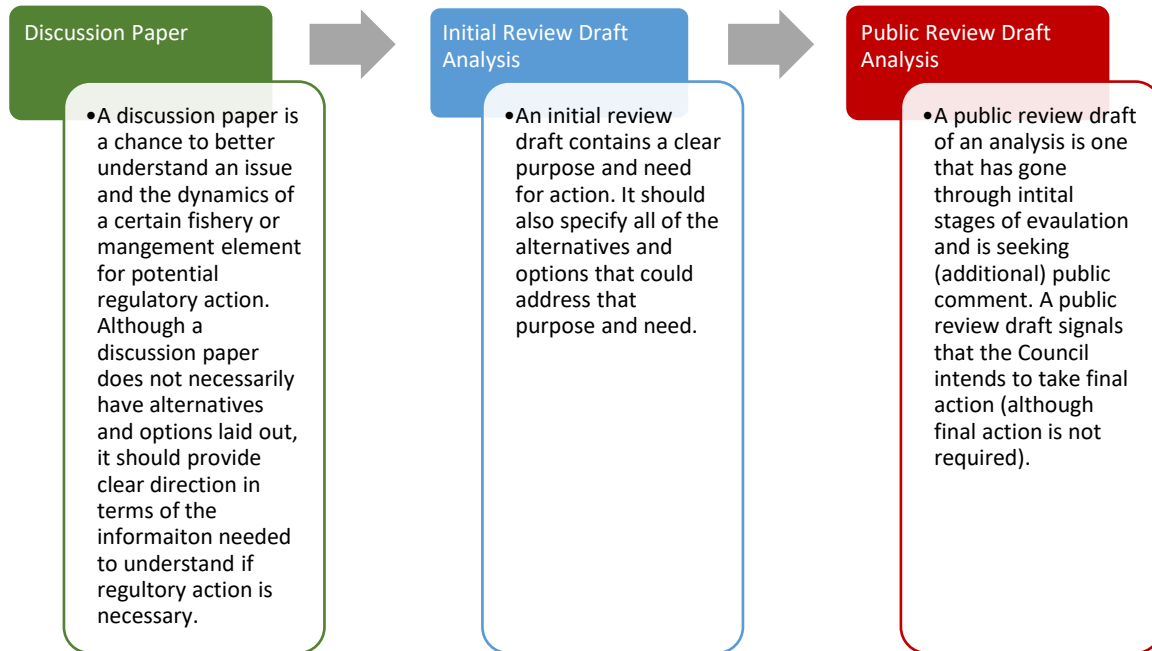
- *Sweep-ups of small blocked QS units;*
- *Use of the medical lease provision;*
- *Definition of “immediate family member” under the beneficiary lease provision;*
- *Impacts of quota share loss on Alaska’s rural communities and further explore geographic distribution of quota ownership. Additionally, define rural communities by several population sizes (such as 1,500, 2,500 and 7,500) to better understand how population dynamics have resulted in different outcomes for rural community IFQ participation. This could also include examining the impacts on Alaska communities by region.*
- *Geographic distribution of new entrant quota ownership;*
- *Use of hired masters in the IFQ fisheries; and*
- *The IFQ committee should bring forward to the Council any further concerns that they find in the document.*

In addition, NMFS intends to undertake revisions to IFQ Program regulations to update administrative appeals and initial quota share issuance regulations.

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This document serves as a briefing on these topics in order to reference sections of the final draft of the IFQ Program review that can provide more detail, to remind Committee members why the issue is being discussed, and includes options for the Committee to consider when making recommendations.

The Committee has a number of options for what to recommend regarding each issue. If the Committee anticipates there to be some type of regulatory action that needs to be taken to address an issue, it would recommend a stage somewhere in the typical regulatory amendment process as shown below. Generally, an issue starts at a discussion paper stage, in order to better flesh out the issue and possible ways of addressing it. If a purpose and need and a set of alternatives are already established, occasionally an action will jump directly to the initial review draft analysis stage. A public review draft of an analysis signals the Council is preparing to take final action and recommend a regularly and/or Fisheries Management Plan (FMP) amendment to the Secretary of Commerce.



The regulatory amendment process should be used if there is a likelihood that an issue requires a regulatory or FMP amendment. If the issue is more a matter of providing greater understanding of behavior and impacts in the IFQ fisheries long-term, this may be better suited for a different venue. For instance, the Magnuson-Stevens Act mandates program reviews for Limited Access Privilege (LAP) programs occur at least every seven years after the first review. Therefore, the Committee could also make a statement recommending additional information to include in future program reviews. Additionally, if addressing an issue requires extensive resources (e.g. increased monitoring or data collection) or expertise (e.g. using more rigorous modeling efforts), the issue may be better suited for academic research. While the Council does not have the ability to task academic research, the committee could make recommendations to the Council's research prioritization process. Research priorities can inform research institutions such as the Alaska Fisheries Science Center (AFSC) or academic institutions.

The issues listed for committee discussion include:

### 1) Sweep-ups of small blocked QS units

- In the Final Draft of the IFQ Program Review refer to:
  - Section 1.2.4.5.3 (page 33-34; description of the regulations),
  - Section 2.6.2.2 (page 252-258; discussion relative to entry), and
  - Section 3.1.2 (page 407; provisions which may not be working optimally).
  
- Rationale for consideration:
  - *QS in the IFQ Program were issued as either blocked or unblocked. Regulations restrict how many QS blocks a person may hold in an area and how many units of unblocked QS a person may hold if they hold any blocked QS. The intent of the block program was to ensure that small amounts of QS would be available, facilitating entry for new participants and preventing excessive consolidation.*
  - *However, the block program has been amended on several occasions to address the program being overly constraining on IFQ participants. Many QS holders were initially allocated such a small amount of QS that it was not economically worthwhile to harvest on its own. A series of amendments allowed small QS blocks to be “swept up” into larger blocks, and subsequently loosened the restrictions on the size of QS that could be swept up.*
  - *There is some indication that the sweep-up provision is no longer working to facilitate sweep-ups of small QS blocks in the IFQ fisheries. Although sweepable holdings represent a small percentage of the total QS pool in each area, a considerable number of persons hold sweepable QS and the number of sweep-up transfers has decreased substantially since IFQ implementation.*
  - *Selling a very small amount of QS even if it is sweepable is likely to be quite difficult, because the resultant IFQ may not be economically worthwhile to harvest on its own and because the transaction costs for the QS buyer to purchase a small amount of QS are likely to be similar to those associated with a larger amount of QS. Coordinating with shareholders to execute a sweep-up transfer is likely difficult and associated with high transaction costs (the costs of participating in the market – e.g., searching for the good, acquiring information on pricing, bargaining, etc.).*
  - *Such issues with the utility of the sweep-up provision may actually impede entry, if new entrants are likely to seek small amounts of sweepable QS for purchase and the supply is limited.*
  
- Options for consideration:
  - If the Committee considers this an issue for which some type of regulatory action might be necessary, the Committee should consider whether it has a clear enough understanding of the problem seeking resolution. If not, the Committee could recommend a discussion paper focused on the information it would need to establish a purpose and need statement and set of alternatives. If the Committee can already identify these two components, it could recommend moving forward an analysis.

## 2) Use of the medical lease provision

- In the Final Draft of the IFQ Program Review, refer to:
  - Section 2.5.2.2.1 (page 216 – 220; discussion relative to owner-operated character of fleet),
  - Section 2.6.2.3 (page 258; discussion relative to entry),
  - Section 2.11.5.2 (page 388 – 391; housekeeping issues), and
  - Section 3.1.2. (page 408; provisions which may not be working optimally).
- Rationale for consideration:
  - *The IFQ Program Review has identified a number of complex policy, implementation, and administrative issues related to the medical transfer provision.*
  - *In addition, NMFS has identified two challenges with administering the medical transfer provisions: 1) the definition of “certified medical professional” under the medical lease provision may not include commonly used medical care providers such as chiropractors and providers outside the United States, and 2) NMFS staff are increasingly required to make assessments as to whether an IFQ permit holder is applying for a medical transfer in any two of the previous five years for the same medical condition.*
- Options for further consideration:
  - Given the potential range of issues, NMFS believes that a discussion paper would be the most efficacious way to explore the complicated range of issues that affect the use and administration of medical transfers before deciding on potential regulatory changes.
  - Specifically, NMFS suggests that the discussion paper consider whether utilization of the medical transfer provision is meeting the Council’s objectives for the provision with respect to:
    - *Information indicating that there are a few QS holders who have utilized the medical transfer provision for the majority or all of the years during which medical leasing has been allowed. The repetitive use of the provision may indicate that a select group of shareholders is utilizing it as a means of bypassing the owner-on-board provision altogether. Furthermore, some QS holders may be using the medical lease provision for chronic conditions, from which recovery is unlikely, while the provision was intended to provide relief from fishing for IFQ participants in emergency hardship situations. Medical leasing may also increase in the IFQ fisheries in response to the new hired master rule implemented in 2014.*
  - NMFS also suggests that the discussion paper considers whether:
    - the definition of “certified medical professional” under the medical lease provision could be broadened to include commonly used medical care providers such as chiropractors and providers outside of the United States;
    - the provision to authorize a medical transfer could be changed to remove the requirement for discretion by NMFS to determine if the applicant is applying for a medical transfer using the “same medical condition” more than two out of five years.

### 3) Definition of “immediate family member” under the beneficiary lease provision

- In the Final Draft of the IFQ Program Review, refer to:
  - Section 2.5.2.2.2 (page 220-223; discussion relative to owner-operated character of fleet),
  - Section 2.11.5.1 (page 386-388; housekeeping issue), and
  - Section 3.1.2 (408; provisions which may not be working optimally).
- Rationale for consideration:
  - *Under the beneficiary lease provision, surviving spouses or designated beneficiaries who are family members may lease IFQ for a three-year period upon 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.*
  - *NMFS has received inquiries about the definition it is using of immediate family member and 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 or processing survivorship transfers. NMFS and IFQ Program participants would benefit from a clarification of the Council’s intent for administration of this provision.*
- Options for further consideration:
  - To address this issue, NMFS recommends initiating a regulatory amendment to the surviving heir provisions to specify that a court appointed representative for the QS holder’s estate would be authorized to transfer the QS and/or lease the resulting IFQ for a period of three years following the QS holder’s death.
  - Specifically, NMFS suggests the following purpose and need statement and alternatives:
  - Purpose and Need:
    - 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.
  - Alternatives:
    - Alternative 1 – Status quo
    - Alternative 2 – Define immediate family member for purposes of determining eligibility under the beneficiary lease provision.
      - Option 1: Use the State of Alaska definition of immediate family member for the Alaska Family Leave Act of 1992.

- Option 2: Use the definition of immediate family member for the state in which the quota share holder resides at the time of death.
- Option 3: Use the definition of immediate family member for the federal Family Medical Leave Act of 1993.
- Alternative 3 – Remove all references to surviving spouse or designated beneficiary in regulations and allow the court appointed estate representative to manage the use of the decedent’s quota share. A court appointed representative for the quota share holder’s estate would be authorized to transfer the quota share and/or lease IFQ for a period of three years following the QS holder’s death.

**4) Impacts of quota share loss on Alaska’s rural communities and further explore geographic distribution of quota ownership. Additionally, define rural communities by several population sizes (such as 1,500, 2,500 and 7,500) to better understand how population dynamics have resulted in different outcomes for rural community IFQ participation. This could also include examining the impacts on Alaska communities by region.**

- In the Final Draft of the IFQ Program Review, refer to:
  - Section 2.7 (page 283-284; data description and definition of urban and rural),
  - Section 2.7.5.2 (page 301-305; changes in halibut and sablefish QS holdings by residents of rural and urban Alaskan communities),
  - Figures A.2.7.14 – A.2.7.25 (page 323-334; maps of QS holders in 1994 and in 2015, by region), and
  - Section 3.1.1 (page 399- 401; discussion of goal economic stability in the fisheries and communities; rural coastal community development of a small boat fleet)
- Rationale for consideration:
  - *Concern was expressed during Council deliberation, that based on the way urban and rural areas are currently defined in the Program Review, the impacts from movement of quota share from smaller rural communities, are masked by larger rural communities’ relative success in acquiring quota share.*
- Options for further consideration:
  - Although not grouped as ‘urban’ versus ‘rural’, note that NMFS RAM Transfer Report<sup>1</sup> contains initial QS holdings versus 2014 QS holdings by community (page 176-183, Table 10-1a and Table 10-1b).
  - No clear intent has (yet) been expressed for the development of a regulatory amendment related to this issue.
  - Unless the Committee defines this intent, this type of informational request is better suited for a discussion paper, guidance for the next IFQ Program review, or suggestions for academic research outside of the Council process.
  - The AFSC recently began a study to more rigorously evaluate this specific request geographic distribution of QS holders, as well as the request to consider “geographic distribution of new entrant quota ownership”. The study will assess the factors that underlie participants’ decisions to buy and sell quota shares in the halibut and sablefish

<sup>1</sup> <https://alaskafisheries.noaa.gov/sites/default/files/reports/halibut-transferfrpt2015.pdf>

IFQ fisheries. It will analyze the movement of QS using more rigorous methods than applied in the Program Review, which can control for locational characteristics (e.g. rural – by multiple definitions) and QS characteristics (e.g. blocked or unblocked). The overall aim of the study is to understand what factors have influenced buying and selling of quota shares in the IFQ fisheries and how they influence this decision, as well as how quota shares have been traded over time.

- There have been other research efforts more broadly addressing fishing access in coastal Alaskan communities, some of it cited in Section 2.7.3. (previous research on community impacts from IFQ implementation).

## 5) Geographical distribution of new entrant quota ownership

- In the Final Draft of the IFQ Program Review, refer to:
  - Section 2.6 (page 238-281; entry opportunities),
  - Figures A.2.7.14 – A.2.7.25 (page 323-334; maps of QS holders in 1994 and in 2015, by region), and
- Rationale for consideration:
  - *Council deliberation highlighted that while Section 2.6 of the Program Review discussed entry into the IFQ fisheries in a number of different ways, there was an interest in considering the geographic distribution of new entrants.*
- Options for further consideration:
  - Some information on geographic distribution on entry can be gleaned from the new maps demonstrating QS holdings by community and region in 1994 and comparing this to the maps of QS holdings by community and region from 2015, which have been added to the Final Draft of the Program Review (Figures A.2.7.14 – A.2.7.25).
  - This information can also be seen in initial QS holdings versus 2014 QS holdings by community in the NMFS RAM Transfer Report (page 176-183, Table 10-1a and Table 10-1b).
  - Section 2.6.3.1 (page 266- 268) includes a table showing the total number of loans and loan amounts issued through the Fisheries Finance Program by state of residence. Among a few other purposes, these loans are intended for reconstruction of fishing vessels or the acquisition of halibut or sablefish IFQ demonstrating number of loans issued and borrows state of residence.
  - If there is a further breakdown of this information the Committee is interested in, it could request a discussion paper relating to this issue.
  - As previously described, there is an AFSC study under weigh that aims to evaluate the geographic distribution of new entry.



## 6) Use of hired masters in the IFQ fisheries

- In the Final Draft of the IFQ Program Review, refer to:
  - Section 1.2.4.4.2 (page 27; description of hired master use privilege and reg amendments)
  - Section 2.5.3.2 (page 230; discussion relative to owner-operated character of fleet), and
  - Section 3.1.2 (page 407; objectives that the analysis indicates the IFQ Program may or may not be currently meeting)
  
- Rationale for consideration (from Council deliberation):
  - *The Council made a statement during deliberation on the review that it continues to be concerned about the use of hired masters and reduced opportunities for new entry in the fishery.*
  - *It discussed that it has increased restrictions on the use of hired masters over time in order to promote an owner-on-board catcher vessel fisheries.*
  - *The Council took action most recently in 2011, to further restrict the use of hired master for quota share purchased after February 12, 2010. The IFQ Program Review shows that this action may be having an effect on the use of hired masters. Although the harvest of catcher vessel shares by hired masters has increased in both IFQ fisheries over the full 20 years of the program, over the past 15 years hired master use has been relatively stable and has even declined slightly for the halibut IFQ fishery in the most recent years.*
  - *However, the IFQ Program Review indicates that even with this restriction on the use of hired masters, there will likely continue to be a lag in the transfer of catcher vessel quota share to second generation, owner-on-board quota share holders, because the initial recipients can still use hired masters to land their IFQ from quota share transferred prior to 2010.*
  - *In addition, because the IFQ Program tied the hired master privilege to the initial recipient and not the initially allocated catcher vessel quota share, some initial receipts have built business models on basis of utilizing hired masters to land their IFQ.*
  
- Options for further consideration:
  - No clear intent has (yet) been expressed for the development of a regulatory amendment related to this issue.
  - If the Committee is interested in pursuing this topic, it should clearly state the concern, or the information needed in order to understand if there is a concern. An information request is best suited for a discussion paper, guidance for the next IFQ Program review, or suggestions for academic research outside of the Council process.

## 7) The IFQ committee should bring forward to the Council any further concerns that they find in the document