

**Discussion Paper:
IFQ Eligibility Criteria**
March 25, 2019¹

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1 Introduction

At the October 2017 meeting, the North Pacific Fishery Management Council (Council) invited Halibut and Sablefish Individual Fishing Quota (IFQ) Committee members to bring forward and vet proposals for modifications to the Halibut and Sablefish IFQ Program at their next Committee meeting. These proposals were intended to address program revisions that would further the original objectives of the IFQ Program given results of the 20-year Program review, including specifically, access to fishery participation, entry-level opportunities, rural communities, and the program’s objective of maintaining an owner-operated fleet. The IFQ committee met on February 5, 2018 and reviewed 20 proposals including three regarding eligibility requirements. At the February 2018 meeting the Council tasked staff to develop a discussion paper that considers replacing the existing Transfer Eligibility Certificate (TEC)² to hold halibut and sablefish quota share, with an eligibility requirement that applies to both prospective and existing QS holders that is based on *recent* participation in any US commercial fishery.³

2 Background

In the original Supplemental Environmental Impact Statement (SEIS) for the IFQ Program, the Council identified 10 policy objectives that it intended to address through specific elements of the IFQ Program. Objective 6 of the original SEIS 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.*”⁴ Therefore, 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. Among other measures, the Council restricted the acquisition of catcher vessel QS to initial

¹ Prepared by: Anna Henry, Council staff, Data provided by Mike Fey (AKFIN).

² See Appendix for TEC application and instructions

³ The Council also requested discussion papers regarding IFQ access opportunities (currently scheduled for the June meeting) and the IFQ hired master program (yet to be scheduled). Information in these forthcoming discussion papers will also be relevant to the concerns raised in this motion regarding objectives of an owner operated fleet and access for new entrants.

⁴ <https://repository.library.noaa.gov/view/noaa/18134>

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catcher vessel QS recipients and individuals that could demonstrate 150 days of experience as part of a harvesting crew in any U.S. commercial fishery.

Persons wishing to receive QS or IFQ by transfer must apply to receive a TEC. Individual and non-individual initial recipients of QS were automatically issued a TEC and are also therefore eligible to receive QS or IFQ by transfer.⁵ To be eligible to receive a TEC at §679.40(d)(6)(i), persons must have 150 or more days of experience working as part of a harvesting crew in any U.S. commercial fishery. 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 application must also be certified by a public notary. Currently, there is no recency requirement for those 150 days of experience. Sea days for the IFQ Program could be generated from any time period and for any fishery.

NMFS Restricted Access Management Program (RAM) processes and approves TEC applications and maintains a database of names, contact information and approval status of all TEC applicants. Since the beginning of the IFQ Program, through 2018, RAM has approved 3,921 TEC applicants (Table 1). RAM personnel verify applicants' commercial fishing experience to the extent practicable with available data and resources. For participation declared in Alaska fisheries, this often involves verifying that the applicant has a State of Alaska Commercial Fisheries Entry Commission (CFEC) crew member license, and that the vessel(s) listed have the required permits and made landings for the fishery and time period listed. Fishing experience claimed in fisheries outside of Alaska are verified by ensuring that the specified fishery was open during the declared dates. If concerns or discrepancies arise, RAM personnel contact the applicant to request documentation supporting their claims.

Table 1 IFQ Crewmember data. Counts of individuals who became "IFQ Crewmembers" (individual US citizens who: were not initially issued QS; have demonstrated 150 days US commercial fishery harvesting experience; and who have been issued a Transfer Eligibility Certificate (TEC) during 2018 and from the start of IFQ program through 2018 and counts of such persons who currently hold QS.

	January 1-December 31, 2018		Start of IFQ through Dec 31, 2018	
	# of Individuals	# who currently hold QS	# of Individuals	# who currently hold QS
Number of Alaskans	118	63	2,707	915
Number of non-Alaskans	40	17	1,214	307
Total	158	80	3,921	1,222

Source: NMFS RAM <https://alaskafisheries.noaa.gov/sites/default/files/reports/18ifqcrew.htm>

3 Description of the Problem

At the outset of the IFQ Program, the Council intended for catcher vessel QS to be held by owner operators. The concern highlighted in the Council's February 2018 motion is that the current IFQ Program's participation and eligibility requirements has resulted in some QS holders hiring a vessel and crew to harvest their IFQ while they are onboard but not actively participating in the fishing operation. Second generation shareholders (not initial QS recipients) are mandated to be on-board during the harvest of their IFQ, however there is anecdotal information that some of these second-generation shareholders are coming on board as "walk-ons" or "ride-ons", who do not participate in the actual fishing activity (Van der Voo, 2013; Szymkowiak and Himes-Cornell, 2015).

⁵ Beginning on December 1, 2014, non-individual initial recipients holding a TEC are only eligible to receive A share QS by transfer (79 FR 43679, July 27, 2014).

The ability to ride-along on a vessel in order to fulfill the onboard requirements of holding QS, without actively participating in fishing has likely allowed some QS holders to retain catcher vessel QS beyond the point at which they are able or willing to fish their IFQ themselves. These practices are antithetical to the objective of an owner-operated fishery and could constrain the amount of catcher vessel QS available on the market, potentially increase their value, and delay the transition of these QS to new entrants. The Council also heard testimony of lower earnings for crewmembers on vessels fishing IFQ held by non-fishing walk-ons as the walk-on quota holder may not share in expenses (or pays minimal expenses) and receives a flat percentage of gross profits, leaving less available profits for the active captain and crew shares.

The Council is interested in exploring an eligibility requirement that is based on *recent* participation in any US commercial fishery, specifically a sea day requirement of 30, 60 or 90 days over a fixed three or five-year period. This would function similarly to the current TEC in that experience working as part of a harvesting crew in any U.S. commercial fishery would qualify as a sea day. However, this requirement would apply to prospective and existing QS holders to ensure that any IFQ participants were recently active participants in commercial fishing. This requirement would serve as a one-time eligibility requirement over a specified three or five-year period, rather than a rolling participation requirement that would function as a continual active participation check.

4 Outstanding Decision Points

Future Transfer Eligibility Requirements

The Council's motion suggests this action would be a one-time eligibility requirement over a specified period for all prospective and existing QS holders; however, it does not specify how the transfer eligibility requirements would function after the qualifying years. If eligibility requirements reverted to the 150 days of sea time from any time period, an ineligible QS holder could transfer/sell their QS during the set qualification period and purchase/transfer it back using their dated participation of 150 days of sea time. Alternatively, new eligibility requirements could only include active sea days at any time after the qualifying years (meaning that all future transfers of QS would include a recency component) but this would need to be specified.

Failure to Meet Eligibility

It is unclear what the procedure would be if a current QS holder does not meet the active participation eligibility criteria. One possibility could be a provision similar to that imposed in the BSAI Crab Rationalization Program. Amendment 31 (80 FR 15891, March 26, 2015) to the BSAI Crab Fishery Management Plan (FMP) now requires holders of crew QS (C shares) to demonstrate an ongoing level of active participation.⁶ If an individual does not demonstrate active participation in the crab fisheries when filing for an application for an annual crab IFQ permit, RAM does not issue the IFQ. Beginning July 1, 2019, C QS holders who do not meet the requirement for four consecutive years will have their QS permanently revoked.

The proposed action could be modeled in a similar fashion such that QS holders that did not meet the eligibility requirements would not be issued IFQ in the following year. They would have that year to transfer/sell their QS to an eligible participant. If it was not transferred by the following year, NMFS could revoke the QS. If QS was revoked it would consolidate the QS pool and increase the value of the remaining QS for remaining QS holders. The action would need to build in regulations to deal with a smaller quota share pool. Alternatively, the Council may not include an element that would revoke QS. It

⁶ <https://www.federalregister.gov/documents/2015/03/26/2015-06928/fisheries-of-the-exclusive-economic-zone-off-alaska-bering-sea-and-aleutian-islands-crab>

could be that QS would become inactive (i.e. NMFS RAM would not issue annual IFQ) until the QS was transferred to an eligible IFQ recipient.

The specific provisions regarding QS that does not meet the new eligibility criteria will likely affect QS markets and the range of impacts to newly ineligible QS holders, potential new entrants and existing QS holders acquiring new QS.

Scope of Eligibility Requirements

The Council's February 2018 motion does not specify whether these increased eligibility requirements would apply to individuals leasing IFQ or non-individual QS holders (initial issuees and A shareholders may include entities rather than individuals). While leasing of IFQ derived from catcher vessel QS has generally been prohibited since 1998, several provisions are included in the program that allowed for outright leasing under special conditions. This includes leasing of IFQ derived from Class A shares, or leasing of catcher vessel IFQ through 1) medical leases, 2) survivorship transfer privileges, 3) military leases, 4) leases through CQEs, 5) IFQ to guided angler fish (GAF) transfers, and 6) leases to CDQ groups in years of low halibut abundance. These situations may require special attention and consideration. Since the intention of the CQE program is to allow eligible communities to lease QS to their residents, it is likely this type of provision would not fit with this program. However, if, for example, an individual was not on the water for two of the qualifying years, while they were using the medical or military lease provision, the Council would need to consider if and how that would affect their eligibility. The Council may wish to consider these exceptions if they decide to change eligibility requirements.

5 Ability to Achieve the Proposal's Objective

The motion describes the problem as that of IFQ holders who are onboard a vessel but not actively participating in fishing activities. A sea day recency requirement *could* create a stigma attached to QS holders who are onboard a vessel but not actively fishing and incentivize people to either actively fish or sell their quota. This could help to create turnover in the fishery and increase the supply of quota available to new entrants, however there are significant challenges associated with enforcing the activity a person is engaged in while on a boat. In practice, the provision may only address this problem to the extent that applicants accurately describe their fishing activities when applying for QS eligibility.

Council discussion surrounding the Motion, described the intent that the qualifying years would exist in the future, giving participants time to "prove up" their fishing activity to qualify under new sea day recency requirements. While this would allow current and prospective quota holders to adapt and minimize potential impacts of new requirements this could also limit the effectiveness of this provision, in that people could change their behavior to meet the threshold and revert to previous "inactive" fishing operations. Additionally, fishermen could just extend their trips longer than is necessary to complete their fishing operations in order to meet the day requirements thus making more inefficient trips but not actively fishing more days.

While the Council's motion is not explicit about whether this action would apply to initial recipients, given the request to consider impacts to this user group, this paper assumes that it does. In implementing the IFQ Program the Council included an exemption to the owner-on-board mandate for individual initial recipients of catcher vessel shares, allowing these initial recipients to use hired masters to land their IFQ. Because some catcher vessel QS recipients had used hired masters prior to implementation of the IFQ Program, the Council exempted initial recipients from the owner-on-board requirement to provide initial recipients with the latitude to continue in the business practices that they had prior to the implementation of the IFQ Program.

The largest direct effects of a sea day recency requirement are likely to impact initial recipients who do not currently actively participate on vessels in any fishery (and non-individual QS holders and people leasing QS if they aren't exempted). These impacts would also indirectly affect the crew and captains who actively work on the vessel. If the QS holder initiates new active involvement onboard the vessel this may displace crew. Alternatively, these initial issues who are currently using hired masters may become the new "walk-ons" participating in as little active fishing as necessary to qualify for their quota.

The Council should specify which issues they are attempting to address. If the issue of relevance is fishermen who are onboard the vessel but do not actively participate in fishing activities, a sea day recency requirement may not fully achieve that objective. If the issue of relevance is QS holders who are not onboard the vessel (initial issues employing hired masters), this could have large impacts and should be more clearly explained in the Council's objective.

6 Potential Impacts of the Proposed Action

It is difficult to estimate the scope of the problem (prevalence of QS holders onboard vessels who are not actively fishing) or the specific impacts of the proposed action given available data. Existing data do not identify every individual on a fishing vessel or each individual's specific activities while on a fishing vessel. Therefore, **it is impossible for analysts to track an individual's participation across all commercial fisheries or to discern when someone's presence on a vessel constitutes an active, participating member of the fishing operation.** Some estimates of fishing participation can be made with existing data, but it is important to know that these are estimates using incomplete data and are included to demonstrate general trends rather than absolute numbers of participation.

6.1 Potential Impacts on existing IFQ operations

Assuming the eligibility period would encompass future years, IFQ participants whose existing operation would not be deemed eligible under new requirements would have three options: 1) increase their number of active participation days in any commercial fishery 2) relinquish/transfer quota or 3) hold latent quota that cannot be fished. If current operators choose to increase their participation in harvesting this could have implications for vessel safety as individuals who may not be as experienced fishing or have recent fishing experience would be taking on a more active role in the fishing operations. This could also displace current crewmembers. Quota holders not meeting recency eligibility requirements may also choose to retire or exit the fishery and transfer shares. For longtime participants forced to exit the fishery, this may have a large personal impact on their identity as a fisherman. In addition, QS holders could be impacted by the financial reality of divesting in quota and not receiving long term financial gains from lease rates. Any fishing operation impacted by new eligibility criteria would have substantial impacts on not only the newly ineligible QS holders but any individual directly or indirectly involved in their fishing operations.

The impacts of a sea day recency requirement may fall disproportionately on IFQ participants based on the specifics of their operations and business models. While we do not collect data on every individual on a fishing vessel, each IFQ landing requires an individual listed as the "delivered by individual" on the fish ticket. The delivered by individual is the IFQ permit holder, if he or she is on board. If the IFQ permit holder is not on board, the hired master is listed as the delivered by individual. Using the delivered by individual to identify individuals on trips and the length of these trips we can calculate the number of days an individual has fished in the IFQ fishery and was listed as the delivered by individual. Counting only days in which an individual was listed as the delivered by individual, recent sea day thresholds of 30, 60 and 90 days would disqualify a large portion of current IFQ delivering individuals regardless of whether the eligibility period extended over three or five years (Table 2). Of the participants listed as a delivered by individual on at least one trip, only 46% were the delivered by individual for at least 30 fishing days over the last 5 years (the least restrictive of the proposed thresholds)(Table 2). Over the last three- and

five-year periods (2016-2018 and 2014-2018), 65% and 67% of IFQ permit holders made at least one delivery. The remaining 35% and 33% of IFQ permit holders are not included in the data in Table 2 or Figure 1-Figure 5 and would only qualify under new eligibility requirements if they have adequate sea days participating in non-IFQ fisheries.

Table 2 Percent of IFQ participants listed as a delivered by individual on at least one trip whose total sea days on those trips fall under each sea day recency threshold.⁷

		5 years (2014-18)				3 years (2016-2018)			
		# of Individuals	30 days	60 days	90 days	# of Individuals	30 days	60 days	90 days
Total		2,386	46%	24%	15%	2,092	35%	16%	9%
Species landed	halibut	2,225	44%	20%	11%	1,942	31%	11%	5%
	sablefish	733	60%	37%	25%	646	51%	29%	18%
Quota delivered by Hired Master	Yes	518	54%	36%	24%	392	52%	31%	18%
	No	2,102	41%	17%	8%	1,881	27%	8%	3%
	Both	273	48%	25%	15%	231	37%	16%	9%
Initial Issuee	Yes	841	45%	22%	12%	735	31%	11%	5%
	No	1,545	47%	25%	17%	1,357	37%	18%	11%
Vessel Owner	Yes	152	53%	38%	24%	115	43%	23%	10%
	Unknown	2,354	45%	23%	14%	2,071	33%	15%	8%
Quota Share	<5,000	1,310	27%	9%	5%	1,078	17%	7%	3%
	5,000-10,000	431	58%	27%	15%	394	38%	11%	5%
	>10,000	645	87%	69%	56%	620	78%	54%	41%

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

Estimating fishing participation using the number of days an individual was listed as the delivered by individual on an IFQ trip likely underestimates the total number of individuals participating in the IFQ fishery as it does not include any individual who is onboard but not landing against their own IFQ permit or serving as a hired master. For the individuals who are included in the data, their level of fishing activity is likely underestimated as any days they may have been fishing in the IFQ fishery and were not listed as the delivered by individual, or any fishing activity outside of the IFQ halibut/sablefish fishery are not included in these data. Given these caveats these data are not meant to determine complete numbers of participants that would or would not be eligible under different sea day requirement thresholds, but rather to demonstrate patterns regarding the likely distribution of potential impacts to different sectors of the IFQ fishery.

If we assume an individual's only commercial fishing activity is on IFQ trips which they are listed as the "delivered by individual" we can estimate the number of IFQ delivering individuals who would be impacted by a sea day recency requirement. Figures 1 through 5 show the distribution of total days (in 10-day increments) fished by individuals listed as the "delivered by individual" in the IFQ halibut and sablefish fisheries for the past three and five years respectively. Red dashed lines show thresholds of 30, 60 and 90 days such that individuals participating at least that many days fall to the right of the line. The

⁷ Percentages do not represent complete estimates of those who would qualify under eligibility thresholds but demonstrate relative distributions of impacts to different IFQ sectors. Individuals who land quota in multiple categories are counted in multiple categories (e.g. trips that land both halibut and sablefish are counted in both categories).

y-axes vary in each figure because the number of IFQ delivering individuals in each sector of the fishery varies.

Figure 1 shows the distribution of IFQ delivering individuals' total sea days and sea days based on the IFQ species landed. Trips that land both halibut and sablefish are displayed in both categories. A majority of the sea days for IFQ delivering individuals are on trips that land halibut, demonstrated by the similarity in distributions of sea days on halibut trips and total trips (Figure 1). A higher percentage of individuals delivering sablefish IFQ fished at least 30 days, however these trips could have landed halibut as well, so these fishing days are not necessarily due to the harvest of sablefish.

Participants who land only their own IFQ generally fish fewer days than those who land IFQ solely as hired masters or as both a hired master and an IFQ permit holder (Figure 2). However, participants fishing as hired masters may be more impacted than those with other types of operations if they serve on a vessel owned by an initial issuee who may have to increase active fishing operations to meet new requirements and therefore no longer utilize a hired master arrangement.

As written this sea day recency requirement would constitute a considerable revision to the hired master program. Any initial issuee would only be allowed to hold quota if they also met the recent active sea day requirements in the IFQ program or another commercial fishery. Initial issuees who employ hired masters and do not meet the sea day requirements would no longer be eligible quota holders. Generally, fewer of the initial issuees who made IFQ deliveries would meet the sea day requirements than second generation QS holders when including only the days that they are the delivered by individual (Figure 3).

Understanding relative impacts by vessel ownership is very difficult. With available ownership data we can only attribute direct ownership to individuals. We are unable to attribute ownership to an individual when there is an indirect ownership of a vessel through corporate or other non-individual entity interest. Therefore, we can only identify positive ownership but cannot identify individuals who are not owners. Delivering individuals positively identified as owning at least 20% of a vessel generally participate in more days (Figure 4), however given the difficulties in accurately attributing ownership this represents a small subset of the total IFQ delivering individuals.

Impacts of new eligibility requirements may fall disproportionately on shareholders with low amounts of quota who can land all their quota in less than the minimum sea day requirements and are not active in other commercial fisheries. The number of sea days required for an IFQ holder to fish their quota will fluctuate based on the years selected and changes in total allowable catch (TAC) and catch per unit effort (CPUE). Generally, IFQ delivering individuals with larger amounts of average annual QS participate in more sea days (Figure 5) however, the relationship between days fished and units of QS is not always direct or predictable. For example, if TACs are reduced and an individual's QS is reduced one may assume it would take fewer days to land the resulting fewer pounds of fish. However, if stock abundance is lower and the spatial distribution of fish are less concentrated then it may take more active fishing days to harvest the entire QS if CPUE is down.

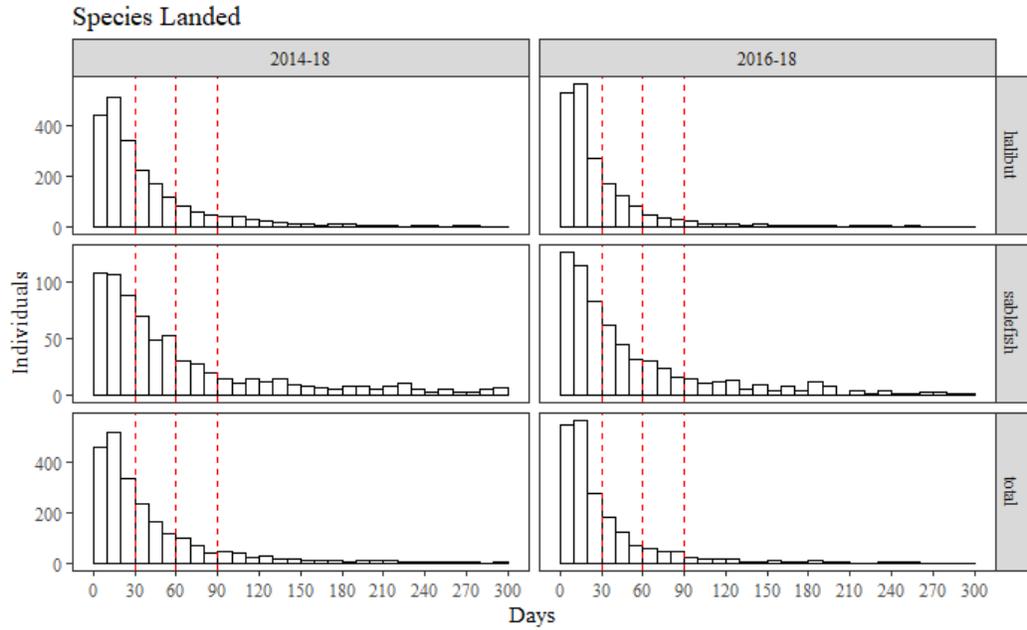


Figure 1. Days fished by individual listed as "delivered by individual" on IFQ trips 2014-2018 and 2016-2018 total and by IFQ species landed (note different y-axis).⁸
Source: NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN

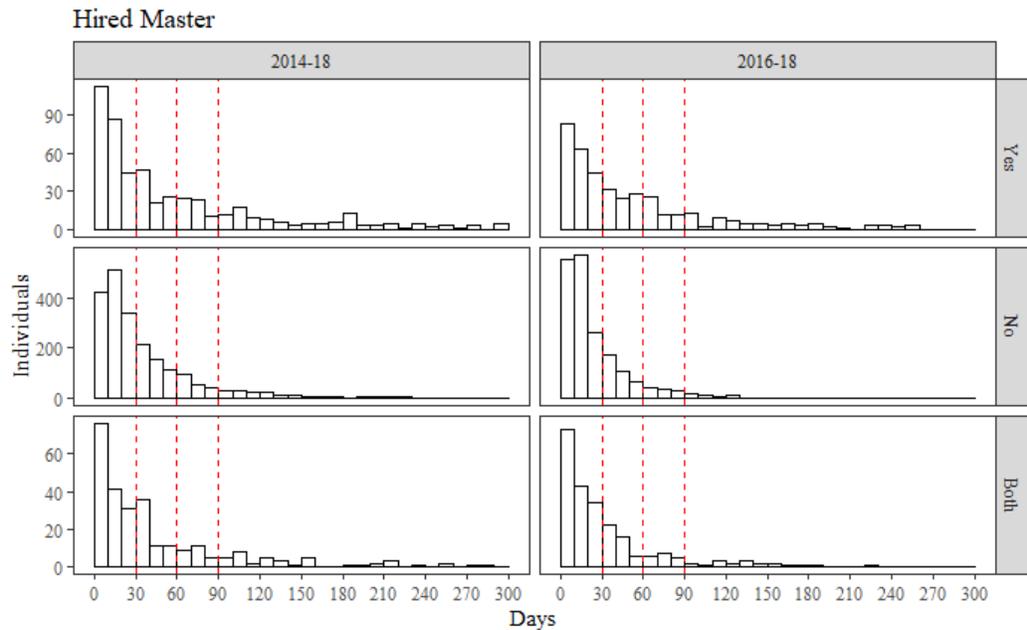


Figure 2. Days fished by individual listed as "delivered by individual" on IFQ trips 2014-2018 and 2016-2018 and if delivery was only quota fished by hired master 'Yes', no quota fished by hired master 'No' or a mix of 'Both' (note different y-axis).
Source: NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN

⁸ The IFQ season was open for a total of 1,184 days in 2014-18 and 702 days in 2016-18. Figures 1-5 are truncated at 300 days for ease of representation. There are 46 individuals (2014-18) and 7 individuals (2016-18) who fished more than 300 days who are not included in these figures. These individuals are included in the estimates in Table 2.

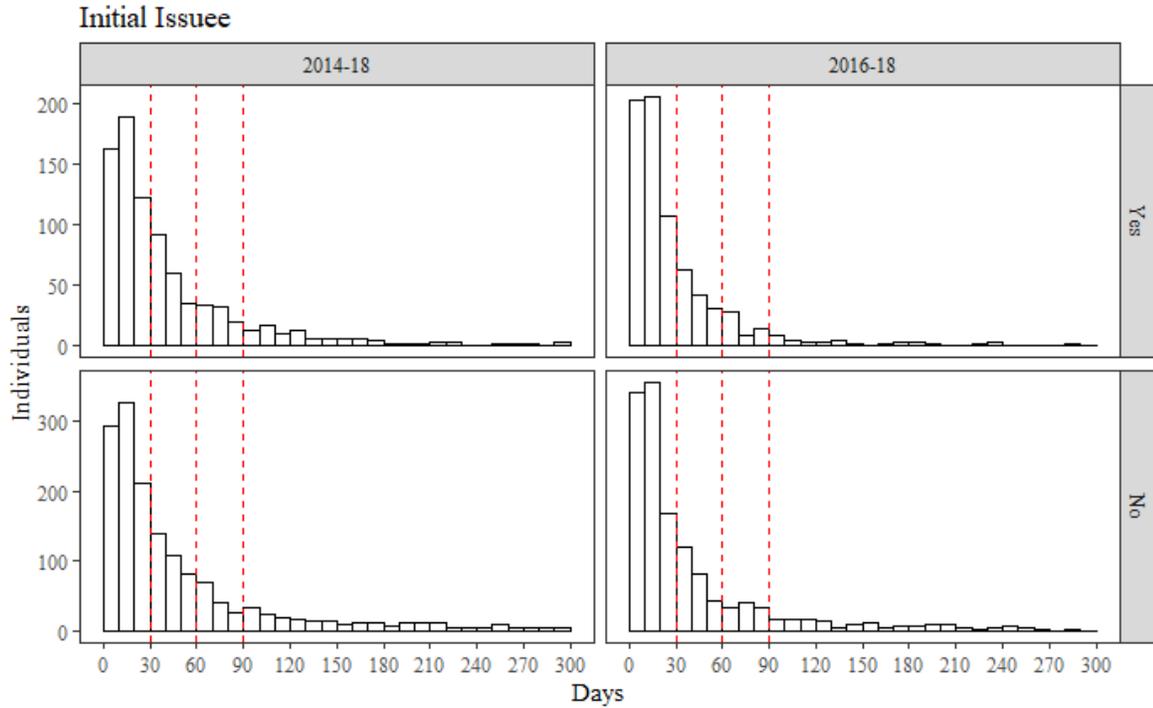


Figure 3. Days fished by individual listed as "delivered by individual" on IFQ trips 2014-2018 and 2016-2018 and if they are an initial issue (note different y-axis).
 Source: NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN

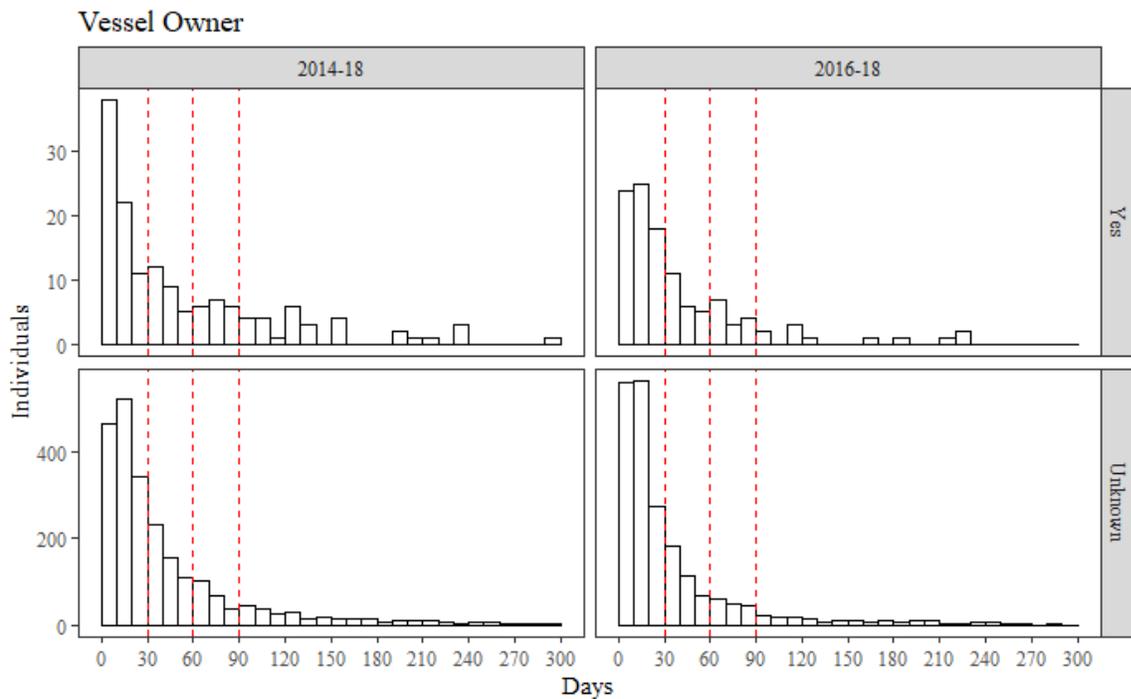


Figure 4. Days fished by individual listed as "delivered by individual" on IFQ trips 2014-2018 and 2016-2018 and vessel ownership (Yes if individual owns >20% of the vessel) (note different y-axis).
 Source: NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN

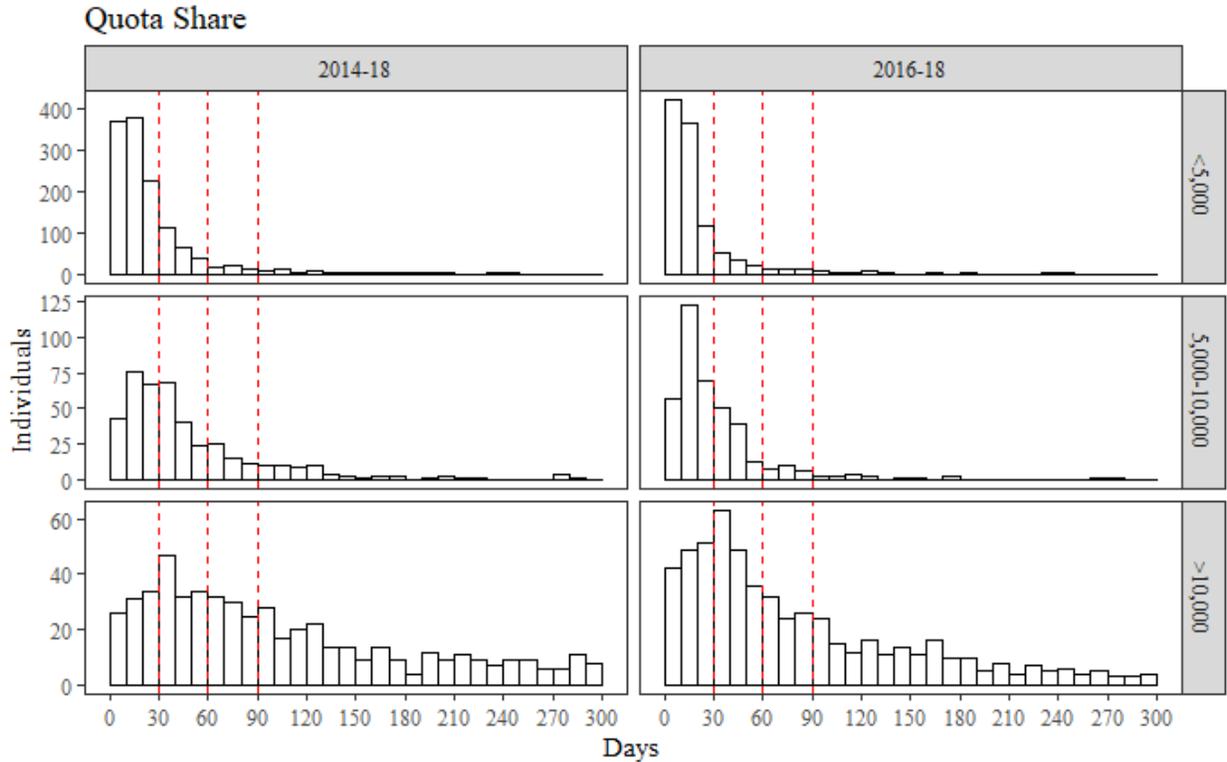


Figure 5. Days fished by individual listed as "delivered by individual" on IFQ trips 2014-2018 and 2016-2018 and average annual QS units (halibut and sablefish combined, note different y-axis).
 Source: NMFS Restricted Access Management (RAM) division IFQ landings database sourced through AKFIN

6.2 Potential Impacts on Prospective Quota Share Holders

Direct impacts of a sea day recency requirement on IFQ crewmembers who currently hold a TEC or would apply for a TEC in the future depends on their current level of fishing participation in any US fishery. For those whose current commercial fishing activity would meet the eligibility threshold the direct impact would impose a paperwork burden. Other larger impacts would likely be indirect impacts resulting from an increase in current quota holders who would no longer be eligible to hold quota.

If only recently active captains and crew are permitted to hold QS, it is likely that the market for these shares will be more active, since persons who retire or exit from captain and crew positions will transfer shares. This could lead to increased opportunities for entry in the fishery and could impact the price of quota if there is a sudden increase in supply.

Crewmembers who participate in operations that would no longer be eligible under recency requirements, such as those that utilize non active walk-ons, could experience a range of impacts. It has been reported that average earnings are lower for crewmembers who are on vessels that are operated by hired skippers or only take on walk-ons (i.e. do not have any of their own QS) and as such have lower profit margins.⁹ For these crewmembers there is the potential that their earnings could increase. Crewmembers, such as many from Seattle, who participate in hired skipper arrangements that provide them with experience and capital to invest in their own fishing operations may be negatively impacted if the quota holders they have arrangements with are no longer deemed eligible and they no longer have access to those IFQ. Although

⁹ Workshops with IFQ crew as part of the IFQ Program Review reported that crewmembers made 6% to 15% of gross revenues on operations with initially allocated QS and purchased QS. For operations that are strictly hired skippers or lessees the crew shares decreased to 3% to 8% of gross revenues.

if these newly ineligible quota shareholders were to sell their QS the overall impact to their crew could be dissipated by an increase in newly available QS.

It is not possible to quantify the specific impacts of a sea day recency requirement on prospective quota holders with existing data. There are very limited data available on crewmembers in the IFQ fisheries. Crewmembers participating in the IFQ fisheries must buy a commercial crew license with the Alaska Department of Fish and Game (ADF&G). However, the ADF&G does not track in which fishery crew license holders participate. There have been inter-agency discussions in the past to try to develop systematic ways for gathering data on crewmembers, but to date these efforts have not been realized.

However, beginning in 2006 a “crew size” field was added onto ADF&G fish tickets. This field is filled in by processors at the time of landing and is not audited or validated in any way and is often entered inconsistently or left blank.

Since participation records for crew are not available, estimates of eligibility under a recency requirement are not possible. Examining vessel participation patterns, however, provides some basis for assessing the potential effects of the provision. While many crewmembers likely participate on multiple vessels and may not participate on all days that a vessel fishes, vessel participation patterns do show the distribution of effort by different fisheries, general location and vessel size. Patterns of vessel effort will change through time based on numerous variables including weather, species abundance and distribution, regulatory changes, etc. therefore different combinations of years will yield different results. The following examples (Figure 6-Figure 8) include landings in which a vessel was identified for all fisheries in Alaska for the most recent 5-year and 3-year periods for which we have data (2015-2017 and 2013-2017). These data do not include catcher processors or landings outside of Alaska which may represent additional eligible harvesting activities.

Generally, a greater proportion of larger vessels are more likely to meet sea day requirements, however there is a larger total number of smaller boats that would meet sea day requirements (Figure 6). Total opportunities for crew on each vessel vary by vessel length as reported in the “crew size” field. A large proportion of vessels in the Bering Sea and Aleutian Island sub area would qualify under most eligibility thresholds however a larger total number of vessels in the Central Gulf and Southeast have more qualifying days (Figure 7). Comparing vessel participation by fishery group shows that salmon vessels have the most fishing days (Figure 8). RAM personnel report that most TEC applications rely heavily on days participating in the salmon fishery for the 150 qualifying days (personal communication Clydina Bailey (RAM), February 11, 2019). Overall impacts of any sea day recency requirement will vary based on an individual’s specific fishing portfolio.

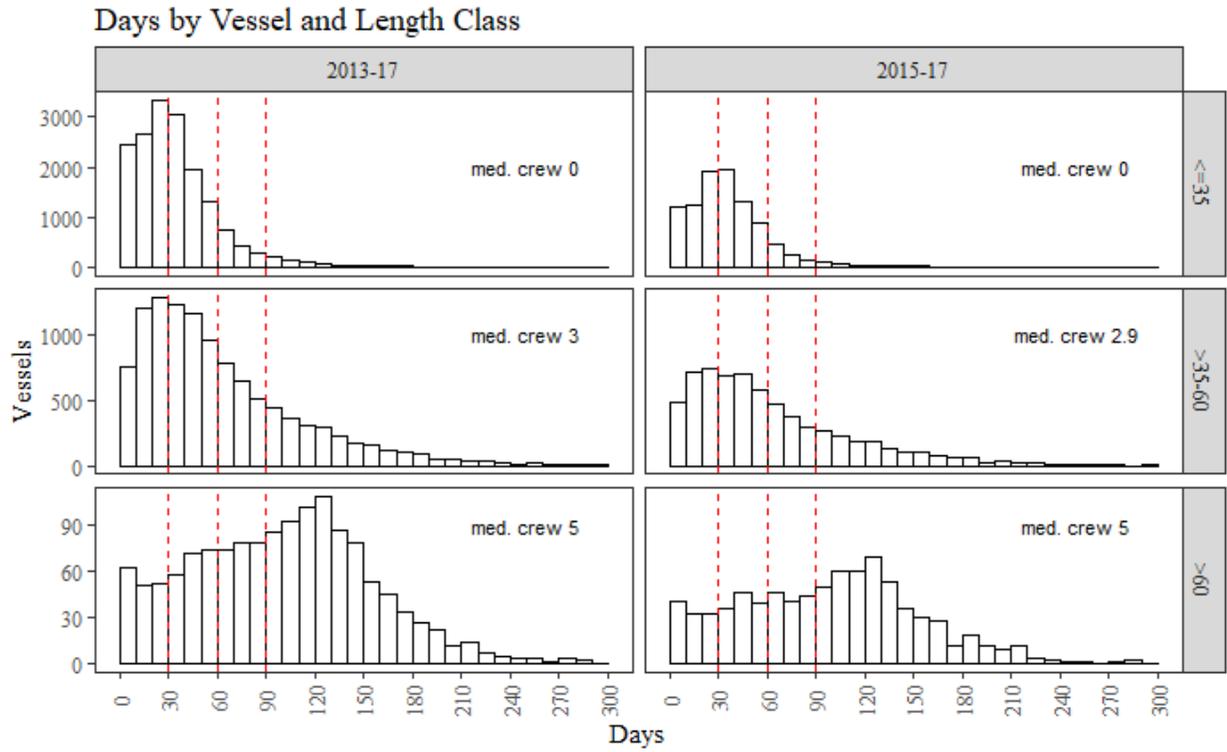


Figure 6. Distribution of fishing days by vessel and length class for all fisheries in Alaska (note differing y-axis).
 Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive FT.

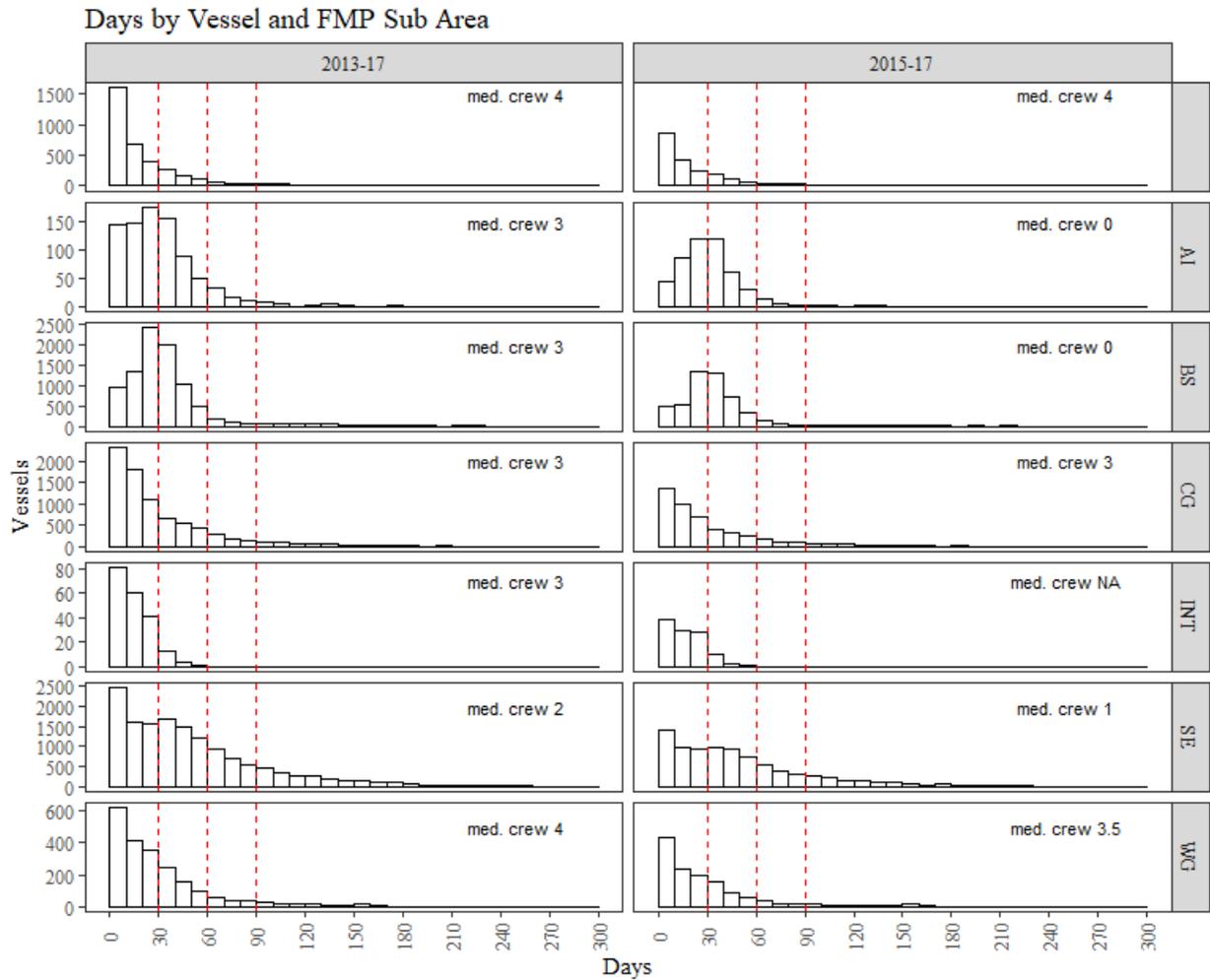


Figure 7. Distribution of fishing days by vessel and FMP Sub area for all fisheries in Alaska (note differing y-axis).
 AI=Aleutian Islands, BS=Bering Sea, CG=Central Gulf, INT=Interior Alaska, SE=Southeast,
 WG=Western Gulf.

Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive FT.

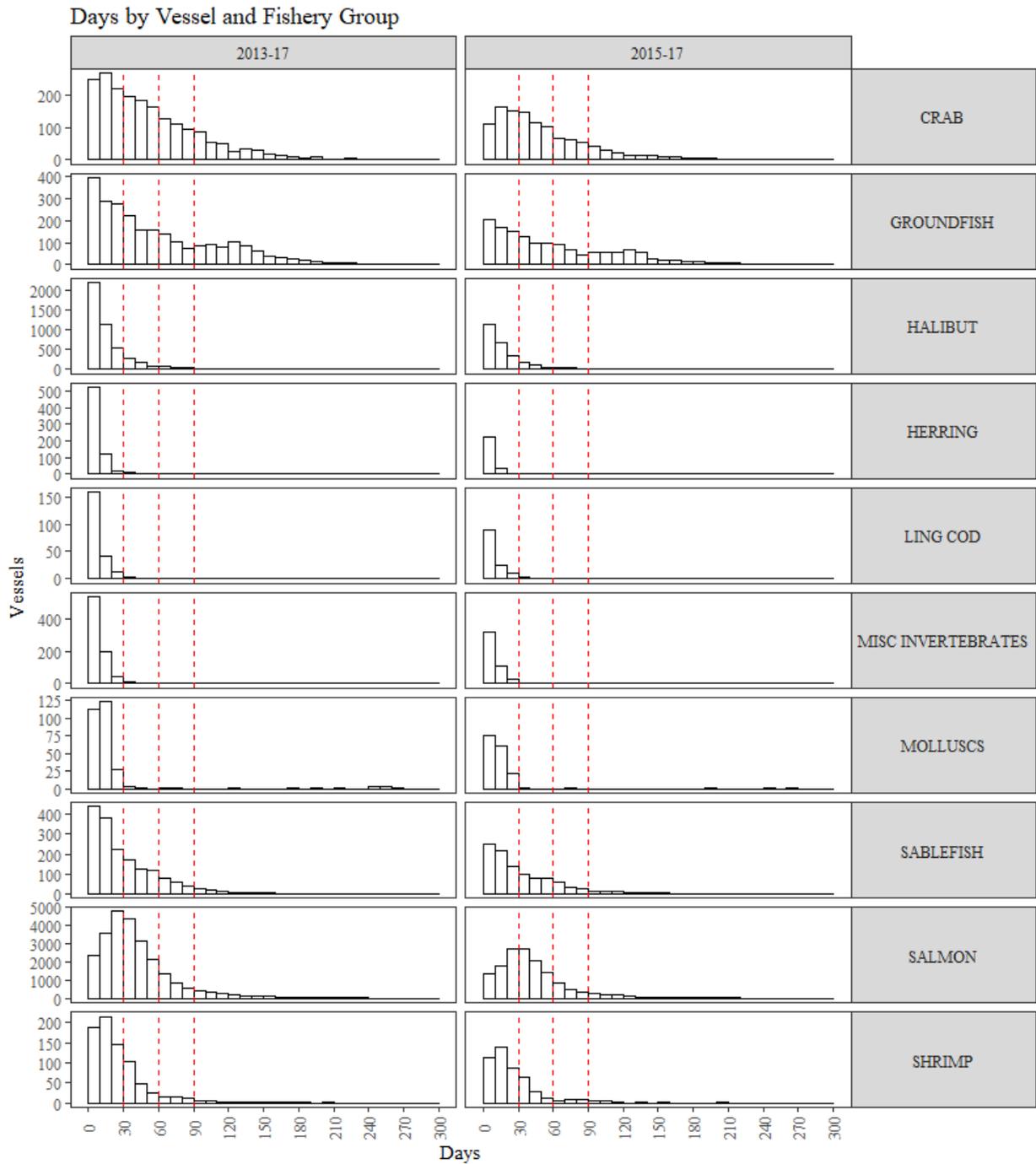


Figure 8. Distribution of participation days by vessel and Fishery Group for all fisheries in Alaska (note differing y-axis).

Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive FT.

6.3 Potential Impacts on Implementation and Enforcement

Implementation of a sea day recency eligibility requirement is likely to be challenging administratively and logistically. There is no annual application for QS or IFQ so in practice, this requirement would likely function such that every current quota shareholder and any prospective shareholder would be required to

fill out a new application and demonstrate their recent eligible sea days on an application similar to the current TEC application, listing only their commercial fishing experience within eligible years. The current eligibility requirements and TEC process would apply until the end of the eligibility period at which time new IFQ permits would be issued under the new eligibility criteria. This would create a large influx of applications to be processed, verified and documented. This would also impose a new, one-time, cost on the agency that would be subject to cost recovery and would increase the overall cost of administering the IFQ Program for all QS holders.

A challenging aspect of implementing a recent sea day eligibility criteria is determining the appropriate procedure for existing quota shareholders who would no longer qualify under the new requirement. Any implementation timelines should provide sufficient notice to shareholders to allow them to prepare for implementation of the provision and potential divestiture of shares. Effective implementation of a provision to withhold IFQ must include a process to submit documentation of participation and an opportunity for appeal to the person whose IFQ is withheld or who is found ineligible to receive QS. Until the finding that IFQ may be withheld is final, IFQ would need to be reserved to ensure shares are available in the event the applicant prevails.

The enforcement burden arising out of this requirement would be related to the large number of permit applicants in a finite time period. Although there would be a substantial number of applications processed, the general approach to enforcement would be to pursue any case of possible inappropriate applications. Although this could result in a larger number of cases, the potential number of cases would be limited by the number of persons applying for eligibility and the potential for persons to misrepresent their prior fishing activity.

7 Other Permits/Licenses with Sea Day Requirements

Discussions regarding sea day recency requirements often reference US Coast Guard (USCG) recency of service requirements for Merchant Mariner Credentials (MMC) as a model for this type of program. Specific USCG endorsements have differing sea time and recency requirements, however a general MMC is valid for five years. Renewal requires either “evidence of at least 1 year of sea service during the past 5 years” or completion of other training or exams (46 CFR §10.227). Sea service time on vessels under 200 GRT can be self-certified if the applicant is also the owner of the vessel and provides proof of ownership. If the applicant does not own the vessel, they must submit a letter from the owner(s) or other licensed personnel on the vessel(s) listed (46 CFR §10.232.a(4)). The MMC requirements differ from the sea day recency requirements proposed for the IFQ fishery in that the MMCs require recurring renewals rather than the proposed one-time IFQ eligibility, however it is similar in that the sea days are self-reported and require comparable documentation.

Amendment 31 to the Bering Sea and Aleutian Islands King and Tanner Crabs FMP implemented an active participation requirement for the acquisition and use of C shares. When filling out an Application for Eligibility to Receive QS/IFQ or PQS/IPQ by Transfer, applicants must attest to 150 days of experience as harvesting crew in any commercial fishery and participating in at least one of CR program fishery in the 365 days prior to submission of the application. Applicants demonstrate participation in the fishery with a signed fish ticket, an affidavit of the vessel owner upon which fishing was done or a signed receipt for an IFQ crab landing in which they were serving as a hired master. Unlike halibut/sablefish IFQ TEC applications, these applications do not require a public notary, but they are signed under the penalty of perjury. However, an individual with an approved CR Eligibility to Receive QS/PQS or IFQ/IPQ by Transfer permit will automatically qualify for a TEC.

8 Next Steps

If the Council chooses to move forward with this action it should clarify the following outstanding questions:

- **Objective of the action-** is the proposed action addressing the practice of QS holders who are onboard the vessel but do not actively participate in fishing activities, or QS holders who are not onboard the vessel (initial issues employing hired masters)?
- **Scope of eligibility requirements-** how would the action apply to individuals leasing IFQ or non-individual QS holders?
- **Future eligibility requirements-** if this is a one-time eligibility requirement over a specified period, how would the transfer eligibility requirements function after the qualifying years?
- **Procedure for failure to meet eligibility requirements-** what happens if a current QS holder does not meet the active participation eligibility criteria?

After clarifying the above issues, the Council should identify a purpose and need statement and develop an alternative(s) for consideration in an initial review draft analysis. Current IFQ Transfer approval criteria are specified in 50 CFR 679.41.

9 References

Van der Voo, Lee. 2013. Sharecroppers of the Sea. Investigate West. Published in Seattle Weekly January 8, 2013. Access online March 8th, 2015.
<https://issuu.com/pnwmarketplace/docs/i20130118141836988>

Szymkowiak, M., and A. Himes-Cornell 2015. Towards individual-owned and owner-operated fleets in the Alaska Halibut and Sablefish IFQ Program. *Maritime Studies*, 14(1), 1-19.

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

10 Persons Consulted

Clydina Bailey, NMFS RAM

Tracy Buck, NMFS RAM

Sarah Marrinan, NPFMC

Stephanie Warpinski, NMFS SFD

11 Appendix Application for Eligibility to Receive QS/IFQ

BLOCK B-- FREEZER SHARES

Is this TEC intended for an Entity that wishes to buy or lease Category A Quota Shares only?

YES NO

IF YES, and you are a corporation, partnership, association, or other non-individual entity, please complete and **attach** a QS Holder: Identification of Ownership Interest form.

NOTE: You may be required to submit further evidence of eligibility, i.e., that you are the type of entity that would have been eligible to document a vessel under U.S. laws in effect in 1988, 1989, and 1990.

BLOCK C - COMMERCIAL FISHING EXPERIENCE
Duplicate this section, or attach a separate sheet of paper, if necessary, to display all of the Applicant's commercial fishing experience.

1. Species (<i>one per block</i>):	2. Gear:	3. Location:
4. Date From (<i>MM / YY</i>):	5. Date To (<i>MM / YY</i>):	6. Number of Actual Days Spent Harvesting Fish:
7. Duties Performed While Directly Involved in the Harvesting of Fish (<i>Be Specific</i>):		
8. Vessel Name:		9. ADF&G or USCG Number:
10. Vessel Owner:	11. Vessel Operator:	
12. Reference Name (<i>person other than yourself</i>):	13. Reference's Relationship to You:	
	14. Reference's Business Telephone Number:	
15. Reference's Business Mailing Address:		

BLOCK D - NOTARY CERTIFICATION

The applicant or authorized representative of the applicant: by my signature below, I declare that I have examined this application in its entirety, and to the best of my knowledge and belief, the information presented here is true, correct, and complete.

1. Signature of Applicant (or Authorized Representative):	2. Date:
3. Printed Name of Applicant (<i>If completed by an Authorized Representative, attach authorization</i>):	
4. Notary Public Signature: ATTEST	6. Affix Notary Stamp or Seal Here:
5. Commission Expires:	

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 2 hours 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, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, 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 Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*); 3) Some information collected on this application form is made available to the public on the NMFS, Alaska Region, webpage (www.alaskafisheries.noaa.gov). Other information is confidential under section 402(b) of the Magnuson-Stevens Act and NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

PRIVACY ACT STATEMENT

AUTHORITY: The collection of this information is authorized by the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

PURPOSE: NMFS uses the information provided on this application to verify the identity of the applicant and to accurately retrieve confidential records related to Federal permits to determine eligibility to receive quota share or individual fishing quota by transfer. The primary purpose for requesting the SSN/TIN is for the collection and reporting on any delinquent amounts arising out of such person's relationship with the government pursuant to the Debt Collection Improvement Act of 1996 (Public Law 104-134). Personal information is confidential and protected under the Privacy Act (5 U.S.C. 552a). Business information may be disclosed to the public.

ROUTINE USES: Disclosure of this information is subject to the published routine uses identified in the Privacy Act System of Records Notice COMMERCE/NOAA-19, Permits and Registrations for the United States Federally Regulated Fisheries. NMFS posts some information from this form on its public website (www.alaskafisheries.noaa.gov), including the business name, address, and NMFS ID number of the person eligible to receive quota share or individual fishing quota by transfer. In addition, NMFS may share information submitted on this application form with other State and Federal agencies or fishery management commissions, including staff of the North Pacific Fishery Management Council and Pacific States Marine Fisheries Commission.

DISCLOSURE: Providing this information is voluntary; however, the failure to provide complete and accurate information will prevent the determination of eligibility to receive quota share or individual fishing quota by transfer.

INSTRUCTIONS
APPLICATION FOR ELIGIBILITY TO RECEIVE QS/IFQ

Quota Share (QS) was initially issued to persons who owned or leased vessels that made legal commercial fixed-gear landings of Pacific halibut or sablefish during 1988, 1989, or 1990 off Alaska. The application period for QS ended on July 15, 1994. Once issued to a person by NMFS, QS is held by that person until it is transferred, suspended, or revoked. Currently, QS may only be obtained through transfer. QS is transferable to other initial issuees or to those who have become transfer-eligible through obtaining NMFS' approval.

Those persons applying to receive QS or Individual Fishing Quota (IFQ) by transfer must submit to the Regional Administrator an Application for Eligibility to Receive QS/IFQ to obtain a Transfer Eligibility Certificate (TEC).

If participant is a U.S. corporation, partnership, association or other non-individual business entity, he or she must complete and submit a Quota Share Holder: Identification of Ownership form. Download this form from NMFS Alaska Region website at <https://alaskafisheries.noaa.gov/>, or call RAM and request the form be mailed or faxed to you.

Except for residents of Adak, Alaska, to be eligible, 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. An eligible community resident of Adak receiving IFQ derived from QS held by an Aleutian Islands Community Quota Entity (CQE) is not required to meet the 150-day criteria for purposes of receiving IFQ from an Aleutian Islands CQE.

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

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: <https://alaskafisheries.noaa.gov/>

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 - APPLICANT INFORMATION

1. Name: Full name, including middle initial, as it should appear on the Transfer Eligibility Certificate.
2. NMFS Person ID: NMFS will supply this number, if you do not already have one.
3. Taxpayer ID Number:
If an individual, enter social security number (SSN).
If a corporation, partnership, association, or other non-individual business entity, enter employer identification number
4. Indicate whether permanent or temporary.
Permanent: Permanent mailing address, including street or P.O. Box, city, state, and zip code.
Temporary: Enter the address including street or P.O. Box, city, state, and zip code if you want the TEC documentation sent somewhere other than your permanent address.
- 5-7. Business Telephone Number, Business Fax Number, and Business E-mail address (if available)
8. Indicate whether you are a U.S. citizen. **If YES**, enter Date of Birth
9. Indicate whether you are a U.S. corporation, partnership, association, or other non-individual business entity. **If YES**, enter Date of Incorporation. **Attach** a Quota Share Holder: Identification of Ownership form.
10. Indicate whether you are a resident of Adak, Alaska.
If YES, enter date residency began.

BLOCK B - FREEZER SHARES

Indicate whether the TEC is intended for an entity that wishes to buy or lease Category A Quota Shares ONLY.

If YES, and you are a U.S. corporation, partnership, association, or other non-individual entity, please complete and **attach** a Quota Share Holder: Identification of Ownership form.

Note: You may be required to submit further evidence of eligibility, i.e., that you are the type of entity that would have been eligible to document a vessel under U.S. laws in effect in 1988, 1989, and 1990.

BLOCK C - COMMERCIAL FISHING EXPERIENCE

(Copy this section if necessary to display all of the applicant's commercial fishing experience)

1. Species: Enter any targeted species in a U.S. commercial fishery (*only one fishery per block*).
2. Gear Type: Enter any gear type used to legally harvest in a U.S. commercial fishery.
3. Location: Enter actual regulatory, statistical, or geographic harvesting location.
4. Date From: Enter starting date (*including month and year*) of fishing experience.
5. Date To: Enter ending date (*including month and year*) of fishing experience.
6. Number of Actual Days Spent Harvesting Fish during the claimed period in questions 4 and 5.
7. Duties Performed While Directly Involved in the Harvesting of Fish: List or describe your duties as a member of a harvesting crew for the claimed period in questions 4 and 5.

8. Vessel Name: Enter the registered name of the vessel upon which above duties were performed.
9. ADF&G or USCG Number: Enter the State of Alaska, Department of Fish & Game (ADF&G) vessel registration number or the U.S. Coast Guard (USCG) documentation number of the vessel listed in number 8.
10. Vessel Owner: Enter the name of the individual(s) or corporation(s) whose name is listed on the vessel ownership papers.
11. Vessel Operator: Enter the name of the person (*may be yourself*) in charge of operating the vessel.
12. Reference Name: Enter the name of a person (*other than yourself*) who is able to verify the above experience.
13. Reference's Relationship to You: Enter your reference's relationship to you.
14. Reference's Business Telephone Number: Enter your reference's business telephone number, including the area code.
15. Reference's Business Mailing Address: Enter your reference's business mailing address, including street or P.O. box number, city, state, and zip code.

BLOCK D - NOTARY CERTIFICATION

Enter printed name and signature of applicant or authorized representative and date the application. Signature certifies that all information set forth in the application is true, correct, and complete to the best of the applicant's knowledge and belief. If completed by authorized representative, **attach** authorization.

Enter Notary Public Signature, date commission expires, and Notary Stamp or Seal