



C1 IFQ Medical Lease and Beneficiary Designation Provisions

April 2019

Action Memo

Staff: Sam Cunningham (NPFMC), Stephanie Warpinski (NMFS)
Other Presenters: Darrell Brannan (Brannan & Associates)
Action Required: Take Final Action on Preliminary Final Determination Made at the February 2019 Council Meeting

BACKGROUND

The Council is considering a management measure change to alter the medical and beneficiary transfer provisions in the Pacific Halibut and Sablefish Individual Fishing Quota (IFQ) Program. Although the analysis was originally scheduled for final action in February 2019, the federal government shutdown of Dec 22, 2018 – Jan 25, 2019 prevented the Council from taking final action on any issue at its February meeting. Instead, the Council received a detailed staff report on the public review draft of the analysis, received input from its Advisory Panel, and made a preliminary final determination on its preferred alternatives for the medical and beneficiary transfer provisions. The Council motion from February 2019, as well as the appropriate excerpt from the Advisory Panel minutes, are attached under this agenda item.

During the meeting the Council also requested additional information on the costs associated with implementing the option that would allow a medical transfer for any medical condition for 4 of the 7 most recent years - with limits on the amount of IFQ that could be transferred the 3rd (80%) and 4th (60%) transfer years. The analysis was updated to include a qualitative discussion of those increased costs, to the extent practicable.

Medical Transfer: Temporary medical transfers were not included in the original halibut and sablefish program because the Council's intent was to have an owner-onboard fishery in the catcher vessel sectors, as well as concerns that they would be difficult to regulate. However, after reports of injured or ill IFQ holders being transported on and off fishing vessels to meet owner-onboard requirements, the Council recommended, and NMFS approved, the temporary medical transfer provision late in the 2007 fishing year. In recommending the medical transfer provision the Council attempted to balance its objective to limit long-term leasing of quota share (QS) to promote an owner-onboard fishery with its recognition that a medical transfer provision would provide a mechanism for QS holders to retain their QS during bona fide medical temporary hardships. Because of concerns that a small group of catcher vessel QS holders are using the medical transfer provision to circumvent the owner-onboard requirements, the Council's preferred alternatives for modifications to the program include:

- Changing the language from "for the same medical condition" to "for any medical condition" when applying the number of years the medical transfer may be used.
- Broadening the definition of a "certified medical professional" that may attest to medical conditions on the medical transfer form to "Health Care Provider". A Health Care Provider is an

eligible health care provider is an individual authorized to provide health care services by the State where he or she practices and performs within the scope of their specialty to diagnose and treat medical conditions as defined by applicable Federal, state, or local laws and regulations. A health care provider outside the U.S. and its territories licensed to practice medicine is included in this definition.

- Change the number of years the medical transfer provision could be used from 2 of the 5 most recent years to 3 of the 7 most recent years.

Beneficiary Transfer: Beneficiary transfers were established to allow the quota shares held by a person who had recently died to be leased for up to three years while the estate is being settled. The IFQ program includes provisions that allow for temporary leasing of catcher vessel IFQ under a survivorship transfer privilege that is limited to the surviving spouse or designated “immediate family member”. Because the transfer privilege is limited, stakeholders and NMFS would benefit from clarifying who has the authority to lease IFQ derived from the decedent’s QS. The Council’s preliminary final determination would make the following changes to the beneficiary transfer provision:

- Add “estate” to the list of persons that can hold QS and would provide the representative of the estate the authority to lease the IFQ derived from those QS for up to three years.
- Define “immediate family member” in regulations at 50 CFR 679 using the U.S. Office of Personnel Management definition.