

**SUPPORTING STATEMENT
MEDICAL TRANSFER FOR PACIFIC HALIBUT AND SABLEFISH
INDIVIDUAL FISHING QUOTAS
OMB CONTROL NO.: 0648-xxxx**

INTRODUCTION

The U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI) in the exclusive economic zone (EEZ) off the coast of Alaska are managed by National Marine Fisheries Service (NMFS) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act ([Magnuson-Stevens Act](#)), 16 U.S.C. 1801 *et seq.* The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands and the Fishery Management Plan for Groundfish of the Gulf of Alaska were prepared by the North Pacific Fishery Management Council (Council) and are implemented by regulations at [50 CFR part 679](#). The domestic fishery for Pacific halibut off Alaska is managed by the International Pacific Halibut Commission as provided by the [Northern Pacific Halibut Act of 1982](#), 16 U.S.C. 773, *et seq.*

The Individual Fishing Quota (IFQ) Program provides management measures for the commercial fisheries that use fixed gear to harvest sablefish and Pacific halibut. The IFQ Program limits access to the Pacific halibut and sablefish, and crab fisheries to those persons holding quota share in specific management areas.

Since the initial implementation of the Pacific halibut and sablefish IFQ programs in 1995, individuals have submitted numerous petitions to NMFS and the Council requesting the temporary transfer of IFQs for medical reasons. These individuals sought medical transfers due to the inability of IFQ holders to physically be aboard the vessel as IFQs were fished. NMFS was previously unable to implement a medical transfer program recommended by the Council due to legal constraints. The approach provided in this action would resolve the legal issues resulting from previous approaches.

This action adds the option to obtain a Medical Transfer (MT) to the IFQ Program. This collection will be integrated into the IFQ Program collection, Office of Management and Budget (OMB) Control No.: 0648-0272.

Current regulations require catcher vessel quota share (QS) holders to be aboard the vessel during harvest and offloading of IFQ species with two exceptions. One exception occurs under limited circumstances when initial recipients of QS qualify to use hired masters. The second exception is when a QS holder experiences an emergency while at sea. QS holders who experience a short-term medical condition that prevents them from fishing their IFQs have no ability to temporarily transfer those IFQs. Despite a prohibitive medical condition, QS holders generally must be aboard the vessel when fishing their QS. In the event of an injury or illness, fishermen who may not hire a master must either divest their QS or forego the economic benefits of their QS until they recover.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

Final Rule RIN 0648-AS84 (rule identification number) modifies the IFQ Program for the fixed-gear commercial Pacific halibut fishery and sablefish fishery by revising regulations specific to those fisheries. This action is intended to improve the effectiveness of the IFQ Program and is necessary to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Northern Pacific Halibut Act of 1982 (Halibut Act) with respect to the IFQ fisheries. Of the many items described in the final rule, two required Paperwork Reduction Act (PRA) clearance that could not be submitted under the IFQ Program collection (OMB Control No.: 0648-0272) because a different revision to that collection is currently open for OMB approval. The provisions submitted within this action clarify who may seek a medical transfer provision of catcher vessel QS under § 679.42(d) and clarify the specific documentation that a QS holder must submit to NMFS to prove the QS holder's minimum 20 percent ownership in the vessel from which a hired master will fish the QS.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

a. Application for Medical Transfer (MT)

Emergency waivers and medical transfers are described at § 679.42(d). The person authorized to fish IFQ halibut or sablefish must be aboard the vessel during fishing operations and must sign the IFQ landing report except as provided in § 679.41 and under the following circumstances:

Emergency waiver.

In the event of extreme personal emergency during a fishing trip involving a person authorized to fish IFQ halibut or sablefish, the requirements at 679.42(c)(1) may be waived. The waiving of these requirements under this provision shall apply to IFQ halibut or IFQ sablefish retained on the fishing trip during which the emergency occurred.

Medical transfers.

In the event of a medical condition affecting a QS holder or an immediate family member of a QS holder that prevents the QS holder from being able to participate in the halibut or sablefish IFQ fisheries, a medical transfer may be approved for the IFQ derived from the QS held by the person affected by the medical condition.

A medical transfer will be approved if the QS holder demonstrates that:

He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition that precludes participation by the QS holder; or

He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition involving an immediate family member that requires the QS holder's full time attendance.

To be eligible to receive an MT, an individual Pacific halibut or sablefish QS holder must possess one or more catcher vessel IFQ permits and must not qualify for a hired master exception under § 679.41(i)(1). An individual may apply for an MT by submitting a medical transfer application to NMFS, Alaska Region. If NMFS denies an application for an MT, the applicant may appeal the denial according to existing appeal procedures found at § 679.43. A QS or IFQ holder who has received an approved MT from NMFS may transfer his or her annual IFQ permit to an individual eligible to receive QS or IFQ.

An MT shall be valid only during the calendar year for which the permit is issued. NMFS will not approve subsequent applications for MTs based on the same medical condition unless the medical professional attests to a reasonable likelihood of recovery. NMFS will not approve an MT if the applicant has received an MT in any 2 of the previous 5 years for the same medical condition.

To obtain a medical transfer, an applicant would document his or her medical condition by submitting an MT application and attaching a medical professional's affidavit. This affidavit would describe the medical condition affecting the applicant and attest to the applicant's inability to participate in the IFQ fisheries. In the case of a medical condition involving a family member, the medical professional's affidavit would describe the necessity for the IFQ permit holder to tend to an immediate family member who suffers from the medical condition.

A medical transfer application may be obtained at www.fakr.noaa.gov or by calling 1-800-304-4846. Completed applications must be mailed to:

NMFS, Alaska Region
Restricted Access Management Program
P.O. Box 21668
Juneau, AK 99802-1668

This action could directly affect 3,349 halibut QS holders and 874 sablefish QS holders. Approximately 12 QS holders contact NMFS or the Council each year for information about medical transfers in the IFQ Program. However, it is not possible to estimate how many QS holders did not contact NMFS or the Council, but would have requested a medical transfer if it were available. For the purpose of this analysis, 5 percent of the total QS holders (211) will be used.

The information requested in Block A is needed to determine eligibility of the 2 parties for the transfer to take place. Block B is merely a checklist and is included as a guide to ensure all items are included with the application. Block C information is needed to identify the person applying for the MT and his or her eligibility. Block D information is needed to identify the person receiving the MT transfer and his or her eligibility. Block E information is needed to identify the IFQ to be transferred. Blocks F and G information are needed to provide background information on the transfer. Block H information is needed to authenticate the medical emergency.

Blocks I and J information are need for certification of the individuals involved in the transfer. The IFQ Program was implemented to both maintain rigorous safeguards on use of fishing privileges for a public resource and to provide safeguards for program constituents. Use of notarized signatures is the best way for NMFS to ensure that only authorized persons are granted privileges so that NMFS may act in certainty with requests for program services or commercial transactions (for transfers). By employing this widely accepted means of unequivocally establishing the identity of submitters, this requirement removes ambiguity about whether constituents have specific knowledge of the terms and conditions of requested benefits.

Application for Medical Transfer (MT)

Block A

Indicate (YES or NO) whether Transferee (No Medical Condition) holds a Transfer Eligibility Certificate
Indicate (YES or NO) whether Transferor (Medical Condition) qualifies for a hired master exception under
50 CFR 679.42(i)(1)

Block B – Attachments

Completed, signed, and notarized application
Copy of permit or QS Certificate
Declaration from certified medical professional

Block C – Transferor information (medical condition)

Full name, NMFS person ID, and date of birth
Permanent business mailing, telephone number, FAX number, and e-mail address (if any)
Temporary mailing address may be provided, if appropriate

Block D -- Transferee (no medical condition)

Full name, NMFS person ID, and date of birth
Permanent business mailing address, telephone number, FAX number, and email address (if any)
Temporary mailing address may be provided, if appropriate

Block E – Identification of IFQ to be transferred

Whether the transfer is for Pacific halibut or sablefish IFQ
IFQ regulatory area
Number of units
Range of serial numbers for IFQ to be transferred
Actual number of IFQ pounds
Transferor (seller) IFQ permit number
Fishing year

Block F – Transferor supplemental information

Price per pound (including leases)
Total amount paid for the IFQ in the requested transaction including all fees
Primary source of financing for the transfer

Block G – Transferee supplemental information

Indicate how the IFQ was located (check one)
Indicate transferee's (buyer's) relationship to the transferor (seller) (check all that apply)

Block H – Medical declaration

(to be completed by a licensed medical doctor, advanced nurse practitioner, or primary community health aide)

Medical professional's full name
Business telephone, permanent business mailing address (number and street, city and state, zip code)
Type of medical professional
Description of the medical condition of applicant or affected family member
Documentation of the medical condition and a description of the care required
Signature and date signed of the medical professional

Block I – Certification of transferor (seller)

Signature, printed name, and date signed of transferor
Signature, seal or attest, and commission expiration date of a notary public
If authorized agent, attach authorization.

Block J – Certification of transferee (buyer)

Signature, printed name, and date signed of transferee

Signature, seal or attest, and commission expiration date of a notary public.
 If authorized agent, attach authorization

Medical Transfer Application, Respondent	
Estimated number of respondents	211
Total annual responses	211
Number of responses per year = 1	
Total Time burden	422
Time requirement per response = 2 hr	
Total personnel cost	\$10,550
Cost per hour = \$25	
Total miscellaneous cost	\$1,163
Postage (0.41 x 211 = 86.51)	
Photocopy (0.05 x 2 x 211 = 21.10)	
Notary (\$5 x 211 = 1055)	

Medical Transfer Application, Federal Government	
Total annual responses	211
Total Time burden	105
Time requirement per response (30 min/60 min = 0.5)	
Total personnel cost	\$2,625
Cost per hour = \$25	
Total miscellaneous cost	0

b. Letter of Appeal

The Regional Administrator will evaluate each MT application. An applicant who fails to submit the information specified in the MT application will be provided a reasonable opportunity to submit the specified information or submit a revised application. The Regional Administrator will prepare and send an Initial Administrative Determination (IAD) to the applicant if it is determined that the applicant failed to submit the specified information or a revised application. The IAD will indicate any deficiencies with the information provided or with the revised application.

An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43. For purposes of this analysis, 5 percent of those participants filing an MT are estimated to file a letter of appeal.

Letter of Appeal, Respondent	
Estimated number of respondents	10
Total annual responses	10
Number of responses per year = 1	
Total Time burden	40 hr
Time requirement per response = 4 hr	
Total personnel cost	\$1,000
Cost per hour = \$25	
Total miscellaneous cost	\$4
Postage (0.41 x 10= 4.10)	
Photocopy (0.10 x 2 = 0.20)	

Letter of Appeal, Federal Government	
Total annual responses	10
Total Time burden	
Time requirement for each appeal = 4 hr	40
Total personnel cost	\$1,000
Cost per hour = \$100	
Total miscellaneous cost	0

c. Ownership Documentation

The requirement for catcher vessel QS holders to be aboard the vessel during harvest and offloading of IFQ species (§ 679.42(i)) constitutes a key element of the halibut and sablefish IFQ Program. The Council remains concerned about alleged abuses of the regulatory provision allowing vessel owners who received QS as initial allocation to hire masters to harvest their IFQs without being onboard the vessel. Specifically, the final rule replaces the phrase “written documentation” with specific documentation that a QS holder must submit to prove the required ownership of the vessel if that vessel will use a hired master.

For documented vessels. The QS holder must submit an Abstract of Title for a documented vessel showing the required 20 percent minimum ownership interest (or other percentage, if applicable).

For undocumented vessels. The QS holder must submit a State of Alaska registration or license for undocumented vessels.

In both cases, other written documentation may be required to prove the required percentage ownership interest. This action supports the Council’s objective of encouraging an owner-operator fishery. The Council adopted the documentation requirement out of concern that some vessel owners were abusing the hired skipper provision through the use of informal, unverifiable transactions. The Council was also responding to NMFS staff reports that, under the prior regulation, it had been difficult to verify the minimum 20 percent vessel ownership. This action would accomplish the objective of tightening the documentation procedures so as to successfully enforce the regulations.

This action would directly regulate holders of halibut QS blocks in all IFQ areas. There are 3,205 persons, both individual and collective entities, who hold at least one block of halibut QS. Eighty to ninety percent of QS holders hold at least one block in each regulatory area except for Area 4A. The submittal requirement of written documentation has been part of the regulations for some time. However, NMFS does not have sufficient ownership and affiliation information to determine precisely the number of directly regulated entities in the IFQ Program that would be impacted by this action. Therefore, the number of respondents last reported for the IFQ program will be used for this analysis.

Ownership Documentation, Respondent	
Estimated number of respondents	2877
Total annual responses	2877
Number of responses per year = 1	
Total Time burden	2877 hr
Time requirement per response = 1 hr	
Total personnel cost	\$71925
Cost per hour = \$25	
Total miscellaneous cost	\$2043
Postage (0.41 x 2877= 1179.57)	
Photocopy (0.10 x 3 x 2877 = 863.10)	

Ownership Documentation, Federal Government	
Total annual responses	2877
Total Time burden	
Time requirement for each response = 1 hr	2877
Total personnel cost	\$71925
Cost per hour = \$25	
Total miscellaneous cost	0

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

A “fillable” application for a medical transfer of IFQ is available at the NMFS Alaska Region Home Page at www.fakr.noaa.gov, for the participant to download and print, and mail or deliver to NMFS. The letter of appeal and the ownership documentation must be mailed.

4. Describe efforts to identify duplication.

None of the information collected as part of this information collection duplicates other collections. This information collection is part of a specialized and technical program that is not like any other.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This collection of information does not impose a significant impact on small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Three documents are described in this collection: (1) medical transfer and (2) associated appeal, and (3) ownership documentation requirement. The medical transfer and associated appeal procedure were requested repeatedly by IFQ Program participants through the years. This action would relieve the difficulties for those participants dealing with a medical condition. Because this action is intended to benefit the fishing industry with medical conditions, the real consequence of not conducting this program would be negative for the fishing industry.

The requirement for catcher vessel QS holders to be onboard the vessel during harvest and offloading of IFQ species constitutes a key element of the halibut and sablefish IFQ Program. Responding to alleged abuses of the regulatory provision allowing vessel owners who received QS as initial allocation to hire masters to harvest their IFQs without being onboard the vessel, this action specifies the documentation that a QS holder must submit. Current regulations do not specify the documents needed to demonstrate percentage of vessel ownership and, therefore, the requirement is difficult to monitor, verify, or enforce.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

No inconsistencies occur in this collection

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The NMFS Alaska Region submitted a proposed rule, RIN 0648-AS84, requesting comments from the public.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift will be provided under this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

With the exception of the medical information, the information collected is confidential under section 303(d) of the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.); and also under NOAA Administrative Order (AO) 216-100, which sets forth procedures to protect confidentiality of fishery statistics. The medical information is confidential and protected under the Privacy Act. The Alaska Region Permits System of Records (NOAA #17) notice, published in the Federal

Register on 03/03/2005, will be updated to include the collection of medical information for this purpose.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This information collection does not involve information of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

Estimated total respondents: 2,877. Estimated total responses: 3,098. Estimated total burden hours: 3,339. Estimated total personnel costs: \$83,475. Personnel labor costs are estimated to the average wage equivalent to a GS-9 employee in Alaska, including Cost-of-Living Adjustment (COLA), at \$25 per hour.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

Estimated total miscellaneous costs: \$3,210.

14. Provide estimates of annualized cost to the Federal government.

Estimated total burden hours: 3,022 hr. Estimated total personnel costs: \$75,550. Estimated total miscellaneous costs: \$0.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

The medical transfer and associated appeal and ownership documentation are part of a new program that will be integrated into OMB Control No.: 0648-0272.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information collected will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

In accordance with OMB requirements, the control number and the expiration date of OMB approval are shown on the MT application. If an appeal is filed, no form exists. The submittal of ownership documentation does not involve a form.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

In accordance with OMB requirements, the certification statement is shown on the MT application. If an appeal is filed, no form exists. The submittal of ownership documentation does not involve a form.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.