

MEMORANDUM

TO: Council, SSC, and AP

FROM: Chris Oliver *Chris*  
Executive Director

ESTIMATED TIME  
2 HOURS

DATE: December 2, 2003

SUBJECT: Staff Tasking

- (a) Review tasking and provide direction to staff.
- (b) Discuss direction to Committees.

**Staff Tasking**

A summary of the status of Council projects and a three-meeting outlook is attached as Item D-2(a). In addition to preparing for the national fisheries conference, the staff has been working on our own regional issues and projects. Mark has been preparing discussion papers for the GOA rationalization project. Elaine has been writing and running diagnostics tests to assure data quality. Jane has been coordinating various meetings and projects, and is scheduled to do a 2-month 'tour of duty' with NOAA Fisheries in Silver Spring in January and February. Diana Stram has been working on the GOA salmon and crab bycatch discussion paper, and working with the scallop plan team to prepare the SAFE and update the FMP. Nicole is assisting with issues relative to GOA groundfish rationalization, as well as observer program and community issues. Cathy has been working on the GOA salmon bycatch paper and EFH EIS revisions, and will be leading the HAPC proposal review process. Jon has been working on the IR/IU analyses. Bill has been working on a number of protected resource issues and projects. Diana Evans is working on updating the groundfish FMPs, updating species profiles, and revising the programmatic groundfish SEIS. David will be editing the conference proceedings for publication by early March. Maria will be assisting with the graphics, word processing, and other details associated with preparation of the proceedings. Shannon has been preparing Council meeting minutes, along with handling a myriad of other office tasks.

In October, the Council requested that we specifically discuss two items (AI pollock and BSAI salmon bycatch) as part of the December staff tasking. These issues are summarized below.

**AI Pollock Fishery NEPA Document**

At its October meeting, the Council initiated a NEPA analysis for an action to explicitly close the Aleutian Islands to a directed pollock fishery. This will require preparation of an EA/RIR/IRFA that compares alternative harvest levels under the status quo (including a zero harvest quota) with a complete closure of this fishery. Thus, alternatives to be considered in the document might include:

- Alternative 1. No Action (no explicit closure of the fishery) with subalternatives (?)
- Alternative 2. Prohibit a directed AI pollock fishery.

Regarding staff tasking, NOAA-Fisheries and Council staff have discussed an approach to the preparation of this document. Given the similarity between this issue and the annual TAC-setting process, staff propose to adopt an analytical format similar to that used in the annual specifications process. This approach would utilize some of the same staff that would be scheduled to produce the 2005 specifications EA/RIR/IRFA, including staff from the Region's analytical team.

The proposed schedule would be to present a draft EA/RIR/IRFA to the Council for initial review at their June meeting. After Council and public review later in 2004, the Council would choose its preferred alternative for an AI pollock fishery along with the TAC levels in other GOA and BSAI fisheries.

### BSAI Salmon Bycatch

In October, the Council voted to add a discussion paper on BSAI salmon bycatch management to the staff tasking list. At this meeting, the Council will discuss the tasking and timeline for preparing and reviewing the paper. The stated intent of this discussion paper was to examine the effectiveness of the existing area closures, and examine other possible means of controlling chinook and chum salmon bycatch (through cooperatives actions for example). The Council may wish to discuss the types of information they would like to be included in the paper.

### Committees

A membership list for existing committees is attached as Item D-2(b). The Council may want to take this opportunity to review the list of committees, determine which ones are still necessary, modify membership, or revise tasking for each committee if required.

In 2001, the Council established a Halibut Charter IFQ Implementation Committee to assist the Council with development of proposed regulations. Appointments for membership of this committee have yet to be made. Attached as Item D-2(c) are letters expressing interest for appointment to the Charter IFQ Committee

The Community QS Purchase Implementation Committee met on November 3, 2003, to review the proposed rule for Gulf FMP Amendment 66 (68 FR 59564) which was published on October 16, 2003. This action, approved by the Council in April 2002, will potentially allow 42 eligible Gulf coastal communities to purchase commercial halibut and sablefish quota share for lease to and use by community residents. This action would essentially amend the current IFQ regulations to allow a new category of QS holder in the halibut and sablefish IFQ Program, subject to particular restrictions, in specified management areas in the Gulf of Alaska.

Per Council direction in October, the Committee met to review the proposed rule and provide informal feedback to NMFS on the implementation details of the rule. The Committee report and agenda are included as Attachment D-2(d). The Committee membership list is Attachment D-2(e) and the proposed rule is Attachment D-2(f). Future tasks for the committee and its overall status are subject to further direction from the Council.

**Council Project Summary Updated December 2, 2003**

<b>Mandated Actions</b>	<b>Projected Weeks</b>	<b>Council/ NMFS %</b>	<b>Comments</b>
1 Programmatic Groundfish SEIS (revision)	4	20/80	Review comments and revise DEIS (Diana E)
2 FMP Updates (groundfish and scallop)	6	90/10	Concurrent with DPSEIS (Diana S./Diana E.)
3 EFH EIS	0	20/80	Release of Draft before Jan 15, 2004 (David)
4 HAPC Process	10	50/50	Review proposals in February (Cathy)
5 Crab FMP EIS	1	50/50	Initial review in February (Mark, Chris)
6 Pribilof Blue King Crab Rebuilding	0	30/70	Submitted for Secretarial Review (Diana S./ADF&G)

**Council Priorities \*Bold =Highest priority**

7 <b>GOA Rationalization*</b>	Many	90/10	Major project (Jane,Mark,Nicole, Bill, Elaine, Diana S, Diana E,contractors)
8 <b>IR/IU flatfish adjustments</b>	3	80/20	Amendment 79 being prepared for Secretarial review
9 <b>IR/IU flatfish tralling amendments*</b>	16	80/20	Initial Review of Am 80 in April (Contract/Jon)
11 <b>AI Pollock</b>	6	40/60	Review draft EA/RIR in June 04 (Bill)
12 <b>SR/RE retention*</b>	3	20/80	Not started. (Jane/NMFS)
13 Halibut Charter IFQ/GHL	2	100/0	Revise analysis for SOC submission. (Jane/Darrell)
14 Other Species (non-target, CDQ aspects, sharks/skates)	8	60/40	Further analysis required (Jane/NMFS). Advisory committee established.
15 Observer Program (long-term)	10	60/40	Preliminary review in December (Nicole/Chris)
16 BSAI Pacific cod conservation and management	1	20/80	Plan Teams to review and report in December (Jane)
17 BSAI rockfish conservation and management	1	10/90	Plan Teams to review and report in December (Jane/Diana S)

**Other Projects Previously Tasked**

18	BSAI Salmon Bycatch	?	?	Discuss tasking and schedule in December
19	Repeal of VIP	3	10/90	Review alternatives in December (NMFS/Jane)
20	GOA Salmon Bycatch Caps	8	80/20	Discussion paper for February (Diana S./Cathy)
21	TAC Setting Process	0	10/90	Final Action taken in October (Jane/NMFS)
22	Opilio VIP	2	50/50	Not started - on hold
23	Catch/bycatch disclosure (vessel level)	2	70/30	Discussion paper - Postponed
24	Scoping paper on fee/loan program for IFQ Charter (NMFS?)	1	10/90	Pending SOC review of program (NMFS)
25	Groundfish overfishing definitions	3	10/90	FR notice on NS 1 forthcoming; review in February.

**Potential New Projects or Lower Priority Projects**

26	AFA s/b caps to quotas and trawl LLP recency	10	80/20	Pending further Council direction and staff availability
27	IFQ amendments	?	90/10	Review in December 2003
28	Charter IFQ Community Set-Aside analysis	4	90/10	Awaiting Secretarial Approval (Nicole)
29	Industry proposal for pollock bycatch	?	90/10	Pending proposal and Council Direction
30	SSL Trailing Amendment (Committee proposal)	6	40/60	Undergoing informal consultation; Initial Review in April (Bill)
31	NAS Steller sea lion report	0	50/50	Discussed by Mitigation Committee (Bill)
32	Response to F <sub>40</sub> Independent Review	0	90/10	Received progress report in October
33	CDQ eligible communities	4	80/20	Initial Review in April (Nicole)
34	Community QS Purchase and Implementation	?	80/20	Committee review of proposed rule in December (Nicole)
35	CDQ appeals process	0	50/50	Council took action to revise Am 71 in October (Nicole)

**DRAFT NPFMC THREE-MEETING OUTLOOK**

December 8, 2003 Anchorage Hilton	February 2, 2004 Anchorage Hilton	March 29, 2004 Anchorage Hilton
NPFMC/BOF Joint Protocol Committee to meet	CDQ Eligibility Amendments: <i>Initial Review</i>	CDQ Eligibility Amendments: <i>Final Action</i>
IFQ Implementation Committee Report: <i>Action as necessary &amp; Proposal Review</i>		Repeal VIP: <i>Initial Review</i>
Repeal VIP: <i>Discuss and finalize alternatives</i>		
Information Quality Act: <i>Finalize comments</i>		
GOA Rationalization: <i>Review and refine alternatives, elements and options</i>	GOA Rationalization: <i>Action as necessary (including salmon/crab bycatch information)</i>	GOA Rationalization: <i>Action as necessary</i>
	HAPC: <i>Report and action as necessary</i>	HAPC: <i>Report and action as necessary</i>
	DPSEIS: <i>Review comments on Draft</i>	DPSEIS: <i>Final Action</i>
Groundfish Specifications: <i>Final Action</i>	SSL adjustments in GOA: <i>Initial Review (T)</i>	SSL adjustments in GOA: <i>Final Action (T)</i>
AI pollock fishery: <i>Discussion of timing for analysis</i>	Crab EIS: <i>Initial Review</i>	
Flatfish IRIU Amendment 80A and 80B: <i>Receive Committee Report &amp; refine alternatives</i>	Flatfish IRIU Trailing Amendment 80A & 80B: <i>Review Progress</i>	Flatfish IRIU Trailing Amendment 80A & 80B: <i>Initial Review (T)</i>
Observer Program: <i>Preliminary Review</i>	Observer Program: <i>Report/Direction</i>	Observer Program: <i>Initial Review</i>
BSAI Salmon bycatch: <i>Discuss and provide direction</i>	Non -Target Species: <i>Discuss and action as necessary</i>	
	Scallop SAFE: <i>Review</i>	
	Scallop FMP: <i>Discuss Update</i>	Scallop FMP: <i>Review Draft Update (T)</i>

TAC - Total Allowable Catch  
 BSAI - Bering Sea and Aleutian Islands  
 IFQ - Individual Fishing Quota  
 AFA - American Fisheries Act  
 HAPC - Habitat Areas of Particular Concern  
 LLP - License Limitation Program  
 PSC - Prohibited Species Catch

MSA - Magnuson Stevens Act  
 GOA - Gulf of Alaska  
 SSL - Steller Sea Lion  
 VIP - Vessel Incentive Program  
 SEIS - Supplemental Environmental Impact Statement  
 CDQ - Community Development Quota  
 IRIU - Improved Retention/Improved Utilization

SAFE - Stock assessment and fishery evaluation  
 VMS - Vessel Monitoring System  
 CV - Catcher Vessel CP- Catcher Processor  
 MSST - Minimum Stock Size Threshold  
 FMP - Fishery Management Plan  
 DPSEIS - Draft Programmatic Groundfish SEIS  
 (T) Tentatively scheduled

Last Updated: December 3, 2003

**Community QS Purchase Implementation Team**

<p><u>Appointed 8/14/03</u></p> <p>Staff: Nicole Kimball</p>	<table> <tr> <td>Hazel Nelson, Chair</td> <td>Matt Kookesh</td> </tr> <tr> <td>Sam Cotten</td> <td>Cora Crome</td> </tr> <tr> <td>Walt Ebell</td> <td>Pat Norman</td> </tr> <tr> <td>Duncan Fields</td> <td>David Soma</td> </tr> </table>	Hazel Nelson, Chair	Matt Kookesh	Sam Cotten	Cora Crome	Walt Ebell	Pat Norman	Duncan Fields	David Soma
Hazel Nelson, Chair	Matt Kookesh								
Sam Cotten	Cora Crome								
Walt Ebell	Pat Norman								
Duncan Fields	David Soma								

**Conference Committee (Washington DC, November 2003)**

<p><u>Appointed June 2003</u></p> <p>Staff: Chris Oliver</p>	<p>Stephanie Madsen, Chair</p> <p>Dennis Austin</p> <p>David Benton</p> <p>John Bundy</p> <p>Jim Balsiger</p>
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**Council/Board of Fisheries Joint Protocol Committee**

<p>Last update: 7/28/03</p> <p>Staff: Jane DiCosimo</p>	<table> <tr> <td>Dennis Austin</td> <td>Mel Morris</td> </tr> <tr> <td>Hazel Nelson</td> <td>Stosh Anderson</td> </tr> <tr> <td>Art Nelson</td> <td>Ed Dersham</td> </tr> </table>	Dennis Austin	Mel Morris	Hazel Nelson	Stosh Anderson	Art Nelson	Ed Dersham
Dennis Austin	Mel Morris						
Hazel Nelson	Stosh Anderson						
Art Nelson	Ed Dersham						

**Council Executive Committee**

<p>Updated: 7/28/03</p> <p>Staff: Chris Oliver</p>	<p><b>Chair:</b> Stephanie Madsen</p> <p>Dennis Austin</p> <p>Jim Balsiger</p> <p>Kevin Duffy</p> <p>Roy Hyder</p>
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**Crab Interim Action Committee**

[Required under BSAI Crab FMP]

<p>Dennis Austin, WDF</p> <p>Jim Balsiger, NMFS</p> <p>Kevin Duffy, ADF&amp;G</p>
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## NPFMC COMMITTEES AND WORKGROUPS

### DPSEIS Steering Committee

<u>Appointed 2001</u>	Stephanie Madsen, Chair Dennis Austin Jim Balsiger Kevin Duffy Chris Oliver
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### Ecosystem Committee

Last update: 10/25/01  <u>Status:</u> Meet as necessary  Staff: Diana Evans/ David Witherell	<b>Chair:</b> David Fluharty Stosh Anderson Dorothy Childers Tony DeGange Dan Falvey George Hunt, Jr. Patricia Livingston Donna Parker	<u>Other Staff Support</u>  Steve Davis Doug Eggers
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### Enforcement Committee

Last update: July 2003  <u>Status:</u> Active  Staff: Chris Oliver	<b>Chair:</b> Roy Hyder Earl Krygier, ADF&G James Cockrell, F&W Protection Jeff Passer, NMFS-Enforcement Rich Preston, USCG Sue Salvesson, NMFS-Mgmt. Lisa Lindeman, NOAA - GC	<u>Other Staff Support</u>  As Necessary
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### Essential Fish Habitat Committee

Appointed: 5/15/01 Last Update: July 2003  <u>Status:</u> Idle, pending direction  Staff: Cathy Coon	<b>Chair:</b> Linda Behnken <b>Vice Chair:</b> Stosh Anderson Gordon Blue Ben Enticknap Jon Kurland John Gauvin Earl Krygier Heather McCarty Glenn Reed Michelle Ridgway Scott Smiley
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## NPFMC COMMITTEES AND WORKGROUPS

### Finance Committee

Last Update: 10/25/01	<b>Chair:</b> Stephanie Madsen Dennis Austin Jim Balsiger Kevin Duffy Dave Hanson Roy Hyder Richard Marasco
<u>Status:</u> Meet as necessary	
Staff: Gail Bendixen/Chris Oliver	

### Fur Seal Committee

Last Update: 7/25/03	<b>Chair:</b> David Benson Evie Whitten Anthony Mercurief Larry Cotter Paul MacGregor Aquilina Lestinkof Steve Minor
<u>Status:</u> Active	
Staff: Bill Wilson	

### Halibut Charter IFQ Implementation

<u>Status:</u> Pending SOC submittal
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### IFQ Implementation Committee

<u>Status:</u> Reconstituted as shown (July 2003).	<b>Chair:</b> Jeff Stephan Bob Alverson Arne Fuglvog/Cora Crome Dennis Hicks Don Iverson Don Lane	Gerry Merrigan Kris Norosz Paul Peyton David Soma
Staff: Jane DiCosimo		



## NPFMC COMMITTEES AND WORKGROUPS

### IRIU Technical Committee

<p>Appointed: 07/12/02</p> <p><u>Status</u>: Pending reconstitution</p> <p>Staff: Jon McCracken Marcus Hartley, Northern Econ. Lauren Smoker, NOAA GC</p>	<p><b>Chair</b>, Dave Hanson Michelle Ridgway Susan Robinson John Henderschedt Donna Parker Eric Olson Greg Baker Gerry Merrigan</p>	<p>Teressa Kandianis Matt Doherty Bill Orr Ed Richardson</p>
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### Magnuson-Stevens Act Reauthorization Committee

<p><u>Status</u>: Pending appointment of additional members.</p> <p>Staff: Chris Oliver</p>	<p><b>Chair</b>: Stephanie Madsen Dennis Austin David Benton Kevin Duffy Roy Hyder John Bundy</p>
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### Non-Target/Other Species Committee

<p>Appointed: 7/26/03</p> <p>Staff: Jane DiCosimo, Sarah Gaichas, NMFS</p>	<p><b>Chair</b>: Arne Fuglvog, Chair Karl Haflinger Whit Sheard Michelle Ridgway Eric Olson Lori Swanson Dave Wood Thorn Smith Paul Spencer</p>
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### Observer Advisory Committee

<p>Last update: August 2002</p> <p><u>Status</u>: Active</p> <p>Staff: Chris Oliver/ Nicole Kimball</p>	<p><b>Chair</b>: Joe Kyle Julie Bonney Pete Risse Kim Dietrich [Alt: Gillian Stoker] John Gauvin LeeAnne Beres Rocky Caldero</p>	<p>Trevor McCabe Bob Mikol Kathy Robinson Susan Robinson Arni Thomson Jerry Bongen Tracey Mayhew</p>
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## NPFMC COMMITTEES AND WORKGROUPS

### Pacific Northwest Crab Industry Advisory Committee

Last Update: 3/28/03 3/5/02-Election of Officers  Staff: Diana Stram	<b>Chair:</b> Gary Painter David Benson Keith Colburn Lance Farr Phil Hanson Larry Hendricks Kevin Kaldestad	Garry Loncon Rob Rogers Clyde Sterling Gary Stewart Arni Thomson, Secretary [non -voting]
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### Steller Sea Lion Mitigation Committee

Appointed: 2/10/01 Updated: April 2003 Pending membership adjustment [formerly SSL RPA Committee; renamed at Feb 02 meeting)  Staff: Bill Wilson	<b>Chair:</b> Larry Cotter David Benson Jerry Bongen Julie Bonney Shane Capron Tony DeGange Doug DeMaster Wayne Donaldson Steve Drage John Gauvin	Sue Hills John Iani Terry Leitzell Chuck McCallum Matt Moir Bob Small Beth Stewart Jack Tagart John Winther
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### U.S.-Russia International Committee

<u>Status:</u> Pending reconstitution.  Staff: Chris Oliver	<b>Chair:</b> Stephanie Madsen Dennis Austin John Bundy Kevin Duffy Rich Preston
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### VMS Committee

Appointed: 06/02  <u>Status:</u> Idle, pending direction  Staff: Jane DiCosimo	<b>Chair,</b> Earl Krygier Al Burch Guy Holt	Bob Mikol Ed Page Capt. Rich Preston Lori Swanson
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Larry McQuarrie  
Sportsman's Cove Lodge  
P.O. Box 8500  
Ketchikan, AK 99901

November 18, 2003

RECEIVED  
NOV 18 2003  
N.P.F.M.C.

Stephanie Madsen  
North Pacific Fisheries Management Council  
605 West 4th, Suite 306  
Anchorage, Alaska 99501-2252

Dear Ms. Madsen:

Please consider me as an applicant for a position on the Charter Halibut IFQ Implementation Committee.

I operate a sportfishing lodge in Southeast, on Prince of Wales Island. You can visit us on the web at <http://www.alaskasbestlodge.com>.

I served in the GHL Committee and again on the Charter IFQ Committee, so I have some background on the issues involved.

I can be contacted at the above address or via e-mail at [sportsmanscovelodge@starband.net](mailto:sportsmanscovelodge@starband.net). Phones are 907-247-7252 or fax at 907-247-7255.

Sincerely,

Larry McQuarrie  
Larry McQuarrie, Owner  
Sportsman's Cove Lodge



P.O. Box 17  
Elfin Cove, AK 99825

800-382-3847  
907-239-2221  
[www.covelodge.com](http://www.covelodge.com)

November 5, 2003

North Pacific Fishery Management Council  
605 W. 4<sup>th</sup>, Suite 306  
Anchorage, AK 99501-2252

RECEIVED

NOV 17 2003

N.P.F.M.C

Dear Management Council:

I would like to submit my name for consideration for membership on the Charter IFQ Implementation Committee. I understand that travel expenses will be by my responsibility.

I am a charter operator in the remote village of Elfin Cove. I believe I can bring a perspective that is important as our fishery is different than many other settings in Alaska.

I can be reached at the address on this letterhead. Or, you can contact via email at: [gordywrobel@covelodge.com](mailto:gordywrobel@covelodge.com). Thank you for your consideration.

Sincerely,

Gordy Wrobel



RECEIVED

November 6, 2003

NOV 10 2003

North Pacific Fishery Management Council  
605 W. 4<sup>th</sup> Street Suite 306  
Anchorage, AK 99501

N.P.F.M.C

Dear Madamchair Madsen:

I respectfully request consideration for appointment to the Charterboat IFQ Implementation Committee.

My experience in both the charter industry and the procedures of the North Pacific Fishery Management Council will contribute to my value while serving on the committee.

I am still currently in business as a halibut charter service owner/operator in Homer, Alaska. I am secretary of the Homer Charter Association, and on the Board of Directors of the National Association of Charterboat Operators. I took part in every NPFMC action in the development of the charterboat IFQ plan and I wish to see it through implementation.

Thank you for this consideration,

Robert Ward

MEMBER:

Anchorage Convention and Visitors Bureau, Boat Owners of the United States, Homer Chamber of Commerce, Homer Charter Association, International Game Fish Association, National Association of Charterboat Operators, National Rifle Association, North American Fishing Club, Recreational Fishing Alliance.



# Deep Creek Charterboat Association

P.O. Box 423—Ninilchik, AK 99639

**Board of Directors**

**President**  
Tim Evers  
567-3631

[tmjevers@alaska.com](mailto:tmjevers@alaska.com)

**Vice President**  
(Vacant)

**Secretary/Treasurer**  
Perry Fjotre  
Phone/Fax 262-7631  
[arcticern@alaska.com](mailto:arcticern@alaska.com)

**Member-at-Large**  
Mel Erickson  
262-2980  
[gamefish@alaska.net](mailto:gamefish@alaska.net)

**Member-at-Large**  
Marc Smith  
567-4368  
[acomo@gci.net](mailto:acomo@gci.net)

October 14, 2003

Ms. Stephanie Madsen  
Chairperson  
North Pacific Fisheries Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, Alaska 99501-2252

Dear Ms. Madsen

I am writing today with regard to nominations to the Charter IFQ Implementing Team. As you are aware, I have represented the Deep Creek Charter Boat Association since 1993 at all Council meetings. I have represented the halibut charter boat industry as a member of the original working group, the GHL committee and most recently the Charter Boat IFQ committee.

I am quite familiar with the Council process. I have the time, ability and knowledge to participate on the Charter IFQ Implementing Team, if you desire.

Please accept this letter as notice for nomination to your Charter IFQ Implementing Team as a representative for the halibut charter boat industry in the Upper Cook Inlet area, (Deep Creek Marine Fishery).

Thank you for consideration in this matter.

Sincerely,

*Timothy R. Evers*

Timothy R. Evers  
President  
Deep Creek Charter Boat Association

Cc: Chris Oliver, Executive Director, North Pacific Fisheries Management Council

RECEIVED

OCT 15 2003

N.P.F.M.C.

# Goodhand Charters

Of Valdez and Prince William Sound

P.O. Box 90 Ester, Alaska 99725

Phone 907-479-5562 - Fax - 479-5563

**RECEIVED**

OCT 20 2003

Executive Director, Chris Oliver  
NPFMC  
605 W. 4<sup>th</sup> Avenue, Suite 306  
Anchorage, Alaska 99501 - 2252

**N.P.F.M.C**

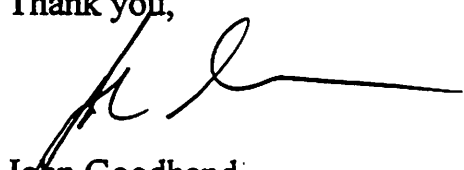
Dear Sir,

I would like to be considered for the Halibut Charterboat IFQ Implementation Committee. I have worked on this issue since 1993 for the Valdez - Whittier Charter Boat Association. I feel very capable representing charters for these Prince William Sound communities as I own both 6-pack and certified vessels, and operate both day charters and multi-day charters.

Currently I am an officer in the Valdez Charter Boat Association, and am a member of the National Association of Charterboat Operators. In the past I was a member of the Governor's task force for guide licensing, and a member of the GHL committee for the NPFMC.

I have the time and the desire to continue helping the NPFMC with the development of the Charter IFQ. My resume is attached.

Thank you,



John Goodhand  
P.O. Box 90 Ester  
Alaska 99725  
Phone 907-479-5562  
Fax - 479-5563

Cc: Chairman Stephanie Madsen

# John Goodhand

P.O. Box 90 Ester, Alaska 99725  
907-479-5562 Fax - 479-5563

## OBJECTIVE

Appointment to the Halibut Charterboat IFQ Implementation Committee for the NPFMC.

## EDUCATION & CREDENTIALS

- University of Alaska Fairbanks (1976-1977)
- Maritime School, Costa Mesa, California (1992)
- United States Coast Guard Merchant Marine Masters License (1992-present)

## FISHERIES EXPERIENCE

- Involved with the Board of Fish and the North Pacific Fisheries Management Council on the development of Local Area Management Plan for Prince William Sound
- Served on the Guideline Harvest Level Committee for the North Pacific Fisheries Management Council (1998-2000)
- Served on the Governor's Guide Licensing Task Force (1998-1999)
- Represented Alaska by invitation of the Sportfish Institute of British Columbia, for an Alaskan sport perspective to the Recreational Fisheries Division of Canada (1997)
- Member Valdez Advisory Committee to the Board of Fish (1999-2000)
- Fisheries representative for the Halibut Charter Associations of Alaska (1994-1997)
- Past President of the Valdez Charter Boat Association (1995-2001)
- Valdez Charter Boat Association Fisheries representative (1994-present) to:
  - North Pacific Fisheries Management Council
  - International Halibut Commission
  - Board of Fish of the State of Alaska
- Co-founder of Alaska Sportfish Council of Alaska (1998-2001)
- Co-founder of the Valdez Harbor Users association (1998-present)
- Member of the board of directors of Alaska Sportfish Industry Association (1996-1998)
- Co-founder of the Halibut Charter Associations of Alaska (1994-1997)
- Family Charter business Valdez, Alaska (1989-present)
- Member National Association of Charterboat Operators
- Sports fishing in salt and fresh waters in Alaska (1974-present)
- Life time sports fishing in salt and fresh waters of the USA

## RELEVANT SKILLS

- Management and Organization building
- Licensed Captain and Guide in operational fishing charter business in Prince William Sound (1989-present)
- Small business manager, retail sales and services (1971-1974; 1979-2002)
- Carpenter/Builder/Contractor (1975-present)

## EMPLOYMENT HISTORY

- Self employed, owner Lucas Marine (vessel renovation and refurbishment) (2003)
- Self employed, owner Goodhand Enterprises (property management and investment) (1986-present)
- Self employed, owner of Goodhand Charters in Prince William Sound (1992 - present)
- Self employed, owner of Cripple Creek Automotive in Fairbanks, Alaska (1988-1994)
- Manager, Cripple Creek Tire in Fairbanks, Alaska (1987-1988)
- Self employed, owner of Cripple Creek Tire in Fairbanks, Alaska (1979-1987)
- Self employed, owner of Straight Creek Builders in Fairbanks, Alaska (1976-1979)
- Window/Door mill shop Donnybrook Lumber, Fairbanks, Alaska (1979)
- Partsman for H&S Warehouse - Earthmovers Joint Venture in Fairbanks, Alaska (1975-1976)
- Warehousemen for Sourdough Express in Fairbanks, Alaska (1974-1975)

## ACTIVITIES & AFFILIATIONS

- Member Valdez-Whittier Charter Boat Association
- Member Valdez Harbor User Association
- Member Alaska Outdoor Council
- Sports fishing in salt and fresh waters of Alaska
- River trip on the Tanana, Kantishna, and Muddy Rivers to Lake Minchumina and return to Nenana (1985)
- Various Alaskan outdoor work and recreation on the water or on land





October 6, 2003

Mr. Dennis Austin, Interim Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

RECEIVED  
OCT 14 2003  
N.P.F.M.C

Re: Charter IFQ Implementation Team

Dear Mr. Austin:

I appreciate the council's efforts to include the charter sector into the existing Halibut IFQ program and their willingness to include charter industry members in the implementation of that program. The purpose of this letter is to request your consideration for my appointment to the implementation team. I had written a similar letter to David Benton back in 2001 so you may already have my request on file.

As far as I know, Waterfall Resort is the single largest participant in the charter halibut fishery in Alaska. Consequently, we are very interested in the details of the new program. Due to our size, we can provide a unique perspective on what it takes to properly track and evaluate this type of program.

I have been a partner in the resort since its inception in 1982. I have been the President/CEO since 1986. I would hope to bring a good understanding of the overall charter halibut industry to the committee.

Please let me know if there is any other information that you would need to make your decision on my appointment. Your consideration is appreciated.

Sincerely,

Ken Dole  
Managing Partner



# SITKA'S SECRETS

September 21, 2003

**RECEIVED**

SEP 25 2003

**N.P.F.M.C**

North Pacific Fisheries Management Council  
605 West 4<sup>th</sup>, Suite 306  
Anchorage AK 99501-2252

TO WHOM IT MAY CONCERN:

I understand a Charter IFQ Implementation Committee will be formed later this year. I am interested in being on this committee and would appreciate further notification on this matter.

Thank you.

Sincerely,



## SITKA'S SECRETS

Kent F. Hall 500 Lincoln Street, #641  
Beverly P. Minn Sitka, Alaska 99835  
Phone (907) 747-5089

[www.sitkasecret.com](http://www.sitkasecret.com) • [Info@sitkasecret.com](mailto:Info@sitkasecret.com)

Beverly P. Minn Kent F. Hall

500 Lincoln Street #641 Sitka, Alaska 99835 (907) 747-5089 email: [bevandkent@hotmail.com](mailto:bevandkent@hotmail.com)

**RECEIVED**

SEP 16 2003

**N.P.F.M.C**

Andrew Mezirow  
PO Box 2794  
Seward, AK 99664  
9/12/03

North Pacific Fishery Management Council  
605 West 4th, Suite 306  
Anchorage AK 99501-2252

I am writing to express my interest in serving on the Charter IFQ implementation committee. I have been operating Crackerjack Sportfishing Charters in Seward for 8 years and also am a halibut IFQ share holder and commercial fisherman. I can bring a unique perspective to the committee.

The following are my qualifications:

Alaska Resident and fisherman  
President and founder of the Seward Alaska Charterboat Association  
North Pacific Fishery Management Council -*Charter IFQ development panel member*  
Commercial Halibut IFQ share holder and fisherman  
International Gamefish Association: Regional Representative  
Board of Directors, National Association of Charterboat Operators  
National Advisory Board, Recreational Fishing Alliance  
Bachelor of Science in Fisheries Management  
Previously - marine biologist and Scientific Diver for the Alaska Sealife Center

Thank you for your consideration

Sincerely



Andy Mezirow

ALASKA

COASTAL MARINE

**Alaska Coastal Marine**

www.alaskacoastalmarine.com  
P.O. Box 3143 Soldotna, Alaska 99669  
(907) 262-4359 fax (907) 262-9753

North Pacific Fishery Management Council  
605 West 4<sup>th</sup>, Suite 306  
Anchorage AK 99501-2252

September 10, 2003

Dear Sir or Madam,

RECEIVED

SEP 13 2003

N.P.F.M.C

I am interested in a seat on the Charter IFQ Implementation Committee. I am the Vice President and one of the owners of Alaska Coastal Marine. We have been in the Halibut fishing charter business in Homer Alaska since 1988. We own and operate four inspected Halibut charter boats and one inspected tour boat. I feel I could effectively and objectively represent the Inspected vessel owners that have been in business for a long time and assist in the fair distribution of charter IFQ's to all qualifying recipients.

In addition we have:

1. Completed log books since the inception of the program.
2. Client and log sheets dating back to 1988.

I am interested in this seat to insure a fair and equitable distribution of Charter IFQ's and to bring the point of view larger family owned business that intends to remain in the charter fishing industry.

Personal Information:

I am 35 years old. I am a married (wife Carole) father of two (Lacey 8, and Tim 2). I have lived in Alaska from 1981 to 1989 and from 1994 to Present. I Graduated from San Diego State University with a Bachelors Degree in Criminal Justice. I was a Police Officer for the City of San Diego for just under 5 years. I left the Police Department on excellent terms in 1994 to manage Alaska Coastal Marine which had been started by my father in 1988. I currently run all the day to day operations of Alaska Coastal Marine as well as a 75' tour boat, the M/V Discovery. I have a 100 ton Masters License. We own and operate 5 vessels in Homer with 13+ employees.

Please advise me of any documentation you may need as well as keep me informed of the selection process.

Thank you,

  
Timothy J. Cashman Jr.  
Vice President

P.O. Box 735  
Whittier, Alaska 99693  
September 11, 2003

North Pacific Fishery Management Council  
605 West 4th, STE #306  
Anchorage, Alaska 99501-2252

Dear folks:

I am interested in serving on the proposed Charter IFQ Implementation Committee. I have owned and operated Prince William Sound Eco-Charters for close to 4 years now, after retiring from the National Weather Service in May, 2003 (35+ years). I am also a member of the Whittier Chamber of Commerce and the Whittier Flotilla of the Coast Guard Auxiliary. In addition, I am a member of the board of directors of the Whittier Museum Association and am involved in other Whittier activities.

Personally, I tend to view the charter business as a water taxi, rather than a commercial fishery. This opinion is shared by over 65% of the active charter operators here in Whittier, none of whom have halibut logs from 1998 and 1999. I do, however, believe that I can put my personal views aside and work toward a fair and equitable solution with regard to the Charter IFQ proposals.

Regards,

  
David B. Goldstein  
PWS Eco-Charters

P.O. Box 735  
Whittier, Alaska 99693  
September 11, 2003

North Pacific Fishery Management Council  
605 West 4th, STE #306  
Anchorage, Alaska 99501-2252

RECEIVED

SEP 15 2003

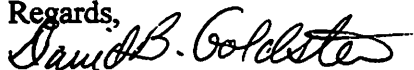
N.P.F.M.C

Dear folks:

I am interested in serving on the proposed Charter IFQ Implementation Committee. I have owned and operated Prince William Sound Eco-Charters for close to 4 years now, after retiring from the National Weather Service in May, 2003 (35+ years). I am also a member of the Whittier Chamber of Commerce and the Whittier Flotilla of the Coast Guard Auxiliary. In addition, I am a member of the board of directors of the Whittier Museum Association and am involved in other Whittier activities.

Personally, I tend to view the charter business as a water taxi, rather than a commercial fishery. This opinion is shared by over 65% of the active charter operators here in Whittier, none of whom have halibut logs from 1998 and 1999. I do, however, believe that I can put my personal views aside and work toward a fair and equitable solution with regard to the Charter IFQ proposals.

Regards,



David B. Goldstein  
PWS Eco-Charters

RECEIVED

MAY 14 2001

N.P.F.M.C

North Pacific Fishery Management Council      May 9, 2001  
605 West 4<sup>th</sup> Avenue, Ste 306  
Anchorage, AK 99501-2252

To Whom It May Concern:

I would like to submit my name to be considered for the Charter IFQ Implementation Team. I have been in the halibut charter fishery in Homer for 23 years and have been deeply involved in all of the political issues since 1978. During the 1980s I represented the Homer Charter Association on the advisory committee of the IPHC. I have been totally involved in the Charter IFQ and GHL issues since September 1993 and have testified before the NPFMC several times concerning these plans. Homer is the largest landing port for charter sport caught halibut and needs to be represented on this team. I believe I can do positive work to reach reasonable solutions in ironing out the final details of the IFQ plan. Thank you for your consideration.

Sean Martin



PO Box 889  
Homer AK 99603  
907-235-7620  
907-235-5130

BIG JIM'S CHARTERS  
PO BOX 210328  
Auke Bay, AK 99821

RECEIVED

MAY 10 2001

N.P.F.M.C

May 8, 2001

Chris Oliver, Executive Director  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

Dear Mr. Oliver:

I am interested in a seat on the Charter IFQ Implementation Team.

As you know I have participated in the Council process for the past couple of years. This past year I was a member of the Charter IFQ Committee.

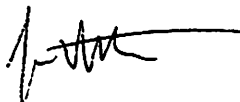
I have been active in committee and board forums for many years. My experience has taught me the value of bringing diverse points of view together to form a consensus on issues. As a teacher I was involved in local and state issues by serving as a member or leader of a variety of boards, committees, panels, etc.

I will be an effective member of the Implementation Team. Attending the Juneau meetings will be very easy for me as I live here. I will not have a problem getting to Anchorage.

I have already fielded many questions concerning how the Charter IFQ program will work – especially how it will work here in Southeast. As you can imagine I do have some ideas on how the program can be successful. I am certain I can make a positive impact on developing the specific implementation plans for the Charter IFQ program.

Please consider my appointment to the Charter IFQ Implementation Team.

Sincerely,



Jim Preston  
[bigjim@acsalaska.net](mailto:bigjim@acsalaska.net)  
907 789-0088



**Community QS Purchase Implementation Committee Report**  
**November 3, 2003**  
Fireweed Room, Hilton Hotel  
500 W. 3<sup>rd</sup> Avenue  
Anchorage, Alaska

Committee: Hazel Nelson (Chair), David Soma, Walt Ebell, Pat Norman, Matt Kookesh (by phone)

Not present: Sam Cotten, Duncan Fields, Cora Crome

Staff: NPFMC - Nicole Kimball  
NMFS - Phil Smith, Glenn Merrill

**I. Review and approve agenda**

The Community QS Purchase Implementation Committee (Committee) convened at 10 am on November 3, 2003. The Chair gave a brief overview of the agenda (Attachment 1), and the Committee approved the agenda with no changes. Staff noted that the purpose of the meeting was to review the proposed rule for the implementing regulations for GOA Amendment 66 (68 FR 59564, 10/16/03), which will potentially allow 42 eligible Gulf coastal communities to purchase commercial halibut and sablefish quota share (QS) for lease to and use by community residents. The focus is on the implementation details of the rule; the meeting was intended as a forum for both Committee members and NMFS to discuss the proposed rule and the requirements for participating communities prior to the public comment deadline of December 1, 2003.

Staff noted that the Committee report will be presented to the Council at its December meeting. However, the Committee report will not represent formal Council committee recommendations on the proposed rule to NMFS. Each individual committee member may voluntarily submit formal comments to NMFS if so desired.

**II. General overview and discussion of the proposed rule**

Staff provided an overview of the proposed rule to revise the existing IFQ regulations to allow a new category of QS holder (nonprofit entities representing eligible Gulf communities) in the halibut and sablefish IFQ Program in specified management areas (Area 2C, 3A, 3B) in the Gulf of Alaska. The Committee provided feedback on each section of the proposed rule as follows:

**1. Community Quota Entities**

Staff noted that the Council's motion required that new nonprofit entities be formed for the purpose of purchasing and holding QS in this program. The proposed rule states that an entity would be considered 'new' if it was incorporated after the date of final Council action (April 10, 2002). A nonprofit entity may represent one or more communities, but a community cannot be represented by more than one entity. The regulatory term for the nonprofit entity is a Community Quota Entity (CQE).

Staff also clarified that the rule does not specify the composition of the Board of Directors of the nonprofit entity. One Committee member noted concerns with fairness issues and the ability to prevent a particular individual or family from dominating the use of the annual IFQs, should they control the Board. Staff emphasized the use of the annual report to monitor such issues, and deferred further details to the discussion

## 2. Eligible Communities

Staff outlined the eligibility criteria selected by the Council and incorporated into the proposed rule, emphasizing that a community must meet the Council's criteria and be designated on a list adopted by the Council in order to be eligible. Communities that are not on the Council's list must petition the Council for inclusion. If approved by the Council, the list of eligible communities in regulation would be modified through formal rulemaking.

The Committee questioned whether being connected to the marine highway network would be considered 'direct road access' under the regulation. Staff noted that this issue was considered by the Council, but that the Council did not include the marine highway in its application of 'direct road access' under the criteria. Many of the eligible communities are connected to the marine highway system, and would otherwise be excluded on that basis.

Staff noted that, under the proposed rule, the Council's population criterion (less than 1,500 people) is based on the 2000 U.S. Census, as this is the most recent and best demographic data available. The Committee questioned what would happen to a community's eligibility status, should its population grow to exceed 1,500 in the future. Staff noted that a community would not be deemed automatically ineligible in that case, and a community would only be removed from the eligibility list through rulemaking. Staff noted that the Council's motion includes a Council review of the program after five years of implementation. This type of issue would be considered in the review process, including whether any or all of the criteria are still appropriate or warrant modification.

## 3. Use Caps for Individual Communities

Staff discussed the purpose and intent of the individual community use cap (applied to each eligible community) and the cumulative use cap (applied to all participating communities as a whole). The cumulative cap is established at 3% of the total halibut QS and 3% of the total sablefish QS in each area in the first year of the program, increasing by 3% each year for 7 years, until a maximum of 21% is reached.

The use caps are tied to the use restrictions, which limit a community to purchasing QS in the area in which it's located and one adjacent area. For example, communities in Area 2C may only purchase QS in Area 2C and Area 3A. Communities in Area 3A may only purchase QS in Area 3A and Area 3B; and Area 3B communities may only purchase QS in Area 3A and Area 3B.

The Committee discussed the limitations of the cumulative use cap and associated use restrictions. The example being that a CQE in Area 2C could purchase available quota in Area 3A up to the cumulative use cap, before many Area 3A communities can buy in. Staff confirmed that possibility, noting that the Council's intent in a step-wise cumulative cap was to encourage incremental, slow-paced, community participation in order to avoid disrupting the QS market. Absent a cumulative use cap, the potential would exist for eligible communities to hold up to 42% of the QS in each area.

## 4. Cumulative Use Caps for All Communities

This discussion was captured above.

## 5. Transfer and Use Restrictions

Staff provided a brief overview of the **block limits, transfer, leasing, and sale restrictions** as stated in the proposed rule. Staff clarified that the program would follow a similar approach to the existing IFQ Program and issue an IFQ permit based on a CQE's total holdings, by species and area. Subsequently, through a

transfer application, a CQE would transfer (lease) to an individual community resident a portion or all of its annual IFQs. A resident who receives IFQ through transfer must be eligible to lease shares under the existing program,<sup>1</sup> and cannot hire a skipper to fish the IFQs or sub-lease the shares. The resident must be onboard the vessel when fishing the IFQs, and is subject to the same leasing restrictions as in the existing IFQ Program.

Staff clarified that, per the Council motion, an individual who receives IFQ derived from QS held by a community entity must be a resident of the eligible community. NMFS is implementing this restriction by relying on a declaration by the individual that they have maintained a domicile in the community from which the IFQ is leased for 12 consecutive months immediately preceding the declaration. The Committee discussed the notion that while enforcement of such a requirement would be difficult, anyone who files a false declaration would risk perjury charges.

The Committee also discussed the **sale restrictions** that would apply should a CQE seek to sell its QS. A CQE is limited to selling its QS to generate revenues to improve, sustain, or expand the opportunities for community residents to participate in the halibut and sablefish IFQ fisheries. If the transfer of QS is for any other reason, the CQE must divest of all of its QS and may not hold QS for a period of 3 years. The proposed rule also requires that the governing body of the eligible community provide authorization on the transfer form. NMFS would rely on a declaration by the CQE regarding the purpose of the transfer.

One Committee member noted that the sale restriction would not prohibit communities from speculating in the QS market, although the proposed rule identifies that as part of its intent. A community could justifiably speculate in the QS market in order to further improve, sustain, or expand the opportunities for community residents, which is allowed under the program. This behavior could result in an increase in the market price of QS to all potential buyers and sellers.

The Committee also noted, and staff confirmed, that community residents may be in the position at some point to purchase QS from the CQE, and that this would fit within the Council's intent of the sale restriction. Should an individual resident purchase QS from a CQE, all of the original rules of the IFQ Program would apply.

One Committee member contended that the provision to require a CQE to divest of its QS and not allow any entity to purchase QS on behalf of that community for 3 years is an overly harsh penalty for choosing to sell QS for reasons other than improving the community's position in the program. Concern was also expressed that the sale provision may represent a financial risk to a bank that is considering financing a CQE to purchase QS. Others on the Committee thought the 3-year provision was severe, but appropriate, given that this is a complex and controversial program being 'carved out' of an existing program.

## 6. Joint and Several Liability for Violations

Staff noted that the CQE and the individual fishing the CQE's shares will be held jointly and severally liable for any IFQ fishing violation that is committed while the fisherman is fishing the CQE's shares. This same type of provision exists for current IFQ permit holders and hired skippers fishing the permit holder's shares.

## 7. Administrative Oversight

Staff reviewed the two primary mechanisms for administrative oversight of the program: 1) review of applications for nonprofit entities seeking to become qualified CQEs, and 2) review of an annual report detailing the use of quota share by the CQE.

---

<sup>1</sup>Thus, in order to lease community IFQ, a person must be a resident of the eligible community, be a U.S. citizen, and either have received QS upon initial issuance or have 150 crew days.

One of the requirements of the **CQE application** is a statement of support from the governing body of the community that the CQE proposes to represent. There was some discussion about the composition of the CQEs in the communities at issue, and whether the two review processes will result in sufficient government oversight for residents to be treated fairly within their communities. Several of the communities have high Native populations, and there is concern that if the governing body signing off on the CQE is not the tribal government, the Board of the CQE will not be representative of Native community members. This concern stems from the requirement that the community have only one governing body provide the letter of support for the CQE's initial application to NMFS, and that the proposed rule provides a hierarchy for determining which governing body in the community (if there is more than one) should provide that letter. For example, the city would be the designated governing body if the community is incorporated as a municipality. If there is no municipal government, the community would be represented by a tribal government or non-profit association, in that order of preference.

Staff confirmed that this is a program of general applicability, and is not intended to benefit any one group within an eligible community more than any other. Because a municipal government is formed to represent all residents of a community, as opposed to a tribal government which limits its representation to tribal members, the city seemed the most appropriate body to provide a letter of support to the CQE. One Committee member suggested modifying this requirement so that if there is both a tribal and municipal government present, both entities would need to sign off on a letter of support for the CQE's application.

The Committee also discussed the role of the State of Alaska in reviewing the CQE applications. The rule requires NMFS to provide the State (Department of Community and Economic Development) with the applications and allow 30 days for comment. This process is intended to facilitate an information transfer between NMFS and the State on the general content of the applications, and does not denote any approval authority by the State. While the current rule is silent on this point, should a community want to join or leave an existing CQE with an approved application, the CQE would likely have to amend its application to reflect those changes.

The Committee also discussed the **annual report** provision, which requires that a CQE submit a report to NMFS and the governing body of the represented community by January 31 of each year. This report encompasses the Council's performance standards and will help show whether the program is working the way the Council intended. The rule notes that several elements of the report (related to QS holdings) will be provided by NMFS for inclusion in the CQE's annual report. The CQE must complete an annual report or risk losing the ability to transfer its QS or receive additional QS by transfer. Such action would be subject to an administrative appeals process.

### **III. Discuss and receive specific comments on the proposed rule**

All specific comments are incorporated into the discussion above.

### **IV. Review process for submitting comments on proposed rule**

The deadline for submitting formal public comment on the proposed rule is December 1, 2003. While it is not time certain, staff expects that the final rule will be published in the Federal Register and effective by spring 2004. Glenn Merrill, Sustainable Fisheries Division, and Phil Smith, RAM Division, may be contacted for further questions on the proposed rule. The rule can be obtained at: <http://www.fakr.noaa.gov/prules/fr59564.pdf>.

### **V. Other issues as necessary**

Staff reiterated that the Committee report will be presented to the Council at its December meeting. At that time, the Council may consider whether the Committee should continue to remain active.

# North Pacific Fishery Management Council

Stephanie Madsen, Chair  
Chris Oliver, Executive Director



605 W 4<sup>th</sup> Ste 306  
Anchorage, AK 99501-2252

Telephone: (907) 271-2809

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Visit our website: [www.fakr.noaa.gov/npfmc](http://www.fakr.noaa.gov/npfmc)

## Community QS Purchase Implementation Committee – Meeting Agenda

November 3, 2003

10 am - 6 pm

Fireweed Room, Hilton Hotel

500 W. 3<sup>rd</sup> Avenue

Anchorage, AK

### I. Review and approve agenda

Purpose of the meeting per Council direction:

The Council recommended forming a Community QS Purchase Implementation Committee, in order to ensure that the program is implemented as intended and to facilitate a group to address unanticipated problems or concerns that may arise. The Council has requested that the committee meet to review the proposed rule and provide informal feedback to NMFS during the public comment period. The Chair of the Council and the Committee Chair have requested that this meeting focus on the implementation details of the final rule only; it is intended as a forum for both the committee members and NMFS to discuss the proposed rule and the requirements for participating eligible communities.

Committee minutes will be developed after the meeting and will be presented to the Council at its December 2003 meeting. However, the committee report will not represent formal committee recommendations to the Council or NMFS.

### II. General overview and discussion of the proposed rule (68 FR 59564, October 16, 2003)

### III. Discuss and receive specific comments on:

- a. Transfer restrictions on the QS
- b. Restrictions on leasing of the annual IFQ
- c. Mechanism for linking the community to the Community Quota Entity (CQE)
- d. Recordkeeping and reporting

### IV. Review process for submitting comments on proposed rule

### V. Other issues as necessary

Community QS Purchase Implementation Committee  
Appointed 8/14/03

**Hazel Nelson, Chair**  
Bristol Bay Economic Development Corp.  
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Anchorage, AK 99503  
(907) 561-4777  
FAX: (907) 561-4778  
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**David Soma**  
Deep Sea Fisherman's Union  
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**Sam Cotten**  
Aleutians East Borough  
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3380 "C" St., Suite 205  
Anchorage, AK 99503  
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[samc.anc@gci.net](mailto:samc.anc@gci.net)

**Cora Crome**  
Petersburg Vessel Owner's Association  
PO Box 232  
Petersburg, AK 99833  
(907) 772-9323  
FAX: (907) 772-4495  
[pvoa@alaska.net](mailto:pvoa@alaska.net)

**Walt Ebell**  
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FAX: 907-222-2760  
PHONE: 907-278-6100  
[webell@jesmanc.com](mailto:webell@jesmanc.com)

**Duncan Fields**  
Shoreside Consulting  
4022 Cliffside Road  
Kodiak, AK 99615  
(907)486-8835  
FAX: (907) 486-8836  
Email: [dfields@ptialaska.net](mailto:dfields@ptialaska.net)

Council Staff: Nicole Kimball  
NMFS cc: Glenn Merrill (SF), Phil Smith  
(RAM)

**Matt Kookesh**  
SE Native Subsistence Commission  
Box 102  
Angoon, AK 99820  
907-465-2629  
Fax: 907-788-3821  
[matt\\_kookesh@fishgame.state.ak.us](mailto:matt_kookesh@fishgame.state.ak.us)

**Pat Norman**  
Port Graham Corp.  
PO Box 5509  
Port Graham, AK 99603  
907-284-2227  
Fax 907-284-2222  
[pnorman@starband.net](mailto:pnorman@starband.net)

Dated: October 7, 2003.  
Donald S. Welsh,  
Regional Administrator, EPA Region III.  
[FR Doc. 03-26048 Filed 10-15-03; 8:45 am]  
BILLING CODE 6560-50-M

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 030922237-3237-01; I.D. 082503D]

RIN 0648-AQ98

**Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Community Purchase**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

**SUMMARY:** NMFS issues a proposed rule to implement Amendment 66 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), and an amendment to the Pacific halibut commercial fishery regulations for waters in and off of Alaska. Amendment 66 to the FMP and the regulatory amendment would modify the Individual Fishing Quota (IFQ) Program by revising the definition of an eligible quota share holder to allow eligible communities in the Gulf of Alaska (GOA) to establish non-profit entities to purchase and hold halibut and sablefish quota share (QS) for lease to, and use by, community residents as defined by specific elements of the proposed action. 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.

**DATES:** Comments on the proposed rule must be received on or before December 1, 2003.

**ADDRESSES:** Comments may be sent to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall. Comments also may be delivered by hand to NMFS, Room 420, 709 West 9th Street, Juneau, AK 99801. Send comments on collection-of-information requirements to the same address and to

the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), via facsimile (202-395-7285; Attn: NOAA Desk Officer) or email at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov). Comments also may be sent via facsimile (fax) to 907-586-7557. Comments will not be accepted if submitted by email or the Internet. Copies of Amendment 66 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendment 66 may be obtained from the North Pacific Fishery Management Council at 605 West 4th, Suite 306, Anchorage, AK 99501-2252, Phone: (907) 271-2809.

**FOR FURTHER INFORMATION CONTACT:** Glenn Merrill, 907-586-7228 or email at [glenn.merrill@noaa.gov](mailto:glenn.merrill@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The groundfish fisheries in the Exclusive Economic Zone of the GOA are managed under the FMP. The FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act (Public Law 94-265, 16 U.S.C. 1801). The FMP was approved by the Secretary of Commerce and became effective in 1978. Fishing for Pacific halibut (*Hippoglossus stenolepis*) is managed by the International Pacific Halibut Commission (IPHC) and the Council under the Halibut Act. The IFQ Program, a limited access management system for the fixed gear Pacific halibut and sablefish (*Anoplopoma fimbria*) fisheries off Alaska, was recommended by the Council in 1992, approved by NMFS in January 1993, and initial implementing rules were published on November 9, 1993 (58 FR 59375). Fishing under the IFQ program began on March 15, 1995. The IFQ Program limits access to the halibut and sablefish fisheries to those persons holding QS in specific management areas. The IFQ Program for the sablefish fishery is implemented by the FMP and Federal regulations at 50 CFR part 679 under authority of the Magnuson-Stevens Act. The IFQ Program for the halibut fishery is implemented by Federal regulations at 50 CFR part 679 under the authority of the Halibut Act.

The IFQ Program originally was designed to resolve conservation and management problems that are endemic to open access fisheries. The background issues leading to the Council's initial action recommending the adoption of IFQs are described in the preamble to the proposed rule

establishing the IFQ Program published December 3, 1992 (57 FR 57130).

A central concern of the Council in developing the IFQ Program was that QS, from which IFQ is derived, would become increasingly held by corporate entities instead of independent fishermen who typically own and operate their own vessels. To prevent this outcome, the Council designed the IFQ Program such that QS could, in most cases, be held only by individuals or natural persons, and not by corporate entities. The Council provided limited exemptions to this basic approach to accommodate existing corporate ownership of vessels at the time of implementation and to recognize the participation by corporately owned freezer vessels. However, the overall intent of the IFQ Program was for catcher vessel QS eventually to be held only by individual fishermen. The IFQ Program is designed to limit corporate holding of QS and increase holdings of QS by individual fishermen as corporate owners divest themselves of QS. The rationale for this owner-operator structure was that it would maintain a robust QS market and reasonable entry costs for new fishermen. This provision is implemented through the QS and IFQ transfer regulations at 50 CFR 679.41.

The purpose of this proposed rule is to revise existing IFQ Program regulations and policy to explicitly allow a new group of non-profit entities to hold QS on behalf of residents of specific rural communities located adjacent to the coast of the GOA. This change would allow a non-profit corporate entity that meets specific criteria to receive transferred halibut or sablefish QS on behalf of an eligible community and to lease the resulting IFQ to fishermen who are residents of the eligible community. This change is intended to provide additional opportunities to these fishermen, and may indirectly address concerns about the economic viability of those communities.

A Notice of Availability (NOA) of the FMP amendment was published on September 2, 2003 (68 FR 52173), with comments on the FMP amendment invited through November 3, 2003. Written comments may address the FMP amendment, the proposed rule, or both, but must be received by November 3, 2003, to be considered in the decision to approve or disapprove the FMP amendment.

Since initial issuance of QS, and as a result of voluntary transfers of QS, the amount of QS and the number of resident QS holders has substantially declined in most of the GOA communities that would be affected by

this action. This trend may have had an effect on employment and may have reduced the diversity of fisheries to which fishermen in rural communities have access.

The ability of fishermen in small rural communities to purchase QS or maintain existing QS may be limited by a variety of factors unique to those communities. In particular, many fishermen in small rural communities may be limited in their ability to obtain access to financing due to the remote nature of the communities and their dependence on a limited range of economic opportunities. Many small rural communities are isolated from other communities and this isolation limits access to a wider variety of markets for fishery product that are available to communities with better transportation infrastructure. In addition, fishermen in these rural communities tend to have smaller vessels and fishing operations relative to fishermen in larger ports. These fishermen may have received less QS during initial issuance and may have chosen to divest themselves of QS that was not economically viable. Although the specific causes for decreasing QS holdings in rural communities may vary, the net effect is overall lower participation by residents of these communities in the halibut and sablefish IFQ fisheries.

In June 2000, representatives of several GOA communities presented the Council with a proposal to allow communities to purchase QS. The Council approved several alternatives for analysis in June 2001, reviewed an initial analysis in December 2001, and took final action in April 2002. The Council formally adopted a problem statement in June 2001 for this proposed action that recognized the fact that a number of small coastal communities "are struggling to remain economically viable." The Council stated that "[a]llowing qualifying communities to purchase halibut and sablefish quota share for use by community residents will help minimize adverse economic impacts on these small, remote, coastal communities in Southeast and Southcentral Alaska, and help provide for the sustained participation of these communities in the halibut and sablefish IFQ fisheries."

The proposed action developed by the Council would address these concerns by modifying the IFQ Program to allow non-profit entities that represent small rural communities in the GOA with a historic participation in the halibut and sablefish fisheries to hold QS. The Council's recommendations also reflect the most recent amendments to the

Magnuson-Stevens Act, and IFQ policy recommendations by the National Research Council (NRC).

The 1996 amendments to the Magnuson-Stevens Act established a new national standard for fishery conservation and management (National Standard 8) that requires management programs to "take into the account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities" (16 U.S.C. 1851). The Halibut Act requires consideration of the effect of halibut allocations to fishing communities by reference to section 303(b)(6) of the Magnuson-Stevens Act. This reference requires, among other things, that the effects of halibut allocations be considered as is described under the directives of National Standard 8 of the Magnuson-Stevens Act.

The 1996 Magnuson-Stevens Act amendments also directed the NRC to submit a report to Congress on existing IFQ Programs and provide recommendations on the implementation of existing and future programs. The NRC published its report "Sharing the Fish: Toward a National Policy on Individual Fishing Quotas" in 1999. In this report, the NRC recommends that NMFS and the Regional Councils consider including fishing communities as stakeholders in fishery management programs. The NRC recommends that Regional Councils should be permitted to authorize the purchase, holding, management, and sale of QS/IFQs by communities. This action proposes to implement provisions that would address the NRC recommendations on the use of QS by communities.

The Council considered the range of comments from the public, NMFS, and the State of Alaska (State), and incorporated various suggestions in developing its proposed community QS policy. The basic provisions of this proposed policy are described as follows.

## Community QS Provisions

### 1. Community Quota Entities

Community quota entities (CQEs), incorporated under the laws of the State to represent eligible communities, would obtain QS by transfer and hold the QS and lease the resulting annual IFQ to individual community residents. Unless otherwise specified, the restrictions that apply to any current QS holder would apply to a CQE. CQEs,

however, would be subject to additional regulatory requirements beyond those applying to existing QS holders.

A CQE could represent more than one eligible community. However, no community could be represented by more than one CQE. This provision would minimize confusion and ensure effective and efficient administration of the program.

During Council deliberations, a new non-profit entity was selected as the appropriate QS holder for these communities based on recommendations from GOA communities. These recommendations indicated that a non-profit entity could be more flexible and cost-effective than either a for-profit corporation or an existing governmental body. To be considered eligible to hold QS on behalf of a community, a CQE would be required to be incorporated after April 10, 2002, the date of final Council action.

The Council stated that the purpose of designating a new non-profit entity to hold QS is that existing administrative structures such as municipal governments, tribal councils, or other community organizations may be focused on other priorities. The Council considered that a new non-profit entity may be better suited to represent an entire community with the express purpose of purchasing and managing QS. Additionally, the EA/RIR/IRFA noted that a number of communities considered as eligible for this program are unincorporated, do not have local tribal governments, or other community organizations, and therefore lack an existing governmental body that could manage the QS.

The Council also recommended that a non-profit organization provide proof of support from the community that it is seeking to represent. This support must be demonstrated in the application by a non-profit organization to become eligible as a CQE. The specific mechanism for the community to demonstrate its support for a CQE is described in the Administrative Oversight section of the preamble.

Once an application to become a CQE has been approved, then that CQE would be eligible to hold and receive QS, and lease IFQ to eligible community residents under the mechanisms established by this proposed rule. If a CQE does not remain in compliance, (e.g., by failing to submit a complete annual report), then NMFS could initiate administrative proceedings to deny the transfer of QS or IFQ to or from the CQE. As with other administrative determinations under the IFQ Program, any such determination could be



appealed under the procedures set forth in regulations (50 CFR 679.43). The Council recommended regulatory measures, described below, as a means to monitor the ability of the non-profit entities to meet the goals of distributing IFQ among residents in these GOA communities.

## 2. Eligible Communities

Communities eligible to participate in this program would need to meet all the following criteria: (a) have a population of less than 1,500 persons based on the 2000 United States Census; (b) have direct saltwater access; (c) lack direct road access to communities with a population greater than 1,500 persons; (d) have historic participation in the halibut and sablefish fisheries; and (e) be specifically designated on a list adopted by the Council and included in this proposed rule (see Table 21 to Part 679).

If a community appears to meet the eligibility criteria but is not specifically designated on the list of communities adopted by the Council, then that community would have to apply directly to the Council to be included. In this event, the Council may modify the list of eligible communities adopted by the Council through a regulatory amendment. Under the criteria established in this proposed rule, a total of 42 communities in the GOA would qualify as eligible to purchase QS. These eligible communities may designate a new non-profit entity to hold QS on behalf of that community.

The specific criteria for community eligibility were developed through Council deliberations. Generally, the Council chose criteria that were intended to define a set of communities that have experienced a similar decline in their participation in the halibut and sablefish IFQ fisheries. Analysis in the EA/RIR/IRFA indicates that all but 2 of the 42 communities designated in Table 21 to part 679 have experienced a net loss in QS held by residents of those communities since initial allocation.

### (a) Population of Less than 1,500 persons

The Council considered a range of population criteria and chose to limit eligibility to communities less than 1,500 persons based on an analysis of QS distribution. This analysis indicated that several communities larger than 1,500, specifically Wrangell and Cordova, did not have the same decline in participation in the halibut and sablefish fisheries as the communities that this action proposes to address. The 2000 United States Census was chosen as the standard for measuring total

population. This standard would be used to determine eligibility for community participation in this program because it is considered to be a more accurate measure of population than annual estimates conducted by the State. Additionally, at the time that final action to modify the IFQ Program was taken by the Council to accommodate communities, the 2000 Census was the best available demographic data.

This proposed rule establishes that a community with not less than 20 persons and not more than 1,500 persons that is defined as a Census Designated Place under the U.S. Census fulfills the requirement for the definition of a community for the purposes of this program. If communities seek inclusion as an eligible community in the future, then NMFS would review those communities using the definitions of a community as defined by this proposed rule.

The reason for using a minimum of a 20-person standard, is that two communities specifically designated by the Council for eligibility for this program have populations slightly higher than 20 persons. Specifically, Meyers Chuck and Ivanof Bay have populations of 21 and 22 persons, respectively. If a higher minimum population standard were used, neither of these communities would be eligible to participate in this program. Excluding these two communities that have experienced a loss of QS since the implementation of the IFQ program would undermine the intent of this action, which is to provide an additional opportunity for residents of those communities to receive access to halibut and sablefish resources.

The limitation on minimum population size would reduce the potential for future petitions for inclusion into the program by a small group of individuals living in a place solely for the purpose of participating in this program. Additionally, there are a number of communities that are no longer populated that could be qualified under the historic participation criteria. The Council did not intend this program to provide an opportunity for communities which do not exist to receive the ability to form non-profit entities and purchase QS. The limitation on population size would prevent this possibility and also reflects existing definitions of a community as established by the State of Alaska for purposes of revenue sharing agreements. The State defines a community as a group of not less than 25 people living in a geographic location as a social unit. Without a minimum population standard established in this proposed

rule, the goals of the Council and this action to provide additional opportunities for coastal residents in established communities is undermined. All of the communities designated by the Council on the list of eligible communities meet these requirements based on the analysis of these eligibility criteria in the EA/RIR/IRFA prepared for this proposed rule.

### (b) Have Direct Saltwater Access

A community would be defined as adjacent to saltwater if it is located on the GOA coast of the North Pacific Ocean.

### (c) Lack of Direct Road Access

The Council recommended limiting eligibility to communities without direct road access to communities larger than 1,500 persons because such communities may lack access to markets for fishery products and could be disadvantaged relative to other communities with better transportation infrastructure. Communities that do have road access to larger communities would be expected to have access to larger markets, better access to capital, and are not likely to face the same economic conditions that this program is trying to address by providing additional harvest opportunities for community residents.

### (d) Have Historic Participation in the Halibut and Sablefish Fisheries

Historic participation would be defined as communities for which a resident has recorded a commercial landing of either halibut or sablefish between 1980–2000 according to Commercial Fisheries Entry Commission (CFEC) data for permit and fishing activity. This definition would provide a means for the Council to consider those communities for which halibut or sablefish has some historic commercial importance. A broad range of years was chosen to accommodate the shifting patterns of halibut and sablefish harvests within these communities over the past twenty years. The year 1980 was chosen because it represents the first year of widely collected and reliable data from the CFEC, and the year 2000 was chosen because it was the last year of data available prior to the Council's decision to recommend this program.

### (e) Be Specifically Designated on a List Adopted by the Council

The Council adopted a specific list of eligible communities to limit the entry of new communities into the Community QS Program (see Table 21 to Part 679). The Council expressed a

desire to review the addition of any communities not listed. Council review is ensured by listing eligible communities in the regulations. Any change to the list of eligible communities would first require Council action to recommend such a change. The Council desired this review to ensure that communities that were not originally considered under this proposed rule provide adequate

evidence of their eligibility to participate in this program. This review would reduce potential disruption in administration of the Community QS Program due to a sudden and unanticipated increase in competition for QS among eligible communities. This Council review also would provide an additional public review process before modifying the Community QS Program.

**3. Use Caps for Individual Communities**

Each eligible community as represented by a CQE would be subject to the same use limitations on QS and IFQ currently established for QS holders as described under 50 CFR 679.42(e) for sablefish and 50 CFR 679.42(f) for halibut. Therefore, for each community it represents, a CQE would be limited to using:

No more than: 599,799 units of halibut QS .....  
 No more than: 1,502,823 units of halibut QS combined .....  
 No more than: 688,485 sablefish QS units .....  
 No more than 3,229,721 sablefish QS units combined .....

in IFQ regulatory area 2C.  
 in IFQ regulatory areas 2C, 3A, and 3B.  
 in the IFQ regulatory Area East of 140° W.  
 long. (Southeast Outside District).  
 in the Southeast Outside District West  
 Yakutat, Central Gulf Regulatory Area, and  
 Western Gulf Regulatory Area.

A CQE representing an eligible community located within Areas 3A or 3B would be prohibited from purchasing QS in Area 2C (Southeast Alaska) on behalf of that community. The Council recommended this provision because 21 of the 42 eligible communities are located in Area 2C. Allowing additional CQEs representing communities located in Areas 3A and 3B to purchase QS in Area 2C would increase competition, and possibly result in higher QS prices, for 2C communities. This increased competition could affect both prospective community QS buyers and new individual entrants to the fishery.

Likewise, a CQE representing an eligible community within Area 2C would be prohibited from purchasing and using QS in Area 3B (Western GOA) on behalf of that community. The Council recommended this limitation because residents from communities located in Area 2C traditionally did not fish in Area 3B, and one of the principal goals of the community QS program is to improve the access of residents of the eligible communities to local resources.

Although the Council recommended limiting the use of halibut QS to those areas that are adjacent to the eligible communities, a similar provision was not recommended for sablefish. The sablefish fishery occurs in deeper waters than much of the halibut fishery and typically requires larger vessels that can travel longer distances for harvesting fish.

As noted above, the Council recommended limiting QS holdings by CQEs on behalf of communities to the levels established in the current IFQ program. The Council noted that this limit would provide an adequate opportunity for communities to purchase and hold sufficient QS for leasing the resulting IFQ among

community residents. This level was considered not to be so restrictive as to discourage communities from purchasing and holding quota. The Council also considered the potential effects on existing QS holders in recommending use caps for individual communities. The use caps accommodate existing QS holders who are concerned that shifting potential QS holdings to communities could disadvantage individual fishermen by reducing the amount of QS available to them in the QS market.

**4. Cumulative Use Caps for All Communities**

Communities represented by CQEs cumulatively would be limited to holding a maximum of 3 percent of the total halibut and sablefish QS in each area in the first year after implementation of this program. In each subsequent year, the percentage would be increased by an additional 3 percent until, after 7 years, a maximum of 21 percent of the total halibut and sablefish QS could be held in each area in which CQEs are eligible to hold QS.

The Council recommended limiting cumulative community ownership of QS in each area as an additional measure to reduce the potential increase in QS price that could result if CQEs sought to purchase QS up to their respective communities' use cap(s) in each area. The Council recommended this step-up cumulative use cap to balance potential QS market competition between communities and individuals, and to accommodate the desire of GOA community representatives to have adequate access to QS as CQEs enter the program on behalf of eligible communities.

**5. Transfer and Use Restrictions**

**(a) Block Limits**

The purchase of blocked QS by CQEs would be restricted. During Council deliberations, numerous industry representatives and fishermen indicated that allowing unrestricted purchasing of QS could disadvantage new entrants, particularly those individuals in the market for "blocked QS." Blocked QS are aggregates of small units of QS that were designated as blocks when they were initially issued and that cannot be subdivided upon transfer. The number of blocks that may be held by a person is limited under the IFQ Program. These limits were established to limit the consolidation of blocked QS and to ensure that smaller aggregate units would be available on the market. Blocked QS typically is less expensive and more attractive to new-entrants.

This proposed rule would modify the consolidation limits for blocked QS for communities represented by CQEs. The Council is recommending this change to provide additional opportunities for CQEs (on behalf of the communities they represent) to access the typically less expensive blocked QS. The Council also considered the potential effects on new entrants by allowing each community represented by a CQE to hold more QS blocks than can other types of QS holders. Each community represented by a CQEs would be limited to holding, at any point in time, a maximum of 10 blocks of halibut QS and 5 blocks of sablefish QS in each IFQ regulatory area for halibut and sablefish. The CQE could not subdivide blocked QS.

Existing regulations at 50 CFR 679.42(g) limit QS holders to a maximum of two blocks for either species in any area if a person holds only blocked QS, and no more than one

block for a species in an area if a person holds any unblocked QS for that species-area combination. Allowing CQEs to hold more blocks than existing QS holders on behalf of their constituent communities would expand the potential QS market available to these communities. The Council recommended this provision because in most areas of the GOA large portions of the QS are available only in blocked

shares. Limiting communities to existing unblocked QS would effectively limit the QS available to communities to a small portion of the total QS that is typically higher priced than the more available blocked QS. The proposed limits would provide additional opportunities for eligible communities represented by CQEs to purchase QS beyond those that constrain current QS holders. In recommending this

modification to the existing regulations, the Council balanced the objectives of this new program with concerns about protecting the interests of individual new entrants to the fishery.

To accommodate the interests of prospective new entrants, the Council recommended prohibiting CQEs from purchasing:

Halibut QS blocks less than or equal to 19,992 units. .... (e.g., 2,850 lb (1,292.8 kg) of IFQ in 2003) .....	in Area 2C.
Halibut QS blocks 27,912 units. .... (e.g., 3,416 lb (1,549.5 kg) of IFQ in 2003). ....	in Area 3A.
Sablefish QS blocks less than or equal to 33,270 units. .... (e.g., 4,003 lb (1,815.8 kg) of IFQ in 2003) .....	in the Southeast Outside District.
Sablefish QS blocks less than or equal to 43,390 units. .... (e.g., 3,638 lb (1,650.2 kg) of IFQ in 2003) .....	in the West Yakutat District.
Sablefish QS blocks less than or equal to 46,055 units. .... (e.g., 4,684 lb (2,124.7 kg) of IFQ in 2003) .....	in the Central GOA regulatory area.
Sablefish QS blocks less than or equal to 48,410 units. .... (e.g., 6,090 lb (2,762.4 kg) of IFQ in 2003) .....	in the Western GOA regulatory area.

These QS limits are specified in 50 CFR 679.41(e) as the "sweep up" limit, or the number of QS units initially issued as blocks that could be combined to form a single block.

The Council recommended that communities not be eligible to purchase or hold these smaller "sweep-up" blocks because these smaller QS blocks typically are purchased by individuals entering the IFQ fisheries. The Council recommended this measure to minimize potentially unfair competition in the QS market between CQEs and individuals for these small QS blocks. The Council did not recommend similar restrictions on QS in the halibut fishery for Area 3B because fewer "sweep-up" blocks exist in Area 3B and few new entrants in Area 3B have sought these "sweep-up" blocks.

(b) Transfer and IFQ Leasing

CQEs could only receive and use halibut QS assigned to vessel category B (greater than 60 feet length overall) and vessel category C (greater than 35 feet and less than or equal to 60 feet length overall) in Areas 2C and 3A.

This provision would prohibit CQEs from holding QS assigned to vessel category D (less than or equal to 35 feet (10.7 m) length overall) in Areas 2C and 3A. Category D QS typically is purchased by individuals seeking entry to the halibut IFQ fisheries. The Council recommended this provision to reduce potential competition in the halibut QS market between individuals and CQEs.

The Council did not recommend prohibiting CQEs from holding D category halibut QS in Area 3B. A relatively small amount of D category

QS exists in Area 3B, and traditionally few prospective buyers exist for this category of QS. Existing D category QS holders in Area 3B indicated that allowing CQEs to purchase D category QS in Area 3B would increase the marketability of their QS.

The Council did not recommend catcher vessel category restrictions for CQEs holding sablefish QS. Only B and C vessel categories exist for sablefish QS and sablefish are typically harvested from larger vessels.

So that the annual IFQ derived from the QS held on behalf of a community could be fished, a CQE would lease (i.e., transfer the annual IFQ) to one or more residents of the community, or communities, it represents. Each IFQ lease would be made on annual basis, as is currently the requirement in existing regulations. IFQ so transferred could be fished from a vessel of any size regardless of the QS vessel category from which the IFQ was derived. This provision would apply only while the QS is held by the CQE. The vessel category requirements for use of the QS would apply once again after the QS is transferred from a CQE to a qualified recipient that was not a CQE.

The Council recommended this provision to facilitate the use of the IFQ on the wide range of vessel types that is present in many rural communities. Limiting CQEs to purchase only certain vessel category QS could increase demand and price competition among CQEs and other QS holders, particularly for category C QS because many vessels in the eligible communities tend to be within this size range. Broadening the

use of IFQ from community-held QS could reduce this potential competition.

The amount of IFQ that may be leased annually to an eligible community resident would be limited so that no such lessee could hold IFQ permits authorizing the harvest of more than 50,000 lb (22.7 mt) of halibut and 50,000 lb (22.7 mt) of sablefish IFQ, inclusive of any IFQ derived from any source.

This limitation is intended to ensure a broad distribution of IFQ among community residents and to limit the amount of IFQ that may be leased to those residents who already hold QS or lease IFQ from another source. The Council noted that one of the principal goals of this program was to provide access to halibut and sablefish resources to community residents that do not currently have access to these resources.

Similarly, during any fishing year, no vessel participating in the community QS program could be used to harvest an amount of IFQ greater than 50,000 lb (22.7 mt) of halibut and 50,000 lb (22.7 mt) of sablefish, inclusive of all IFQ fished aboard that vessel. Currently, vessels are limited to 1 percent of the Area 2C IFQ TAC for halibut (e.g., 85,000 net pounds (38 mt) in 2003), or, outside of Area 2C, 0.5 percent of the entire IFQ TAC (e.g., 295,050 net pounds (134 mt) in 2003), and 1 percent of the Southeast IFQ TAC for sablefish (e.g. 78,484 round pounds (36 mt) in 2003), or, outside of Southeast, 1 percent of the entire sablefish TAC (e.g. 348,635 round pounds (158 mt) in 2003).

This limitation on the amount of IFQ that could be fished on any one vessel using community-held QS is intended

to encourage use of a broad distribution of community-held IFQ on vessels that may otherwise have limited or no participation in the IFQ Program.

Eligibility to lease IFQ derived from community-held QS would be limited to permanent residents of the community represented by the CQE. The Council recommended this provision to explicitly tie the potential benefits of QS held by a CQE on behalf of a community to the residents of that community. Such a resident who wishes to lease IFQ would be required to state that he or she maintains a permanent domicile in that specific community and is qualified to receive QS and IFQ by transfer under the existing regulations (i.e., that he or she holds a Transfer Eligibility Certificate issued by NMFS).

Existing regulations at 50 CFR 679.41 require that, for an individual to be eligible to receive QS/IFQ by transfer, such an individual must be a U.S. citizen and must either have received QS upon initial issuance or have 150 days of experience onboard a vessel working as part of the harvesting crew in a U.S. commercial fishery. Upon having demonstrated that he or she has satisfied those requirements, such an individual is issued a Transfer Eligibility Certificate (TEC). These requirements would remain in place for individuals seeking to lease IFQ derived from community QS. Individuals receiving IFQ must meet these qualifications and attest that they are permanently domiciled within that community when receiving IFQ by transfer from a CQE. For purposes of this program, an individual would need to affirm that he or she maintained a domicile in the community from which the IFQ is leased for 12 consecutive months immediately preceding the time when the assertion of residence is made, and had not claimed residency in another community, state, territory, or country.

An individual who receives IFQ derived from QS held by a CQE may not designate a skipper to fish the community IFQ, instead that individual must be onboard the vessel when the IFQ is being fished. The Council recommended this requirement to help ensure that the potential benefits of QS held by communities would be realized by resident fishermen of those communities and not leased outside the communities.

Individuals who hold leases of IFQ from communities would be considered to be IFQ permit holders and would be subject to the regulations that govern other permit holders, including the payment of annual fees as required

under 50 CFR 679.45, unless noted otherwise in this proposed rule.

#### (c) Sale Restrictions

Certain restrictions would apply to the transfer of QS held by a CQE on behalf of a community. A CQE is restricted to sell its QS to generate revenues to improve, sustain, or expand the opportunities for community residents to participate in the IFQ halibut and sablefish fisheries. These restrictions are designed to ensure that the goals of the program are met. NMFS would approve the transfer of QS held by a CQE on behalf of a community only if the community for which the CQE holds the QS authorizes that transfer. This authorization may be in the form of a signature from a authorized representative of the governing body of the eligible community for QS transfers on the Approval of Transfer form. The purpose of this authorization is to ensure that the community is fully aware of the transfer because certain restrictions apply to future transfers if the transfer of QS is for a reason other than to sustain, improve, or expand the program (i.e., the CQE would be prohibited from holding QS on behalf of that community for a period of three years and the CQE must divest itself of all QS held on behalf of that community).

This proposed action would also provide an opportunity for a CQE to transfer QS to dissolve the CQE; or as a result of a court order, operation of law, or as part of a security agreement. These provisions are allowed to account for those cases in which a CQE is no longer capable of representing an eligible community and seeks to divest itself of QS holdings in order to provide an opportunity for another non-profit to form and seek approval as a CQE for a community. Transfers that are required as a result of a court order, operation of law, or as part of a security requirement would be authorized under this proposed action. These forms of transfers are authorized under the existing IFQ program.

During Council deliberations, NMFS indicated that the enforcement and monitoring mechanism for these transfer provisions would be limited. The EA/RIR/IRFA prepared by the Council (see ADDRESSES) notes these concerns. Rather than requiring an extensive monitoring and auditing program for each transfer of QS, NMFS would rely on the declaration by the CQE about the purpose of the transfer of any QS held on behalf of a community and the authorization by the governing body of that community to transfer that QS. If subsequent information is made

available to NMFS that confirms that the transfer of QS is made for reasons other than to sustain, improve, or expand the opportunities for community residents, then NMFS would withhold annual IFQ permits on any remaining QS held by the CQE on behalf of that community and would disqualify that CQE from holding QS on behalf of that community for 3 calendar years following the year in which final agency action adopting that determination is made.

NMFS would not impose this restriction until the CQE had received full administrative due process, including notice of the potential action and the opportunity to be heard. An initial administrative determination (IAD) proposing an adverse action would only become final agency action if the CQE failed to appeal the IAD within 60 days, or upon the effective date of the decision issued by the Office of Administrative Appeals. The procedures for appeal are provided at 50 CFR 679.43.

The 3-year restriction was recommended by the Council because the Council did not intend for this program to provide a mechanism for speculating in the QS market or using potential assets to fund other unrelated projects but intended to encourage the long-term participation of fishery dependent communities in the IFQ Program. The public is encouraged to comment specifically on these transfer restrictions, the administrative process that would be established to monitor these requirements, and the enforcement of these restrictions.

#### 6. Joint and Several Liability for Violations

Both the CQE and the individual fisherman to whom the CQE leases its IFQ will be considered jointly and severally liable for any IFQ fishery violation committed while the individual fisherman is in the process of fishing the leased IFQ. This joint and several liability is analogous to the joint and several liability currently imposed on IFQ permit holders and any hired skippers fishing the permit holders' IFQ.

#### 7. Administrative Oversight

Implementing this proposal would require that NMFS: (1) review applications of eligibility for non-profit entities seeking to be qualified as a CQE for a particular community and certify eligible CQEs; and (2) review an annual report detailing the use of QS and IFQ by the CQE and community residents. These reviews ensure that the CQEs are adequately representing the communities and that the program is meeting the goals established by the

Council. If a CQE fails to provide a completed annual report to NMFS for each community that it represents, then that CQE would be deemed ineligible to use the IFQ resulting from that QS on behalf of that community until a complete annual report is received. Before becoming a Final Agency Action, any such determination by NMFS may be appealed through the administrative appeals process described under the IFQ Program (50 CFR 679.43).

Each non-profit entity applying to become a CQE would have to provide NMFS with the following:

(1) Its articles of incorporation as a non-profit entity under the laws of the State;

(2) A statement designating the community, or communities, represented by that CQE;

(3) Management organization;

(4) A detailed statement describing the procedures that will be used to determine the distribution of IFQ to residents of each community represented by that CQE; and

(5) A statement of support and accountability of the non-profit entity to that community from a governing body representing each community represented by the CQE.

During Council deliberations, the State noted that it would like to have an opportunity to provide NMFS with comments on applications by non-profit entities seeking to become CQEs. NMFS will provide the State with a copy of the applications. The State will have a period of 30 days to provide comments to NMFS after they are received. NMFS will consider these comments before certifying a non-profit entity as a CQE. This opportunity for comment does not diminish the authority of NMFS to administer these regulations and certify CQEs, but does provide an opportunity for the State to provide comments on the applications. NMFS will review all applications for completeness. Those applications that are not complete would be returned to the applicant for revision. This proposed action does not establish a limit on the amount of time that a non-profit would have to correct deficiencies in an application.

To minimize potential conflicts that may exist among non-profit entities seeking qualification as a CQE, NMFS would not consider a recommendation from a community governing body supporting more than one non-profit entity to hold QS on behalf of that community. The specific community governing body that would be relied on to make a recommendation would vary depending on the governance structure of the particular community.

The Council intended that any CQE establish that it is accountable to the community that it would seek to represent. By establishing a requirement that a specific governing body within a community provide a recommendation supporting a CQE, this proposed rule would establish a clear link between the governing body that represents that community and the CQE. Allowing multiple non-profits to apply as CQEs for a singly community would require additional review by NMFS to ensure accountability. Additionally, it would be difficult to establish specific criteria that would establish a clear accountability or lack of accountability. The Council did not intend that this proposed action would serve the interests of a small number of individuals within a given community who may choose to form a corporate entity to narrowly represent their interests. The specific linkage to specific recognized governing bodies within a community minimized the need for additional administrative oversight to ensure accountability to a community and provides a clear nexus between the CQE and the community members it is intended to represent by holding QS on behalf of that community.

*Communities incorporated as municipalities.* For a community that is incorporated as a municipality under State statutes, the City Council would recommend the non-profit entity to serve as the CQE.

*Communities represented by tribal governments.* For those communities that are not incorporated as municipalities but that are represented by a tribal government recognized by the Secretary of the Interior, the tribal governing body would recommend the non-profit entity to serve as the CQE.

*Communities represented by a non-profit association.* For those communities that are not incorporated as a municipality, and that are not represented by a tribal government, the community non-profit association that has an established relationship as the governmental body recognized by the State for purposes of governmental functions would recommend the non-profit entity to serve as the CQE for that community.

*Communities without governing bodies.* Those communities that are not incorporated as a municipality, or represented by a tribal government recognized by the Bureau of Indian Affairs, and that do not have a community non-profit association recognized by the State for purposes of governmental functions, would not be eligible to recommend a non-profit entity to hold QS on its behalf until a

representative governing entity was formed (e.g., the community incorporated as a municipality, was represented by a tribal government recognized by the Bureau of Indian Affairs, or a community non-profit association was formed and recognized by the Alaska Department of Community and Economic Development). NMFS would consult with the State to determine if a community non-profit association is formed, and that it adequately represents the interests of the community before that community non-profit association could recommend a CQE to hold QS on behalf of that community.

This requirement would ensure that any communities that do not have a governmental structure form such a structure prior to being allowed to recommend a specific non-profit entity as a CQE. This requirement is expected to affect only two of the 42 eligible communities recommended by the Council: Halibut Cove and Meyers Chuck. Neither of these communities possess any of the governmental bodies described above. These communities could establish community non-profit associations and have those entities reviewed by the State prior to recommending a CQE. This requirement is determined to be adequate to ensure that any non-profit designated as a CQE for these communities represents the interests of the residents of those communities. The public is encouraged to comment on this particular aspect of this proposed rule.

Establishing that only one CQE to represent the interests in a given community would reduce potential conflicts and reduce administrative burdens. This requirement would not undermine a community's ability to access QS and would ensure that an entity seeking authorization to hold QS on behalf of a community is reviewed by the appropriate governing body within that community before it is certified by NMFS. The definition for "eligible community" is revised by redesignating the existing paragraph as paragraph (1) for purposes of the CDQ Program and by adding a new paragraph (2) for purposes of the IFQ Program.

(a) Annual Report.

NMFS would require each CQE to submit an annual report by January 31 to NMFS and to the governing body for each community represented by the CQE, detailing the use of QS and IFQ by the CQE and community residents during the previous year's fishing season. That annual report would

contain the following information for the preceding fishing season:

- (1) Identification of the eligible community, or communities, represented by the CQE;
  - (2) Total amount of halibut QS and sablefish QS held by the CQE at the start of the calendar year and at the end of the calendar year;
  - (3) Total amount of halibut and sablefish IFQ leased from the CQE;
  - (4) Names, business addresses, and amount of halibut and sablefish IFQ received by each individual to whom the CQE leased IFQ;
  - (5) The name, ADF&G vessel registration number, USCG documentation number, length overall, and home port of each vessel from which the IFQ leased from community owned QS was fished;
  - (6) The names, and business addresses of those individuals employed as crew members when fishing the IFQ derived from the QS held by the CQE.
  - (7) A detailed description of the criteria used by the CQE to distribute IFQ leases among eligible community residents;
  - (8) A description of efforts made to employ crew members who are eligible community residents of the eligible community aboard vessels on which IFQ derived from QS held by a CQE is being fished;
  - (9) A description of the process used to solicit lease applications from eligible community residents of the eligible community on whose behalf the CQE is holding QS;
  - (10) The names and business addresses and amount of IFQ requested by each individual applying to receive IFQ from the CQE;
  - (11) Any changes in the bylaws of the CQE, board of directors, or other key management personnel;
  - (12) Copies of minutes and other relevant decision making documents from CQE board meetings; and
  - (13) The number of vessels that fished for IFQ derived from QS held by a CQE.
- The purpose of the annual report is to assist NMFS and the Council to assess the performance of the CQEs in meeting the objectives of providing for community-held QS. The Council expressed its intent that the use of community QS would be reviewed 5 years after the effective date of implementing the regulations. The Council may use the annual reports in this review. In particular, the Council wished to evaluate the distribution of IFQ leases within a community, the use of IFQ by local crew members, and the percentage of IFQ resulting from community-held QS that is fished on an

annual basis. This annual report would also be provided to the governing body of each community represented by the CQE. This would assist the governing body and residents of that community in reviewing the activities of the CQE relative to that community.

Submitting the annual report by January 31 would provide NMFS adequate time to review the annual report before issuing annual IFQ to the CQE at the beginning of the IFQ fishing season and would provide an opportunity for NMFS to indicate to the CQE any deficiencies that may exist in the annual report and allow that CQE time to make corrections.

The Council also requested that the communities provide information on the location of landings and other biological data to assess the distribution of landings that occur. These data are routinely reported on the State Fish Ticket and IFQ landing reports and can be summarized by NMFS. CQEs would not be expected to have access to these records. NMFS routinely collects specific information on the transfer of QS as part of transfer applications. Therefore, NMFS can collect several components of the annual report and provide them to the Council and the communities as requested. Specifically, NMFS can provide directly to the Council or any of the CQEs items 1 through 4 and item 13, as described above. The CQEs may wish to incorporate this information in the annual report provided to the Council and the community governing body. This proposed rule does not require that the CQEs collect this information separately.

If a CQE fails to submit a timely and complete annual report, or if other information indicates that the CQE is not adhering to the procedures for distributing or managing QS and IFQ on behalf of a community as established under its application and these regulations, then NMFS would initiate an administrative action to suspend the ability of that CQE to transfer QS and IFQ, and to receive additional QS by transfer. This action would be implemented consistent with the administrative review procedures provided at 50 CFR 679.43. Also, a CQE would be subject to enforcement actions for violating regulations. Because of the significant impacts these restrictions can impose on a community for which the CQE holds QS, communities are encouraged to carefully monitor the actions of a CQE and to provide a mechanism to ensure that the CQE acts in the best interest of that community and fulfills all the requirements established in its application for

eligibility and the regulations for this program.

#### Effect of this Action

Assuming that CQEs are formed and enter the QS market, this action could affect the distribution of halibut and sablefish QS and the associated IFQ throughout the GOA. Specifically, by enabling non-profit entities to hold QS, some QS may shift from existing QS holders to these new eligible non-profit entities. No data exist to predict the source of the QS that would be purchased by CQEs, the amount that would be purchased by CQEs, or the specific fishing activities of those individuals that lease IFQ from the CQEs. Because the potential effects of this proposed rule are unknown, the Council proposed limits on the amount of QS that each community may hold individually and in the aggregate.

This action would not increase the overall harvests of either the halibut or sablefish resource. The amount of halibut and sablefish available for harvest would not be affected by this proposed rule and would remain limited by the annual catch limit established for halibut by the IPHC and the annual TAC for sablefish established by the Council.

Although this action may affect the distribution of harvests within the sablefish and halibut management areas, the potential effect of this redistribution of effort is unknown.

Some effect on the price of QS could be expected. Authorizing new entities to enter the QS market could increase the competition for QS and could result in elevated prices. However, the effect of this potential competition on the market value of QS is unknown.

Nothing in this proposed rule is expected to undermine existing management measures designed to prevent overfishing or increase the bycatch of non-target species. The intent of this proposal is to expand the opportunity for fishermen in remote fishing communities to harvest commercial halibut and sablefish. Any possible effect on local stock abundance would depend on the amount of QS purchased and the actual fishing locations of the IFQ lessees, as compared to the current distribution of fishing effort. No effect on the overall stock abundance would be expected.

#### Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

The Council and NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact this

proposed rule, if adopted, would have on small entities. The IRFA considered two alternatives. The first alternative is the status quo alternative in which only qualified persons, as defined under current Federal regulations, would be eligible to hold QS. The second alternative would allow eligible communities in the GOA, as defined in this proposed action, to hold halibut and sablefish QS for use by residents of those eligible communities. The second alternative would address concerns noted in the IRFA regarding the lack of initially issued QS and the loss of QS in remote, fishery-dependent GOA communities and thus, address negative impacts sustained by these communities through loss of participation in the IFQ fisheries that would continue under the status quo. This action proposes to implement the second alternative considered in the IRFA.

As of December 31, 2001, the most recent year for which data are available for analysis, NMFS records show 1,534 halibut QS holders in Area 2C, 2,047 QS holders in 3A, and 585 QS holders in Area 3B. Similarly, as of December 31, 2001, NMFS data indicate 486 sablefish QS holders in the Southeast Area, 300 QS holders in the West Yakutat Area, 442 QS holders in the Central Gulf Area, and 177 QS holders in the Western Gulf Area. All of these QS holders could be considered small entities for purposes of the Regulatory Flexibility Act (RFA). The proposed rule could impact the estimated 860 registered commercial halibut buyers participating in the commercial halibut and sablefish IFQ program, many of which are small entities. Also classified as small entities under the RFA are the 42 communities that would qualify as eligible to participate in the IFQ Program as small government jurisdictions with fewer than 50,000 residents.

Analysis of the proposed action indicates no adverse impact on small entities from this action. This action does not reallocate QS away from existing QS holders. The potential adverse effects of this proposed action would be limited to the potential increase in competition which may exist between CQEs, existing QS holders, and new entrants in the QS market. This competition could increase the market price of QS for all persons seeking to purchase QS. No data exist to determine if this potential increase in QS price would occur, or if it would disadvantage existing QS holders or new entrants relative to CQEs.

The ability of CQEs to compete in the QS market is limited by 3 factors: Their access to capital, the amount of QS available on the market, and the

cumulative use cap. The cap limits CQEs to holding a maximum of 3 percent of the total halibut and sablefish QS in each IFQ regulatory area per year, for a total of 21 percent of the total halibut and sablefish QS in each IFQ regulatory area in the GOA. Limiting the amount of QS that communities can purchase each year would mitigate the effects of expanding the universe of potential new participants in the QS market.

This action may have an economic benefit for small entities, to the extent that this action provides additional fishing opportunities to rural fishermen. The benefit is largely due to the redistribution of fishing opportunities, and is primarily a social benefit, not a strictly economic benefit. However, the potential economic benefits of this possibility can not now be measured or estimated.

Net benefits cannot be quantified because of the importance of non-market social costs and benefits in the proposed action. The sale of QS to the CQEs will increase the revenues of some community members who may wish to exit the fishery, or redirect capital into other industries within the larger communities incurring a net loss of QS. To the extent that residents within larger communities currently hold proportionally more quota shares, these residents, and presumably the communities where they live, will benefit from the compensation received by the sale of quota, otherwise they would not voluntarily choose to sell. Although the Council and NMFS do not anticipate that this rule would have a significant impact on a substantial number of small entities, they are unable to state this with certainty and therefore prepared an IRFA.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The following requirement and estimated response time has been approved by OMB under control number 0648-0272: 2 hours for Application for Transfer Eligibility Certificate (TEC).

The following requirements have been submitted to OMB for approval: 200 hours for the Application to Become a CQE; and 40 hours for the CQE annual report; 2 hours for an Application for Transfer of QS or IFQ; 30 minutes for Approval of Transfer of QS from Governing Body; and 10 hours for a community petition for, and State comments on, forming a governing body.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and

maintaining the data needed, completing and reviewing the collection of information, and sending the initial application to NMFS to become a CQE, and sending the annual report to NMFS and the community governing body of the community that the CQE represents.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, at the ADDRESSES above, and to the Office of Information and Regulatory Affairs, OMB facsimile or email at the ADDRESSES above.

Notwithstanding any other provision of the 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 PRA, unless that collection of information displays a currently valid OMB Control Number.

There are no duplicative, overlapping, or conflicting Federal rules associated with this proposed rule.

#### List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: October 8, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons discussed in the preamble, 50 CFR part 679 is proposed to be amended as follows:

#### PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

*Authority:* 16 U.S.C. 773 et seq, 1801 et seq., 3631 et seq., Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31, 113 Stat. 57; 16 U.S.C. 1540(f).

2. In § 679.2, the definition for "Eligible community" is revised and new definitions for "Community quota entity (CQE)" and "Eligible community resident" are added in alphabetical order to read as follows:

**§ 679.2 Definitions.**

\* \* \* \* \*

*Community quota entity (CQE):* (for purposes of the IFQ Program) means a non-profit organization that:

- (1) Did not exist prior to April 10, 2002;
- (2) Represents at least one eligible community that is listed in Table 21 of this part; and,
- (3) Has been approved by the Regional Administrator to obtain by transfer and hold QS, and to lease IFQ resulting from the QS on behalf of an eligible community.

\* \* \* \* \*

*Eligible community means:*

(1) For purposes of the CDQ program, a community that is listed in Table 7 to this part or that meets all of the following requirements:

(i) The community is located within 50 nm from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the most western of the Aleutian Islands, or on an island within the Bering Sea. A community is not eligible if it is located on the GOA coast of the North Pacific Ocean, even if it is within 50 nm of the baseline of the Bering Sea.

(ii) That is certified by the Secretary of the Interior pursuant to the Native Claims Settlement Act (Public Law 92-203) to be a native village.

(iii) Whose residents conduct more than half of their current commercial or subsistence fishing effort in the waters of the BSAI.

(iv) That has not previously deployed harvesting or processing capability sufficient to support substantial groundfish fisheries participation in the BSAI, unless the community can show that benefits from an approved CDP would be the only way to realize a return from previous investment. The community of Unalaska is excluded under this provision.

(2) For purposes of the IFQ program, a community that is listed in Table 21 to this part, and that:

- (i) Is a municipality or census designated place as defined in the 2000 United States Census located on the GOA coast of the North Pacific Ocean;
- (ii) Has a population of not less than 20 and not more than 1,500 persons based on the 2000 United States Census;
- (iii) Has had a resident of that community with at least one commercial landing of halibut or sablefish made during the period from 1980 through 2000, as documented by the State of Alaska Commercial Fisheries Entry Commission; and

(iv) Is not accessible by road to a community larger than 1,500 persons based on the 2000 United States Census.

\* \* \* \* \*

*Eligible community resident means,* for purposes of the IFQ Program, any individual who:

- (1) Is a citizen of the United States;
- (2) Has maintained a domicile in a rural community listed in Table 21 to this part for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another community, state, territory, or country; and
- (3) is an IFQ crew member.

\* \* \* \* \*

3. In § 679.5, paragraph (l)(8) is added to read as follows:

**§ 679.5 Recordkeeping and reporting (R&R).**

\* \* \* \* \*

(l) \* \* \*

(8) *CQE Annual Report for an Eligible Community.* By January 31, the CQE shall submit a complete annual report on halibut and sablefish IFQ activity for the prior fishing year, for each community represented by the CQE to the Regional Administrator, National Marine Fisheries Service, Post Office Box 21668, Juneau, AK 99802, and to the governing body of those communities identified in Table 21 to this part.

(i) A complete annual report contains the following information:

(A) Name, ADF&G vessel registration number, USCG documentation number, length overall, and home port of each vessel from which the IFQ leased from QS held by a CQE was fished;

(B) Name and business addresses of individuals employed as crew members when fishing the IFQ derived from the QS held by the CQE;

(C) Detailed description of the criteria used by the CQE to distribute IFQ leases among eligible community residents;

(D) Description of efforts made to employ crew members who are eligible community residents of the eligible community aboard vessels on which IFQ derived from QS held by a CQE is being fished;

(E) Description of the process used to solicit lease applications from eligible community residents of the eligible community on whose behalf the CQE is holding QS;

(F) Names and business addresses and amount of IFQ requested by each individual applying to receive IFQ from the CQE;

(G) Any changes in the bylaws of the CQE, board of directors, or other key management personnel;

(H) Copies of minutes and other relevant decision making documents from CQE board meetings.

(ii) Additional information may be submitted as part of the annual report based on data available through NMFS. This includes:

(A) Identification of the eligible community, or communities, represented by the CQE;

(B) Total amount of halibut QS and sablefish QS held by the CQE at the start of the calendar year and at the end of the calendar year;

(C) Total amount of halibut and sablefish IFQ leased from the CQE;

(D) Names, business addresses, and amount of halibut and sablefish IFQ received by each individual to whom the CQE leased IFQ;

(E) Number of vessels that fished for IFQ derived from QS held by a CQE.

\* \* \* \* \*

4. In § 679.7, paragraphs (f)(16) and (f)(17) are added to read as follows:

**§ 679.7 Prohibitions.**

\* \* \* \* \*

(f) \* \* \*

(16) Hire a master to fish for IFQ halibut or IFQ sablefish that is derived from QS held by a CQE.

(17) Process IFQ halibut or IFQ sablefish onboard a vessel on which a person is using IFQ derived from QS held by a CQE.

\* \* \* \* \*

5. In § 679.41, paragraphs (d)(1) and (g)(1) are revised, and paragraphs (c)(10), (e)(4), (e)(5), (g)(5) through (g)(8), and (l) are added to read as follows:

**§ 679.41 Transfer of quota shares and IFQ.**

\* \* \* \* \*

(c) \* \* \*

(10) If the person applying to transfer or receive QS or IFQ is a CQE, the following determinations are required for each eligible community represented by that CQE:

(i) An individual applying to receive IFQ from QS held by a CQE is an eligible community resident of the eligible community in whose name the CQE is holding QS;

(ii) The CQE applying to receive or transfer QS, has submitted a complete annual report(s) required by 679.5 (l)(8) of this section;

(iii) The CQE applying to transfer QS has provided information on the reasons for the transfer as described in paragraph (g)(7) of this section;

(iv) The CQE applying to receive QS is eligible to hold QS on behalf of the eligible community in the halibut or sablefish regulatory area designated for that eligible community in Table 21 to this part; and



(v) The CQE applying to receive QS has received notification of approval of eligibility to receive QS/IFQ for that community as described in paragraph (d)(1) of this section.

(d) *Eligibility to receive QS or IFQ by transfer*—(1) *Application for Eligibility*.

All persons applying to receive QS or IFQ must submit an Application for Eligibility to Receive QS/IFQ (Application for Eligibility), containing accurate information, to the Regional Administrator, except that an Application for Eligibility to Receive QS/IFQ (Application for Eligibility) is not required if a complete application to become a CQE, as described in paragraph (l)(3) of this section, has been approved by the Regional Administrator on behalf of an eligible community. The Regional Administrator will not approve a transfer of IFQ or QS to a person until the Application for Eligibility for that person is approved by the Regional Administrator. The Regional Administrator shall provide an Application for Eligibility form to any person on request.

\* \* \* \* \*

(e) \* \* \*

(4) A CQE may not purchase or use sablefish QS blocks less than or equal to the number of QS units specified in (e)(2)(i) through (e)(2)(iv) of this section.

(5) A CQE may not purchase or use halibut QS blocks less than or equal to the number of QS units specified in (e)(3)(i) and (e)(3)(ii) of this section.

\* \* \* \* \*

(g) \* \* \*

(1) Except as provided in paragraph (f), paragraph (g)(2), or paragraph (l) of this section, only persons who are IFQ crew members, or who were initially issued QS assigned to vessel categories B, C, or D, and meet the eligibility requirements in this section, may receive by transfer QS assigned to vessel categories B, C, or D, or the IFQ resulting from it.

\* \* \* \* \*

(5) a CQE may not hold QS in halibut IFQ regulatory areas 2C or 3A that is assigned to vessel category D.

(6) Except as provided by paragraph (f) of this section, QS held by a CQE on behalf of an eligible community may be used only by an eligible community resident of that eligible community.

(7) A CQE may transfer QS:

(i) To generate revenues to provide funds to meet administrative costs for managing the community QS holdings;

(ii) To generate revenue to improve the ability of residents within the community to participate in the halibut and sablefish IFQ fisheries;

(iii) To generate revenue to purchase QS for use by community residents;

(iv) To dissolve the CQE; or

(v) As a result of a court order, operation of law, or as part of a security agreement.

(8) If the Regional Administrator determines that a CQE transferred QS for purposes other than those specified in paragraph (g)(7) of this section, then:

(i) The CQE must divest itself of any remaining QS holdings and will not be eligible to receive QS by transfer for a period of three years after the date of the Regional Administrator's determination; and

(ii) The Regional Administrator will not approve a CQE to represent the eligible community in whose name the CQE transferred quota for a period of three years after the date of the Regional Administrator's determination.

\* \* \* \* \*

(1) *Transfer of QS to CQEs*—(1) Each eligible community must designate a CQE to transfer and hold QS on behalf of that community.

(2) Each eligible community may designate only one CQE to hold QS on behalf of that community at any one time.

(3) Prior to initially receiving QS by transfer on behalf of a specific eligible community, a non-profit entity that intends to represent that eligible community as a CQE must submit a complete application to become a CQE to the Regional Administrator, National Marine Fisheries Service, Post Office Box 21668, Juneau, AK 99802. The Regional Administrator, will provide a copy to the Alaska Department of Community and Economic Development, Commissioner, P.O. Box 110809, Juneau, AK 99811-0809.

Comments by the State of Alaska on an application to become a CQE must be submitted to the NMFS, P.O. Box 21668, Juneau, AK 99802 within 30 days of the application being received by the State. NMFS will consider comments received by the Alaska Department of Community and Economic Development, when reviewing applications for a non-profit entity to become a CQE. A complete application to become a CQE consists of:

(i) The articles of incorporation for that non-profit entity in the State of Alaska;

(ii) A statement designating the eligible community, or communities, represented by that non-profit entity for purposes of holding QS;

(iii) Management organization information, including:

(A) The bylaws of the non-profit entity;

(B) A list of key personnel of the managing organization including but

not limited to: the board of directors, officers, representatives, and any managers;

(C) A description of the organizational management structure of the non-profit including resumes of management personnel, including the name, address, fax number, telephone, email, and any other contact information for the non-profit entity;

(D) A description of how the non-profit entity is qualified to manage QS on behalf of the eligible community, or communities, it is designated to represent, and a demonstration that the non-profit entity has the management, technical expertise, and ability to manage QS and IFQ; and

(E) The name of the non-profit organization, taxpayer ID number, NMFS person number, permanent business mailing addresses, name of contact persons and additional contact information of the managing personnel for the non-profit entity, name of community represented by the CQE, name of contact for the governing body of the community represented, date, name and notarized signature of applicant, Notary Public signature and date when commission expires.

(iv) A statement describing the procedures that will be used to determine the distribution of IFQ to residents of the community represented by that CQE, including:

(A) Procedures used to solicit requests from residents to lease IFQ; and

(B) Criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria;

(v) A statement of support from the governing body of the eligible community as that governing body is identified in Table 21 to this part. That statement of support is:

(A) A resolution from the City Council or other official governing body for those eligible communities incorporated as first or second class cities in the State of Alaska;

(B) A resolution from the tribal government authority recognized by the Bureau of Indian Affairs for those eligible communities that are not incorporated as first or second class cities in the State of Alaska; but are represented by a tribal government authority recognized by the Secretary of the Interior;

(C) A resolution from a non-profit community association, homeowner association, community council, or other non-profit entity for those eligible communities that are not incorporated as first or second class cities in the State of Alaska, and is not represented by a tribal government authority recognized

by the Bureau of Indian Affairs. The non-profit entity that provides a statement of support must:

(1) Have articles of incorporation as a non-profit community association, homeowner association, community council, or other non-profit entity;

(2) Have an established relationship with the State of Alaska Department of Community and Economic Development for purposes of representing that community for governmental functions.

(D) If an eligible community is not incorporated as a first or second class city in the State of Alaska, is not represented by a tribal government authority recognized by the Secretary of the Interior, and does not have a non-profit community association, homeowner association, community council, or other non-profit entity within that community with an established relationship with the Alaska Department of Community and Economic Development for purposes of representing that community for purposes of governmental functions, then NMFS will not consider any statement from a non-profit entity representing that community until that community:

(1) Is incorporated as a first or second class city in the State of Alaska;

(2) Establishes a tribal government authority recognized by the Secretary of the Interior; or

(3) Establishes a non-profit community association, homeowner association, community council, or other non-profit entity within that community that meets the requirements established in paragraph (1)(3)(v)(E) of this section.

(E) If a community described under paragraph (1)(3)(v)(D) of this section establishes a non-profit community association, homeowner association, community council, or other non-profit entity within that community, then NMFS will consider any recommendations from this entity to support a particular applicant after reviewing:

(1) Petitions from residents affirming that the non-profit community association, homeowner association, community council, or other non-profit entity within that community represents the residents within that community; and

(2) Comments from the State of Alaska Department of Community and Economic Development on the articles of incorporation for that non-profit entity and the ability of that non-profit entity to adequately represent the interests of that community for purposes of governmental functions.

(3) The governing body of an eligible community as that governing body is identified in Table 21 to this part, must provide authorization for any transfer of QS by the CQE that holds QS on behalf of that eligible community prior to that transfer of QS being approved by NMFS. This authorization must be submitted as part of the Application for Transfer. That authorization consists of a signature on the Application for Transfer by a representative of the governing body that has been designated by that governing body to provide such authorization to approve the transfer of QS.

6. In § 679.42, paragraphs (a), (f), (g)(1), and (h) are revised, and paragraphs (e)(3) through (e)(8), and (i)(4) are added to read as follows:

**§ 679.42 Limitations on use of QS and IFQ.**

(a) *IFQ regulatory area and vessel category.* (1) The QS or IFQ specified for one IFQ regulatory area must not be used in a different IFQ regulatory area.

(2) The QS or IFQ assigned to one vessel category must not be used to harvest IFQ species on a vessel of a different vessel category, except:

(i) As provided in paragraph (k) of this section (processing fish other than IFQ halibut and IFQ sablefish);

(ii) As provided in § 679.41(i)(1) of this part (CDQ compensation QS exemption);

(iii) IFQ derived from QS held by a CQE may be used to harvest IFQ species from a vessel of any length.

(3) Notwithstanding § 679.40(a)(5)(ii) of this part, IFQ assigned to vessel Category B must not be used on any vessel less than or equal to 60 ft (18.3 m) LOA to harvest IFQ halibut in IFQ regulatory area 2C or IFQ sablefish in the regulatory area east of 140 degrees W. long. unless such IFQ derives from blocked QS units that result in IFQ of less than 5,000 lb (2.3 mt), based on the 1996 TAC for fixed gear specified for the IFQ halibut fishery and the IFQ sablefish fishery in each of these two regulatory areas.

\* \* \* \* \*

(e) \* \* \*

\* \* \* \* \*

(3) No CQE may hold sablefish QS in the IFQ regulatory areas of the Bering Sea subarea and the Aleutian Islands subareas.

(4) No CQE may hold more than 3,229,721 units of sablefish QS on behalf of any single eligible community.

(5) In the IFQ regulatory area east of 140 degrees W. long., no CQE may hold more than 688,485 units of sablefish QS for this area on behalf of any single eligible community.

(6) In the aggregate, all CQEs are limited to holding a maximum of 3 percent of the total QS in those IFQ regulatory areas specified in § 679.41(e)(2)(i) through (e)(2)(iv) of this part for sablefish in the first calendar year implementing the regulation in this section. In each subsequent calendar year, this aggregate limit on all CQEs shall increase by an additional 3 percent in each IFQ regulatory area specified in § 679.41(e)(2)(i) through (e)(2)(iv) of this part up to a maximum limit of 21 percent of the total QS in each regulatory area specified in Section 679.41(e)(2)(i) through (e)(2)(iv) of this part for sablefish.

(7) No individual that receives IFQ derived from sablefish QS held by a CQE may hold, individually or collectively, more than 50,000 pounds (22.7 mt) of IFQ sablefish derived from any sablefish QS source.

(8) A CQE receiving category B, or C sablefish QS through transfer may lease the IFQ resulting from that QS only to an eligible community resident of the eligible community on whose behalf the QS is held.

(f) *Halibut QS use.* (1) Unless the amount in excess of the following limits was received in the initial allocation of halibut QS, no person, individually or collectively, may use more than:

(i) *IFQ Regulatory area 2C.* 599,799 units of halibut QS.

(ii) *IFQ regulatory area 2C, 3A, and 3B.* 1,502,823 units of halibut QS.

(iii) *IFQ regulatory area 4A, 4B, 4C, 4D, and 4E.* 495,044 units of halibut QS.

(2) No CQE may receive an amount of halibut QS on behalf of any single eligible community which is more than:

(i) *IFQ Regulatory area 2C.* 599,799 units of halibut QS.

(ii) *IFQ regulatory area 2C, 3A, and 3B.* 1,502,823 units of halibut QS.

(3) No CQE may hold halibut QS in the IFQ regulatory areas 4A, 4B, 4C, 4D, and 4E.

(4) A CQE representing an eligible community may receive by transfer or use QS only in the IFQ regulatory areas designated for that species and for that eligible community as described in Table 21 to this part.

(5) In the aggregate, all CQEs are limited to holding a maximum of 3 percent of the total QS in those IFQ regulatory areas specified in § 679.41(e)(3)(i) through (e)(3)(iii) of this part for halibut in the first calendar year implementing the regulation in this section. In each subsequent calendar year, this aggregate limit on all community quota entities shall increase by an additional 3 percent in each IFQ regulatory area specified in § 679.41(e)(3)(i) through (e)(3)(iii) of this

part. This limit shall increase up to a maximum limit of 21 percent of the total QS in each regulatory area specified in § 679.41(e)(3)(i) through (e)(3)(iii) to this part for halibut.

(6) No individual that receives IFQ derived from halibut QS held by a CQE may hold, individually or collectively, more than 50,000 pounds (22.7 mt) of IFQ halibut derived from any halibut QS source.

(7) A CQE receiving category B, or C halibut QS through transfer may lease the IFQ resulting from that QS only to an eligible community resident of the eligible community represented by the CQE.

(g) \* \* \*

(1) *Number of blocks per species.* Except as provided in paragraphs (g)(1)(i) and (g)(1)(ii) of this section, no person, individually or collectively, may hold more than two blocks of each species in any IFQ regulatory area.

(i) A person, individually or collectively, who holds unblocked QS for a species in an IFQ regulatory area, may hold only one QS block for that species in that regulatory area; and

(ii) A CQE may hold no more than ten blocks of halibut QS in any IFQ

regulatory area and no more than five blocks of sablefish QS in any IFQ regulatory area on behalf of any eligible community.

\* \* \* \* \*

(h) *Vessel limitations.* (1) *Halibut.* No vessel may be used, during any fishing year, to harvest more than one-half percent of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, except that:

(i) In IFQ regulatory area 2C, no vessel may be used to harvest more than 1 percent of the halibut catch limit for this area.

(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 pounds (22.7 mt) of IFQ halibut from any halibut QS source if that vessel is used to harvest IFQ halibut derived from halibut QS held by a CQE.

(2) *Sablefish.* No vessel may be used, during any fishing year, to harvest more than one percent of the combined fixed gear TAC of sablefish for the GOA and BSAI IFQ regulatory areas, except that:

(i) In the IFQ regulatory area east of 140 degrees W. long., no vessel may be used to harvest more than 1 percent of

the fixed gear TAC of sablefish for this area.

(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 pounds (22.7 mt) of IFQ sablefish from any sablefish QS source if that vessel is used to harvest IFQ sablefish derived from sablefish QS held by a CQE.

(3) A person who receives an approved IFQ allocation of halibut or sablefish in excess of these limitations may nevertheless catch and retain all of that IFQ with a single vessel, except that this provision does not apply if that IFQ allocation includes IFQ derived from QS held by a CQE. However, two or more persons may not catch and retain their IFQ in excess of these limitations.

\* \* \* \* \*

(i) \* \* \*

\* \* \* \* \*

(4) IFQ derived from QS held by a CQE must be used only by the individual whose IFQ permit account contains the resulting IFQ.

7. In 50 CFR part 679, Table 21 is added to read as follows:

TABLE 21 TO PART 679—ELIGIBLE GOA COMMUNITIES, HALIBUT IFQ REGULATORY USE AREAS, AND COMMUNITY GOVERNING BODY THAT RECOMMENDS THE COMMUNITY QUOTA ENTITY

Eligible GOA Community	Community Governing Body that recommends the CQE
May use halibut QS only in halibut IFQ regulatory areas 2C, 3A	
Angoon .....	City of Angoon.
Coffman Cove .....	City of Coffman Cove.
Craig .....	City of Craig.
Edna Bay .....	Edna Bay Community Association.
Elfin Cove .....	Community of Elfin Cove.
Gustavus .....	Gustavus Community Association.
Hollis .....	Hollis Community Council.
Hoonah .....	City of Hoonah.
Hydaburg .....	City of Hydaburg.
Kake .....	City of Kake.
Kasaan .....	City of Kasaan.
Klawock .....	City of Klawock.
Metlakatla .....	Metlakatla Indian Village.
Meyers Chuck .....	N/A.
Pelican .....	City of Pelican.
Point Baker .....	Point Baker Community.
Port Alexander .....	City of Port Alexander.
Port Protection .....	Port Protection Community Association.
Tenakee Springs .....	City of Tenakee Springs.
Thorne Bay .....	City of Thorne Bay.
Whale Pass .....	Whale Pass Community Association.
May use halibut QS only in halibut IFQ regulatory areas 3A, 3B	
Akhiok .....	City of Akhiok.
Chenega Bay .....	Chenega IRA Village.
Chignik .....	City of Chignik.
Chignik Lagoon .....	Chignik Lagoon Village Council.
Chignik Lake .....	Chignik Lake Traditional Council.
Halibut Cove .....	N/A.
Ivanof Bay .....	Ivanof Bay Village Council.
Karluk .....	Native Village of Karluk.
King Cove .....	City of King Cove.
Larsen Bay .....	City of Larsen Bay.

TABLE 21 TO PART 679—ELIGIBLE GOA COMMUNITIES, HALIBUT IFQ REGULATORY USE AREAS, AND COMMUNITY GOVERNING BODY THAT RECOMMENDS THE COMMUNITY QUOTA ENTITY—Continued

Eligible GOA Community	Community Governing Body that recommends the CQE
May use halibut QS only in halibut IFQ regulatory areas 3A, 3B	
Nanwalek .....	Nanwalek IRA Council.
Old Harbor .....	City of Old Harbor.
Ouzinkie .....	City of Ouzinkie.
Perryville .....	Native Village of Perryville.
Port Graham .....	Port Graham Village Council.
Port Lyons .....	City of Port Lyons.
Sand Point .....	City of Sand Point.
Seldovia .....	City of Seldovia.
Tatitlek .....	Native Village of Tatitlek.
Tyonek .....	Native Village of Tyonek.
Yakutat .....	City of Yakutat.

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BILLING CODE 3510-22-S

submitted updated regulations for receiving delegation of EPA authority for implementation and enforcement of National Emission Standards for Hazardous Air Pollutants (NESHAPs) for all sources (both part 70 and non-part 70 sources). These regulations apply to certain NESHAPs promulgated by EPA, as amended through September 1, 2001 and September 1, 2002. The delegation of authority under this action does not apply to sources located in Bernalillo County, New Mexico or sources located in Indian Country. EPA is providing notice proposing to approve the delegation of certain NESHAPs to NMED.

**DATES:** Written comments must be received by January 12, 2004.

**ADDRESSES:** Comments must be submitted to Mr. Jeffery Robinson, Air Permits Section, Multimedia Planning and Permitting Division (6PD-R), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in section I.C-I.F of the Supplementary Information section of the direct final rule located in the Rules section of this Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeffery Robinson, Air Permits Section, Multimedia Planning and Permitting Division (6PD-R), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, at (214) 665-6435, or at [robinson.jeffrey@epa.gov](mailto:robinson.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this Federal Register, EPA is approving NMED's request for delegation of authority to implement and enforce certain NESHAPs for all sources (both part 70 and non-part 70 sources). NMED has adopted certain NESHAPs by reference into New Mexico's state regulations. In addition, EPA is waiving its notification requirements so sources will only need to send notifications and reports to NMED.

The EPA is taking direct final action without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the preamble to the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will

not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is published in the Rules section of this Federal Register.

Dated: November 26, 2003.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

[FR Doc. 03-30709 Filed 12-10-03; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 600**

[Docket No. 031031272-3272-01; I.D. 102903A]

RIN 0648-AR76

**Fisheries of the United States; Essential Fish Habitat**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Advance notice of proposed rulemaking; consideration of revision to Essential Fish Habitat (EFH) guidelines.

**SUMMARY:** NMFS is seeking public input on the EFH guidelines promulgated through regulation in the January 17, 2002, final rule. Such input is intended to fulfill NMFS' commitment to continually evaluate the efficacy of the EFH guidelines using an appropriate public process.

**DATES:** Written comments must be received no later than 5 p.m., e.s.t., on or before January 26, 2004.

**ADDRESSES:** Written comments must be sent to Mr. Rolland A. Schmitten, Director, Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to (301) 427-2570. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Karen Abrams at (301) 713-4300 xt. 149.

**SUPPLEMENTARY INFORMATION:** In January 2002, NMFS promulgated a final rule (67 FR 2343) that established guidelines

(50 CFR 600.805 to 600.930) to assist the Regional Fishery Management Councils (Councils) and the Secretary of Commerce (Secretary) in the description and identification of EFH in fishery management plans (FMPs), the identification of adverse effects to EFH, and the identification of actions required to conserve and enhance EFH. The final rule also detailed procedures the Secretary (acting through NMFS), other Federal agencies, and the Councils will use to coordinate, consult, or provide recommendations on Federal and state actions that may adversely affect EFH. Such guidelines promulgated through regulation were mandated in the 1996 amendments incorporated into the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(b)(1)(A)). The intended effect of the guidelines is to promote the protection, conservation, and enhancement of EFH.

After a 5-year public process, NMFS finalized the EFH guidelines in 2002. Nevertheless, NMFS recognized that a great deal of interest remained from various stakeholders in how to integrate habitat considerations into fishery management. As a result of this interest, NMFS committed to evaluating the efficacy of the EFH guidelines as they are implemented, to apply the lessons learned from such implementation as appropriate, and to consider changing the regulations if warranted through an appropriate public process.

NMFS recognizes that implementation of the MSA's EFH provisions is complex and requires considerable species and habitat information not always equally available across species or geography. In addition, NMFS recognizes that not all habitats exhibit the same characteristics, and that implementation of the EFH guidelines continues to attract public interest from its stakeholders.

Given ongoing interest in EFH and NMFS' commitment to evaluate the efficacy of the EFH guidelines through an appropriate public process, NMFS solicits input from the public regarding, (1) whether the EFH guidelines (50 CFR 600.805 to 600.930) should be revised and (2) if revisions are desired, what parts of the guidelines should be revised, how should they be revised, and why. NMFS will use this information in determining whether to proceed with a revision to the EFH guidelines, and, if so, the issues to be addressed.

This advance notice of proposed rulemaking has been determined to be significant for the purposes of Executive Order 12866.



Authority: 16 U.S.C. 1801 *et. seq.*

Dated: December 5, 2003.

**William T. Hogarth,**  
*Assistant Administrator for Fisheries,*  
*National Marine Fisheries Service.*

[FR Doc. 03-30728 Filed 12-10-03; 8:45 am]

BILLING CODE 3510-22-S

**PUBLIC TESTIMONY SIGN-UP SHEET FOR  
AGENDA ITEM D-2**

**STAFF  
TASKING  
6**

	NAME (PLEASE PRINT)	AFFILIATION
1	Kari Hennings / JOHN G... ..	U... ..
2	Joe Sullivan / Brent Purvis	Pulaski Interloop Group
3	<del>TERRY H... ..</del>	<del>T... ..</del>
4	Hector McCarty	CBSTFA
5	Jeff Stephon	UFMA
6	Paul MacGeyr	APA
7	John T...	...
8	Joe Sullivan	Merrett Mac Kochok
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

D-2  
Brent Paine  
Joe Sullivan

**Bering Sea/Aleutian Islands Salmon Bycatch Management  
Alternative Options for Council Consideration  
Presented by the AFA Intercooperative  
December 15, 2003**

Due in large part to the establishment of cooperative management of the Bering Sea Pollock trawl fishery, new tools are available through industry bycatch avoidance programs that help reduce salmon bycatch without the use of closure zones. At times, current closure zone regulations force the pollock fleet to fish in areas with higher bycatch rates than may be available inside the closure zones. In addition, the current closure zone regulations can result in higher operation costs to the pollock fleet, without commensurate salmon savings.

**Proposed Alternatives for Chum Salmon Bycatch Management**

1. Status Quo.
2. Suspend the existing chum salmon bycatch closure regulations on a year-by-year basis when an acceptable AFA Intercoop chum salmon bycatch management agreement is in place.

**Proposed Alternatives for Chinook Salmon Bycatch Management:**

1. Status Quo.
2. Suspend the existing chinook salmon bycatch closure regulations on a year-by-year basis when an acceptable AFA Intercoop chinook salmon bycatch management agreement is in place.