

Council Motion
Allow CQE Communities in Area 3A to purchase D category halibut quota share
December 10, 2010

The Council moves that the analysis regarding the purchase of Area 3A "D" category halibut quota shares be sent out for public review after the following revisions:

1. Add Alternative 2 subpart (c):
(c) Area 3A Community Quota Entities (CQEs) may purchase any size block of "D" category quota.
2. Inclusion of breakdown of the Area 3A quota share that is held by residents of eligible Area 3A CQE communities, by block size.
3. Amplified discussion on whether or not CQE communities have financial advantages when purchasing "D" category quota shares, and whether or not individual fishermen in CQE communities are disadvantaged by allowing CQEs to purchase D category quota share.

The Council adopts the following purpose and needs statement:

Area 3A CQE communities were created approximately 10 years after the halibut and sablefish IFQ Program was implemented in an attempt to provide for the sustained participation of these communities in the halibut and sablefish fisheries and to mitigate adverse economic impacts on these communities caused by the program. Most CQE communities had experienced the substantial loss or migration of locally owned quota shares. The CQE Program allowed these communities to purchase limited amounts of "B" and "C" category halibut and sablefish quota to hold in trust for use by community residents. However, because CQE community entities were new organizations without assets, it has been difficult for them to access Area 3A "B" and "C" category quota. One potential source of quota share for CQEs is quota held by residents of the CQE communities. Residents of CQE communities are more likely to be willing to "self finance" CQE purchase of their quota shares. However, much of the quota currently held by residents of Area 3A CQE communities is "D" class quota and therefore not available for CQE purchase. In addition, "D" category quota held by non-CQE community residents generally sells for a slightly lower purchase price and is therefore more accessible to first time quota purchasers like the CQEs. Allowing Area 3A CQE community entities to purchase "D" category quota will enhance CQE quota acquisition possibilities and further the goals of the Council to enable CQE communities to sustain community participation in the fishery as well as mitigate economic impact.

EXECUTIVE SUMMARY

This Regulatory Impact Review (RIR) was prepared to evaluate the economic and socioeconomic effects of a proposed Federal regulatory amendment, as required under Presidential Executive Order 12866. The proposed amendment would be a revision to the Gulf of Alaska Community Quota Entity (CQE) Program, which was approved by the North Pacific Fishery Management Council (Council) in 2002 and implemented by NMFS in 2004, under Amendment 66 to the Gulf of Alaska (GOA) Fishery Management Plan. The program was developed in order to allow a distinct set of 42 small, remote coastal communities located in the Gulf of Alaska to purchase catcher vessel quota share (QS) under the existing halibut and sablefish Individual Fishing Quota (IFQ) Program.

Halibut quota share is designated under four vessel categories: freezer (catcher processor) category (A share); catcher vessels greater than 60' LOA (B share); catcher vessels 36' to 60' LOA (C share); and catcher vessels 35' LOA or less (D share). The existing CQE Program prohibits CQEs representing communities in halibut IFQ regulatory Area 2C and Area 3A from purchasing D category halibut quota share; only B and C category are allowed to be purchased. The proposed action would amend Federal regulations to allow CQEs representing communities in IPHC Area 3A to purchase Area 3A D category halibut quota share, with specified limitations. The prohibition on purchasing D category QS in Area 2C would remain. This issue was submitted as an IFQ proposal during the 2009 call for IFQ proposals, and an analysis was initiated by the Council in February 2010.¹ The Council reviewed the initial draft analysis in December 2010, approved changes, and scheduled final action on the revised analysis at its February 2011 meeting.

In effect, D shares are often used for smaller operations, or new entrants, and there is a relatively small amount of D share quota designated in each area. Generally, D shares are the least expensive category of halibut QS, as they can only be used on the smallest category of vessel.² One of the primary reasons the Council established a prohibition on the CQE purchase of D shares was to help ensure that D shares would continue to be available to new entrants and crew members that wanted to start their own businesses. There was concern that an influx of CQEs in Area 2C and 3A would drive up the market for D shares, and result in more expensive, and fewer available, shares for individuals. CQEs, like any new entrant, have had difficulty in funding the purchase of QS, and very little QS has been purchased through the program to-date. The least costly category of QS is preferred, and it corresponds to the type of vessel that most residents use in these smaller communities. In addition, about one-third of the QS currently held by residents of the eligible communities in Area 3A is D category; individuals that wish to transition out of the fishery may desire to sell their QS to the CQE in order to ensure it remains within the community.

The analysis examines two alternatives, one of which is the no action alternative. The alternatives under consideration are as follows:

Alternative 1. No action. Regulations at 50 CFR 679.41(g)(5) would remain unchanged. Current regulations state that "A CQE may not hold QS in halibut IFQ regulatory areas 2C or 3A that is assigned to vessel category D."

Alternative 2. Community Quota Entities located in halibut management Area 3A are permitted to purchase Area 3A "D" category quota share with the following limitations:

¹*IFQ proposal to allow CQE communities to purchase QS in all vessel categories*, submitted by Gulf Coastal Communities Coalition, May 27, 2009.

²The exception to this rule is that D shares can be 'fished up' on vessels ≤60' LOA (C category) in Areas 3B and 4C. See 72 FR 44795, August 9, 2007. This rule was implemented to address economic hardship and safety concerns resulting from fishing in small vessels in these areas. These areas are unaffected by this action. Note that there is a current proposal for consideration by the Council that would allow D category QS to be 'fished up' and used on C category vessels in Area 4B.

- a. Area 3A "D" category quota share purchased by Area 3A CQEs must have the annual IFQ fished on "D" category vessels ($\leq 35'$ LOA).
- b. Area 3A CQEs are limited in their cumulative purchase of "D" category quota shares to an amount equal to the total "D" category quota shares that were initially issued to individuals that resided in Area 3A CQE communities.
- c. Area 3A CQEs may purchase any size block of "D" category quota share.

The action alternative (Alternative 2) would revise Federal regulations at 50 CFR 679.41(g)(5) to allow Area 3A CQEs to hold a limited amount of D category halibut QS in Area 3A. Alternative 2 would also require that any D category halibut QS that is purchased by a CQE could only be used on a D category vessel. Existing regulations exempt CQEs from the vessel size (share class) restrictions when the QS is held by the CQE. The second provision under Alternative 2 would limit the amount of D category QS that could be purchased in total by Area 3A CQEs to the amount that was initially issued to individual residents of Area 3A CQE communities.

The CQE Program also currently restricts the size of blocked QS CQEs may purchase; CQEs are prohibited from purchasing a halibut QS block in Area 3A if it is less than or equal to 46,520 QS units (i.e., the sweep-up limit; about 5,000 lbs in Area 3A in 2010). In December, during initial review, the Council reviewed data that showed that CQEs would not have access to 62% of the D category QS pool in Area 3A if CQEs were restricted to purchasing unblocked QS and QS in blocks greater than the sweep-up limit. In addition, the problem statement recognizes that one potential source of quota share for CQEs is quota held by residents of the CQE communities, as they retire or transition to a different type of QS. Of the total catcher vessel QS held by the Area 3A CQE communities, about 30% is D category, and the vast majority of that (70%) is in small blocks. Upon review, the Council added a third provision under Alternative 2 that would allow Area 3A CQEs to purchase any size block of D category QS in Area 3A, up to the limits specified below.

Under Alternative 2, the maximum effect is that CQEs representing communities in Area 3A would cumulatively be eligible to purchase up to 1,223,740 QS units of D category Area 3A halibut QS, which represents 9.6% of the total Area 3A D category quota share pool. Using the 2010 TAC, this equates to 132,293 lbs in 2010. [Note that the IPHC staff recommendation for the 2011 catch limit in Area 3A is 28% lower than the 2010 catch limit. Final 2011 catch limits will be approved in late January.] In sum, under Alternative 2, if Area 3A CQEs were to purchase D shares, they could cumulatively purchase up to 9.6% of the total D category QS pool, in either unblocked or blocked shares, and the IFQ derived from this QS could only be used on D category vessels (catcher vessels $\leq 35'$ LOA). Currently, 10% of the Area 3A D category QS is unblocked, 28% is blocked at levels greater than the sweep-up limit (large blocks), and 62% is blocked at levels less than or equal to the sweep-up limit (small blocks). As of mid-2010, there were 50 large blocks and 553 small blocks of D category QS in Area 3A. Each CQE would continue to be limited to purchasing a total of 10 blocks of halibut quota share in Area 3A.

Effects on Area 3A CQEs

The proposed action implies that the rules addressing CQE purchases in the original CQE Program have, to-date, failed to achieve some of the Council's objectives with respect to preserving fishing opportunity in small communities. The purpose of the action is therefore to have distributional effects, to allow some redistribution of the smallest vessel category QS from individuals to CQEs. The maximum effect could be a redistribution of 1,223,740 QS units of D category Area 3A halibut QS, which represents 9.6% of the current total Area 3A D category quota share pool.

9

Regardless of the intent, the effect of Alternative 2 depends upon the extent to which CQEs desire to and are capable of purchasing D category halibut QS in Area 3A. Given the financially prohibitive factors for CQEs and any new entrant to finance a QS purchase, and the current trends in transfer rates, analysts cannot speculate as to whether the proposed action would have the intended effect. While CQEs would likely continue to have difficulty in funding the purchase of QS and participating in the CQE Program, this action would potentially provide a better opportunity for communities to participate in the market.

In the future, forthcoming actions (i.e., fixed gear permits for Pacific cod in the Central Gulf and community charter halibut permits in Area 3A, both issued to CQEs at no cost and non-transferable)³ could potentially provide seed money for Area 3A CQEs to purchase halibut and sablefish QS, as CQEs lease licenses to individual residents. As D category QS appears to be the most desirable for residents of small communities (the amount and percentage of D share holdings by residents of Area 3A CQE communities has increased slightly over time, as opposed to B and C shares), CQEs may look to transition D share purchases to individual community residents in the long-run. One would expect Alternative 2 would provide a better opportunity for CQEs to leverage those assets to purchase QS, and potentially use those QS purchases to build on both CQE-held and individually-held QS.

Effects on IFQ fishery participants

No significant effect on individual participants in the IFQ fisheries, or residents of non-CQE communities, is anticipated under Alternative 2 compared to the status quo. The primary effect on existing participants would be the potential for greater competition in the market for purchasing D category QS, which could result in a higher price. However, several factors limit the impact of the proposed action, most importantly the cumulative limit on the amount of D category QS CQEs would be allowed to purchase. Under Alternative 2, CQEs would be limited to purchasing a relatively small percentage of the overall pool of Area 3A D category QS (9.6%). In addition, under the existing CQE Program rules, a CQE is limited to purchasing a maximum of 10 blocks of halibut QS in Area 3A in total. Due to the cumulative limit, it is likely that non-CQE participants would be marginally negatively affected by the proposed action. Only non-CQE participants would continue to have access to over 90% of the D category QS in Area 3A, without potential competition from CQEs. This action also would not affect IFQ participants' access to other categories (B and C) of catcher vessel quota share, nor would it affect their access to D category QS in areas other than Area 3A.

Based on the analysis and criteria under Presidential Executive Order 12866, the proposed action does not constitute a significant regulatory action, recognizing that there may be distributional impacts among the various participants affected.

³The programs containing these provisions (GOA Am. 86 and the Area 2C/3A halibut charter limited entry program), have not yet been implemented.

MEMORANDUM

TO: Council and AP Members
FROM: 
Chris Oliver
Executive Director

ESTIMATED TIME
4 HOURS
(all C-1 items)

DATE: February 1, 2011

SUBJECT: Halibut/Sablefish IFQ Program

ACTION REQUIRED

(b) Final action on CQE Area 3A purchase of Area 3A D category halibut quota

BACKGROUND

The Council approved the Community Quota Entity (CQE) Program as an amendment to the halibut and sablefish IFQ Program in 2002 (GOA Amendment 66), and the program was implemented in 2004. Halibut quota share is designated under four vessel categories: freezer (catcher processor) category (A share); catcher vessels greater than 60' LOA (B share); catcher vessels 36' to 60' LOA (C share); and catcher vessels 35' LOA or less (D share). Under the original IFQ Program, only persons who were originally issued catcher vessel quota share (B, C, and D category QS) or who qualify as IFQ crew members¹ were allowed to hold or purchase catcher vessel quota share. Thus, only individuals² and initial recipients could hold catcher vessel quota share. The CQE Program was developed in order to allow a distinct set of 42 small, remote coastal communities located in the Gulf of Alaska to purchase halibut and sablefish catcher vessel quota share, in order to maintain access to these fisheries.

In order to participate, eligible communities must form non-profit corporations called Community Quota Entities (CQEs) to purchase catcher vessel QS, and the IFQ resulting from the QS is leased to community residents annually. In effect, the CQE remains the holder of the QS, creating a permanent asset for the community to use to benefit the community and its residents. The QS can only be sold in order to improve the community's position in the program, or to meet legal requirements, thus, the QS must remain with the community entity.

The existing CQE Program prohibits CQEs representing communities in IPHC regulatory Area 2C and Area 3A from purchasing D category halibut quota share; only B and C category are allowed to be purchased. Generally, D shares are the least expensive category of halibut QS, as they can only be used on the smallest category of vessel. Category D quota shares are often used by smaller operations, or new entrants, and there is a relatively small amount of D share quota designated in each area. One of the primary reasons the Council established a prohibition on the CQE purchase of D shares was to help ensure that D shares would continue to

¹IFQ crew member means any individual who has at least 150 days experience working as part of the harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS (50 CFR 679.2).

²Per 50 CFR 679.2: Individual means a natural person who is not a corporation, partnership, association, or other such entity.

be available to new entrants and crew members that wanted to start their own businesses. There was concern that an influx of CQEs in Area 2C and 3A would drive up the market for D shares, and result in more expensive, and fewer available, shares for individuals. CQEs, like any new entrant, have had difficulty in funding the purchase of QS, and very little QS has been purchased through the program to-date. Allowing CQEs to purchase the least costly category of QS may help facilitate the purchase of QS and participation in the program. In addition, D category QS corresponds to the type of vessel that most residents use in these smaller communities.

The proposed action would amend Federal regulations to allow CQEs representing communities in Area 3A to purchase Area 3A D category halibut quota share, with specified limitations. The prohibition on purchasing D category QS in Area 2C would remain. There are fourteen eligible CQE communities in Area 3A, eight of which have formed CQEs approved by NMFS to-date. The proposed action includes two alternatives:

Alternative 1. No action. Regulations at 50 CFR 679.41(g)(5) would remain unchanged. Current regulations state that “A CQE may not hold QS in halibut IFQ regulatory areas 2C or 3A that is assigned to vessel category D.”

Alternative 2. Community Quota Entities located in halibut management Area 3A are permitted to purchase Area 3A “D” category quota share with the following limitations:

- a. Area 3A “D” category quota share purchased by Area 3A CQEs must have the annual IFQ fished on “D” category vessels ($\leq 35'$ LOA).
- b. Area 3A CQEs are limited in their cumulative purchase of “D” category quota shares to an amount equal to the total “D” category quota shares that were initially issued to individuals that resided in Area 3A CQE communities.
- c. Area 3A CQEs may purchase any size block of “D” category quota share.

The Council reviewed the initial review draft analysis in December 2010 and approved a purpose and need statement and released the analysis for public review with several revisions. Upon review of the data indicating that the majority of D category QS in Area 3A is in small blocks (less than or equal to the sweep-up limit of 46,520 QS units), the Council added a provision to Alternative 2 that would allow CQEs to purchase any size block of D category QS in Area 3A. CQEs would continue to be limited to purchasing only larger blocks of B and C category QS. The Council also requested more detailed data on the block size of QS holdings by residents of the fourteen Area 3A communities eligible for the CQE Program, as well as further discussion of whether CQEs would be expected to have a financial advantage in purchasing catcher vessel QS. The December Council motion is attached as **Item C-1(b)(1)**, and the executive summary is attached as **Item C-1(b)(2)**.

The analysis was sent to you on January 8, and final action is scheduled for this February meeting.

Council Motion
Allow CQE Communities in Area 3A to purchase D category halibut quota share
December 10, 2010

The Council moves that the analysis regarding the purchase of Area 3A "D" category halibut quota shares be sent out for public review after the following revisions:

1. Add Alternative 2 subpart (c):
(c) Area 3A Community Quota Entities (CQEs) may purchase any size block of "D" category quota.
2. Inclusion of breakdown of the Area 3A quota share that is held by residents of eligible Area 3A CQE communities, by block size.
3. Amplified discussion on whether or not CQE communities have financial advantages when purchasing "D" category quota shares, and whether or not individual fishermen in CQE communities are disadvantaged by allowing CQEs to purchase D category quota share.

The Council adopts the following purpose and needs statement:

Area 3A CQE communities were created approximately 10 years after the halibut and sablefish IFQ Program was implemented in an attempt to provide for the sustained participation of these communities in the halibut and sablefish fisheries and to mitigate adverse economic impacts on these communities caused by the program. Most CQE communities had experienced the substantial loss or migration of locally owned quota shares. The CQE Program allowed these communities to purchase limited amounts of "B" and "C" category halibut and sablefish quota to hold in trust for use by community residents. However, because CQE community entities were new organizations without assets, it has been difficult for them to access Area 3A "B" and "C" category quota. One potential source of quota share for CQEs is quota held by residents of the CQE communities. Residents of CQE communities are more likely to be willing to "self finance" CQE purchase of their quota shares. However, much of the quota currently held by residents of Area 3A CQE communities is "D" class quota and therefore not available for CQE purchase. In addition, "D" category quota held by non-CQE community residents generally sells for a slightly lower purchase price and is therefore more accessible to first time quota purchasers like the CQEs. Allowing Area 3A CQE community entities to purchase "D" category quota will enhance CQE quota acquisition possibilities and further the goals of the Council to enable CQE communities to sustain community participation in the fishery as well as mitigate economic impact.

EXECUTIVE SUMMARY

This Regulatory Impact Review (RIR) was prepared to evaluate the economic and socioeconomic effects of a proposed Federal regulatory amendment, as required under Presidential Executive Order 12866. The proposed amendment would be a revision to the Gulf of Alaska Community Quota Entity (CQE) Program, which was approved by the North Pacific Fishery Management Council (Council) in 2002 and implemented by NMFS in 2004, under Amendment 66 to the Gulf of Alaska (GOA) Fishery Management Plan. The program was developed in order to allow a distinct set of 42 small, remote coastal communities located in the Gulf of Alaska to purchase catcher vessel quota share (QS) under the existing halibut and sablefish Individual Fishing Quota (IFQ) Program.

Halibut quota share is designated under four vessel categories: freezer (catcher processor) category (A share); catcher vessels greater than 60' LOA (B share); catcher vessels 36' to 60' LOA (C share); and catcher vessels 35' LOA or less (D share). The existing CQE Program prohibits CQEs representing communities in halibut IFQ regulatory Area 2C and Area 3A from purchasing D category halibut quota share; only B and C category are allowed to be purchased. The proposed action would amend Federal regulations to allow CQEs representing communities in IPHC Area 3A to purchase Area 3A D category halibut quota share, with specified limitations. The prohibition on purchasing D category QS in Area 2C would remain. This issue was submitted as an IFQ proposal during the 2009 call for IFQ proposals, and an analysis was initiated by the Council in February 2010.¹ The Council reviewed the initial draft analysis in December 2010, approved changes, and scheduled final action on the revised analysis at its February 2011 meeting.

In effect, D shares are often used for smaller operations, or new entrants, and there is a relatively small amount of D share quota designated in each area. Generally, D shares are the least expensive category of halibut QS, as they can only be used on the smallest category of vessel.² One of the primary reasons the Council established a prohibition on the CQE purchase of D shares was to help ensure that D shares would continue to be available to new entrants and crew members that wanted to start their own businesses. There was concern that an influx of CQEs in Area 2C and 3A would drive up the market for D shares, and result in more expensive, and fewer available, shares for individuals. CQEs, like any new entrant, have had difficulty in funding the purchase of QS, and very little QS has been purchased through the program to-date. The least costly category of QS is preferred, and it corresponds to the type of vessel that most residents use in these smaller communities. In addition, about one-third of the QS currently held by residents of the eligible communities in Area 3A is D category; individuals that wish to transition out of the fishery may desire to sell their QS to the CQE in order to ensure it remains within the community.

The analysis examines two alternatives, one of which is the no action alternative. The alternatives under consideration are as follows:

Alternative 1. No action. Regulations at 50 CFR 679.41(g)(5) would remain unchanged. Current regulations state that "A CQE may not hold QS in halibut IFQ regulatory areas 2C or 3A that is assigned to vessel category D."

Alternative 2. Community Quota Entities located in halibut management Area 3A are permitted to purchase Area 3A "D" category quota share with the following limitations:

¹IFQ proposal to allow CQE communities to purchase QS in all vessel categories, submitted by Gulf Coastal Communities Coalition, May 27, 2009.

²The exception to this rule is that D shares can be 'fished up' on vessels ≤60' LOA (C category) in Areas 3B and 4C. See 72 FR 44795, August 9, 2007. This rule was implemented to address economic hardship and safety concerns resulting from fishing in small vessels in these areas. These areas are unaffected by this action. Note that there is a current proposal for consideration by the Council that would allow D category QS to be 'fished up' and used on C category vessels in Area 4B.

- a. Area 3A "D" category quota share purchased by Area 3A CQEs must have the annual IFQ fished on "D" category vessels ($\leq 35'$ LOA).
- b. Area 3A CQEs are limited in their cumulative purchase of "D" category quota shares to an amount equal to the total "D" category quota shares that were initially issued to individuals that resided in Area 3A CQE communities.
- c. Area 3A CQEs may purchase any size block of "D" category quota share.

The action alternative (Alternative 2) would revise Federal regulations at 50 CFR 679.41(g)(5) to allow Area 3A CQEs to hold a limited amount of D category halibut QS in Area 3A. Alternative 2 would also require that any D category halibut QS that is purchased by a CQE could only be used on a D category vessel. Existing regulations exempt CQEs from the vessel size (share class) restrictions when the QS is held by the CQE. The second provision under Alternative 2 would limit the amount of D category QS that could be purchased in total by Area 3A CQEs to the amount that was initially issued to individual residents of Area 3A CQE communities.

The CQE Program also currently restricts the size of blocked QS CQEs may purchase; CQEs are prohibited from purchasing a halibut QS block in Area 3A if it is less than or equal to 46,520 QS units (i.e., the sweep-up limit; about 5,000 lbs in Area 3A in 2010). In December, during initial review, the Council reviewed data that showed that CQEs would not have access to 62% of the D category QS pool in Area 3A if CQEs were restricted to purchasing unblocked QS and QS in blocks greater than the sweep-up limit. In addition, the problem statement recognizes that one potential source of quota share for CQEs is quota held by residents of the CQE communities, as they retire or transition to a different type of QS. Of the total catcher vessel QS held by the Area 3A CQE communities, about 30% is D category, and the vast majority of that (70%) is in small blocks. Upon review, the Council added a third provision under Alternative 2 that would allow Area 3A CQEs to purchase any size block of D category QS in Area 3A, up to the limits specified below.

Under Alternative 2, the maximum effect is that CQEs representing communities in Area 3A would cumulatively be eligible to purchase up to 1,223,740 QS units of D category Area 3A halibut QS, which represents 9.6% of the total Area 3A D category quota share pool. Using the 2010 TAC, this equates to 132,293 lbs in 2010. [Note that the IPHC staff recommendation for the 2011 catch limit in Area 3A is 28% lower than the 2010 catch limit. Final 2011 catch limits will be approved in late January.] In sum, under Alternative 2, if Area 3A CQEs were to purchase D shares, they could cumulatively purchase up to 9.6% of the total D category QS pool, in either unblocked or blocked shares, and the IFQ derived from this QS could only be used on D category vessels (catcher vessels $\leq 35'$ LOA). Currently, 10% of the Area 3A D category QS is unblocked, 28% is blocked at levels greater than the sweep-up limit (large blocks), and 62% is blocked at levels less than or equal to the sweep-up limit (small blocks). As of mid-2010, there were 50 large blocks and 553 small blocks of D category QS in Area 3A. Each CQE would continue to be limited to purchasing a total of 10 blocks of halibut quota share in Area 3A.

Effects on Area 3A CQEs

The proposed action implies that the rules addressing CQE purchases in the original CQE Program have, to-date, failed to achieve some of the Council's objectives with respect to preserving fishing opportunity in small communities. The purpose of the action is therefore to have distributional effects, to allow some redistribution of the smallest vessel category QS from individuals to CQEs. The maximum effect could be a redistribution of 1,223,740 QS units of D category Area 3A halibut QS, which represents 9.6% of the current total Area 3A D category quota share pool.

Regardless of the intent, the effect of Alternative 2 depends upon the extent to which CQEs desire to and are capable of purchasing D category halibut QS in Area 3A. Given the financially prohibitive factors for CQEs and any new entrant to finance a QS purchase, and the current trends in transfer rates, analysts cannot speculate as to whether the proposed action would have the intended effect. While CQEs would likely continue to have difficulty in funding the purchase of QS and participating in the CQE Program, this action would potentially provide a better opportunity for communities to participate in the market.

In the future, forthcoming actions (i.e., fixed gear permits for Pacific cod in the Central Gulf and community charter halibut permits in Area 3A, both issued to CQEs at no cost and non-transferable)³ could potentially provide seed money for Area 3A CQEs to purchase halibut and sablefish QS, as CQEs lease licenses to individual residents. As D category QS appears to be the most desirable for residents of small communities (the amount and percentage of D share holdings by residents of Area 3A CQE communities has increased slightly over time, as opposed to B and C shares), CQEs may look to transition D share purchases to individual community residents in the long-run. One would expect Alternative 2 would provide a better opportunity for CQEs to leverage those assets to purchase QS, and potentially use those QS purchases to build on both CQE-held and individually-held QS.

Effects on IFQ fishery participants

No significant effect on individual participants in the IFQ fisheries, or residents of non-CQE communities, is anticipated under Alternative 2 compared to the status quo. The primary effect on existing participants would be the potential for greater competition in the market for purchasing D category QS, which could result in a higher price. However, several factors limit the impact of the proposed action, most importantly the cumulative limit on the amount of D category QS CQEs would be allowed to purchase. Under Alternative 2, CQEs would be limited to purchasing a relatively small percentage of the overall pool of Area 3A D category QS (9.6%). In addition, under the existing CQE Program rules, a CQE is limited to purchasing a maximum of 10 blocks of halibut QS in Area 3A in total. Due to the cumulative limit, it is likely that non-CQE participants would be marginally negatively affected by the proposed action. Only non-CQE participants would continue to have access to over 90% of the D category QS in Area 3A, without potential competition from CQEs. This action also would not affect IFQ participants' access to other categories (B and C) of catcher vessel quota share, nor would it affect their access to D category QS in areas other than Area 3A.

Based on the analysis and criteria under Presidential Executive Order 12866, the proposed action does not constitute a significant regulatory action, recognizing that there may be distributional impacts among the various participants affected.

³The programs containing these provisions (GOA Am. 86 and the Area 2C/3A halibut charter limited entry program), have not yet been implemented.