

**DISCUSSION PAPER**  
**on the**  
**CATCH PROPOSAL**  
**for a**  
**RECREATIONAL QUOTA ENTITY in the COMMERCIAL HALIBUT IFQ PROGRAM**

**September 2014**

**Summary**

This paper reviews a proposal from representatives of the guided sport (charter) halibut sector to amend Federal fishery regulations that govern the Pacific halibut commercial Individual Fishing Quota (IFQ) fishery. The proposal would provide a market-based (compensated) reallocation of halibut from the commercial sector to the charter sector in International Pacific Halibut Commission's (IPHC) regulatory Area 2C and Area 3A. This reallocation would allow for a permanent increase in the charter sector allocation established under the Halibut Catch Sharing Plan (CSP). The reallocation also could allow for increases in the size limit and/or bag limit from those set under the current CSP allocation to the charter sector. The paper discusses the concept of the CATCH (Catch Accountability through Compensated Halibut) proposal from a policy and implementation perspective. It does not address the need for the program, which ultimately is the Council's decision, nor the data that would be used for the required analyses. Staff anticipates the Council would address a timeline for action if it decides to move the proposal forward for additional discussion or analysis.

Charter halibut representatives in Area 2C and Area 3A note that the allocation to the charter sector under the CSP restricts charter anglers to daily size and bag limits that are more restrictive than traditional limits for charter anglers in those areas. The charter representatives have identified that a mechanism external to the CSP is needed to increase the sector's allocation in order to increase the size and bag limits relative to what they would be under the CSP charter

allocation. The charter representatives developed the CATCH proposal as their preferred mechanism to increase the charter sector's allocation. The charter representatives met in summer 2014 with charter operators in communities in areas 2C and 3A to review the proposal and may report to the Council on support for the program.

1. What is the CATCH proposal?
2. What is the degree of difficulty of a RQE program?
3. Is the CQE program an example or a model?
4. Chicken or egg?
5. When is enough, enough?
6. How much is too much?
7. How would charter fishery management change?
8. Would the GAF program be retained?

This paper addresses the concept of a Recreational Quota Entity (RQE) as a holding entity of commercial halibut quota share (QS) on behalf of charter anglers in Area 2C and Area 3A. A series of policy questions for moving the CATCH proposal forward (see box) regarding timing and process are addressed below.

Prior to initiating a regulatory amendment, staff recommends the Council identify the purpose and need (problem statement) for the proposed action, its goal and objectives for taking action, and a timeline for analysis, review, public comment, and implementation. No legal issues have been identified at this time that would hinder the implementation of a new entity to hold commercial QS on behalf of the charter sector. However, additional operational and implementation issues likely would need to be addressed by Council staff and/or NMFS staff once the Council makes some preliminary policy decisions.

## **Background**

The CATCH Project is collaboration between the Alaska Charter Association (ACA) and the South East Alaska Guides Organization (SEAGO). The objective of the CATCH Project is to outline a method to increase halibut resources available for harvest by charter anglers in areas 2C and 3A. During development of the CSP (see Appendix 1), representatives of ACA and SEAGO informed the Council of their intent to propose a new compensated reallocation approach for both areas. Representatives testified during public hearings on the CSP and through the Council's committee process that their members believed the CSP allocation to the charter sector and the Guided Angler Fish (GAF) program<sup>1</sup> would not provide sufficient harvesting opportunities for charter anglers to retain the traditional charter sector daily bag limits of two fish of any size during periods of high Pacific halibut abundance in both areas, and one fish of any size during periods of low halibut abundance in Area 2C. Bag and size limit reductions<sup>2</sup> from the traditional limit of 2-fish of any size were implemented in 2007 in Area 2C and in 2014 in Area 3A due to reductions in the amount of halibut available for harvest in these areas.

In February 2014, the representatives from CATCH Project presented to the Council an executive summary<sup>3</sup> of a report entitled, "Integrating a Recreational Fishery into a Catch Share Program: Case Study of Alaska's Guided Halibut Sport Fishery."<sup>4</sup> A supporting economic study<sup>5</sup> also was provided to the Council. Preparation of the CATCH report and the economic study was funded by a grant from the National Fish and Wildlife Foundation. The CATCH report proposed an amendment to Federal regulations for the halibut IFQ Program to allow an additional type of "person" to hold commercial halibut QS.

Council staff worked with the CATCH Board of Directors after its February 2014 presentation to the Council in order to refine the proposal to amend Federal regulations to allow commercial halibut QS in Area 2C and Area 3A to be transferred to the charter sector via a Recreational Quota Entity (RQE).

Staff clarified that the Council has no jurisdiction regarding potential funding sources that an RQE might use to purchase halibut QS, and recommended that issue should not be part of the proposal to the Council. Implementation components also were not included as part

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<sup>1</sup> The GAF program is a component of the CSP that allows an annual lease of commercial halibut IFQ to individual charter halibut permit holders so that his/her charter anglers can harvest halibut subject to the same bag and size limits as unguided anglers (i.e., 2 fish of any size),

<sup>2</sup> In 2014, the daily harvest limit for charter anglers in Area 2C was 1 fish < 44 inches or > 76 inches; and in Area 3A was 2 fish, with 1 fish ≤ 29 inches

<sup>3</sup> <https://npfmc.legistar.com/View.ashx?M=F&ID=2894527&GUID=54B3B9A2-BA8C-4796-849F-A1BE27012954>

<sup>4</sup> <https://npfmc.legistar.com/View.ashx?M=F&ID=2899852&GUID=655EE2E7-8F5A-4057-A5B3-D7905D564987>

<sup>5</sup> <https://npfmc.legistar.com/View.ashx?M=F&ID=2894928&GUID=FBB66B41-93EE-47A8-8BB8-DD8E3711F29D>

of the proposal and were deferred to the Council and NMFS for development if the Council decides to move the proposal forward for additional discussion or analysis. The proposal also does not include QS transfer restrictions, which Council staff advised could be deferred to the Council's development and review process. Therefore the specific proposal for an RQE program that is the subject of this discussion paper is a narrow refinement of the CATCH report and economic study. The proposers sent an email to Council staff on June 20, 2014 confirming that the Board accepted the document included as Appendix 2 of this discussion paper as its proposal to the Council.

In July 2014 communications with NMFS staff, however, the proposers sought feedback from NMFS on proposed recordkeeping and reporting recommendations and implementation components contained in the CATCH report but not specified in the proposal to the Council. If the Council decides to move the RQE proposal forward for additional discussion or analysis, NMFS staff will provide input on regulatory and implementation components of the proposed action as it is developed through the Council process.

### ***What is the CATCH proposal?***

The CATCH proposal recommends that the Council authorize an RQE to hold Area 2C and Area 3A commercial halibut QS. The proposed RQE would be a non-profit entity. The RQE would purchase commercial halibut QS from willing (commercial) sellers and hold it in a "common pool" for use by all charter anglers. The annual IFQ derived from the QS held in the RQE common pool would be used to supplement the charter halibut allocation specified in the CSP<sup>6</sup>, thereby increasing access to the fishery for all charter anglers. The CATCH proposal did not identify whether the RQE program is intended to replace the GAF program. Staff assumes that at least initially, the RQE program would be in addition to, and not replace, the GAF program. See the "Review of GAF program" section below for additional discussion.

The RQE program would provide charter anglers new management tools to permanently increase the allocation to the charter fishery, with the aim to provide relief from the economic impacts of more restrictive daily bag and size limits, maintain public access to the fishery, and provide stability to the charter sector. The RQE proposal is intended to offer a market-based solution for addressing allocation issues without undermining the conservation goals of the commercial IFQ Program. Quota share transfers would occur between willing sellers and willing buyers, providing commercial QS holders with an additional market for their QS. By increasing fishing opportunities for charter anglers, the RQE proposal is intended to result in a more economically viable and stable charter sector, and benefit Alaska's coastal communities.

The proposal, as described in the CATCH reports, would work in the following way. One RQE would operate as a "holding entity" to purchase, hold, and manage commercial halibut QS on behalf of the charter halibut sector in both Area 2C and Area 3A. The identification of a new "person" to hold commercial halibut QS in the Alaska Halibut and Sablefish IFQ Program could be the entire action alternative in an amendment to Federal regulations.

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<sup>6</sup> The charter sector halibut catch limit is determined annually when the IPHC sets a combined commercial and charter halibut catch limit and then applies the Council's CSP sector allocations.

Some process actions would be part of the proposed amendment, including adding the pool of annual commercial halibut IFQ derived from the RQE holdings of halibut QS (at a given date) to the annual charter sector allocation specified by the CSP. This revised allocation would be the basis from which the NPFMC and IPHC would recommend the next season's charter harvest management measures.

Recommended in the CATCH reports, but not specified in the CATCH proposal are 1) improved accountability tools and reporting requirements to ensure that harvest by charter anglers is monitored with the level of accountability required for a catch share program; and 2) potential limits on commercial QS transfers to the charter sector to maintain the objectives of the IFQ program to limit consolidation of QS holdings. While the RQE program could be a one-way QS transfer from the commercial sector to the charter sector (similar to the commercial Community Entity Program (CQE) program), the Council also could recommend that QS held by the RQE could be returned to the commercial sector at times of high halibut abundance when the CSP would allocate more halibut than is likely to be harvested in the charter fishery. The proposal also recognizes the potential interest, but not necessity, for implementing specific QS transfer and use restrictions for an RQE, as occurred for the CQE program.

Other CATCH elements related to funding and debt retirement are outside Council jurisdiction and Federal regulation and will not be addressed in this paper (or likely any future Council documents); however, this paper notes that difficulties in securing funding have constrained the ability of CQEs to purchase QS. The Gulf of Alaska CQE provisions was implemented before community entities secured funding sources to finance community purchases (transfers) of commercial halibut QS. The Council may wish to consider experience with these aspects of the CQE program if it recommends development and implementation of an RQE program (see Appendix 3).

### ***Degree of difficulty?***

The Council could initiate a simple regulatory amendment to allow an RQE to hold commercial QS, with no other constraints. This approach would be the simplest to analyze, review, and implement. From an economic perspective it would allow the market to determine the "correct" allocation between the commercial sector and charter sector. It responds to the commercial sector's previously stated position that any reallocation to the charter sector should compensate the commercial sector.

Alternatively the Council may wish to consider constraints on QS transfers to RQEs (see the "How much is too much?" section for additional discussion). It could consider the trade-offs between the policy benefits it could identify for such constraints and additional analysis, review, and implementation costs.

The Council included QS transfer constraints in the CQE program (see Appendix 3 for additional detail). A review of the CQE program was provided to the Council in 2010.<sup>7</sup> It identified program-related restrictions, including QS and IFQ use restrictions, and subsequent regulatory amendments recommended to relieve some of the original restrictions. As reported, "There are also several program-related restrictions that

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<sup>7</sup> [Http://www.npfmc.org/wp-content/PDFdocuments/halibut/CQEREport210.pdf](http://www.npfmc.org/wp-content/PDFdocuments/halibut/CQEREport210.pdf)

communities have cited as prohibitive, and in some cases, may add to the risk for financiers. Thus, the program-related restrictions and financial issues cannot be completely separated.”

### ***CQE as example or model?***

The community quota entity (CQE) provisions of the commercial IFQ program may function as a model for a third party QS holding entity. The CQE programs in the Gulf of Alaska and the Aleutian Islands authorize non-profit entities representing eligible communities to purchase halibut and sablefish QS. The programs are intended to provide economic benefits to the communities and promote participation in the fisheries by community residents. There are 46 eligible communities under the CQE Program: 23 are in Area 2C, 14 are in Area 3A; 8 are in Area 3B; and one is in Area 4B. As of 2014, 30 CQEs have been formed, representing 31 communities. Fifteen of those communities are in Area 2C, 15 are in Area 3, and one is in Area 4B. Only three CQEs, representing Old Harbor (Area 3A), Ouzinkie (Area 3A), and Adak (Area 4B) have purchased halibut QS, and the Aleutian Islands CQE has purchased sablefish QS. Old Harbor has been participating in the CQE program using halibut QS since 2006, obtained through a private financing arrangement. Ouzinkie purchased QS in 2011, and Adak purchased halibut and sablefish QS in 2014.

The Council should clarify whether to use the CQE program *only as an example* of a third party entity that is a basis for the RQE proposal, or as *a model* for developing an RQE program that could include restrictions on QS transfer, as described below. While Council staff recommended using the CQE program for developing the CATCH proposal, whether it is a model or an example is a policy decision for the Council.

### ***Chicken or egg?***

Should the Council and NMFS invest their staff/Council agenda/financial resources to implement a controversial sector reallocation provision prior to *or* after the charter sector identifies a funding source for the purchase of holding commercial halibut QS on behalf of charter anglers? As described in the previous section, the CQE program was implemented in the Gulf of Alaska before community entities secured funding sources to finance QS purchases, and only a limited number of CQEs have obtained halibut QS in the nearly 10 years of the program’s existence. The Council may use the CQE program example to guide it in its determination of whether to recommend another such program in which an RQE may experience similar difficulties in obtaining financing for QS purchases.

The CQE program review described some impediments to financing QS purchases, as follows.

“In addition to the current price and availability of QS, one of the biggest challenges facing CQEs appears to be the financing terms associated with currently available funding. Specifically, the lack of low interest, long-term loans, and high down payment requirements, are cited as primary obstacles. The lack of credit history and the fact that they are non-profit organizations likely also increases the perceived risk to lenders. Thus, a loan guarantee program has been discussed as necessary, in which larger, more established corporations, or the Federal government, could guarantee CQE loans.

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A few recent developments could help overcome the financial barriers to implementation. One possible alternative to conventional financing is through the North Pacific Fisheries Trust, as described in Section VI. The Trust was formed to provide financing with more flexible terms for CQEs and other entities that have community economic development goals, and one of the primary components of the Trust's strategy is to pursue long-term funding relationships with qualified CQEs. The one CQE which has purchased QS is currently financed through the Trust, and other CQEs are starting to explore similar opportunities.

Thus, this may be a viable funding mechanism for CQEs in the future; there simply has not been enough time for the program to have achieved its intended effect. . . ."

### ***When is enough, enough?***

What is a *sufficient* amount of commercial QS that may be transferred to the charter sector to increase or restore traditional daily bag and size limits for charter anglers in areas 2C and 3A? For example, some estimates suggest that there is insufficient commercial QS available for purchase in Area 2C to increase the charter bag limits/size limits to 2 fish of any size even at high levels of halibut abundance. Furthermore, QS transfers to the charter sector may occur incrementally over a number of years before reaching a tipping point upon which the charter allocation in each area is sufficient for the Council and the IPHC to recommend increases to daily bag and size limits implemented in recent years or restoration of traditional daily bag and size limits for charter anglers. The Council could consider specifying a minimum threshold for commercial QS transfers to the charter sector to warrant expenditure of Council/NMFS/staff/financial resources to administer the RQE program? If the amount of QS held by the RQE in the common pool would not yield sufficient IFQ to increase daily bag and size limits for all anglers in the charter fishery, the IFQ would not be harvested unless a transfer mechanism was developed to return the IFQ to the commercial sector.

### ***How much is too much?***

#### *IFQ Program Transfer Limits*

What type of restrictions on transfers of halibut QS would the Council recommend for an RQE program? Constraints on QS transfers could include a one-time limitation on individual commercial QS holders for transferring any amount of QS to the RQE. Alternatively, the Council could consider a one-time transfer limit on the total amount of QS transferred to the RQE, in order to constrain or limit the reallocation.

Would a one-way or two-way transfer of halibut QS be preferred? Given expectations of an increase in halibut exploitable biomass in the future, should there be a mechanism (two-way transfer) to return unneeded commercial QS held by the RQE to the commercial sector, either permanently through QS transfers or annually through IFQ leases? If the Council recommends a two-way transfer mechanism and RQEs could return QS and/or IFQ to commercial QS holders, NMFS would need to track QS units and IFQ pounds to ensure that the QS and IFQ could be returned to the commercial QS holder who transferred it to the

RQE (see the “Monitoring Charter Halibut Landings” section below for additional discussion).

### *IFQ Program Use Caps*

The Council established use caps and block holding limits for halibut QS in the IFQ and CQE programs to prevent consolidation of QS holdings and to broadly distribute the benefits from fishing activities among program participants. In other words, use caps were established to ensure that no one entity controlled a large portion of the QS. The existing IFQ Program halibut QS use caps apply by management area: 1 percent of the Area 2C QS pool (599,799 QS units) and 0.5 percent of the combined QS pools for areas 2C, 3A, and 3B (1,502,823 units). Based on a review of the CATCH report and current IFQ Program use caps:

- 1) An RQE likely would need to hold more QS than allowed under existing use caps.
- 2) An RQE could make further limit the ability of CQEs to obtain halibut QS.

An RQE likely would need an exemption from existing use caps and potentially from block holding limits to obtain enough QS to increase charter catch limits to meet program objectives to implement a one halibut of any size daily bag limit in Area 2C and a two halibut of any size per day bag limit in Area 3A for charter anglers. Based on the estimated number of IFQ pounds<sup>8</sup> needed to increase charter catch limits enough to meet program objectives and the current 2014 Quota Share ratio (number of QS units it takes to yield 1 pound of IFQ), the RQE would need to purchase 10,530,486 units of Area 2C QS or 17% of the current Area 2C QS pool, and 19,834,124 units of Area 3A QS or 11% of the current Area 3A QS pool. The Council would have to exempt the RQE(s) from the current use caps and allow the RQE(s) to control a relatively large portion of commercial QS in each area. If an exemption were granted to an RQE, other commercial halibut QS holders may also seek exemptions to increase their holdings of QS. The CATCH report recommends a temporary relaxation of transfer restrictions for all IFQ program participants, but this proposed relaxation was not included in the proposal submitted to the Council. Further analysis would be required on the potential effects of a permanent or temporary exemption from transfer and use cap restrictions.

The formation of an RQE may further limit the ability of CQEs to obtain halibut quota share. An RQE would likely compete with CQEs for access to QS, especially category D QS in Area 3A. Based on its review of the CQE program in 2010, the Council revised the program to enhance access to the halibut fishery by eligible communities by removing a prohibition on CQEs in Area 3A from purchasing category D QS. This revision to the program allows CQEs to purchase a maximum amount of category D quota share in Area 3A.<sup>9</sup> Category D QS is generally the least expensive and most accessible to small operations or new entrants.

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<sup>8</sup> The CATCH report estimates that the RQE would need to receive by transfer 1) 587,000 pounds of halibut in Area 2C to result in a one halibut of any size per day bag limit for charter anglers, and 2) 785,000 pounds of halibut in Area 3A to result in a two halibut of any size per day bag limit for charter anglers.

<sup>9</sup> CQEs in Area 3A are allowed to hold 1,223,740 units of category D halibut QS under Amendment 94 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (78 FR 14490, March 6, 2013).

Further analysis would be required on the potential effects of the RQE program on the ability of CQEs, small operations, and new entrants to purchase halibut QS.

### ***How would charter fishery management change?***

#### *Annual Management Measure Setting Process*

If an RQE is authorized to hold QS and the resulting IFQ is added to the charter sector allocation of halibut under the CSP, the timing of the announcement of annual combined commercial and charter halibut catch limits by the IPHC may complicate the process for setting annual management measures for the charter fishery. Annual catch limits are announced each January at the IPHC annual meeting and the resultant Quota Share ratio and resulting IFQ is calculated shortly thereafter. Permits to harvest IFQ are issued before the commercial season opens, typically in mid-March.

The process for recommending annual management measures for the charter fishery begins the October prior to implementation. In October, the Council's charter management implementation committee recommends a suite of charter management measures to be analyzed for Council consideration. In December each year, the Council makes its recommendation to the IPHC for charter fishery annual management measures for the upcoming year. If the amount of IFQ available is not known until January, it may be difficult to estimate how much IFQ would be added to the charter sector's CSP allocation based on the RQE's QS holdings. Therefore, implementation of an RQE program could introduce additional uncertainty into the Council's December recommendation for management measures that would be most likely to constrain charter harvest to target levels. If the RQE program were implemented, a change to the process for setting annual management measures could be required. This may result in greater year-to-year uncertainty for charter operators. See section 4 of Appendix 1 for additional detail on the process described in the CSP for determining annual management measures for the charter fishery.

#### *Monitoring Charter Halibut Landings*

As described above, if the Council recommends a two-way transfer mechanism and RQEs could return QS and/or IFQ to commercial QS holders, NMFS would need to track QS units and IFQ pounds to ensure that the QS and IFQ could be returned to the commercial QS holder that transferred it to the RQE. The CATCH report proposes development of an electronic monitoring system for the charter fishery to improve the timeliness and accuracy of data. The report also notes that the charter sector would work with state and federal agencies to improve accountability tools and reporting requirements to ensure that charter anglers participate with the level of accountability required for a catch share program. This would be a significant change from the use of ADF&G saltwater charter logbooks as the primary data source for estimating and projecting charter halibut harvests for use by the Council and the IPHC in setting annual management measures for the charter fishery.

Although not specified in the proposal submitted to the Council, the CATCH report suggests that the RQE could manage uncertainties in charter harvests by obtaining enough QS to have a buffer for potential overages, and recommends that an RQE be able to carry over any overages or underages to the next year. NMFS anticipates that allowing overages or



underages also would require a real time reporting system for halibut harvested in the charter fishery. However, NMFS would likely recommend no carryovers for RQEs because of the potential instability it could cause. For example, if the charter sector had an overage in one year, and the catch limits were reduced the following year, the RQE might not have enough surplus IFQ to cover the overage. The CATCH report states that in the event of an overage by the charter sector, more IFQ could be leased to cover it. The RQE program could reduce the amount of available IFQ on the market. What if an insufficient amount of IFQ or no IFQ pounds were available for lease to cover the overage in the charter sector?

#### *Collection of IFQ Cost Recovery Program Fees*

The CATCH report proposes sales of halibut stamps as a potential method for the RQE to fund the purchase of QS. If a halibut stamp program is implemented, NMFS would not be able to administer it because the agency could not collect fees and transfer the money to the RQE. Under Federal law, any fees collected for permit issuance and processing must be turned over to the United States Treasury, not the agency or an outside entity. The RQE program would need to find a different avenue for collecting fees to fund the purchase of QS.

The CATCH report assumes that the RQE would not be required to pay the IFQ program cost recovery fee that commercial QS holders are required to pay. Each year, IFQ participants pay a fee that is 3% or less of the ex-vessel value of the halibut harvested to recover IFQ program management, monitoring, and enforcement costs. In the GAF program, the commercial QS holder is responsible for paying cost recovery fees on the IFQ that he or she leases to a charter operator as GAF. NMFS expects that there would be some recoverable costs associated with managing IFQ accounts for an RQE, and therefore cost recovery would be required. For example, NMFS likely would need to develop a real-time reporting system to monitor the charter sector's harvest of IFQ derived from QS held by the RQE. The costs of developing such a reporting system would be recuperated through cost recovery fees. CATCH proponents may wish to further develop their proposal to consider ways to fund these annual costs.

#### **Would the GAF program be retained?**

Staff has assumed that the RQE program would be in addition to, and not replace, the Guided Angler Fish program. This assumption is based on the, as yet, unknown success of the GAF program, which was implemented in 2014. This assumption is also based on the unknown speed with which the RQE program may take to be implemented and to become "effective" (i.e., it results in an increase in size or bag limit). Until such time as changes occur to the size and/or bag limits in each area, it may be prudent to retain both the GAF and RQE programs. Further, eligible charter halibut permit holders already may have developed business plans for using the GAF program under current regulations; this investment would be disenfranchised if the GAF program was rescinded. The Council could consider removing the GAF program at some point in the future if the RQE program achieves its objective(s).

If the RQE program is implemented and the GAF program is retained, the Council may wish to consider whether IFQ derived from QS held by an RQE could be leased as GAF to

individual charter operators until the RQE obtains sufficient QS to achieve daily bag and size limit goals for the charter fishery.

If the Council recommended that the RQE program replace the GAF program, new regulations could be written such that the GAF program would expire upon implementation of the RQE program. Note however that, as with the CQE program, it may be many years before funding sources for purchasing QS are found and sufficient QS holdings increase the charter sector allocation sufficiently to meet the program's daily bag and size limit goals.

#### *Preliminary report on GAF*

As of September 2, 2014, NMFS had issued 110 Guided Angler Fish (GAF) permits, 91 in Area 2C, and 19 in Area 3A. The total number of GAF fish and IFQ pounds transferred from the commercial halibut sector to the charter halibut sector to date for each area is 1,116 fish (equivalent to 29,498 IFQ pounds in Area 2C), and 910 fish (equivalent to 11,644 IFQ pounds) in Area 3A. Of those transfers, the number of GAF landed is 784 fish (20,698 IFQ pounds) in Area 2C, and 263 fish (3,366 IFQ pounds) in Area 3A. NMFS will provide report to the Council in December 2014 that summarizes GAF transfers and use for the 2014 halibut fishing season.

NMFS expects the price per GAF fish to charter halibut permit holders may increase in 2015, which could affect participation in the program. This price increase may occur because the methodology used to convert IFQ to GAF in the first year of the GAF program will be different than the methodology used in the following years. The 2014 conversion factors were 26.4 lb/fish in Area 2C and 12.8 lb/fish in Area 3A. For example, in 2014, 1,000 pounds of Area 2C IFQ would have been converted to 37 GAF ( $1,000/26.4 = 37.8$  and rounded down to 37 GAF). Because no data were available in the first year of the GAF program on the size of GAF harvested in the charter fishery, conversion factors in each area were based on the average size of all charter halibut harvested in the most recent year without a size limit (2010 for Area 2C and 2013 in Area 3A). Excluding one outlier and transactions in which no money was exchanged or reported, the average price per pound in 2014 was reported to be between \$5 and \$6. Assuming a charter halibut permit holder paid \$5/lb, GAF is estimated to have cost approximately \$132/fish in Area 2C and \$64/fish in Area 3A in 2014. In future years, the IFQ to GAF conversion factors will be based on the average lengths of GAF harvested by area during the previous season. To date, the average lengths reported for GAF are approximately 55 inches in Area 2C and 45 inches in 3A, which results in a larger average size for GAF than for the average size used for the 2014 conversion factors. The average lengths reported for GAF thus far in 2014 would translate into an estimated GAF cost of \$275/fish in Area 2C and \$225/fish in Area 3A. Some commercial QS holders also own charter halibut permits and may transfer IFQ to themselves as GAF at no cost. In this situation, fluctuations in the IFQ to GAF conversion factor would not affect their ability to receive GAF by transfer because they do not have to purchase GAF.

## **Conclusions**

Staff has identified a number of policy and implementation issues for the Council during its consideration of whether to adopt the CATCH proposal for further analysis. Potential next

steps include no further action at this time, referring these policy and implementation issues to a committee, requesting further discussion of specific topics identified by the Council after consideration of this paper and public testimony, or initiating an analysis for a regulatory amendment to implement an RQE program.

**APPENDIX 1. North Pacific Fishery Management Council**  
**Pacific Halibut Catch Sharing Plan for Area 2C and Area 3A**  
**December 2013**

**1. Purpose**

The Halibut Catch Sharing Plan in International Pacific Halibut Commission (IPHC) Regulatory Area 2C and Area 3A was adopted by the North Pacific Fishery Management Council and implemented by the National Marine Fisheries Service (NMFS). The Catch Sharing Plan 1) defines an annual process for allocating halibut between the charter and commercial halibut fisheries in Area 2C and Area 3A, 2) establishes by regulation sector allocations that vary in proportion with changing levels of annual halibut abundance and that balance the differing needs of the charter and commercial halibut fisheries over a wide range of halibut abundance in each area, and 3) describes a public process by which the Council may develop recommendations to the IPHC for charter angler harvest restrictions that are intended to limit harvest to the annual charter halibut fishery catch limit in each area. The directed commercial halibut fisheries in Area 2C and Area 3A are managed under the Individual Fishing Quota (IFQ) Program pursuant to regulations at 50 CFR 679 subparts A through E.

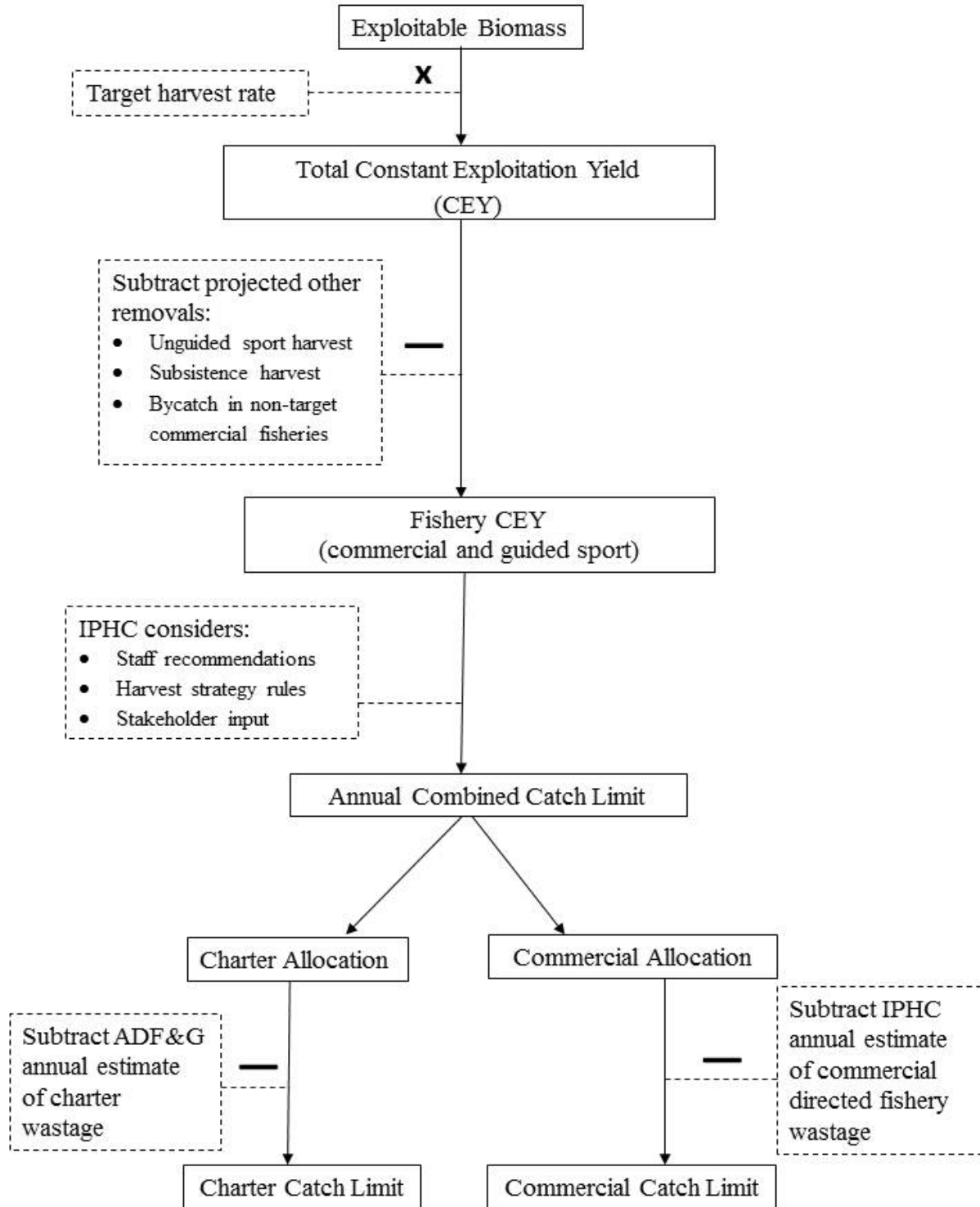
**2. Framework and Implementation**

The Catch Sharing Plan constitutes a framework that shall be applied to the annual combined charter and commercial fishery catch limit for Area 2C and Area 3A, respectively, which is approved by the IPHC at its annual meeting. The framework shall be implemented in both IPHC regulations and domestic regulations (implemented by NMFS) as published in the *Federal Register*.

**3. Specification of the Annual Combined Catch Limits**

The Catch Sharing Plan anticipates that the IPHC would specify an annual combined catch limit (CCL) for Area 2C and for Area 3A at its annual meeting for the subsequent fishing year. Each area's annual combined catch limit in net pounds will be the total allowable halibut harvest for the directed commercial halibut fishery plus the total allowable halibut harvest for the charter halibut fishery under the CSP. The IPHC process for determining the annual combined catch limit under the CSP will be similar to the process it has typically used in the past for determining annual commercial catch limits. A notable exception is how each fishery's wastage will be deducted from the combined catch limit. This process is detailed in Figure 1 below.

The Catch Sharing Plan also anticipates that the IPHC also would divide the annual combined catch limits into separate annual catch limits for the commercial and charter halibut fisheries pursuant to the CSP's allocation formulas. The IPHC would multiply the CSP allocation percentages for each area by the annual CCL to calculate the commercial and charter halibut allocations in net pounds. Fishery-specific catch limits will be calculated by deducting separate estimates of wastage from the commercial and charter halibut allocations.



**Figure 1. Process for Setting Annual Combined Catch Limits, Charter and Commercial Allocations, and Charter and Commercial Catch Limits for Area 2C and Area 3A under the Catch Sharing Plan.**

The Catch Sharing Plan established three allocation tiers for Area 2C as shown in Table 1. When the IPHC sets an annual CCL of less than 5,000,000 lb in Area 2C, the commercial halibut fishery allocation is 81.7 percent and the charter halibut fishery allocation is 18.3 percent of the annual CCL. When the IPHC sets the annual CCLs at the second tier, between 5,000,000 lb and 5,755,000 lb, the allocation to the charter halibut fishery is a fixed 915,000 lb, to smooth the vertical drop in the poundage allocation that would occur without this adjustment. The commercial halibut fishery is allocated the Area 2C CCL minus the 915,000 lb fixed allocation to the charter halibut fishery. When the IPHC sets the annual CCL at the third tier, greater than 5,755,000 lb, in Area 2C, the commercial halibut fishery allocation is 84.1 percent and the charter halibut fishery allocation is 15.9 percent of the Area 2C annual CCL.

**Table 1. Area 2C Catch Sharing Plan (CSP) Allocations to the Charter and Commercial Halibut Fisheries Relative to the Annual Combined Catch Limit (CCL)**

<b>Area 2C annual combined catch limit for halibut in net pounds (lb)</b>	<b>Charter halibut fishery CSP allocation (% of annual combined catch limit)</b>	<b>Commercial halibut fishery CSP allocation (% of annual combined catch limit)</b>
0 to 4,999,999 lb	18.3%	81.7%
5,000,000 to 5,755,000 lb	915,000 lb	Area 2C CCL minus 915,000 lb
5,755,001 lb and up	15.9%	84.1%

The Catch Sharing Plan established five allocation tiers in Area 3A as shown in Table 2. For Area 3A, when the IPHC sets the annual CCLs at the first tier of less than 10,000,000 lb, the commercial halibut fishery allocation is 81.1 percent and the charter halibut fishery allocation is 18.9 percent of the Area 3A annual CCL. For Area 3A annual CCLs between 10,000,000 lb and 10,800,000 lb, the allocation to the charter halibut fishery is 1,890,000 lb. The commercial halibut fishery is allocated the Area 3A CCL minus the 1,890,000 lb fixed allocation to the charter halibut fishery. When the CCL is greater than 10,800,000 lb and less than 20,000,000 lb, the commercial halibut fishery is allocated 82.5 percent and the charter fishery is allocated 17.5 percent. When the CCL for Area 3A is set at greater than 20,000,000 lb and less than or equal to 25,000,000 lb, the charter halibut fishery receives a fixed 3,500,000 lb allocation. The commercial halibut fishery allocation equals the CCL minus 3,500,000 lb. Finally, at CCLs greater than 25,000,000 lb, the commercial halibut fishery allocation is 86 percent and the charter halibut fishery allocation is 14 percent of the Area 3A annual CCL.

Under the Catch Sharing Plan, the commercial and charter halibut fisheries are separately accountable for their discard mortality or “wastage,” such that each fishery’s wastage will be deducted from its respective allocation to obtain its catch limit (see Figure 1).

**Table 2. Area 3A Catch Sharing Plan (CSP) Allocations to the Charter and Commercial Halibut Fisheries Relative to the Annual Combined Catch Limit (CCL).**

<b>Area 3A annual combined catch limit for halibut in net pounds (lb)</b>	<b>Charter halibut fishery CSP allocation (% of annual combined catch limit)</b>	<b>Commercial halibut fishery CSP allocation (% of annual combined catch limit)</b>
0 to 9,999,999 lb	18.9%	81.1%
10,000,000 to 10,800,000 lb	1,890,000 lb	Area 3A CCL minus 1,890,000 lb
10,800,001 to 20,000,000 lb	17.5%	82.5%
20,000,001 to 25,000,000 lb	3,500,000 lb	Area 3A CCL minus 3,500,000 lb
25,000,001 lb and up	14.0%	86.0%

#### **4. Annual Process for Setting Charter Management Measures**

Each year the Council will review an analysis of potential charter management measures for the Area 2C and Area 3A charter halibut fisheries for the upcoming fishing year. This will allow the Council and public to engage in a transparent process for considering both stakeholder input and the most current information regarding the charter fishery and its management. After reviewing the analysis and considering public testimony, the Council will identify the charter halibut management measures to recommend to the IPHC that will most likely constrain charter halibut harvest for each area within its allocation (including reductions for discard mortality), while considering impacts on charter operations. The IPHC will consider the Council recommendations, along with the analysis upon which those recommendations were based, and input from its stakeholders and staff. The IPHC then will adopt either the Council's recommendations or alternative charter halibut management measures designed to keep charter harvest in Area 2C and Area 3A to the allocations specified under the Catch Sharing Plan. These measures are necessary to limit the combined commercial and charter harvest in Area 2C and 3A within each area's combined catch limit. NMFS will publish in the *Federal Register* the charter halibut management measures for each area as part of the IPHC annual management measures accepted by the Secretary of State with the concurrence of the Secretary of Commerce.

The Council's Scientific and Statistical Committee has reviewed the methodology used to determine the Council's recommendations and will review any changes to the methodology.

#### **5. Guided Angler Fish**

The Catch Sharing Plan authorizes supplemental individual transfers of commercial halibut IFQ as guided angler fish (GAF) to qualified charter halibut permit holders for harvest by charter vessel anglers in Areas 2C and 3A. Using GAF, qualified charter halibut permit holders may offer charter vessel anglers the opportunity to retain halibut up to the limit for unguided anglers when the charter management measure in place limits charter vessel anglers to a more restrictive harvest limit.

NMFS will issue GAF in numbers of halibut. NMFS will post the conversion from IFQ pounds to GAF for Area 2C and Area 3A for each fishing year on the NMFS Alaska Region website. NMFS will post the conversion factor for the current fishing year before the beginning of the commercial halibut fishing season each year.

An IFQ holder is eligible to transfer halibut IFQ as GAF if he or she holds at least one unit of halibut QS and has received an annual IFQ permit authorizing harvest of IFQ in either the Area 2C and Area 3A commercial halibut fishery. A charter halibut permit holder is eligible to receive IFQ as GAF if he or she holds one or more charter halibut permits in the management area that corresponds to the IFQ permit area from which the IFQ would be transferred. Holders of military charter halibut permits and Community Quota Entities holding community charter halibut permits also are eligible to receive IFQ as GAF. For transfers between IFQ and GAF, the IFQ holder and charter halibut permit holder receiving GAF are required to submit an application to NMFS.

Upon completion of the transfer between IFQ and GAF, NMFS will issue a GAF permit to the holder of a charter halibut permit. The GAF permit will be assigned to the charter halibut permit specified by the GAF permit holder at the time of application. The GAF permit holder may offer GAF for harvest by charter vessel anglers on board the vessel on which the operator's GAF permit and the assigned charter halibut permit are used.

Charter operators will be required to possess GAF in their GAF permit accounts prior to allowing charter vessel anglers to retain halibut as GAF. Transfers cannot occur after the fish have been caught. The GAF permit holder also will be required to have the GAF permit and the assigned charter halibut permit on board the vessel on which charter vessel anglers retain GAF, and to present the permits if requested by an authorized enforcement officer. GAF permit holders will be required to retain all GAF permits and GAF permit logs for two years after the date of issuance and to make them available for inspection upon request of an authorized enforcement officer.

NMFS will issue a revised GAF permit to the GAF permit holder each time during the year that it approves a transfer between IFQ and GAF for that GAF permit. Each GAF permit will be assigned to only one charter halibut permit in Area 2C or Area 3A, specified on the application for transfer between IFQ and GAF. That assignment cannot be changed during the year. Once GAF is transferred to a charter halibut permit holder and assigned to a specified charter halibut permit, it may not be transferred to another charter halibut permit holder.

Unused GAF may be returned to the IFQ holder by two methods: 1) a voluntary return that can be requested in August and that will be completed on or after September 1, and 2) an automatic return 15 days before the end of the commercial halibut fishing season. On and after the automatic return date, unused GAF will no longer be authorized for use in the charter fishery in the current year. Applications for transfer of IFQ to GAF will not be accepted during the one month prior to the automatic return date, to ensure that all GAF transactions are completed before the automatic return date. No application is required for the automatic return of unused GAF. NMFS will return any remaining unharvested GAF to the IFQ holder from whom it was derived. On or as soon as possible after the voluntary or automatic GAF return dates, NMFS will convert GAF in number of fish to IFQ in net pounds using the conversion factor for that year and return the converted IFQ to the IFQ holder's account.

The Catch Sharing Plan includes three restrictions on GAF transfers. First, IFQ holders in Area 2C will be limited to transferring up to 1,500 lb or 10 percent, whichever is greater, of their initially issued annual halibut IFQ for use as GAF. In Area 3A, IFQ holders may transfer up to 1,500 lb or 15 percent, whichever is greater, of their initially issued annual halibut IFQ for use as GAF. Second, no more than a total of 400 GAF will be assigned during one year to a GAF permit assigned to a charter halibut permit that is endorsed for six or fewer anglers. And third, no more than a total of 600 GAF will be assigned during one year to a GAF permit assigned to a charter halibut permit endorsed for more than six anglers. This rule does not limit the amount of GAF transfers for military charter halibut permits. Community Quota



Entities (CQEs) that hold quota share are allowed to transfer IFQ as GAF. The limits on these transfers depend on whether the GAF permit holder is a CQE, an eligible community resident, or a non-resident.

The Catch Sharing Plan includes new recordkeeping and reporting requirements for GAF in the Alaska Department of Fish and Game (ADF&G) saltwater charter logbooks, in addition to saltwater charter logbook reporting requirements. The logbook will continue to be used as the primary reporting method for operators in the charter halibut fishery. The person to whom ADF&G issued a saltwater charter logbook is required to retain and make available for inspection by authorized enforcement personnel the completed original logbooks for two years following the charter vessel fishing trip. The CSP also requires GAF permit holders to record information on the GAF permit; separately report retained GAF by 11:59 p. m. (Alaska local time) on the last day of the fishing trip in which GAF were retained using a NMFS-approved electronic reporting system; record the electronic reporting confirmation number on the GAF permit log; and retain the GAF permits and GAF permit logs for two years.

Charter guides are required to mark retained GAF by removing the tips of the upper and lower lobes of the caudal (tail) fin. Additionally, the charter vessel guide are required to retain the carcass showing caudal fin clips until the halibut fillets are offloaded so that enforcement can verify the length and that the fish was retained as GAF. For each halibut retained as GAF, charter vessel guides will immediately record on the GAF permit log the date and total halibut length in inches. GAF permit holders landing GAF on private property will be required to allow enforcement personnel access to the point of landing.

Commercial IFQ holders are responsible for all cost recovery fees on IFQ equivalent pounds harvested for their IFQ permit(s) and also for net pounds transferred and harvested as GAF that originated from their IFQ account(s). NMFS will levy IFQ cost recovery fees on all net pounds of halibut harvested as IFQ in the commercial fishery and as GAF in the charter fishery.

## **6. Other Restrictions**

The Catch Sharing Plan includes five additional restrictions. First, the prohibition on retention of halibut by skipper and crew on a charter vessel fishing trip in Area 2C is extended to also include Area 3A. Second, individuals who hold both a charter halibut permit and commercial halibut IFQ will be prohibited from fishing for commercial and charter halibut on the same vessel during the same day in Area 2C and Area 3A. Third, individuals who hold both a charter halibut permit and a Subsistence Halibut Registration Certificate will be prohibited from using both permits to harvest halibut on the same vessel during the same day in Area 2C and Area 3A. Fourth, charter vessel operators will be required to indicate the date of a charter vessel fishing trip in the saltwater charter logbook and to complete all of the required fields in the logbook before the halibut are offloaded. And fifth, the logbook signature requirement for charter anglers in Area 2C will be extended to include charter anglers in Area 3A.

## **7. Charter Harvest Estimation**

Alaska Department of Fish and Game saltwater charter logbooks will be used as the primary data source to estimate the number of halibut harvested in the charter halibut fishery following each charter halibut fishing season and to project the number of halibut harvested in the charter fishery in the following year.

## **APPENDIX 2. A Proposal to Establish a Recreational Quota Entity as a Qualified Quota Share Holder in the Alaska Halibut Individual Fishing Quota Program**

**Draft 6-20-14**

**Submitted by**

**CATCH (Catch Accountability Through Compensated Halibut) Assn.**

### **Problem Statement**

Alaska's guided halibut anglers have seen recent increases in regulatory restrictions due to declining halibut stocks and guided recreational allocations. Charter operators, who depend on guided angler business, are struggling to remain economically viable in the face of their clients' decreased size and bag limits. There is currently no sector-wide mechanism to shift allocation between the commercial and guided recreational sectors to alleviate this problem other than through the North Pacific Fishery Management Council's (Council) authority to reallocate halibut resources between user groups. This proposal provides the guided halibut angler sector a mechanism, outside of the Council process, to supplement their annual allocations. Allowing a RQE to hold commercial halibut QS on behalf of guided recreational halibut anglers under a "willing seller and willing buyer" market based approach would result in less restrictive annual harvest measures for guided recreational anglers, while complying with total halibut removals under the combined commercial and charter halibut catch limits determined by the International Pacific Halibut Commission. NMFS would combine the guided recreational halibut allocation under the Halibut Catch Sharing Plan with the commercial IFQ amounts associated with halibut quota share held by the RQE (as of a specified date) to determine the annually adjusted total guided recreational halibut allocation. The total allocation would be the basis for the determination of appropriate management measures for the guided recreational halibut sector each year.

### **Proposal**

Federal regulations provide the following definition: "Person includes an individual, corporation, firm, or association."

Amend Federal regulations for the Halibut IFQ Program to allow a Recreational Quota Entity (RQE) to hold commercial halibut quota shares. The RQE would be an organization representing guided halibut anglers in a common pool, able to supplement charter halibut allocations under the CSP with purchased commercial halibut quota shares from willing commercial IFQ holder sellers. One RQE with two separate quota share pools (Area 2C/Area 3A) would be formed, with quota that is purchased remaining in the Regulatory Area it was purchased. This pooled allocation of transferred commercial halibut QS and the CSP charter allocation would form the basis by which harvest measures for the guided recreational sector are established annually for each Regulatory Area. This proposal would provide a means to achieve stability in guided angler halibut regulations, with the goal of restoring an historic two halibut of any size daily bag limit in Area 3A (Southcentral Alaska), and reaching a one halibut of any size daily bag limit in times of low abundance and a two halibut of any size daily bag limit in times of high abundance in Area 2C (Southeast Alaska).

Staff comments/recommendations are indicated in bold text

### **Appendix 3. CQE program restrictions and potential applicability to the proposed RQE program**

A streamlined Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA) could be initiated to simply add, "Recreational Quota Entity" to the list of types of entities that are eligible to hold Pacific halibut quota share (QS) at 50 CFR 679. NMFS would identify in regulation procedures for transferring QS and IFQ from commercial halibut QS holders in Area 2C and Area 3A to a RQE, similar to those in regulation for CQEs at § 679.41, Transfer of quota shares and IFQ. For CQEs the following regulatory restrictions have been identified, but these may not necessarily be required for RQEs.

- (a) General
- (b) Transfer procedure
- (c) Application for Transfer approval criteria
- (d) Eligibility to receive QS or IFQ by transfer
- (e) Transfers of QS blocks
- (f) Transfer of QS or IFQ with restrictions
- (g) Transfer restrictions
- (h) Transfer of IFQ
- (i) Transfer across catcher vessel categories
- ~~(j) Compensation for CDQ allocations~~
- ~~(k) Survivorship transfer privileges~~
- (l) Transfer of QS to CQEs
- ~~(m) Temporary military transfers~~

Federal regulations at § 679.41(c) specify the following:

(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 required by § 679.5(t);
- (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.

**NMFS may identify that some of these requirements are necessary to administer a RQE program.**

The final rule<sup>10</sup> that implemented the CQE program noted that Federal regulations 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.<sup>11</sup> This amendment to the IFQ program was intended to provide additional opportunities to these fishermen, and may indirectly address concerns about the economic viability of those communities.

**Community QS Provisions in Federal regulations that could be determined to be relevant for RQEs**

1. Non-profit Entities

Community quota entities are non-profit entities incorporated under the laws of the State of Alaska to represent eligible communities. The CQEs obtain QS by transfer and hold the QS and lease the resulting annual IFQ to individual community residents, with one limited exception. Unless otherwise specified, the restrictions that apply to any current QS holder apply to a CQE.

**The RQE also would obtain QS by transfer and hold the QS; annual IFQ resulting from this QS would be used to increase the charter sector allocation and harvested in the charter fishery. Practically, these QS/IFQs could be a “permanent reallocation to the charter sector. Unless otherwise specified, the restrictions that apply to any current commercial QS and IFQ permit holder would not apply to a RQE because the QS and IFQ would not be used in the commercial halibut fishery.**

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 below.

2. Administrative Oversight

Implementing the CQE program requires 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) receive an annual report from CQEs detailing the use of QS and IFQ by the CQE and community residents. If a CQE fails to provide a completed annual report to NMFS for each community that it represents, then that CQE will 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).

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<sup>10</sup> <http://alaskafisheries.noaa.gov/frules/fr23681.pdf>

<sup>11</sup> Regulations at § 679.41 authorize the Adak CQE to lease IFQ to any eligible IFQ permit holder until April xx, 2018.

Each non-profit entity applying to become a CQE must 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(ies) from a governing body representing each community represented by the CQE.

NMFS provides the State of Alaska with a copy of the applications. After receiving the copies, the State will have a period of 30 days to provide comments to NMFS. NMFS considers these comments before certifying a non-profit entity as a CQE. NMFS reviews all applications for completeness. Incomplete applications are returned to the applicant for revision. Federal regulations did not establish a limit on the amount of time that a non-profit would have to correct deficiencies in an application.

Establishing a requirement that a specific governing body within a community provide a recommendation supporting a CQE creates a clear link between the governing body that represents that community and the CQE. Allowing multiple non-profits to apply as CQEs for a single community requires additional review by NMFS to ensure accountability. The linkage to specific recognized governing bodies within a community minimizes 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.

**The Council may wish to recommend that the RQE apply for eligibility as a non-profit entity seeking to be qualified as an RQE on behalf of all guided anglers in Area 2C and Area 3A. Alternatively, the Council could determine that separate RQEs should be considered for each of the two areas, however this may restrict internal funding decisions/operational processes that do not concern the Council or NMFS. The Council may wish to require an annual report from an RQE, similar to one required of CQEs.**

**It may be difficult however to require that the RQE prove a linkage to its constituents or stakeholders on whose behalf the RQE approach is intended. Requiring support from charter sector organizations based in communities within Area 2C and 3A may provide evidence of support; but how would the Council or NMFS respond if not all such organizations support the RQE proposal?**

### 3. Eligible Communities

Specific Gulf of Alaska communities were determined to be eligible to participate in the CQE program.

**The RQE program would be area based: Area 2C and Area 3A.**

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

Communities represented by CQEs in the Gulf of Alaska cumulatively are limited to holding a maximum of 21 percent of the total halibut QS, and 21 percent of the total sablefish QS could be held in each IFQ regulatory area in which CQEs are eligible to hold QS. The CQE in the Aleutian Islands is limited to holding a maximum of 15 percent of the total halibut QS in Area 4B and 15 percent of the sablefish QS in the Aleutian Islands subarea.

**A use cap would not be relevant in the RQE program, but the Council could consider a cap on the amount or percent of QS that may be transferred from the commercial sector to the RQE; however such a restriction defeats the (compensated) market-based reallocation that is inherent in the approach of letting the market decide the appropriate sector allocations.**

#### 5. Transfer and Use Restrictions

##### (a) Block Limits

The purchase of blocked QS by CQEs are restricted. The number of blocks that can be held by a person is limited under the IFQ Program to prevent 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.

Each community represented by a CQE is 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.

**The Council could consider restricting blocked QS that may be transferred from the commercial sector to the RQE; however such a restriction defeats the (compensated) market-based reallocation that is inherent in the approach of letting the market decide the appropriate sector allocations.**

##### (b) Transfer and IFQ Leasing

CQEs can only receive and use halibut QS assigned to vessel category B (> 60 feet) and vessel category C (> 35 feet and ≤ 60 feet) in Area 2C. This provision prohibits CQEs from holding QS assigned to vessel category D (≤ 35 feet) in Area 2C. CQEs may hold D category halibut QS in Areas 3A and 3B. In Area 3A, CQEs are limited to holding x% of the total amount of D category QS designated for that area, which is equal to the maximum amount of D category QS held by CQE community residents from 1990-2000. CQEs in Area 3B may hold D category halibut QS designated for that area up to CQE program limits at the request of Area 3B QS holders who have a limited market of potential buyers for a relatively small amount of D category QS in Area 3B. There are no catcher vessel category restrictions for CQEs holding sablefish QS, as only B and C vessel categories exist for sablefish QS.

**The Council could consider restricting the vessel category of QS that may be transferred from the commercial sector to the charter sector; however such a restriction defeats the (compensated) market-based reallocation that is inherent in the approach of letting the market decide the appropriate sector allocations.**

#### 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.

**Joint and several liability for violations does not appear to be relevant for the proposed RQE program, as there has been no specified intent to hold the RQEs liable for fishing violations by guides and/or guided anglers.**