FINAL ENVIRONMENTAL ASSESSMENT/REGULATORY IMPACT REVIEW

For

AMENDMENT 66

to the Fishery Management Plan for Gulf of Alaska Groundfish

To allow eligible Gulf of Alaska communities to hold commercial halibut and sablefish quota share for lease to community residents

Abstract: This Environmental Assessment/Regulatory Impact Review Analysis analyzes the impacts of allowing a defined set of remote Gulf of Alaska coastal communities to purchase, hold, and use commercial halibut and sablefish catcher vessel quota share in the Gulf of Alaska (International Pacific Halibut Commission Management Areas 2C, 3A, and 3B). This proposed action is prompted to assist a number of small coastal communities in Southeast and Southcentral Alaska, which are striving to remain economically viable, to increase or maintain their participation in the halibut and sablefish fisheries. The halibut and sablefish IFQ Program, as with other limited entry programs, increases the cost of entry into and expansion in these commercial fisheries. Several years after implementation, some larger Gulf communities appear to have benefitted from the program and continue to increase their participation in the IFQ fisheries, while other smaller communities have experienced a significant decline in participation. The Council began considering including communities in the commercial IFQ Program in June 2000, motivated by several provisions in the Magnuson Stevens Act, recommendations by the National Research Council (NRC), and a proposal from the Gulf of Alaska Coastal Communities Coalition (Coalition). The concern is that because these remote communities are dependent on fisheries for a large portion of their employment and income and have few alternative economic opportunities, a decline in the number of quota share holders has a severe effect on unemployment and related social and economic impacts. The objective of the proposed FMP and regulatory amendment is to allow qualifying communities, which may have more access to the capital required, as well as the financial stability to risk that investment, to purchase halibut and sablefish quota share for lease to and use by community residents. This is intended to address the identified problem without undermining the goals of the IFQ Program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities.

Prepared by staff:

North Pacific Fishery Management Council
605 West Fourth Avenue, Suite 306
Anchorage, AK 99501

March 15, 2004

Table of Contents

List of Figures

List of Tables

EXECUTIVE SUMMARY

This environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) is prepared in consideration of Federal laws and regulations. Specifically, the EA/RIR/IRFA is an analytical document that is used by the Council to guide their decision-making under the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The EA section meets the requirements of the National Environmental Policy Act (NEPA), the RIR addresses Executive Order (E.O.) 12866, and the IRFA meets the requirements of the Regulatory Flexibility Act (RFA). This analysis also addresses other applicable Federal laws such as the Marine Mammal Protection Act and the Endangered Species Act.

Amendment 66 to the Fishery Management Plan (FMP) for Gulf of Alaska Groundfish would allow non-profit organizations representing eligible Gulf of Alaska communities to purchase commercial halibut and sablefish catcher vessel quota share (QS) for lease to community residents. The change would create a new category of eligible "person" that may hold halibut and sablefish quota share, with restrictions as developed by the Council and approved by the Secretary of Commerce. Currently, only persons who were originally issued catcher vessel QS or who qualify as IFQ crew members by working 150 days on the harvesting crew in any U.S. commercial fishery are eligible to purchase catcher vessel (B, C, and D category) quota share.

The proposed action targets small, rural, fishing-dependent coastal communities in the Gulf of Alaska. The goal is to provide for sustained participation of these communities in the IFQ fisheries. While not necessarily a direct result of the implementation of the commercial IFQ program, declines in the number of community fishermen and access to nearby marine resources are on-going problems in rural communities that may be exacerbated by the IFQ program. There has been a substantial decline in the amount of QS and the number of QS holders in most of the target Gulf communities since initial issuance, and this trend may have a severe effect on unemployment and related social and economic impacts. Effectively, the action is an attempt to alleviate this problem in rural Gulf of Alaska communities. Allowing a distinct set of remote communities with few economic alternatives to hold commercial QS in Areas 2C, 3A, and 3B may help ensure access to and sustain participation in the commercial halibut and sablefish fisheries for those communities.

Problem Statement:

The Council formally adopted the following problem statement for this amendment package:

Community QS Purchase Problem Statement

A number of small coastal communities in Southeast and Southcentral Alaska are struggling to remain economically viable. The halibut and sablefish IFQ program, as with other limited entry programs, increases the cost of entry into or expansion in the commercial halibut and sablefish fisheries.

Allowing qualifying communities to purchase halibut and sablefish quota share for lease to and use by community residents will help minimize adverse economic impacts on these small, remote, coastal communities in Southeast and Southcentral Alaska, and help provide for the sustained participation of these communities in the halibut and sablefish IFQ fisheries. The Council seeks to provide for this sustained participation without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities.

The 1996 amendments to the Magnuson-Stevens Act (MSA) require that management programs take into account the social context of the fisheries, especially the role of communities (Sec. 301[a][8], 303 [a][9]). In addition, the National Research Council (NRC 1999a) recommends that NMFS and the Council consider including fishing communities as stakeholders in fishery management programs. The NRC recommends that Councils should be permitted to authorize the purchase, holding, management, and sale of QS/IFQs by communities. In this sense, QS could be treated as a resource allowing local fishermen to fish or reallocated to fishermen that are members of the community.

The lack of sustained participation in smaller, rural, Gulf communities is identified as a concern of the Council in the above problem statement. The proposed action at issue in this amendment is an attempt to mitigate the identified problem and provide communities with an opportunity to increase participation in the IFQ fisheries. The proposed action implies that the initial allocation of QS through the IFQ Program failed to achieve some of the Council's objectives with respect to preserving fishing opportunity in small communities (SSC 2001). The purpose and design of this action is therefore to provide a mechanism to modify the distribution of quota share among eligible participants as defined by this program.

Alternatives Considered:

Alternative 1: (No action) Only qualified persons as defined in the current Federal regulations could hold and use commercial halibut and sablefish QS in the Gulf of Alaska

Current regulations require that any U.S. citizen or entity may receive *freezer vessel* QS (A category) through transfer, but the persons who may buy *catcher vessel* QS (B,C, and D category) are restricted to those persons who were originally issued catcher vessel QS or those who qualify as IFQ crew members. Alternative 1 would maintain the language and intent of the current regulations, effectively limiting the ownership of QS to individuals and initial recipients. Gulf community residents would continue to be allowed to purchase commercial halibut and sablefish QS and fish the resulting IFQs, but communities could not receive or hold catcher vessel QS for community benefit.

Alternative 2 (Action): Allow eligible Gulf of Alaska coastal communities to hold commercial halibut and sablefish QS for lease to and use by community residents

Eight elements, with several options relevant to each element, are proposed under Alternative 2. This alternative would allow eligible communities, as defined by the Council, to purchase and hold commercial halibut and sablefish QS in the Gulf of Alaska. Communities would create or identify an existing administrative entity to purchase and manage the QS. The community entity would remain the registered owner and holder of the QS and would lease the ensuing IFQ to qualified residents.

The discussion of each element in the analysis is premised on the intent that communities will purchase QS for use by community residents. However, this is dependent on the preferred option under Element 6, which includes a formal provision to ensure that QS will be leased exclusively to residents of the target communities. Without such a provision, there would be an opportunity under Alternative 2 for communities to purchase QS and lease to non-residents with no improvement in access opportunities for local residents. In addition, several of the options propose to relax some of the constraints in the current IFQ program when QS is used or sold by community entities, specifically those relating to vessel size restrictions or limits on consolidating blocked QS. Thus, there may be an opportunity for substantial financial gains to communities if they are permitted to lease to non-residents who will also benefit from fewer program restrictions.

The comprehensive list of elements and options considered for alternative 2 is attached to the Executive Summary on page xiv. The complexity of the program is determined through the selection of the various elements. The elements and options proposed allow for a program which would make community entities subject to either more, the same, or fewer constraints than current QS holders. One approach to the action is to simply create another category of eligible person who can hold QS, allowing communities the same latitude and limitations as individual users. Another approach is to create an entirely new set of limitations specific to community QS holders, in order to provide for the differing purpose and use of the QS when held by communities, as well as to protect existing holders and preserve entry-level opportunities for fishermen residing in other fishery-dependent communities. The following outlines the primary findings with respect to each element proposed under Alternative 2:

Element 1: Eligible communities

- Each eligible community must be coastal, have no road access, have historic participation in the halibut and/or sablefish fisheries, and populations of <1,500, <2,500, or <5,000.
- Between 42 and 45 communities would qualify under the proposed criteria: (21-23 in Area 2C, 14-15 in Area 3A, 7 in Area 3B). The list of all potentially qualifying communities is in Figure 2-3.
- At year-end 2000, residents of the target communities held about 19% of the total halibut QS and 15% of the sablefish QS issued in the Gulf of Alaska. Petersburg holds almost half (45%) of the total halibut QS and more than half (67%) of the total sablefish QS held by target communities. Excluding Petersburg decreases the percentage of overall halibut QS holdings in target communities to 10% and sablefish QS holdings to 5%.
- Target communities have experienced a decline in QS of 7% - 45% in every management area except Central Gulf sablefish QS. By comparison, all communities located in the Gulf combined have experienced an overall increase in holdings in every area since initial issuance, with the exception of a 1% decrease in Area 3A halibut.
- Petersburg, Wrangell, and Cordova are the only three potentially eligible communities that are defined as "larger" Gulf communities by the Alaska Commercial Fisheries Entry Commission (CFEC) and have not experienced the same decline in participation in the IFQ fisheries as the smaller eligible communities.

Element 2: Ownership entity

- The proposed action is based on a community entity purchasing and managing commercial halibut/sablefish QS on behalf of an eligible community and leasing the annual IFQs to resident fishermen.
- Using existing entities such as municipalities, tribal, or ANCSA corporations may lessen administrative costs, but they may not be structured appropriately to manage QS or be representative of the entire community. Creating a new non-profit organization to manage community QS would allow communities to develop an entity from the ground-up that could perform the functions necessary to manage commercial QS, but may prove too costly for some of the smaller communities.
- A non-profit formed by an aggregation of communities or an umbrella entity that is capable of managing the QS for individual communities may benefit smaller communities that wish to use a

regional entity to broker the purchase of QS and provide the necessary administrative support. An umbrella entity, however, may experience fairly high transportation and communication costs in attempting to serve widely distributed communities and would not be developed specific to the needs of each individual community.

- Communities may need maximum flexibility in the creation or identification of management structures to take advantage of the proposed action. Whether the community receives net benefits from the action will be critically dependent upon the ownership entity being representative of the entire community.

Element 3: Individual community use caps

- Element 3 proposes to cap the amount of QS each individual community could use, in order to alleviate concerns that a number of small Gulf communities could control excessive amounts of the available QS if not restricted.

- Individual QS holders are subject to use caps of 1% of Area 2C QS and 0.5% of the combined Area 2C, 3A, and 3B halibut QS, and 1% of Southeast and 1% of all combined sablefish QS.

- The options proposed for community use caps range from 0.5% - 2% of Area 2C QS and 0.5% - 1% of the combined Area 2C, 3A, and 3B halibut QS and 0.5% - 2% of Southeast and 1% - 2% of all combined sablefish QS. There are also options which would establish separate use caps for communities in each regulatory area: Area 2C, 3A, and 3B.

- Under the options, 45 communities could potentially hold a maximum of 11.5% - 95% of the Area 2C halibut QS and 18% - 45% of the combined Area 2C, 3A, 3B QS. They could also hold a maximum of 11.5% - 90% of the Southeast sablefish QS and 10% - 90% of all combined sablefish QS.

- Area specific caps proposed would limit communities to purchasing QS in the area in which they are located and one adjacent area.

Element 4: Cumulative community use caps

- A cumulative use cap would limit the total amount of QS that target communities could use collectively. A cumulative cap is necessary only if the Council determines that the maximum QS communities can use should be lower than the total number of communities multiplied by the individual use cap.

- Establishing a cumulative use cap that is substantially lower than the amount of QS that would result from each community purchasing QS up to the individual community use cap may incite competition among eligible community entities to enter the program first and serve to drive up QS prices for all current and prospective individual QS holders as well as program participants. This could also disadvantage communities that take longer to enter the program or discourage some communities from participating altogether.

- A step-wise approach to establishing a cumulative use cap would constrain the effects of the program initially at a certain level and allow for expanded community participation upon Council review. This may serve to allay concerns about the impact of the program on other users and the potential to disrupt the existing program with a flood of community purchases.

- Area-specific cumulative use caps would eliminate the combined Gulf area use cap for community QS holdings and apply a specific use cap in each unique management area. Communities as a whole would be limited to the same amount of QS as proposed under the combined area use caps, but it would constrain community purchases in each area to a specified amount and serve to retain some stability for the existing IFQ participants by preventing a major influx of community-held QS in one area.

Element 5: Purchase, use, and sale restrictions

Block restrictions

- Currently, about 48% of the Gulf halibut QS is blocked: 71% in Area 2C, 35% in Area 3A, and 66% in Area 3B. About 12% of the Gulf sablefish QS is blocked: 15% in Southeast, 13% in West Yakutat, 8% in Central Gulf, and 20% in Western Gulf. The QS currently held by residents of the target communities follows the same general trend. Excluding Petersburg increases the amount of blocked QS held by target communities.

- The 1998 estimated prices from CFEC show that unblocked QS generally has a higher price than blocked QS, and larger blocks sell for a higher price than smaller blocks.

- Establishing the same block restrictions for communities as individual holders would leave about 48% blocked QS available to individual commercial fishermen in Area 2C, 20% in Area 3A, and 59% in Area 3B, if the communities only purchased QS from the area in which they are located.

- Limiting communities to purchasing only blocked or only unblocked QS may be prohibitive to some communities finding available QS and entering the program. It may also prevent communities from purchasing QS up to the use cap. Allowing communities to only purchase blocked QS may be counter to the concerns of small individual operators that also want to purchase the least costly, smaller blocks of QS. Because there is a limited amount of blocked sablefish QS and halibut QS in Area 3A, communities collectively could potentially purchase all of the available blocked QS in those areas.

- Requiring communities to purchase QS in the ratio of blocked and unblocked shares currently in the area may make it difficult for communities to find available QS to purchase and impose more burdensome monitoring and enforcement efforts.

- Restricting community purchase of blocked QS to larger blocks (those >10,000 lbs of IFQ at initial issuance) would preserve the smaller, least costly blocks for existing operators and new entrants. An indirect effect is that communities would effectively be restricted to purchasing almost no (0%-2%) *blocked* D class halibut QS and relatively little (1%-13%) D class halibut QS overall.

Vessel size restrictions

- The majority of halibut QS in Area 2C and 3A is C class (for use on vessels ≤60 ft), and the majority of QS in Area 3B is B class (>60 ft). D class makes up a small percentage of the overall halibut QS, but about 39% - 44% of the QS holders in Areas 2C and 3A and 20% in Area 3B hold D class QS.

- The majority of the Gulf sablefish QS is B class, with the exception of C class in Southeast. The majority of sablefish holders own C class QS, in every area except the Western Gulf.

- The type of QS currently held by residents of the target communities is some indication of the type of vessels currently fishing. Of the QS held by residents of the target communities, the majority (83%) is C and D class.

- Because there are a limited number of vessels in these communities and they are typically smaller, there may not be a compelling reason to apply vessel category designations to QS when it is held by community entities. However, this is dependent on the implied intent that IFQs will be leased only to community residents. Requiring that QS is used exclusively by residents of the eligible communities is proposed as an option in Element 6. Unless there is a specific provision included to ensure that community IFQs are leased to residents of the eligible communities, not applying vessel class designations to community-held QS would potentially allow community entities to purchase the smaller vessel classes of QS and lease the IFQs to larger vessels owned by non-residents.

- Overall, communities would benefit most from being able to purchase all vessel classes of QS (B, C, and D shares). Access to C and D shares may be more beneficial to communities than access to B shares, due to the increased number of current holders in the smaller vessel classes and the lower cost. However, allowing communities access to C and D shares would increase competition for the QS pool that also may be most desirable to new entrants and existing smaller operators.

Sale restrictions

- A general consideration is whether to impose restrictions on, or allow flexibility for, communities that are not applicable to an individual's sale of QS.

- Requiring communities to only sell their QS to other communities would essentially create a separate class of community QS, resulting in a one-way transfer of QS from the commercial sector to communities for the duration of the program.

- Allowing communities to split blocks of QS in excess of 20,000 lbs would not be practically feasible for any area except Area 3B halibut QS. Allowing communities to split larger blocks and combine smaller blocks of QS upon transfer would give greater flexibility to community holders than individual holders, thus conferring an economic advantage in the QS marketplace to communities.

- Requiring that communities only sell their QS to expand or improve their participation in the program may remove the incentive to buy and sell QS to generate revenues for other public projects and help ensure that the program is being implemented for the purpose in which it was intended, to create opportunities for rural community residents to increase their participation in the IFQ fisheries.

Use Restrictions

- Establishing a limit on the amount of community IFQs that can be leased to individual residents on an annual basis may help prevent one person from controlling all the IFQs in a given community per year, but it would not control whether the same few residents are issued the IFQs resulting from community owned QS year after year.

- If a community only has one or two resident fishermen with licensed vessels who are able to lease the IFQs in a given year, a restriction of this type may: 1) limit communities to purchasing an amount of

QS less than their individual cap, or 2) force communities to leave some of their annual IFQs unfished in order to stay within the cap on leasing to residents.

- It may be more effective to address the issue of "fairness" associated with leasing IFQs within the community in the performance standards and allow the community entity to determine the specific steps to prove that they are meeting this standard.

Element 6: Performance standards

- Performance standards would serve to make the community entity accountable for using the QS for the purpose and in the manner in which it was intended. Performance standards could be established as guidance to be implemented voluntarily by community entities or as requirements in Federal regulations.

- A performance standard requiring communities to lease QS exclusively to residents of the target communities is likely necessary to meet the goal of the action. Without such a provision, there would be an opportunity under Alternative 2 for communities to purchase QS and lease to non-residents with no improvement in access opportunities for local residents.

- If established in regulation, monitoring and enforcing the performance standards would be a function of on-going program management as conducted by NMFS/RAM. A community entity may lose their eligibility status to hold QS if they do not meet these performance standards.

- If the performance standards proposed under Element 6 are implemented in regulation, it would also be necessary to require submission of a report to NMFS detailing the actions undertaken by community QS holders under Element 7.

Element 7: Administrative oversight

- The list of eligible communities would be determined at final action and fixed in Federal regulation. Each entity seeking to represent a community or group of communities would need to submit a statement of eligibility and any other information required by NMFS.

- It may be appropriate to require community entities to prepare and submit an annual report to NMFS. A report could include a summary of business and fishing activities under the program, discuss changes to the structure of the organization representing the community, outline steps taken to meet the performance standards in Element 6, and discuss known impacts to resources in the area.
- NMFS and the State jointly propose that NMFS consult with the State regarding community entity eligibility determinations and provide the State with a copy of the annual reports. The State may have a fairly involved role in assisting community entities during the application process.

- While not a specific option, it is assumed as part of this action that community-held quota share will be subject to the annual IFQ cost recovery fee.

Element 8: Program review

- No options have been proposed that would establish a sunset date at final action. The options propose reviewing the program after 3, 5, or 10 years, and determining whether a sunset provision or modifications to the elements of the program are necessary at that time.
- If the intent of the action is to provide for the sustained participation of these communities in the IFQ fisheries, it may be appropriate not to establish a sunset date. Given the significant financial and administrative commitment associated with purchasing QS subject to the restrictions outlined in the program, it seems unlikely that many communities would choose to purchase QS if there was not a reasonable likelihood that they could own the QS long enough to secure a return on their investment.

- If a sunset date is eventually established, communities would need to divest of their QS before the program expires. Communities that need to sell their QS subject to a deadline would be in a less favorable bargaining position when selling QS to individuals.

- A program review may serve to allay concerns about the more essential elements of the action, such as community use caps and vessel class designations. If sufficient uncertainty associated with the overall impacts of this action on the IFQ fisheries exists, a review period may be warranted so that the Council could consider modifications to the program or a sunset provision at that time.

- Three or five years may not be enough time for a sufficient number of communities to participate in the program to the extent that a meaningful review of the impacts of the program can be conducted.

Biological Impacts:

None of the alternatives under consideration would affect the prosecution of the IFQ fisheries in the Gulf of Alaska in a way not previously considered in consultations. The most recent consultation was conducted in 1992. These actions are addressed within the scope of issues thoroughly analyzed for implementation of the IFQ Program in the following documents: Draft SEIS/RIR/IRFA for sablefish, November 16, 1989; Revised Supplement to Draft SEIS/RIR/IRFA for sablefish, May 13, 1991; Draft SEIS/RIR/IRFA for halibut, July 19, 1991; Draft SEIS/RIR/IRFA for halibut and sablefish, March 27, 1992; and Final SEIS/RIR/IRFA for halibut and sablefish, September 15, 1992.

The proposed alternatives are designed to create a new category of eligible "person" to hold commercial halibut and sablefish catcher vessel QS. None of the alternatives are expected to affect takes of species listed under the Endangered Species Act. In addition, none of the alternatives are expected to substantially alter the takes of halibut and sablefish, or bycatch rates of other groundfish.

A potential conservation benefit could arise from the transfer of QS to remote communities due to the spatial dispersion of catch. Local depletion has been an on-going concern, particularly in the halibut fishery. Harvests of fish in remote areas may be less common than harvests in accessible areas because harvests in less remote locations have lower transportation costs for delivering fish to market. If this action stimulates development of the fisheries in remote areas, the likely effect is an increase in harvest in these less intensively fished areas. Thus, while this action would not affect the overall stock abundance of either species, purchase of QS by remote communities could result in an unintended benefit of dispersing catch and affecting local levels of abundance.

This may be a positive effect in the context of local depletion concerns, but the level of effect is highly dependent on the amount of QS communities would purchase under the action and where residents of those communities would choose to fish. In addition, the majority of resident fishermen own C and D class QS and

likely own small vessels which fish closer to shore. If a substantial amount of QS was purchased by communities and existing vessels were used to fish the resulting IFQs, the amount of nearshore effort could increase. Any increase in nearshore effort would be expected to be contained mainly in close proximity to remote communities, however, which typically do not have the same level of local depletion concerns as do the larger, more accessible ports. In summary, it is not clear whether this redistribution of effort would have any measurable biological effect. This action is not expected to have cumulative effects that are significant.

Net Benefit Impacts:

A simple private benefit/cost analysis would suggest that the current distribution of QS provides greater net benefits than one arrived at by a program that allows community purchase of QS. The current market for IFQs affords private fishermen throughout the state the opportunity to purchase QS and enter the fishery. In a competitive market with a functioning capital market and low transaction costs, the least cost fishermen will purchase QS and harvest fish. Production costs will be minimized since the lowest cost producers will be most able to afford to purchase QS, and maximum net benefits would be achieved. Under this line of reasoning, if small community fishermen were able to harvest fish at a lower cost than the current QS holders, then they would purchase QS in the market and enter the fishery. The dearth of QS holdings in small communities and the transfer of QS from fishermen in small communities to fishermen in larger communities is arguably the result of small community fishermen having higher costs. Any program that shifts QS to these fishermen would therefore increase harvest costs in the fishery and result in a decrease in net benefits. While some economists may adopt this line of reasoning, this analysis ignores social value that is not captured in the private market created under the IFQ program. Allowing communities to participate in the market will introduce social value into the market and may change the net benefits of the IFQ fisheries.

Whether an overall increase in net benefits would result from the purchases, however, cannot be determined. Since larger communities would not be permitted to purchase QS, the social benefits of QS to these communities are not represented in the market. These larger communities could suffer a loss in social benefits, if their residents sell QS to small communities. This loss, which cannot be measured, could be larger than the gains to small communities that purchase QS. Because of the unmeasurable cost to larger communities, using a broader measure of net benefits that includes social benefits and costs, the net benefits of the action cannot be determined.

The proposed alternatives are not expected to result in a "significant regulatory action", as defined in Executive Order 12866. Most, if not all, of the affected entities are considered small entities under the Regulatory Flexibility Act. The proposed management measures will likely benefit or have no impact on most of the directly affected small entities (remote communities). However, the proposed action may cause some small entities (e.g., fishing firms not targeted in this action) to pay more for QS due to increased demand in the QS market. As a result, other small entities will likely generate higher revenues from selling their QS to eligible communities.

Preferred Alternative:

After reviewing the proposed elements and options for Amendment 66, the Council selected the following elements and options for the preferred action alternative (Alternative 2). This action will allow eligible Gulf of Alaska coastal communities to hold commercial catcher vessel halibut and sablefish quota share for lease to and use by community residents, as defined by the options below. See Section 3.9 for details of and the rationale supporting the Council's preferred alternative. This action would modify provisions of the Gulf

FMP related to sablefish management and Federal regulations implementing the halibut and sablefish IFQ Program.

Eligible communities

Communities with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut or sablefish fisheries are eligible to own and use commercial catcher vessel halibut and sablefish quota share. Forty-two Gulf of Alaska communities qualify under these criteria (see attached Table E.1). The Council required that in addition to meeting these criteria at final action, eligible communities must be listed as a defined set of eligible communities in Federal regulation. Communities not meeting the qualifying criteria and not on the list adopted by the Council are not eligible to participate. Other communities could petition the Council for inclusion after the implementation of this program.

Ownership Entity

The Council recommends that new non-profit organizations be formed explicitly for the purpose of purchasing and holding QS on behalf of communities. These non-profit entities may represent one eligible community or an aggregation of two or more qualifying communities.

Individual Community Use Caps

Eligible communities are limited to purchasing and using 1% of the Area 2C and 0.5% of the combined Area 2C, 3A, and 3B halibut QS, and 1% of Southeast and 1% of all combined sablefish QS. Eligible communities in Areas 3A and 3B cannot buy halibut QS in Area 2C and eligible communities in Area 2C cannot buy halibut QS in Area 3B.

Cumulative Community Use Caps

Communities are limited to owning and using 3% of the Area 2C, 3A, or 3B halibut QS and 3% of the SE, WY, CG, or WG sablefish QS in each of the first seven years of the program, with a 21% total by area, unless modified by the Council.

Purchase, Use and Sale Provisions

Original block and vessel size designations apply if the community transfers the QS to any person other than another eligible community. These restrictions would help ensure that the goal of providing access to local residents is maintained and limit the potential for QS to be leased to larger vessels, presumably owned by non-residents fishing further from shore. These restrictions would also address an array of concerns about the distribution of QS among prospective new community entities and existing or future individual participants.

Block Restrictions

- Communities may buy blocked and unblocked quota share.

- Individual eligible communities are limited to holding 10 blocks of halibut QS and 5 blocks of sablefish QS in each management area. Individuals receiving IFQ leased from an eligible community entity would still be subject to the existing individual use caps in regulation.

- For Areas 2C and 3A, eligible communities are restricted to owning and using blocks of halibut quota share which exceeded 3,000 pounds of halibut IFQ, in 1996. This is equivalent to blocks of quota share which exceed 19,992 QS units in Area 2C and 27,912 QS units in Area 3A.

- For Areas SE, WY, CG, and WG, eligible communities are restricted to owning and using blocks of sablefish quota share which exceeded 5,000 pounds of sablefish IFQ in 1996. This is equivalent to blocks of quota share which exceed: 33,270 QS units in Southeast; 43,390 QS units in West Yakutat; 46,055 QS units in Central Gulf; and 48,410 QS units in the Western Gulf management area.

Vessel Size Restrictions

- Quota share held by communities under this program would be exempt from vessel size (share class) restrictions, while the QS is owned and leased by the community.

- Transferability of halibut QS in Areas 2C and 3A from commercial to qualified community entities is restricted to B and C category quota share. Eligible communities may purchase Area 3B D category quota share.

Sale Restrictions

- Eligible communities owning catcher boat (B, C, D category) quota shares may sell those quota shares to any other eligible community or any person meeting the provisions outlined in the existing IFQ Program.

- Eligible communities may only sell their quota share for one of the following purposes:

  (a) generating revenues to sustain, improve, or expand the program
  (b) liquidating the entity's quota share assets for reasons outside the program

  Should an eligible community sell their quota share for purposes consistent with (b) above, an administrative entity would not be qualified to purchase and own quota share on behalf of that community for a period of three years.

Use Restrictions

- Eligible communities owning quota shares may lease the IFQs arising from those quota shares only to residents of the ownership community.

- Any eligible community owning catcher boat quota shares may lease up to 50,000 pounds of halibut IFQs and 50,000 pounds of sablefish IFQs per lessee annually. The 50,000 pound limit is inclusive of any quota owned by the individual (lessee).

- No more than 50,000 pounds of any IFQs leased by an eligible community may be taken on any one vessel, inclusive of any IFQ owned by the individual leasing the IFQs.

Performance Standards

Communities participating in the program may only lease the IFQs arising from their quota share to residents of the ownership community. In addition, the following are goals of the program with voluntary compliance monitored through the annual reporting mechanism and evaluated upon review of the program. Community entities applying for qualification in the program must describe how their use of QS will comply with the following program guidelines:

(a) Maximize benefit from use of community IFQ for crew members that are community residents.
(b) Insure that benefits are equitably distributed throughout the community.
(c) Insure that QS/IFQ allocated to an eligible community entity would not be held and unfished.

Administrative Oversight

The Council approved a provision to require submission of a detailed statement of eligibility to NMFS prior to being considered for eligibility as a community QS recipient. The statement would include:

(a) Certificate of incorporation
(b) Verification of qualified entity as approved in Element 2
(c) Documentation demonstrating accountability to the community
(d) Explanation of how the community entity intends to implement the performance standards

The Council also approved a provision to require submission of an annual report detailing accomplishments. The annual report would include:

(a) A summary of business, employment, and fishing activities under the program
(b) A discussion of any corporate changes that alter the representational structure of the entity
(c) Specific steps taken to meet the performance standards
(d) Discussion of known impacts to resources in the area.

Program Review

The Council recommended to review the program after five years of implementation (five years from the effective date of the final rule). The Council also recommends forming a Community QS Implementation Committee.

The Council voted to release for Secretarial review the analysis for proposed Amendment 66, which would allow eligible communities in the Gulf of Alaska to own and use commercial catcher boat halibut and sablefish quota share for lease to community residents. If approved by the Secretary, the program will not likely be implemented until the 2004 fishing season, or possibly later.

Table E.1: (42) Eligible Communities for Purchase of Halibut and Sablefish Quota Share

General Qualifying Criteria: Rural communities in the Gulf of Alaska with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation[1] in the halibut or sablefish fisheries.

Area 2C

Community	Population[2]
Angoon	572
Coffman Cove	199
Craig	1,397
Edna Bay	49
Elfin Cove	32
Gustavus	429
Hollis	139
Hoonah	860
Hydaburg	382
Kake	710
Kassan	39
Klawock	854
Metlakatla	1,375
Meyers Chuck	21
Pelican	163
Point Baker	35
Port Alexander	81
Port Protection	63
Tenakee Springs	104
Thorne Bay	557
Whale Pass	58
21 communities	8,119

Area 3A

Community	Population
Akhiok	80
Chenega Bay	86
Halibut Cove	35
Karluk	27
Larsen Bay	115
Nanwalek	177
Old Harbor	237
Ouzinkie	225
Port Graham	171
Port Lions	256
Seldovia	286
Tatitlek	107
Tyonek	193
Yakutat	680
14 communities	2,675

Area 3B

Community	Population
Chignik	79
Chignik Lagoon	103
Chignik Lake	145
Ivanof Bay	22
King Cove	792
Perryville	107
Sand Point	952
7 communities	2,200

[1]As documented by CFEC, DCED, or reported by ADF&G in *Alaska Rural Places in Areas with Subsistence Halibut Uses*.

[2]2000 census data, Alaska Department of Community and Economic Development.

Note: The above 42 communities appear to meet the qualifying criteria at Council final action on April 10, 2002, and will be listed as a defined set of qualifying communities in Federal regulation. Communities not listed must apply to the North Pacific Fishery Management Council to be approved for participation in the program and will be evaluated using the above criteria.

Alternatives and options for Gulf FMP Amendment 66

Alternative 1: (No Action.) Only qualified persons as defined in the current Federal regulations could hold and use commercial halibut and sablefish QS in the Gulf of Alaska.

Alternative 2: Allow eligible Gulf of Alaska coastal communities to hold commercial halibut and sablefish QS for lease to and use by community residents (as defined by the following elements and options).

Element 1. Eligible Communities (Gulf of Alaska communities only)

Rural communities with less than 2,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut/sablefish fisheries:

Suboption 1: Include a provision that the communities must also be fishery dependent, as determined by:

- Fishing as a principal source of revenue to the community, or
- Fishing as a principal source of employment in the community

Suboption 2: Decrease size to communities with less than 1,500 people.
Suboption 3: Increase size to communities with less than 5,000 people.

Element 2. Ownership Entity

(a) Existing recognized governmental entities within the communities (e.g., municipalities, tribal councils or ANCSA corporations)
(b) New non-profit community entity
(c) New non-profit formed by an aggregation of communities
(d) Combination of the entities (allow different ownership entities in different communities depending on the adequacy and appropriateness of existing management structures)

Element 3. Use Caps for Individual Communities

Options (a) - (c) would establish the same use caps for all eligible communities:

(a) 2% of 2C and 1% of the combined 2C, 3A and 3B halibut QS, and 2% of Southeast and 2% of all combined sablefish QS.

(b) 1% of 2C and 0.5% of the combined 2C, 3A and 3B halibut QS, and 1% of Southeast and 1% of all combined sablefish QS.

Suboption 1 for (b): Communities in Areas 3A and 3B cannot buy halibut QS in Area 2C and communities in Area 2C cannot buy halibut QS in Area 3B.

(c) 0.5% of 2C and 0.5% of the combined 2C, 3A and 3B halibut QS, and 0.5% of Southeast and 1% of all combined sablefish QS.

Options (d) or (e) would establish use caps on an area basis (i.e., eligible communities in Area 2C, 3A, and 3B would have different use caps):

(d) Place caps on individual communities that limits them from using more than 1% of the combined quota share in the area they reside in and an adjacent quota share area. Communities in 3A could not buy quota shares in 2C.

(e) Place caps on individual communities that limits them from using more than 0.5% of the combined quota share in the area they reside in and an adjacent quota share area. Communities in 3A could not buy quota shares in 2C.

Suboption 1: Place caps on individual communities so that the caps are area specific and not combined with more than one area.

Thus, under Options d and e:

- 2C communities capped at 1% (or 0.5%) of the combined 2C and 3A halibut QS, and 1% (or 0.5%) of the combined Southeast and West Yakutat combined sablefish QS.
- 3A communities capped at 1% (or 0.5%) of the combined 3A and 3B halibut QS, and 1% (or 0.5%) of the combined West Yakutat and Central Gulf combined sablefish QS.
- 3B communities capped at 1% or (0.5%) of the combined 3A and 3B halibut QS, and 1% (or 0.5%) of the combined Central Gulf and Western Gulf combined sablefish QS.

Or, under Suboption 1:

- 2C communities would be capped at 1% (or 0.5%) of the Area 2C halibut QS and 1% (or 0.5%) of the Area 3A halibut QS. They would also be capped at 1% (or 0.5%) of the SE sablefish QS and 1% (or 0.5%) of the WY sablefish QS.
- 3A communities would be capped at 1% (or 0.5%) of the Area 3A halibut QS and 1% (or 0.5%) of the Area 3B halibut QS. They would also be capped at 1% (or 0.5%) of the WY sablefish QS and 1% (or 0.5%) of the CG sablefish QS.
- 3B communities would be capped at 1% (or 0.5%) of the Area 3B halibut QS and 1% (or 0.5%) of the Area 3A halibut QS. They would also be capped at 1% (or 0.5%) of the CG sablefish QS and 1% (or 0.5%) of the WG sablefish QS.

Element 4. Cumulative Use Caps for all Communities

(a) 20% of the combined 2C, 3A, and 3B halibut QS, and 40% of the total combined Gulf of Alaska sablefish QS.
(b) 20% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS.
(c) 10% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS.
(d) 10% of the combined 2C, 3A, and 3B halibut QS, and 10% of the total combined Gulf of Alaska sablefish QS.
(e) 20% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS. However, communities would be limited to 10% of the combined 2C, 3A, and 3B halibut QS and 10% of the combined Gulf of Alaska sablefish QS prior to the Council's review of the program in 3-10 years.

Suboption 1: Communities would be limited to 5% of the combined 2C, 3A, and 3B halibut QS and 5% of the total combined Gulf of Alaska sablefish QS in the first 2-5 years of the program.

(f) For options a-e, place cumulative use caps that are area specific rather than applying to

combined areas.

(g) Communities would be limited to 3% of the Area 2C, 3A, or 3B halibut QS and 3% of the SE, WY, CG, or WG sablefish QS in each of the first seven years of the program, with a 21% total by area, unless modified by the Council's review of the program.

(h) No cumulative use caps.

Element 5. Purchase, use, and sale restrictions

(All restrictions on quota shares (e.g., share class, blocked or unblocked status) would be retained once the quota is sold outside of the community.)

Block Restrictions

(a) Communities would have the same blocked share restrictions as individuals

(b) Allow communities to buy only blocked shares or only unblocked shares

(c) Allow communities to buy blocked and unblocked shares

Suboption 1: Communities can purchase blocked and unblocked shares up to the ratio of blocked to unblocked shares in that area (i.e., communities are not limited to the number of blocks that they can own, but are limited in the number of pounds of blocked shares). The community would first need to purchase unblocked shares and then could purchase blocked shares up to the ratio in the area.

Suboption 2: Communities can purchase blocked quota shares in excess of the current limit on block ownership, up to:

(a) 5 blocks per community

(b) 20 blocks per community

(c) Without limitation

Suboption 3: Restrict community purchase of blocked quota share to blocks of shares which, when issued, exceeded a minimum poundage of IFQ.

(a) For Areas 2C, 3A, and 3B, minimum halibut IFQ poundage in a range of 2,500 - 10,000 pounds.

(b) For SE, WY, CG, and WG, minimum sablefish IFQ poundage in a range of 3,000 - 10,000 pounds.

Vessel Size Restrictions

(a) Apply vessel size (share class) restrictions to the purchase of QS by communities.

(b) Do not apply vessel size (share class) restrictions to the purchase of QS by communities.

(c) Transferability of QS (permanent) and IFQs (on annual basis [leasing]) from commercial to community is restricted to the following class of shares:

(i) C and D category

(ii) B and C category

(iii) B, C, and D category

Sale Restrictions

(a) Communities may only sell their QS:
1. after 3 years of ownership
2. to other communities
3. for one of the following purposes:
(A) generating revenues to sustain, improve, or expand the program
(B) liquidating the entity's QS assets for reasons outside the program. In that event, NMFS would not qualify that entity or another entity to hold QS for that community for a period of 3 years.
4. no sale restrictions

(b) Communities may:
1. divide QS blocks that result in IFQs in excess of 20,000 lbs in a given year in half upon sale
Suboption 1: Allow only Area 3B QS blocks that result in IFQs in excess of 20,000 lbs in a given year to be divided in half upon sale
2. "sweep up" blocks of less than 10,000 lbs and sell as blocks of up to 20,000 lbs

Use restrictions

(a) Leasing of community IFQs shall be limited to an amount equal to 25,000 - 75,000 pounds of halibut and sablefish IFQs per transferee.

Suboption 1: Leasing of community IFQs shall be limited, inclusive of any IFQ owned, per vessel.

Element 6. Performance Standards

Communities participating in the program must adhere to the following performance standards established in regulation by NMFS:

(a) Leasing of annual IFQs resulting from community-owned QS shall be limited to residents of the ownership community.
Suboption 1: Leasing of community QS shall be limited to residents of the ownership community and residents of other qualifying communities.
(b) Maximize benefit from use of community IFQ for crew members that are community residents.
(c) Insure that benefits are equitably distributed throughout the community.
(d) Insure that QS/IFQ allocated to an eligible community entity would not be held and unfished.

Element 7. Administrative Oversight

(a) Require submission of a detailed statement of eligibility to NMFS prior to being considered for eligibility as a community QS recipient. The statement would include:
1. Certificate of incorporation
2. Verification of qualified entity as approved in Element 2
3. Documentation demonstrating accountability to the community
4. Explanation of how the community entity intends to implement the performance standards

(b) Require submission of an annual report detailing accomplishments. The annual report would include:

1. A summary of business, employment, and fishing activities under the program
2. A discussion of any corporate changes that alter the representational structure of the entity
3. Specific steps taken to meet the performance standards
4. Discussion of known impacts to resources in the area

Element 8. Program Review

(a) No sunset provision

(b) Review program after 5 years and consider sunsetting program if review reveals a failure to accomplish the stated goals.

(c) Review program after 5 years and, if changes are necessary, provide a "drop-through"[1] of purchase and use privileges, whereby the initial privileges granted to participating communities would continue for an additional 10 years. Additional community purchases would be subject to a new set of purchase and use standards. Incentives for communities to convert from the initial set of purchase and use privileges to the new set would be provided.

Suboption 1: Review program after 10 years
Suboption 2: Review program after 3 years

[1]As described in the National Research Council's 1999 publication Sharing the Fish, p. 150.

1.0 INTRODUCTION

This document is an Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis for proposed Amendment 66 to the Fishery Management Plan for Gulf of Alaska Groundfish. The action proposes to allow eligible Gulf of Alaska communities to hold commercial halibut and sablefish quota share for lease to and use by community residents.

An environmental assessment (EA) is required by the National Environmental Policy Act of 1969 (NEPA) to determine whether the action considered will result in a significant impact on the human environment. If the action is determined not to be significant based on an analysis of relevant considerations, the EA and resulting finding of no significant impact (FONSI) would be the final environmental documents required by NEPA. An environmental impact statement (EIS) must be prepared for major Federal actions significantly affecting the human environment.

The purpose of the EA is to analyze the environmental impacts of the proposed Federal action to allow communities to hold commercial halibut/sablefish QS on the human environment and provide sufficient evidence to determine the level of significance. The human environment is defined by the Council on Environmental Quality as the natural and physical environment and the relationships of people with that environment (40 CFR 1508.14). This means that economic or social effects are not intended by themselves to require preparation of an EA. However, when an EA is prepared and socio-economic and natural or physical environmental impacts are interrelated, the EA must discuss all of these impacts on the quality of the human environment. NEPA requires a description of the purpose and need for the proposed action as well as a description of alternatives which may address the problem. This information is included in **Section 1.0** of this document. **Section 2.0** contains a description of the affected human environment and information on the impacts of the alternatives on that environment, specifically addressing potential impacts on endangered species and marine mammals and cumulative effects.

Executive Order 12866 (E.O. 12866) requires preparation of a Regulatory Impact Review (RIR) to assess the social and economic costs and benefits of available regulatory alternatives, in order to determine whether a proposed regulatory action is economically "significant" as defined by the order. **Section 3.0** contains a systematic description and analysis of the economic and social impacts of each of the alternatives. The summary of the Council's preferred alternative is the subject of Section 3.9.

Section 4.0 addresses the requirements of other applicable laws, including the Northern Pacific Halibut Act of 1982, Magnuson Stevens Act (MSA), Marine Mammal Protection Act, and Regulatory Flexibility Act, which includes the IRFA in Section 5.4. The Regulatory Flexibility Act (RFA) requires analysis of adverse impacts on small entities which would be directly regulated by the proposed action. The major goals of the RFA are to: 1) increase agency awareness and understanding of the impact of their regulations on small businesses, 2) require that agencies communicate and explain their findings to the public, and 3) encourage agencies to use flexibility and to provide regulatory relief to small entities. The preparation of an Initial Regulatory Flexibility Analysis (IRFA) emphasizes predicting significant adverse impacts on small entities as a group, distinct from other entities, and on the consideration of alternatives that may minimize the impacts, while still achieving the stated objective of the action.

The references and literature cited is in **Section 5.0** and the list of preparers is in **Section 6.0**.

1.1 Purpose and Need for the Action

The proposed action would allow small, rural, fishing-dependent coastal communities in the Gulf of Alaska the opportunity to purchase halibut and sablefish quota share (QS) for the purpose of retaining the QS in the communities for lease to and use by resident commercial fishermen. The goal is to provide for sustained participation of these communities in the commercial halibut and sablefish fisheries. While not necessarily a direct result of the implementation of the commercial IFQ program, a decline in the number of community fishermen and access to nearby marine resources are on-going problems in rural communities that may be exacerbated by the IFQ program. Effectively, the action is an attempt to alleviate this problem in rural Gulf of Alaska communities.

The Council developed a problem statement in June 2000 to reflect the community concerns and the laws governing the management of sablefish and halibut. In June 2001, the Council revised and adopted the problem statement as follows:

Community QS Purchase Problem Statement

A number of small coastal communities in Southeast and Southcentral Alaska are struggling to remain economically viable. The halibut and sablefish IFQ program, as with other limited entry programs, increases the cost of entry into or expansion in the commercial halibut and sablefish fisheries.

Allowing qualifying communities to purchase halibut and sablefish quota share for lease to and use by community residents will help minimize adverse economic impacts on these small, remote, coastal communities in Southeast and Southcentral Alaska, and help provide for the sustained participation of these communities in the halibut and sablefish IFQ fisheries. The Council seeks to provide for this sustained participation without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities.

The SSC characterized the proposed action in its December 2001 minutes as "a redistribution of opportunity based on equity considerations. The proposed action implies that the initial allocation of quota shares through the IFQ Program failed to achieve some of the Council's objectives with respect to preserving fishing opportunity in small communities" (SSC 2001). During the development of the IFQ Program, the Council noted that maintaining diversity in the halibut and sablefish fleets and minimizing adverse coastal community impacts were particularly important considerations since these fisheries had typically been characterized by small vessel participation by thousands of fishermen, many residing in small coastal communities in Alaska and the Pacific Northwest (Pautzke and Oliver 1997). While the Council built in several provisions intended to safeguard small coastal communities, such as transferability and block restrictions,[2] there still exists debate on whether this program has collectively had a positive or negative impact on coastal Alaskan communities and their residents. Several years after implementation, some Gulf communities appear to have benefitted from the program and continue to increase their participation in the halibut and sablefish fisheries while others have experienced a significant decline in participation. The lack of sustained participation in these

[2]The halibut IFQ program rules created non-severable "blocks" of QS that were designed to constrain how much QS can be aggregated. Persons received their QS in a block at initial allocation if their QS would have resulted in less than 20,000 pounds of halibut or sablefish, given 1994 TACs.

smaller, rural, Gulf communities is identified as a concern of the Council's in the above problem statement. Thus, the proposed action at issue in this amendment is an attempt to mitigate the identified problem and provide communities with an opportunity to increase participation in the IFQ fisheries. The purpose and design of this action is therefore to have distributional effects.

Allowing a distinct set of remote communities to hold commercial QS may help ensure access to and sustain participation in the commercial halibut and sablefish fisheries for those communities. These communities typically have few alternative economic opportunities, thus the pattern of decline in the number of QS holders in these communities has a severe effect on unemployment and related social and economic impacts. The intent of the action is to provide communities with the opportunity to hold a perpetual investment in nearby fisheries that have been historically available to resident fishermen, in order to provide long-term benefits to community members. The intent is to allow communities to identify or form a non-profit entity to hold QS, purchased on behalf of the community. The community QS would likely be leased to small operators who are residents of the community and possibly provide crew jobs for community members. Finally, because communities may have more access than individual residents to the capital required, as well as the financial stability to risk that investment, the community may better be able to purchase and use the QS as a long-term investment for the benefit of the community.

The 1996 amendments to the Magnuson-Stevens Act require that management programs take into account the social context of the fisheries, especially the role of communities (Sec. 301[a][8], 303 [a][9]). Although halibut is managed under the authority of the Halibut Act (sablefish is managed under the MSA), the Council consistently considers the impacts of all its management measures on fishery-dependent communities. The proposed action represents a policy decision to address any real or perceived negative impacts on communities as a result of the commercial IFQ program and to allow for the entry into and sustained participation by communities in these fisheries.

1.2 Background

1.2.1 General Description of the Commercial IFQ Program

In December 1991, the Council proposed an IFQ program as the best alternative to address problems associated with excess harvesting capacity in the commercial Pacific halibut and sablefish longline fisheries off Alaska. Typical problems stemming from overcapitalization and short "derby" openings included gear conflicts, deadloss from lost gear, increased bycatch and discard mortality, decreases in product quality, safety concerns, low ex-vessel prices, and a host of other issues. A general treatment of the market failures associated with 'open access' resource management, leading to overcapitalization and rents dissipation, are well known. An extensive treatment of these market failures and the role of IFQs in mitigating them, as well as a more specific review of the Alaska halibut and sablefish IFQ program, can be found in the NRC Report *Sharing the Fish* (NRC 1999a). The IFQ program was approved for the Pacific halibut and sablefish fixed gear fisheries in the Federal waters of the Bering Sea/Aleutian Islands and Gulf of Alaska by the Council in 1991 and these fisheries have been managed under this program since 1995.[3]
The IFQ approach was preferable in that it provides fishermen with the authority to decide how much and what type of investment they wish to make to harvest the resource. By guaranteeing a certain amount of catch

[3]NMFS published the proposed rule for GOA Amendment 20 on December 3, 1992 (57 FR 57130) with a corrected version published December 29, 1992 (57 FR 61870). The final rule implementing the amendments was published November 9, 1993 (58 FR 59375). Actual program implementation was March 15, 1995, following application, appeals, and establishment of monitoring systems. Portions of the regulations were amended in subsequent final rules.

at the beginning of the season and by extending the season over a period of eight months, those who held the quota share could determine where and when to fish, how much gear to deploy, and how much overall investment in harvesting to make. Through an IFQ system, these decisions can be guided more effectively by competitive market signals, allowing both the producers and consumers to 'optimize' the benefits they derive from the resource.

The IFQ program essentially assigns the privilege of harvesting a percentage of the sablefish and halibut quota to specific individuals with a history of harvest in the fisheries. The shares given to each person are proportional to their fixed gear halibut and sablefish landings during the qualifying period determined by the Council and are represented as quota shares. The IFQs that result from the QS vary each year depending on the annual TAC established for each species and the quota share pool available in each area. Under this program, only persons holding IFQs are allowed to make fixed gear landings of halibut and sablefish in the regulatory areas identified. The sablefish management areas identified for the Gulf of Alaska are the Western Gulf, Central Gulf, West Yakutat, and East Yakutat/Southeast Outside. Halibut is managed by IPHC area and has different boundaries which generally correspond to the same geographic areas: Area 2C (southeast), Area 3A (southcentral) and Area 3B (western Gulf).

During the development of the IFQ Program, the Council also built in several provisions to address concerns regarding transferability and the goal of preserving an owner-operated fleet. Among other things, the Council was concerned about consolidation of ownership and divestiture of coastal Alaskans from the fisheries. Ultimately, the Council provided a design which was intended to control transferability through: 1) limits on the amount of QS which could be owned or controlled by individuals and companies (1% of the total QS pool for sablefish and 0.5% for halibut; 2) establishment of vessel size categories; 3) requirements for catcher vessel QS to only be purchased by individual fishermen, with proven sea time, who would also be required to be on the vessel and fish the QS; and 4) limitations on leasing certain categories of QS (Pautzke and Oliver 1997). A report on the development of the program from Pautzke and Oliver states, "The primary intent of the Council in adopting these provisions was to maintain a diverse, owner-operated fleet and prevent a 'corporate,' absentee ownership of the fisheries" (p. 14).

The Council also addressed the conflict of preventing absentee ownership but providing for the leasing arrangements that many individuals had been making previously. Many partnership agreements have been made such that individuals owning QS may not be on board the vessel when their IFQs are being fished, but are actively involved in its management. The Council ultimately required that an individual must own 20% of the vessel in order to hire a skipper and not be on board when the fish are harvested. This provision was intended to mirror past practice, and allow individual QS holders some flexibility in the use of their IFQs.

Many of the provisions of the IFQ Program referenced in the environmental assessment portion of this analysis will be discussed in more detail in the RIR, as they apply to the specific elements of the proposed action to allow communities to purchase halibut and sablefish QS. The Council began considering allowing communities to purchase commercial halibut/sablefish QS in June 2000, in response to a proposal from the Gulf of Alaska Coastal Communities Coalition (Coalition).[4] The proposal cited the disproportionate amount of QS transfers out of smaller, rural communities as a symptom of the continuing erosion of their participation in the commercial IFQ fisheries. Anecdotal evidence cited in the proposal suggests that the fishermen in these communities were not awarded sufficient QS during initial issuance to make it

[4] *Community Purchase of Halibut and Sablefish Individual Fishing Quota Shares Discussion Paper*, May 30, 2000. Gulf of Alaska Coastal Communities Coalition.

economically viable to continue fishing. In contrast, fishermen who received larger initial allocations were able to finance additional QS purchases with the capital provided from their new asset base. In this context, the pattern of increased divestment is specific to small quota recipients and does not depend on whether the fishermen live in a rural or urban community. However, the proposal states, and the RAM Division and CFEC[5] confirm, that: 1) the rate of decline of the amount of QS in the smaller communities is higher than that of the larger communities, 2) the bulk of the QS consolidation has taken place in the smaller holdings, and 3) very few initial large quota share recipients reside in smaller, coastal communities. The Coalition was concerned that because small, remote Gulf coastal communities are dependent on fisheries for a large portion of their employment and income and have few alternative economic opportunities, a decline in the number of QS holders in these communities has a severe effect on unemployment and related social and economic impacts.

1.2.2 National Research Council Recommendations on Communities in IFQ Programs

Consideration of including communities in the commercial IFQ program is motivated by several provisions in the MSA and emphasized in current NRC reports (1999a and b). The MSA defines "fishing community" as a community which is substantially dependent on or substantially engaged in the harvest and processing of fishery resources to meet social and economic needs; vessel owners, operators, crew members, and processors based in such a community are included (Sec.3 [16]). The NRC report Sharing the Fish (1999a) relates that communities are important to recognize in the discussion of co-management and involvement of stakeholders in the management process, and that the fishing community is relevant to the potential achievement of objectives or assessment of impacts for specific fishery management programs. In addition, the NRC report points out that the policy goals of the MSA have evolved over time, as the fishery has moved from a foreign-dominated to a fully Americanized fishery. As mentioned previously, one of the salient features of the 1996 amendments to the MSA (the Sustainable Fisheries Act) is the mandate to consider the role of communities in fisheries and the importance of fishing as both a tradition and profession.

The NRC report also encourages NMFS and the Council to consider the inclusion of fishing communities in initial allocations, where appropriate.[6] For existing IFQ programs, the NRC recommends that Councils should be permitted to authorize the purchase, holding, management, and sale of QS/IFQs by communities. Quota share could be used for community development purposes, treated as a resource allowing local fishermen to fish, or reallocated to fishermen that are members of the community.[7] The NRC asserts that the Secretary of Commerce should interpret National Standard 8 of the MSA to support this approach to limited entry management. National Standard 8 reads as follows (Sec. 301(a)(8):

> *(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing*

[5]"Holdings of Limited Entry Permits, Sablefish Quota Shares, and Halibut Quota Shares Through 1998 and Data on Fisheries Gross Earnings," CFEC. 1999.

[6]Sharing the Fish, 1999. p. 9.

[7]Sharing the Fish, 1999. p. 10.

communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

The proposed action in this amendment is consistent with the NRC recommendations and the intent that community QS could represent a resource endowment to the community which would allow local residents access to the fish. This action is intended to both help preserve fishing opportunity in small communities and to mitigate adverse impacts on communities resulting from the initial allocation of QS through the IFQ Program.

1.3 Description of the Alternatives

1.3.1 Alternative 1: (No Action) Only qualified persons as defined in the current Federal regulations could hold and use commercial halibut and sablefish QS in the Gulf of Alaska.

The existing IFQ regulations were designed to affect the nature of transfers and to limit QS consolidation. Initial allocations were restricted to "qualified persons" under 50 CFR 679.40 (a)(2), defined as:

> "any individual who is a citizen of the United States or any corporation, partnership, association, or other entity (or their successor in interest), whether or not organized or existing under the laws of any state, who is a U.S. citizen."[8]

To meet the goal of retaining an owner-operator fleet, the current commercial IFQ regulations also require that catcher vessel QS may only be *transferred to individuals*, and those individuals must be aboard the vessel when the fish are harvested and landed. In recognition of historical fishing practices, initial issuees may, with some exceptions, hire skippers to fish their annual IFQ. Currently, the QS holder must demonstrate that she holds at least a 20% ownership interest in the vessel upon which the IFQ is to be fished.

Any U.S. citizen or entity may receive freezer vessel QS ('A' category) through transfer, but the persons who may buy catcher vessel QS ('B', 'C', and 'D' category) are restricted to those persons who were originally issued catcher vessel QS or those who qualify as IFQ crew members by working for 150 days on the harvesting crew in any U.S. commercial fishery.[9] Thus, under the status quo, communities could receive A category QS through transfer, but not catcher vessel QS.

Alternative 1 would maintain the language and intent of the current regulations, effectively limiting the ownership of QS to individuals and initial recipients. Gulf community residents would continue to be allowed to purchase commercial halibut and sablefish QS and fish the resulting IFQs, but community entities could not receive or hold catcher vessel QS for community benefit.

1.3.2 Alternative 2: Allow eligible Gulf of Alaska coastal communities to hold commercial halibut and sablefish QS for lease to and use by community residents

[8]See 50 CFR 679.2.

[9]See 50 CFR 679.41(g); "IFQ crew" are defined in 50 CFR 679.2.

Eligible communities, as defined by qualification criteria established by the Council, may purchase and hold commercial halibut and sablefish QS in the Gulf of Alaska. Communities would create or identify an existing entity to purchase and manage commercial halibut and sablefish QS, for lease to and use by qualified individual community members. The community ownership entity would remain the registered owner and holder of the QS, and would lease the ensuing IFQ to qualified residents.

NMFS would issue the IFQ permit and landing card to the individual specified by the community, and treat the transaction as any other commercial IFQ transfer. The community would be responsible, given any constraints or guidelines provided by the Council, for developing a contract between the community and the individual who would lease the IFQ. The community would also be responsible for staying within the guidelines of the overall program, and the community resident leasing the IFQs must abide by any and all regulations pertaining to current operations of the fishery.

This option would expand the universe of eligible halibut/sablefish QS holders for the purpose of allowing a distinct subset of Gulf communities the opportunity for long-term access to and benefits from the halibut and sablefish resource. Currently only qualified individuals are allowed to hold and use commercial QS.

1.3.2.1 Elements and options for allowing community purchase of halibut and sablefish commercial quota share[10]

Element 1. Eligible Communities (Gulf of Alaska communities only)

Rural communities with less than 2,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut/sablefish fisheries:

Suboption 1. Include a provision that the communities must also be fishery dependent, as determined by:
- Fishing as a principal source of revenue to the community, or
- Fishing as a principal source of employment in the community (e.g., fishermen, processors, suppliers)

Suboption 2. Decrease size to communities with less than 1,500 people.
Suboption 3. Increase size to communities with less than 5,000 people.

Element 2. Ownership Entity

(a) Existing recognized governmental entities within the communities (e.g., municipalities, tribal councils or ANCSA corporations)
(b) New non-profit community entity
(c) New non-profit formed by an aggregation of communities
(d) Combination of the entities (allow different ownership entities in different communities depending on the adequacy and appropriateness of existing management structures)

Element 3. Use Caps for Individual Communities

Options (a) - (c) would establish **the same use caps** for all eligible communities:

[10]Options as adopted by the Council in June 2001 and revised February 2002. Not all of the options under each element are mutually exclusive, i.e. the Council may select more than one option under Elements 1, 2, 5, 6, and 7.

(a) 2% of 2C and 1% of the combined 2C, 3A and 3B halibut QS, and 2% of Southeast and 2% of all combined sablefish QS.

(b) 1% of 2C and 0.5% of the combined 2C, 3A and 3B halibut QS, and 1% of Southeast and 1% of all combined sablefish QS.

Suboption 1 for (b): Communities in Areas 3A and 3B cannot buy halibut QS in Area 2C and communities in Area 2C cannot buy halibut QS in Area 3B.

(c) 0.5% of 2C and 0.5% of the combined 2C, 3A and 3B halibut QS, and 0.5% of Southeast and 1% of all combined sablefish QS.

Options (d) or (e) would establish **use caps on an area basis** (i.e., eligible communities in Area 2C, 3A, and 3B would have different use caps):

(d) Place caps on individual communities that limit them from using more than 1% of the combined quota share in the area they reside in and an adjacent quota share area. Communities in 3A could not buy quota shares in 2C.

(e) Place caps on individual communities that limit them from using more than 0.5% of the combined quota share in the area they reside in and an adjacent quota share area. Communities in 3A could not buy quota shares in 2C.

Suboption 1 for (d) and (e): Place caps on individual communities so that the caps are area specific and not combined with more than one area.

Thus, under Options d and e:

- 2C communities would be capped at 1% (or 0.5%) of the combined 2C and 3A halibut QS, and 1% (or 0.5%) of the combined Southeast and West Yakutat combined sablefish QS.
- 3A communities would be capped at 1% (or 0.5%) of the combined 3A and 3B halibut QS, and 1% (or 0.5%) of the combined West Yakutat and Central Gulf combined sablefish QS.
- 3B communities would be capped at 1% or (0.5%) of the combined 3A and 3B halibut QS, and 1% (or 0.5%) of the combined Central Gulf and Western Gulf combined sablefish QS.

Or, under Suboption 1:

- 2C communities would be capped at 1% (or 0.5%) of the Area 2C halibut QS and 1% (or 0.5%) of the Area 3A halibut QS. They would also be capped at 1% (or 0.5%) of the SE sablefish QS and 1% (or 0.5%) of the WY sablefish QS.
- 3A communities would be capped at 1% (or 0.5%) of the Area 3A halibut QS and 1% (or 0.5%) of the Area 3B halibut QS. They would also be capped at 1% (or 0.5%) of the WY sablefish QS and 1% (or 0.5%) of the CG sablefish QS.
- 3B communities would be capped at 1% (or 0.5%) of the Area 3B halibut QS and 1% (or 0.5%) of the Area 3A halibut QS. They would also be capped at 1% (or 0.5%) of the CG sablefish QS and 1% (or 0.5%) of the WG sablefish QS.

Element 4. Cumulative Use Caps for all Communities

(a) 20% of the combined 2C, 3A, and 3B halibut QS, and 40% of the total combined Gulf of Alaska sablefish QS.

(b) 20% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS.
(c) 10% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS.
(d) 10% of the combined 2C, 3A, and 3B halibut QS, and 10% of the total combined Gulf of Alaska sablefish QS.
(e) 20% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS. However, communities would be limited to 10% of the combined 2C, 3A, and 3B halibut QS and 10% of the combined Gulf of Alaska sablefish QS prior to the Council's review of the program in 3-10 years.

Suboption 1: Communities would be limited to 5% of the combined 2C, 3A, and 3B halibut QS and 5% of the total combined Gulf of Alaska sablefish QS in the first 2-5 years of the program.

(f) For options a-e, place cumulative use caps that are area specific rather than applying to combined areas.
(g) Communities would be limited to 3% of the Area 2C, 3A, or 3B halibut QS and 3% of the SE, WY, CG, or WG sablefish QS in each of the first seven years of the program, with a 21% total by area, unless modified by the Council's review of the program.
(h) No cumulative use caps.

Element 5. Purchase, use, and sale restrictions
(All restrictions on quota shares (e.g., share class, blocked or unblocked status) would be retained once the quota is sold outside of the community.)

Block Restrictions

(a) Communities would have the same blocked share restrictions as individuals
(b) Allow communities to buy only blocked shares or only unblocked shares
(c) Allow communities to buy blocked and unblocked shares

Suboption 1: Communities can purchase blocked and unblocked shares up to the ratio of blocked to unblocked shares in that area (i.e., communities are not limited to the number of blocks that they can own, but are limited in the number of pounds of blocked shares). The community would first need to purchase unblocked shares and then could purchase blocked shares up to the ratio in the area.

Suboption 2: Communities can purchase blocked quota shares in excess of the current limit on block ownership, up to:
(a) 5 blocks per community
(b) 20 blocks per community
(c) Without limitation

_____Suboption 3: Restrict community purchase of blocked quota share to blocks of shares which, when issued, exceeded a minimum poundage of IFQ.
(a) For Areas 2C, 3A, and 3B, minimum halibut IFQ poundage in a range of 2,500 - 10,000 pounds.

(b) For SE, WY, CG, and WG, minimum sablefish IFQ poundage in a range of 3,000 - 10,000 pounds.

Vessel Size Restrictions

(a) Apply vessel size (share class) restrictions to the purchase of QS by communities.
(b) Do not apply vessel size (share class) restrictions to the purchase of QS by communities.
(c) Transferability of QS (permanent) and IFQs (on annual basis [leasing]) from commercial to community is restricted to the following class of shares:

(i) C and D category
(ii) B and C category
(iii) B, C, and D category

Sale Restrictions

(a) Communities may only sell their QS:
1. after 3 years of ownership
2. to other communities
3. for one of the following purposes:
(A) generating revenues to sustain, improve, or expand the program
(B) liquidating the entity's QS assets for reasons outside the program. In that event, NMFS would not qualify that entity or another entity to hold QS for that community for a period of 3 years.
4. no sale restrictions

(b) Communities may:
1. divide QS blocks that result in IFQs in excess of 20,000 lbs in a given year in half upon sale
Suboption 1: Allow only Area 3B QS blocks that result in IFQs in excess of 20,000 lbs in a given year to be divided in half upon sale
2. "sweep up" blocks of less than 10,000 lbs and sell as blocks of up to 20,000 lbs.

Use Restrictions

(a) Leasing of community IFQs shall be limited to an amount equal to 25,000 - 75,000 pounds of halibut and sablefish IFQs per transferee

Suboption 1: Leasing of community IFQs shall be limited, inclusive of any IFQ owned, per vessel.

Element 6. Performance Standards

Communities participating in the program must adhere to the following performance standards established in regulation by NMFS:

(a) Leasing of annual IFQs resulting from community owned QS shall be limited to residents of the ownership community.
Suboption 1: Leasing of community QS shall be limited to residents of the ownership community and residents of other qualifying communities.
(b) Maximize benefit from use of community IFQ for crew members that are community residents.
(c) Insure that benefits are equitably distributed throughout the community.
(d) Insure that QS/IFQ allocated to an eligible community entity would not be held and unfished.

Element 7. Administrative Oversight

(a) Require submission of a detailed statement of eligibility to NMFS prior to being considered for eligibility as a community QS recipient. The statement would include:
1. Certificate of incorporation
2. Verification of qualified entity as approved in Element 2
3. Documentation demonstrating accountability to the community
4. Explanation of how the community entity intends to implement the performance standards

(b) Require submission of an annual report detailing accomplishments. The annual report would include:
1. A summary of business, employment, and fishing activities under the program
2. A discussion of any corporate changes that alter the representational structure of the entity
3. Specific steps taken to meet the performance standards Element 6.
4. Discussion of known impacts to resources in the area

Element 8. Program Review

(a) No sunset provision
(b) Review program after 5 years and consider sunsetting program if review reveals a failure to accomplish the stated goals.
(c) Review program after 5 years and, if changes are necessary, provide a "drop-through"[11] of purchase and use privileges, whereby the initial privileges granted to participating communities would continue for an additional 10 years. Additional community purchases would be subject to a new set of purchase and use standards. Incentives for communities to convert from the initial set of purchase and use privileges to the new set would be provided.
Suboption 1: Review program after 10 years.
Suboption 2: Review program after 3 years.

[11]As described in the National Research Council's 1999 publication Sharing the Fish, p. 150.

1.4 Consistency with the Problem Statement

The proposed action is a Gulf of Alaska Fishery Management Plan (FMP) amendment (Amendment 66) that would require changing language in several sections relating to the sablefish IFQ program.[12] This amendment would allow Federal regulations to be changed so that communities could hold commercial halibut/sablefish QS, with restrictions as developed by the Council and approved by the Secretary of Commerce. The effect of the regulatory change would be to create a new category of eligible "person" that may hold halibut and sablefish quota share. While sablefish is managed under the FMP and the authority of the Magnuson-Stevens Act, halibut is managed by the IPHC as provided by the Convention Between the U.S. and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea (Convention) and the Northern Pacific Halibut Act of 1982 (Halibut Act). However, the Halibut Act and the Convention have been interpreted to assign responsibility to the Council on halibut management issues concerning allocation and limited entry. Thus, the Council is authorized to amend the Federal regulations governing both the halibut and sablefish IFQ program under existing law. The proposed action is therefore a Gulf FMP amendment for sablefish and a regulatory amendment for both halibut and sablefish.

This action would be limited to amending the Gulf of Alaska FMP and would not affect the FMP for the Bering Sea/Aleutian Islands. The nature and intent of the action is to allow Gulf of Alaska communities to purchase and use commercial halibut and sablefish QS in close proximity to the areas in which the communities are located. The communities that meet the proposed criteria typically have few residents who hold QS relative to other Gulf communities, and are characterized by small boat, owner-operator fleets that fish close to shore. Because the action pertains only to eligible Gulf communities in Areas 2C, 3A and 3B, it is thus interpreted to mean that those communities could only buy QS in the Gulf of Alaska.

The alternatives under consideration are consistent with the problem statement. Under the current regulatory structure, communities are not allowed to purchase and hold commercial halibut and sablefish catcher vessel (B, C, and D category) quota share in the Gulf of Alaska (as discussed in Section 1.3.1 of this document). Amending the Gulf FMP and 50 CFR 679.40 - 679.42 of the IFQ regulations is required to allow the proposed change. Several sections of the current regulations would need amending, including those related to defining the qualified persons or entities which can receive catcher vessel QS by transfer, as well as the restrictions on the use by individuals of IFQ resulting from catcher vessel QS (50 CFR 679.42(i)). Therefore, with proper justification, the Council may make the recommended change with approval of the Secretary of Commerce.

[12] At a minimum, modifications would need to be made to the GOA FMP in Section 4.6.1.1, which relates to definitions, transfer provisions, and use and ownership provisions of the sablefish IFQ program.

2.0 AFFECTED HUMAN ENVIRONMENT AND ENVIRONMENTAL IMPACTS

The purpose of this EA is to analyze the environmental impacts on the human environment of the proposed Federal action to allow communities to hold commercial halibut/sablefish QS and provide sufficient evidence to determine the level of significance. The human environment is defined by the Council on Environmental Quality as the natural and physical environment and the relationships of people with that environment (40 CFR 1508.14). This means that economic or social effects are not intended by themselves to require preparation of an EA. However, when an EA is prepared and socio-economic and natural or physical environmental impacts are interrelated, the EA must discuss all of these impacts on the quality of the human environment.

This chapter describes the affected human environment as defined by the Council on Environmental Quality as the natural and physical environment and the relationships of people with that environment (40 CFR 1508.14). This chapter includes a description of the natural and physical environment (Section 2.1), the halibut and sablefish fisheries (Section 2.2), the environmental impacts of the alternatives (Section 2.3), and conclusions (Section 2.4).

2.1 Natural and Physical Environment

Detailed information on the trends in halibut and sablefish stock dynamics is available through the annual Stock Assessment and Fishery Evaluation report (NMFS 2001a). This section summarizes some of the primary findings of that report relevant to the overall health of the halibut and sablefish stocks.

2.1.1 Overview of Status of Pacific Halibut and Sablefish Stocks

Halibut

Pacific halibut is considered to be one large interrelated stock, but is regulated by subareas through catch quotas. The commercial and recreational fishery has a long tradition dating back to the late 1800s. Further details on the management, production history, and life history of Pacific halibut are described in Section 3.7.2 of the Draft Programmatic Supplemental Environmental Impact Statement (DPSEIS)(NMFS 2001).

The most recent halibut stock assessment was conducted by the IPHC in December 2003. The halibut resource is considered healthy, with total catch and stock biomass near record levels. The current estimate of exploitable halibut biomass in Alaska for 2002 is estimated to be 318,000 mt. The exploitable biomass of Pacific halibut stock apparently peaked at 326,520 mt in 1998 (Sullivan 1998). The long-term average reproductive biomass for the resource was estimated at 118,000 mt (Parma 1998). Long-term average yield was estimated at 26,980 mt, round weight (Parma 1998).

The species is fully utilized. Recent catches (1999) were 61.2 million lbs for Alaska and 12.1 million lbs for Canada. An additional 760,000 lbs was taken in the management area off the California, Washington, and Oregon coast by commercial, sport, and tribal fishermen, for a combined total of 74.06 million lbs for the eastern North Pacific halibut resource (net weights). The outlook for the stock biomass in the near future is for a decline from the record high levels of recent years until increased recruitment to the stock occurs. The total IPHC commercial quota limit for 2002 is 74.92 million pounds, about a 2% increase from the 2001 coast-wide quota of 73.18 million pounds. The total Alaska 2002 catch limit (61.86 million lbs) represents a slight increase from 2001 (61.53 million lbs). The IPHC commercial quota for 2002 in the Gulf (Areas 2C, 3A, and 3B) is 48.26 million lbs, a 2% increase from 2001. Specifically, the Area 2C, 3A, and 3B catch limits

for 2002 are 8.5, 22.63, and 17.13 million lbs, respectively. Area 2C experienced a 3% decrease in the catch limit from 2001, and Areas 3A and 3B each had about a 3% increase.

Sablefish

Sablefish are also considered to belong to a single population, but are managed by subareas in the Gulf of Alaska. Annual catches averaged about 1,500 mt during 1930-50, and exploitation rates remained low until the Japanese longline fleet expanded in the Gulf around 1959. The record all-nation catch reached 37,500 mt in 1972 and averaged about 28,000 mt during 1973-76. Evidence of declining stock abundance led to significant fishery restrictions during 1977-85, and catches were reduced substantially. Catches during 1978-83 averaged 9,200 mt, increased to 31,000 mt in 1988, and have since declined to about 13,900 mt in 1999. Further details on the management, production history, and life history of sablefish are described in Section 3.3.1.9 of the DPSEIS (NMFS 2001).

The most recent sablefish stock assessment was conducted by the Plan Team for the Groundfish Fisheries in the GOA in November 2003. The sablefish resource is considered stable, with exploitable and spawning biomass projected to increase 4% and 2%, respectively, between 2001 and 2002. Abundance is projected to increase slowly; the size of the increase will depend on the strength of the 1997 and 1998 year-classes. The current estimate of exploitable sablefish biomass in the Gulf of Alaska for 2002 is estimated at 188,000 mt. The exploitable biomass of sablefish stock apparently peaked at 404,000 mt in 1986, during the reporting years 1979 - 2001. The estimated exploitable biomass has since declined steadily with a low in 1999 of 179,000 mt. (NPFMC 2001)

The species is fully utilized. Recent average catches (1998-99) were 28.74 million lbs for all of Alaska (round weight). The commercial TAC for 2002 in Alaska is 17,300 mt, a slight increase from 2001. The Gulf quota comprises about 74% of the total (12,820 mt) and represents a less than 1% decrease from 2001. Specifically, the Gulf 2001 TACs are: Western - 2,240 mt, Central - 5,430 mt, West Yakutat - 1,940 mt, and East Yakutat/Southeast Outside - 3,210 mt. The Western and Central Gulf areas experienced slight TAC increases from the previous year.

2.1.2 Marine Mammals

Marine mammals not listed under the ESA that may be present in the Gulf of Alaska include cetaceans: minke whale (*Balaenoptera acutorostrata*), killer whale (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), and the beaked whales (e.g., *Berardius bairdii* and *Mesoplodon* species); as well as pinnipeds: northern fur seals (*Callorhinus ursinus*), Pacific harbor seals (*Phoca vitulina*), and sea otters (*Enhydra lutris*). None of the alternatives is expected to have an impact on direct incidental takings of marine mammal species since there will be no changes in fishing practices. For further information see Section 3.4 and 4.3.2 of the DPSEIS (NMFS 2001) and the following discussion.

2.1.3 Endangered or Threatened Species

The Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq*., ESA), provides for the conservation of endangered and threatened species of fish, wildlife, and plants. The program is administered

by NMFS for most marine mammal species, marine and anadromous fish species, and marine plants species, and by USFWS for bird species, and terrestrial and freshwater wildlife and plant species.

The designation of an ESA-listed species is based on the biological health of that species. The status determination is either threatened or endangered. Threatened species are those likely to become endangered in the foreseeable future [16 U.S.C. § 1532(20)]. Endangered species are those in danger of becoming extinct throughout all or a significant portion of their range [16 U.S.C. § 1532(20)]. Species can be listed as endangered without first being listed as threatened. The Secretary of Commerce, acting through NMFS, is authorized to list marine fish, plants, and mammals (except for walrus and sea otter) and anadromous fish species. The Secretary of the Interior, acting through USFWS, is authorized to list walrus and sea otter, seabirds, terrestrial plants and wildlife, and freshwater fish and plant species.

In addition to listing species under the ESA, the critical habitat of a newly listed species must be designated concurrent with its listing to the "maximum extent prudent and determinable" [16 U.S.C. § 1533(b)(1)(A)]. The ESA defines critical habitat as those specific areas that are essential to the conservation of a listed species and that may be in need of special consideration. Federal agencies are prohibited from undertaking actions that destroy or adversely modify designated critical habitat. Some species, primarily the cetaceans, which were listed in 1969 under the Endangered Species Conservation Act and carried forward as endangered under the ESA, have not received critical habitat designations.

Federal agencies have an affirmative mandate to conserve listed species. Federal actions, activities or authorizations (hereafter referred to as a Federal action) must be in compliance with the provisions of the ESA. Section 7 of the ESA provides a mechanism for consultation by the Federal action agency with the appropriate expert agency (NMFS or USFWS). Informal consultations, resulting in letters of concurrence, are conducted for Federal actions that may affect, but are not expected to adversely affect, listed species or critical habitat. Formal consultations, resulting in biological opinions, are conducted for Federal actions that may have an adverse effect on the listed species. Through the biological opinion, a determination is made as to whether the proposed action is likely to jeopardize the continued existence of a listed species (jeopardy) or destroy or adversely modify critical habitat (adverse modification). If the determination is that the action proposed (or ongoing) will cause jeopardy or adversely modify critical habitat, reasonable and prudent alternatives must accompany that action and would modify the action to avoid the likelihood of jeopardy to the species or destruction or adverse modification of designated critical habitat. A biological opinion with the conclusion of no jeopardy may contain conservation recommendations intended to further reduce the negative impacts to the listed species. These conservation recommendations are advisory to the action agency (50 CFR 402.25(j)). If a likelihood exists of any taking occurring during promulgation of the action, an incidental take statement may be appended to a biological opinion to provide for the amount of take that is expected to occur from normal promulgation of the action.

Twenty-three species occurring in the GOA and/or BSAI management areas are currently listed as endangered or threatened under the ESA. The group includes great whales, pinnipeds, Pacific salmon and steelhead, and seabirds.

Of the species listed under the ESA and present in the action area, some may be negatively affected by commercial groundfish fishing. Section 7 consultations with respect to the actions of the Federal groundfish fisheries have been done for all the species listed below, either individually or in groups. An FMP-level biological opinion was prepared pursuant to Section 7 of the ESA on all NMFS-listed species present in the fishery management areas for the entire groundfish fisheries. The opinion was issued November 30, 2000 (NMFS 2000). The Steller sea lion was the only species to be determined in jeopardy or at risk of adverse modification of its habitat based upon the FMPs.

None of the alternatives under consideration would affect the prosecution of the GOA sablefish and halibut fisheries in a way not previously considered. The proposed alternatives are designed to slightly alter the universe of holders of commercial halibut/sablefish QS, but would not change the species TACs, the amount of QS available, the gear type, the general location, or the manner in which the species are fished. Allowing communities to buy commercial QS is not expected to affect takes of listed species. Therefore, none of the alternatives are expected to have a significant impact on endangered or threatened species.

A complete discussion of the Section 7 consultations to date on the species of relevance can be found in Section 2.9 of the DPSEIS (NMFS 2001a).

Endangered and threatened species under the ESA that may be present in the GOA include:

Common Name	Scientific Name	ESA Status
Northern Right Whale	*Balaena glacialis*	Endangered
Bowhead Whale [1]	*Balaena mysticetus*	Endangered
Sei Whale	*Balaenoptera borealis*	Endangered
Blue Whale	*Balaenoptera musculus*	Endangered
Fin Whale	*Balaenoptera physalus*	Endangered
Humpback Whale	*Megaptera novaeangliae*	Endangered
Sperm Whale	*Physeter macrocephalus*	Endangered
Snake River Sockeye Salmon	*Oncorhynchus nerka*	Endangered
Short-tailed Albatross	*Diomedia albatrus*	Endangered
Steller Sea Lion	*Eumetopias jubatus*	Endangered and Threatened [2]
Snake River Fall Chinook Salmon	*Oncorhynchus tshawytscha*	Threatened
Snake River Spring/Summer Chinook Salmon	*Oncorhynchus tshawytscha*	Threatened
Puget Sound Chinook Salmon	*Oncorhynchus tshawytscha*	Threatened
Lower Columbia River Chinook Salmon	*Oncorhynchus tshawytscha*	Threatened
Upper Willamette River Chinook Salmon	*Oncorhynchus tshawytscha*	Threatened
Upper Columbia River Spring Chinook Salmon	*Oncorhynchus tshawytscha*	Endangered
Upper Columbia River Steelhead	*Onchorynchus mykiss*	Endangered
Snake River Basin Steelhead	*Onchorynchus mykiss*	Threatened
Lower Columbia River Steelhead	*Onchorynchus mykiss*	Threatened
Upper Willamette River Steelhead	*Onchorynchus mykiss*	Threatened
Middle Columbia River Steelhead	*Onchorynchus mykiss*	Threatened
Spectacled Eider	*Somateria fishcheri*	Threatened
Steller's Eider	*Polysticta Stelleri*	Threatened

[1] The bowhead whale is present in the Bering Sea area only.
[2] Steller sea lions are listed as endangered west of Cape Suckling and threatened east of Cape Suckling.

2.1.4 Ecosystem Considerations

Ecosystem considerations for the GOA groundfish fisheries are explained in detail in Ecosystem Considerations for 2002 (NMFS 2001b). This document provides updated information on biodiversity, essential fish habitats, consumptive and non-consumptive sustainable yields, and human considerations. This information is intended to be used in making ecosystem-based management decisions such as establishing ABC and TAC levels. The proposed action under Alternative 2, in which a distinct number of coastal Gulf communities would be eligible to participate in the IFQ Program in Areas 2C, 3A, and 3B, does not affect the halibut or sablefish quotas, the general location of the fisheries, or the manner in which the fish are harvested. Therefore, no ecosystem effects are anticipated as a result of this action.

2.1.5 The Human Environment

2.1.5.1 Commercial Halibut Fishery Participants

The IFQ Program applies to the management of the fixed gear sablefish and halibut fisheries off of Alaska. For halibut, fixed gear was defined to include all fishing gear comprised of lines with hooks attached, including one or more stationary, buoyed, and anchored lines with hooks attached. Longlines, jigs, handlines, and troll gear are examples of halibut fixed gear.

Quota shares (QS) are the basic use privileges established under the program. QS were issued to qualified applicants who owned or leased a vessel that made legal fixed gear landings of halibut at any time during 1988, 1989, and 1990. QS are issued specific to one of eight halibut management areas and one of four vessel classes. The management areas are 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E as defined by the IPHC (Figure 2-1). The four vessel classes include a catcher/processor vessel class (or freezer longliner) and three catcher vessel classes. The three catcher vessel classes are: D - 35 feet or less; C - 36 to 60 feet; and B - greater than 60 feet.

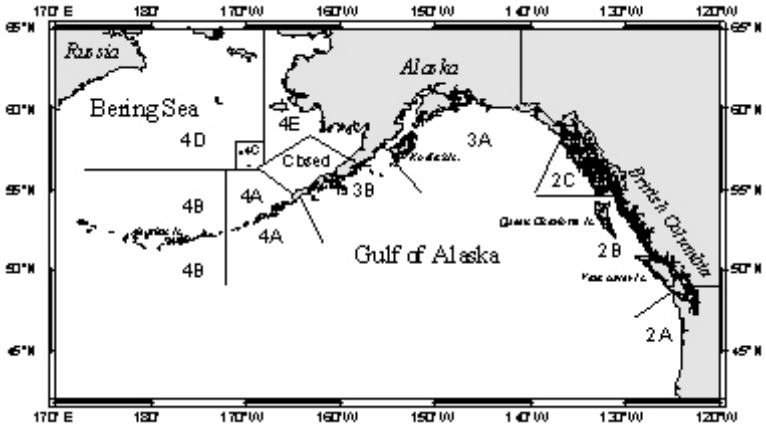


Figure 2-1: IPHC halibut management areas

The Gulf halibut season runs from March 15 to November 15. A total of 4,951 halibut permits (as defined by unique combinations of areas and vessel categories) were active as of the year-end 2001. When the season ended, those permits had been used by IFQ holders to report 6,997 vessel landings of IFQ halibut for a total harvest of 95% of the commercial halibut TAC. Area 2C, 3A, and 3B combined for 6,235 vessel landings and 45,323,783 total pounds harvested. This is about 81% of the total commercial halibut catch off Alaska.

According to the RAM Division, the number of QS and IFQ transfers has declined significantly since 1997. Starting in 1998, the number of transfers, both of QS and the leasing of IFQs, appears to have stabilized. The 2002 Report to the Fleet summarizes the QS and IFQ transfers (number of approved transfer applications), showing that the total number of QS/IFQ transfers has declined over time from 1,279 in 1995 to 690 in 2001 (NMFS 2002). The data shows that from initial issuance to year-end 2000, the number of IFQ halibut permit holders has declined 37% (from 2,388 to 1,503) in Area 2C, 35% (from 3,072 to 1,995) in Area 3A, and 46% (from 1,057 to 576) in Area 3B. In addition, the number of vessels harvesting the commercial halibut resource has also decreased since the inception of the IFQ program. Before the IFQ program was implemented, 3,097 unique vessels harvested the resource in the Gulf of Alaska (Areas 2C, 3A, and 3B) in 1994. During the first year of implementation, only 1,798 unique vessels participated in the Gulf halibut fishery. Since 1995, the number of participating vessels has decreased gradually to 1,222 in 2001.

2.1.5.2 Commercial Sablefish Fishery Participants

In the sablefish fishery, fixed gear in the GOA was also defined as all hook and line fishing gear. The commercial sablefish catch is primarily taken by longline gear in the directed fishery (90%), a smaller amount by trawls as bycatch in other directed fisheries (10%), and a very small amount by pots (<1%). QS were issued to qualified applicants who owned or leased a vessel that made legal fixed gear landings of sablefish at any time during 1988, 1989, and 1990. The QS are issued specific to one of six sablefish management areas and one of three vessel classes. The Gulf management areas are Southeast, West Yakutat, Central Gulf, and Western Gulf (Figure 2-2). The three vessel classes include a catcher/processor class (freezer longliner) and two catcher vessel classes: 60 feet or less and greater than 60 feet.

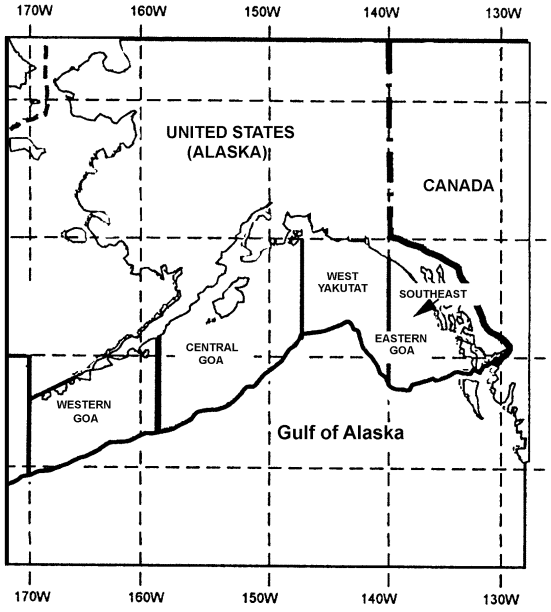


Figure 2-2: Gulf sablefish management areas

The season runs from March 15-November 15, concurrent with the halibut IFQ fishery. A total of 1,733 sablefish permits were active as of year-end 2001. IFQ holders reported 2,055 vessel landings of IFQ sablefish, for a total of 90% of the sablefish TAC in 2001. The Gulf sablefish fisheries in particular accounted for 1,813 vessel landings and 24,437,991 pounds harvested. This is about 88% of the total 2001 sablefish catch off Alaska. State fisheries in Prince William Sound, Chatham Strait and Clarence Strait also land sablefish outside the IFQ program. The discard rate in the sablefish fishery is typically very low; in 1999, 13,900 mt of sablefish was caught, 92% of which was retained. Discards have occurred in the hook-and-line sablefish and trawl fisheries targeting flatfish and rockfish.

Sablefish is the highest valued groundfish resource in the GOA, worth $70 million ex-vessel in 1999. Average ex-vessel price was about $2.88/lb for fixed gear fisheries, and $2.35/lb for trawl fisheries. The primary product produced is head and gut for Japanese markets, with small amounts going to specialty domestic markets.

Similar to the halibut IFQ program, the number of sablefish QS and IFQ transfers has declined since 1997. The lowest number of annual QS transfers was in 2001 (185 QS transfers and 67 IFQ leases), about half as many as were approved in 1997. The total sablefish transfers has declined over time from 443 in 1995 to 272 in 2001. The consolidation of QS has increased over that time period. The *Report to the Fleet* (NMFS 2002) reports that from initial issuance to year-end 2001, the number of IFQ sablefish permit holders has declined 33% in the Central Gulf (from 642 to 433), 33% in Southeast (from 713 to 479), 25% in the Western Gulf (from 232 to 174), and 35% in West Yakutat (from 455 to 295).

In addition, the number of catcher vessels landing sablefish has decreased since the inception of the IFQ program. In 1994, the year before the program started, 1,069 unique vessels participated in the commercial sablefish fishery in the Gulf of Alaska (CG, SE, WG, WY). During the first year of the program, 481 unique vessels participated, and in 2001, 352 unique vessels participated (NMFS 2002).

2.1.5.3 Proposed Eligible (Target) Communities

This section provides general information on the communities that would qualify under the proposed action. More detailed data on the economic and demographic make up of these communities, as well as their participation in the IFQ fisheries, is contained in the RIR in Section 3.2.

Figure 2-3 lists the 44 Gulf coastal communities that would qualify under the proposed general criteria under Element 1. (Note that the maximum number of qualifying communities is 45, under Suboption 3.) All of the communities listed appear to meet the proposed criteria of rural (no road access), coastal Gulf communities with documented historic participation in the halibut/sablefish fisheries, and populations below 2,500. The intent, as originally proposed by the Coalition, is to allow communities with any documented participation (commercial, recreational, subsistence) in either the halibut or sablefish fisheries to qualify to purchase commercial halibut or sablefish QS. Residents of all target communities reported commercial landings in the limited entry and IFQ fisheries at some point since 1980, as documented by the CFEC. While many communities have been historically reliant on salmon or herring, all of the communities have documented halibut or sablefish landings and thus qualify under the general criteria.

The footnotes to Figure 2-3 also indicate how the list of communities would change should the Council adopt one or more of the suboptions under consideration in Element 1. Suboption 1 requires that the communities be considered fishery-dependent, as determined by the fishing industry as a principal source of revenue or employment to the community. Note that the criteria does not specify that the community be dependent on the *halibut or sablefish* fisheries in particular, but only on the fishing industry as a whole.

All 45 communities potentially affected by this action appear to qualify as fishing-dependent using a broad definition. The criteria by which to determine fishery-dependence under Suboption 1, however, is general and not well suited to a quantitative assessment. Even if the criteria specified a way to define "principal source of revenue of employment," it would be very difficult to accurately determine the exact percentage of annual revenues or employment for each community that may be attributed to fisheries. Further, it may not be a necessary step to determining fishing-dependence, as annual revenues and other economic indices are not the only relevant indicators to determine fishing dependence. The NRC (1999a) report notes on the issue of fishing-dependent communities, that for small, isolated communities such as many of those in Alaska: "the notion of dependency may include geographic isolation; lack of employment alternatives; social, economic, and cultural systems that have developed in these locations; and their dependence on fishing as a source of nutrition, livelihood, and life-style" (p. 19).

The Draft Programmatic Supplemental Environmental Impact Statement (DPSEIS) (NMFS 2001a) provides sector and regional profiles of the North Pacific fisheries that include several communities in the Alaska Peninsula, Kodiak Island, Southcentral, and Southeast regions. The DPSEIS documents the general dependency on a regional basis, whether through employment opportunities, fisheries-related revenues, local fish taxes, or the fisheries-related shared tax income from the state fish tax. Note that for the purposes of community eligibility in this analysis (Figure 2-3), the combined sources discussed here are considered sufficient documentation of the communities' general dependence on fishing as a whole.

Figure 2-3: List of Proposed Eligible Communities for Community Purchase of Halibut and Sablefish Quota Share (Element 1)

General Qualifying Criteria: Area 2C, 3A, and 3B Gulf coastal communities with populations less than 2,500 (based on the 2000 census), not connected to the road system, and with historic participation[1] in the halibut/sablefish fisheries.

Area 2C

Community	Population[2]
Angoon	572
Coffman Cove	199
Craig	1,397
Edna Bay	49
Elfin Cove	32
Gustavus	429
Hollis	139
Hoonah	860
Hydaburg	382
Kake	710
Kassan	39
Klawock	854
Metlakatla	1,375
Meyers Chuck	21
Pelican	163
Point Baker	35
Port Alexander	81
Port Protection	63
Tenakee Springs	104
Thorne Bay	557
Whale Pass	58
Wrangell	2,308
22 communities	10,427

Area 3A

Community	Population
Akhiok	80
Chenega Bay	86
Cordova	2,454
Halibut Cove	35
Karluk	27
Larsen Bay	115
Nanwalek	177
Old Harbor	237
Ouzinkie	225
Port Graham	171
Port Lions	256
Seldovia	286
Tatitlek	107
Tyonek	193
Yakutat	680
15 communities	5,129

Area 3B

Community	Population
Chignik	79
Chignik Lagoon	103
Chignik Lake	145
Ivanof Bay	22
King Cove	792
Perryville	107
Sand Point	952
7 communities	2,200

[1]As documented by CFEC, DCED, or reported by ADF&G in *Alaska Rural Places in Areas with Subsistence Halibut Uses*.

[2]2000 census data–Alaska Department of Community and Economic Development.

Note: Forty-four Gulf communities may qualify under the general criteria proposed under Element 1. At the time of the Coalition proposal, the estimated populations of Wrangell and Cordova were above 2,500. While Wrangell and Cordova are still considered "larger communities" in the CFEC report, the 2000 census reports populations less than 2,500.

There are also 3 suboptions that could be applied to the above criteria under Element 1. The total number of communities would change as follows:

Under Suboption 1 (fishery-dependent): all of the above communities would continue to qualify.

Under Suboption 2 (decrease community size to 1,500): Cordova and Wrangell would drop out.

Under Suboption 3 (increase community size to 5,000): Petersburg (pop. 3,224) would be included.

2.2 Environmental Impacts of the Alternatives

The environmental impacts generally associated with fishery management are effects resulting from 1) harvest of fish stocks which may result in changes in food availability to predators and scavengers, changes in the population structure of target fish stocks, and changes in the marine ecosystem community structure; 2) changes in the physical and biological structure of the marine environment as a result of commercial fishing practices, e.g., effects of gear use and fish processing discards; and 3) entanglement/entrapment of non-target organisms in active or inactive commercial fishing gear.

The alternatives in this analysis address resource allocation issues: whether or not to allow a specific group of community entities to purchase commercial sablefish and halibut quota share and lease the resulting IFQs to community members. Alternative 1 is the no action alternative and Alternative 2 would allow small coastal Gulf communities to participate in the halibut and sablefish commercial IFQ Program. No combination of the eight elements and multitude of options under Alternative 2 would change the commercial quotas for halibut or sablefish, the amount of halibut or sablefish QS available each year, the timing of the fishery, or the manner in which the fish are harvested. The action could, however, have a slight effect on the location of the fishery, if QS is purchased by remote communities from residents located in larger ports and fished in close proximity to the remote communities. That could result in a shift of some of the harvest from the areas surrounding the larger ports to more remote areas. Harvests of fish in remote areas may be less common than harvests in accessible areas because harvests in less remote locations have lower transportation costs of delivering fish to market. If this action stimulates development of the fisheries in remote areas, the likely effect is an increase in harvest in these less intensively fished areas. This may be a positive effect in the context of local depletion concerns, but the level of effect is highly dependent on the amount of QS communities would purchase under the action and where residents of those communities would choose to fish. Thus, while this action would not affect the overall stock abundance of either species, purchase of QS by remote communities could result in an unintended benefit of dispersing catch and affecting local levels of abundance.

The level of this effect is thus difficult to determine. It is also important to note that the majority of resident fishermen own C and D class QS and likely own small vessels which fish closer to shore. If a substantial amount of QS was purchased by communities and existing vessels were used to fish the resulting IFQs, the amount of nearshore effort could increase in remote communities. Any increase in nearshore effort would be expected to be contained mainly in close proximity to remote communities, however, which typically do not have the same level of local depletion concerns as do the larger, more accessible ports. Overall, while the action would allow a different entity (eligible communities) to purchase commercial halibut/sablefish QS, community residents would fish the resulting IFQs in the same manner and subject to the same operating regulations as an individual owner of QS. Thus, given the limited distributional effects that this program may have and the lack of any existing concerns about localized depletion near the communities affected by this action, effects on localized depletion, either positive or negative, are not foreseen as a significant environmental impact.

To determine the significance of impacts of the actions analyzed in this EA, NMFS is required by NEPA and 50 CFR 1508.27 to consider both the *context* and the *intensity* of the action. Additionally NOAA Administrative Order (NAO) 216-6 provides a number of criteria in Section 6.02(a) though (i) for consideration in the analysis of the potential effects of an action.

Context: The setting of the action is the commercial halibut and sablefish IFQ fisheries of the Gulf of Alaska. Any effects of the proposed action are limited to this area. The effect on society within these areas is primarily isolated to the direct participants in the commercial halibut and sablefish fisheries in the Gulf of Alaska. There are no changes to commercial fishing practices; the intent of the proposed action is to allow small, remote, Gulf communities to purchase commercial QS for the purpose of leasing the IFQs to

community members. The principal consequence of the proposed alternative is to expand the category of "person" that can purchase commercial halibut/sablefish QS.

Intensity: A listing of considerations to determine the intensity of the impacts are in 50 CFR 1508.27(b). Each consideration is addressed below in the order it appears in the regulations.

1. **Beneficial and adverse impacts** are required to be considered in this action. The alternative under consideration would allow a defined set of community entities in the Gulf of Alaska to purchase commercial halibut and sablefish QS for use by community residents. The principal benefit is to allow target communities the opportunity for sustained participation in the IFQ fisheries and to further overall economic development in such communities which have limited economic alternatives. The primary adverse impact is that allowing community entities to purchase QS on behalf of communities may potentially raise the price of Gulf QS to individual buyers in the short-term.

2. No **public health and safety impacts** were identified in any of the proposed alternatives.

3. This action takes place in the **geographic area** of the Gulf of Alaska. The action is limited to Gulf communities, and it is assumed that eligible communities would be limited to purchasing commercial halibut or sablefish QS issued in the Gulf of Alaska. No effects on the unique characteristics of this area are anticipated to occur with any alternative considered.

4. The effect of this action on the human environment is not **controversial** in the sense that it adversely affects the biology of either the halibut or the sablefish biomass. The action may be socially and economically controversial in that it would allow a defined set of rural, remote, coastal Gulf communities with small populations to purchase QS for use by community residents. This criteria is based on defining a set of coastal communities that are remote, have historically participated in the halibut and sablefish fisheries, received very few QS in the initial allocation, and have limited alternative employment and economic opportunities. The purpose is to encourage these communities who are in close proximity to the resource to make long-term investments in the fisheries and help mitigate the difficulty these communities have in accessing the resource. However, some stakeholders may contend that this action should not be limited to a subset of Gulf communities but that all communities should be granted this opportunity, regardless of economic development needs or the transfer of QS from or into a specified community.

Other small commercial operators who own halibut and sablefish QS have also raised concerns that because this action would effectively increase the universe of potential QS buyers, it will create a more competitive market environment and potentially make it more difficult for small individual operators to buy QS. Some stakeholders are concerned that communities will rapidly enter the QS market and necessarily drive up the price of QS, negatively impacting other individual operators trying to acquire QS. A similar fear is that communities will be able to secure loans and funding to buy significant quantities of the available QS. Maintaining the availability of D class QS and small blocks are of particular concern, both of which are more likely to be feasible purchases for new entrants or small individual operators. On the other hand, other existing QS holders, particularly in Area 3B, have asserted that expanding the universe of potential buyers to communities will benefit operators who are selling QS, as a new market will be created for smaller shares that may be otherwise difficult to sell. Existing holders would thus benefit from receiving a more competitive price.

The action is expected to have distributional effects, as the purpose is to encourage smaller, remote communities to buy QS, some of which will likely be transferred from larger coastal communities. In

addition, there exists an argument that allowing communities to purchase QS and lease the IFQs to community residents provides for an additional transaction, and thus, increased administrative costs and inefficiency. However, the preferred alternative under Element 2 (Ownership Entity) will influence the level of additional effort that would be necessary to transfer community QS to qualified individual residents.

5. There are no known risks to the **human environment** from allowing communities to buy commercial halibut/sablefish QS. Because the alternatives under consideration address an allocation of the halibut and sablefish resource and do not change the catch quotas or fishing practices, it is anticipated that there will be no risk to the human environment by taking this action. The possible effects of redistribution of some small portion of the overall fishing effort to areas nearer the eligible coastal communities is not expected to significantly increase the risk of localized depletion and any possible risk to the physical environment.

6. The action may represent a decision in principle about **future consideration** of communities and may guide future actions with regard to communities and their role in limited entry programs. The NRC report (1999a) recommended that "Councils consider fishing communities in the initial allocation of IFQs, where appropriate, and that the SOC interpret the language in the Magnuson-Stevens Act pertaining to fishing communities to support this approach to limited access management." In setting criteria for which communities may hold quota, the NRC study suggests (p.206) "a range of factors, such as proximity to the resource, dependence on the resource, contribution of fishing to the community's economic and social well-being, and historic participation in the fishery...." be considered. In addition , the NRC recommended that for existing IFQ programs, Councils should be permitted to authorize the purchase, holding, management, and sale of QS/IFQs by communities. The proposed action in this amendment is consistent with the NRC recommendations and the provisions in the Magnuson-Stevens Act; considering the needs of fishing communities in this context may be perceived as a precedent for future actions when designing limited entry programs or modifying existing programs.

7. **Cumulatively significant** impacts are not expected with this action. The alternative under consideration was proposed to mitigate unexpected negative impacts on remote, coastal Gulf communities that occurred with the implementation of the commercial IFQ program, as well as to provide for the sustained participation in or new entry into the commercial IFQ fisheries. Thus, this action is at least partially intended to mitigate impacts from a previous regulatory action.

8. There are no known effects on districts, sites, highways, structures, or objects listed or eligible for listing in the **National Register of Historic Places**, nor would the action cause loss or destruction of any significant scientific, cultural, or historical resources. This consideration is not applicable to this action.

9. NEPA requires NMFS to determine the degree to which an action may affect **threatened or endangered species** under the ESA. There are no known interactions between implementation of the alternatives under consideration and any ESA-listed species. This consideration is detailed in Section 2.1.3.

10. This action poses no known violation of Federal, State, or local laws or requirements for the **protection of the environment.**

11. This action poses no known risks which would result in the **introduction or spread of a non-indigenous species**. This action would not authorize any additional form of fishing activity or procedure beyond those currently employed.

In addition, NAO 216-6 (Sec. 6.02) requires the consideration of some additional factors that are not addressed by the implementing regulations for NEPA. These additional factors include the following.

(1) This action does not pose a known risk to **floodplains and sites included in the National Trails and Nationwide Inventory of Rivers**, as required by Presidential Directive, August 2, 1979. This action regulates fishery activities occurring within the EEZ. A detailed description of the action area is provided in Section 1. This action would not increase or otherwise modify fishing activities within either floodplains and sites included in the National Trails and Nationwide Inventory of Rivers.

(2) This action would not pose a risk to any **national marine sanctuary or national estuarine research reserve**. A detailed description of the action area is provided in Section 1. This action would not increase or otherwise modify fishing activities within either a national marine sanctuary or national estuarine research reserve.

(3) This action is not known to pose a risk to **habitat** as described in: 1) the National Marine Fisheries Service's 1983 habitat conservation policy; and 2) the National Habitat Plan, A Plan to Strengthen the National Marine Fisheries Service National Habitat Program," August 30, 1996. As noted in the beginning of this Section, this action could have a slight effect on the location of the halibut and sablefish IFQ fishery depending on the amount of QS purchased by community entities and the location of harvests. However, nothing in this action would increase the overall harvests of halibut or sablefish. This action would not modify the type of gear which is used to harvest halibut, nor is it likely to increase the amount of gear which is deployed for the harvest of halibut and sablefish. While this action may redistribute some of the effort within the halibut and sablefish fisheries, it is not expected to increase overall harvests. Some of this harvest would be expected to occur in nearshore areas and may shift some of the overall harvests if smaller vessels, which tend to favor nearshore operations, participate in the halibut and sablefish fisheries in greater number due to this program.

The overall redistribution of effort, and therefore, potential impacts on the benthic habitat from fishery gear would not be expected to increase overall effects on habitat. While some increased gear effects may be expected in nearshore areas, there would be a complementary decrease in gear effects in more distant offshore areas. The overall effect of this action would not be expected to increase or concentrate effort in specific habitat regions. The potential effects on habitat would be limited to the amount of participation by individuals in the eligible communities and the degree to which fishing patterns would change. Neither of these effects are known with certainty but the overall effort and the amount of fishing gear deployed would not be expected to increase with this action. Additional information is provided in Section 2.2.2.

(4) Nothing in this action would be expected to affect **state Coastal Zone Management Plans**. As part of this action, NMFS will notify the State of Alaska (State) of this action and invite any comment from the agency responsible for oversight of the State Coastal Zone Management Plan. This action is not expected to modify existing coastal management programs. This action would regulate fishing activities in the EEZ, including the territorial waters of the State of Alaska under the Halibut Act.

(5) This action is not known to pose a risk to the **environmental and health impact on low-income and minority populations** as required by E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. This action would provide additional opportunities for residents in smaller rural coastal communities to participate in the halibut and sablefish fisheries. As noted in Section 2 of this document, many of these communities have a relatively high proportion of Native Alaskan residents. This action would be expected to increase economic opportunities for these residents and would be expected to provide additional economic benefits. This action would not be expected to adversely

affect fishery resources in a manner that would disproportionally disadvantage low-income and minority populations.

(6) This action is not expected to have an adverse impact on religious beliefs under **the American Indian Religious Freedom Act**. This action would not be expected to modify or otherwise hinder the ability of individuals to practice their religious beliefs.

(7) Nothing in this action would be expected to have adverse effects on **essential fish habitat**. A detailed description of this action and essential fish habitat is provided in Section 2.2.3.

2.2.1 Cumulative Effects

Cumulative impacts are those combined effects on the quality of the human environment that result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what Federal or non-Federal agency or person undertakes such other actions (40 CFR 1508.7, 1508.25(a), and 1508.25(c)). Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. The concept behind cumulative effects analysis is to capture the total effects of many actions over time that would be missed by evaluating each action individually.

To avoid the piecemeal assessment of environmental impacts, cumulative effects were included in the 1978 Council on Environmental Quality (CEQ) regulations, which led to the development of the CEQs cumulative effects handbook (CEQ 1997) and Federal agency guidelines based on that handbook (e.g., EPA 1999). Although predictions of direct effects of individual proposed actions tend to be more certain, cumulative effects may have important consequences over the long-term. The goal of identifying potential cumulative effects is to provide for informed decisions that consider the total effects (direct, indirect, and cumulative) of alternative management actions.

The potential direct and indirect effects of the alternatives are described in detail in Section 3.0. The alternatives under consideration would modify the regulations which define the eligible QS holders in the IFQ Program, but would not affect the levels of halibut or sablefish removals or the quota share pool available. Because the alternatives under consideration address an allocation of the halibut and sablefish resource and do not change the catch quotas or fishing practices, it is anticipated that there will be no risk to the human environment by taking this action.

This action allows remote communities who are in close proximity to the resource to make long-term investments in the fisheries and help mitigate the difficulty community residents have in accessing the resource. Thus, the action is expected to have distributional effects, as the purpose is to encourage smaller, remote communities to buy QS, some of which will likely be transferred from larger coastal communities. Residents of the target communities could thus be directly affected by this action. Existing operators and potential new entrants in the IFQ Program could also be indirectly affected. Because this action would effectively increase the universe of potential QS buyers, it could create a more competitive market environment for QS and potentially make it more difficult for individual operators to buy QS (due to a higher price). Other existing QS holders who are selling QS may benefit from receiving a more competitive price. However, the level of direct and indirect effects that would be realized by residents of target communities, individual QS holders, and potential new entrants is critically dependent on each of the individual elements under Alternative 2 and the level of community participation that would ensue under this alternative. These elements are discussed in detail in Section 3.0.

There is not expected to be any significant cumulative effect on the human environment as a result of this action, as none of the alternatives change the halibut and sablefish quotas or manner in which the fisheries operate. The alternatives under consideration were proposed to mitigate unexpected negative impacts on remote, coastal Gulf communities that occurred with the implementation of the commercial IFQ program, as well as to provide for the sustained participation in or new entry into the commercial IFQ fisheries. Thus, this action is at least partially intended to mitigate impacts from a previous regulatory action, and the cumulative effect (this action in combination with the action to implement the commercial IFQ Program) would be to increase participation by remote, coastal Gulf communities in the IFQ fisheries.

2.2.2 Impacts of gear types on habitat

Direct effects to the substrate and water are primarily caused by fishing gear which touches the bottom. This section will discuss the fixed gear that is used to pursue IFQ halibut and sablefish, while the following section will provide an assessment of the impacts of the different types of fishing gear on essential fish habitat (EFH).

Most species (or species groups) are harvested predominately by one type of gear, which typically accounts for the vast majority of the catch. In December 1991, the Council recommended an IFQ Program for management of the "fixed gear" sablefish and halibut fisheries off of Alaska. For halibut, "fixed gear" was defined to include all fishing gear comprised of lines with hooks attached, including one or more stationary, buoyed, and anchored lines with hooks attached. Longlines, jigs, handlines, and troll gear are examples of halibut fixed gear. For sablefish, fixed gear in the Gulf of Alaska areas was defined to include all hook and line fishing gear (fixed gear in the Bering Sea and Aleutians Islands areas was defined to include all hook and line and all pot gear).

Studies to support the Essential Fish Habitat (EFH) EIS development have estimated the effects of Alaska hook-and-line gear on benthic habitat. A preliminary spreadsheet analysis, prepared for the EFH Committee to evaluate the effects of all FMP fisheries on EFH, examined the relative area potentially affected by each fishery (Witherell, 2002 unpublished manuscript). The spreadsheet analysis, which incorporates the information on gear descriptions and habitat types fished, found that groundfish fisheries (primarily trawl fisheries) had some measurable effect on benthic habitat, whereas the scallop, crab, and salmon fisheries (especially) had almost no measurable impacts primarily due to the small footprints of these fisheries relative to available habitats. The preliminary draft EFH EIS also notes that while the sablefish fishery occurs in variable substrates, it indicates that the GOA sablefish longline fisheries have almost no detectable effects on habitat types or habitat features. While the halibut fishery was not specifically considered (since it is not an FMP species), this fishery is largely conducted in shallower substrates than the groundfish fisheries and is also not considered to have a significant effect on habitat types.

There are several other reports that review the effects of fishing gear on habitat outside of Alaska (e.g., Johnson, 2002; Northeast Region Essential Fish Habitat Steering Committee, 2002). These studies generally consider fixed gear fisheries to have relatively low impacts on sand and gravel habitats.

Because none of the alternatives would substantially change the overall quota share pool for the Gulf halibut or sablefish IFQ fisheries, and because QS purchased by community entities would be subject to the Federal regulations governing the use of hook-and-line gear in the IFQ fisheries, the overall level of effort from vessels using hook-and-line gear to harvest halibut and sablefish will not change as a result of this action. Thus, no additional impacts on habitat are expected under the proposed action.

2.2.3 Assessment of Impacts on EFH

Section 303(a)(7) of the Magnuson-Stevens Act requires all FMPs to describe and identify essential fish habitat (EFH), which it defines as "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity." In addition, FMPs must minimize effects on EFH caused by fishing and identify other actions to conserve and enhance EFH.

On January 20, 1999, the Council's five FMPs (BSAI groundfish, GOA groundfish, salmon, crab, and scallops) were amended to incorporate EFH provisions. These provisions include identification and description of EFH including habitat areas of particular concern, identification of research and information needs, and identification of potential adverse effects on EFH due to fishing and non-fishing activities. Additional information on EFH can be found in the EA for Amendments 55/55/8/5/5 (NPFMC 1998). The EFH definitions adopted for GOA sablefish life stages are listed in the table below.

The relative intensity of harvest of Gulf sablefish by vessels using hook-and-line gear will not be affected under the different alternatives and options proposed for allowing community entities to purchase quota share. Alternative 2 would potentially affect the distribution of quota share among residents of various communities, but would not change the overall manner in which the fish are harvested or the gear type used. Regardless, the total quota share pools for sablefish will remain the same. For these reasons, it is presumed that this action will not increase the impacts of the fisheries on EFH as a whole. The action is intended to allow community entities to purchase quota share, for use by community residents. While this action could potentially shift some of the sablefish fishery to more remote locations, the harvest will remain within the area designated as sablefish EFH. Based on the above, this action, in the context of the fishery as a whole, will not adversely affect EFH for species managed under the five North Pacific FMPs. As a result of this determination, an EFH consultation is not required.

EFH Definition for GOA Sablefish, by life stage

Eggs (duration 14-20 days)- Level 0_a
Pelagic waters of the continental shelf and in basin areas from 200-3000m extending to the seaward boundaries of the EEZ of the Gulf of Alaska from Dixon Entrance to 170˚W from late winter to early spring (December-April) .

Larvae (duration up to 3 months)-Level 0_a
Epipelagic waters of the middle to outer continental shelf, the slope and basin areas of the Gulf of Alaska from Dixon Entrance to 170˚W during late spring-early summer months (April - July).

Early Juveniles (up to 2 years)- Level 0_a
Pelagic waters, during first summer, along the outer, middle, and inner continental shelf of the Gulf of Alaska from Dixon Entrance to 170˚W. Areas of soft-bottom in nearshore bays and island passes in the demersal, semi-demersal regions, after the first summer till end of second summer.

Late Juveniles (2-5 years)- Level 1
Areas of soft bottom generally deeper than 100m and associated with the continental slope and deep shelf gulleys and fjords (presumably demersal within the lower portion of the water column) of the Gulf of Alaska from Dixon Entrance to 170˚W. Feeding areas are those containing mesopelagic and benthic fishes, benthic invertebrates and jellyfish.

Adults (5+years)- Level 2
Areas of soft bottom deeper than 200m (presumably within the lower portion of the water column) associated with the continental slope and deep shelf gulleys and fjords (such as Prince William Sound and those in southeastern Alaska) of the Gulf of Alaska from Dixon Entrance to 170˚W. Feeding areas would be those containing mesopelagic and benthic fishes, benthic invertebrates and jellyfish. A large portion of the adult diet is comprised of gadid fishes mainly pollock.

Because halibut is not covered within the groundfish FMPs, there is no requirement to describe and identify EFH for this species. Nevertheless, "habitat assessments" have been prepared for several non-FMP species (Pacific halibut, Pacific herring, and GOA crab), as these species are recognized as important components of the GOA and BSAI ecosystems. These assessments will be appended to the EFH FMP amendments. However, these assessments will not be considered EFH for the purposes of sections 303(a)(7) of the MSA.

NMFS and the Council are currently undertaking development of a Supplemental Environmental Impact Statement (SEIS) for the EFH components of the five FMPs. The SEIS will: 1) identify and describe EFH for managed species; 2) discuss Habitat Areas of Particular Concern within EFH; 3) minimize, to the extent practicable, adverse effects on EFH caused by fishing; 4) identify other actions to encourage the conservation and enhancement of EFH. This document was made available for public review on January 2004. Comments will be accepted through April 15, 2004.

2.3 Conclusions

None of the alternatives under consideration would affect the prosecution of the GOA sablefish and halibut fisheries in a way not previously considered in consultations. These actions are addressed within the scope of issues thoroughly analyzed for implementation of the IFQ Program in the following documents: Draft SEIS/RIR/IRFA for sablefish, November 16, 1989; Revised Supplement to Draft SEIS/RIR/IRFA for sablefish, May 13, 1991; Draft SEIS/RIR/IRFA for halibut, July 19, 1991; Draft SEIS/RIR/IRFA for halibut and sablefish, March 27, 1992; and Final SEIS/RIR/IRFA for halibut and sablefish, September 15, 1992. The proposed alternatives are designed to slightly alter the universe of holders of commercial halibut/sablefish QS, but would not change the species TACs, the amount of QS available, the gear type, the general location, or the manner in which the species are fished. Allowing communities to buy commercial

QS is not expected to affect takes of listed species. Therefore, none of the alternatives are expected to have a significant impact on endangered or threatened species.

A potential conservation benefit could arise from the transfer of QS to remote communities due to the spatial dispersion of catch. Local depletion has been an on-going concern, particularly in the halibut fishery. If this action stimulates development of the fisheries in remote areas, the likely effect is an increase in harvest in these less intensively fished areas. Thus, while this action would not affect the overall stock abundance of either species, purchase of QS by remote communities could result in an unintended benefit of dispersing catch and affecting local levels of abundance.

This may be a positive effect in the context of local depletion concerns, but the level of effect is highly dependent on the amount of QS communities would purchase under the action and where residents of those communities would choose to fish. In addition, the majority of resident fishermen own C and D class QS (for use on vessels $\leq$60 feet) and likely own small vessels which fish closer to shore. If a substantial amount of QS was purchased by communities and existing vessels were used to fish the resulting IFQs, the amount of nearshore effort could increase. Any increase in nearshore effort would be expected to be contained mainly in close proximity to remote communities, however, which typically do not have the same level of local depletion concerns as do the larger, more accessible ports.

Overall, while the action would allow a different entity (eligible communities) to purchase commercial halibut/sablefish QS, community residents would fish the resulting IFQs in the same manner and subject to the same operating regulations as an individual owner of QS. Thus, while this action will not affect the overall stock abundance of either species, it is not clear whether this redistribution of effort would have any measurable biological effect with respect to local depletion concerns. Note that the Council's preferred alternative recommends a cumulative use cap for all eligible communities under Alternative 2, Element 4 (Section 3.9.4). This provision would allow eligible communities to purchase a maximum of 3% of the Area 2C, 3A, and 3B halibut QS and 3% of the Southeast, West Yakutat, Central Gulf, or Western Gulf sablefish QS in each of the first seven years of the program, with a 21% total by area. This represents a fairly limited amount of QS potentially available to eligible communities, implemented in a step-wise fashion over a period of seven years. Given the limited distributional effects that this program will likely have based on the amount of quota share that eligible communities would be allowed to purchase and the lack of existing concerns about localized depletion near the communities affected by this action, effects on localized depletion, either positive or negative, are not foreseen as a significant environmental impact.

In summary, this analysis indicates that none of the alternatives for Amendment 66 are likely to significantly affect the quality of the human environment.

3.0 REGULATORY IMPACT REVIEW: ECONOMIC IMPACTS OF THE ALTERNATIVES

This chapter provides information on the economic and socioeconomic impacts of the alternatives, as required under Executive Order 12866 (E.O. 12866). This chapter includes a description of the purpose and need for the action and the management objectives, a description of the alternatives proposed to meet those objectives, identification of the individuals or groups that may be affected by the action, the nature of these impacts (quantifying the economic impacts,wherever possible), and discussion of the tradeoffs between benefits and costs. While the Council's preferred alternative is identified throughout the RIR, a summary of the preferred alternative is contained in Section 3.9.

The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

> In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environment, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

This section also addresses the requirements of E.O. 12866 to provide adequate information to determine whether an action is "significant". E. O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant." A "significant regulatory action" is one that is likely to:

> (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
>
> (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
>
> (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
>
> (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

3.1 Purpose and Need for the Action

The proposed action would allow small, rural, fishing-dependent coastal communities in the Gulf of Alaska the opportunity to purchase halibut and sablefish quota share (QS), for the purpose of retaining the QS in the communities for lease to and use by resident commercial fishermen. The goal is to provide for sustained participation of these communities in the commercial halibut and sablefish fisheries. While not necessarily a direct result of the implementation of the commercial IFQ program, a decline in the number of community fishermen and access to nearby marine resources are on-going problems in rural communities that may be

exacerbated by the IFQ program. Effectively, the action is an attempt to alleviate this problem in rural Gulf of Alaska communities. See Section 1.1 of this analysis for further information on the purpose and need for this action.

The SSC characterized the proposed action in its December 2001 minutes as "a redistribution of opportunity based on equity considerations. The proposed action implies that the initial allocation of quota shares through the IFQ Program failed to achieve some of the Council's objectives with respect to preserving fishing opportunity in small communities" (SSC 2001). During the development of the IFQ Program, the Council noted that maintaining diversity in the halibut and sablefish fleets and minimizing adverse coastal community impacts were particularly important considerations since these fisheries had typically been characterized by small vessel participation by thousands of fishermen, many residing in small coastal communities in Alaska and the Pacific Northwest (Pautzke and Oliver 1997). While the Council built in several provisions intended to safeguard small coastal communities, such as transferability and block restrictions, there still exists debate on whether this program has collectively had a positive or negative impact on coastal Alaskan communities and their residents. Several years after implementation, some Gulf communities appear to have benefitted from the program and continue to increase their participation in the halibut and sablefish fisheries while others have experienced a significant decline in participation. The lack of sustained participation in these smaller, rural, Gulf communities is identified as a concern of the Council's in the above problem statement. Thus, the proposed action at issue in this amendment is an attempt to mitigate the identified problem and provide communities with an opportunity to increase participation in the IFQ fisheries. The purpose and design of this action is therefore to have distributional effects.

Allowing a distinct set of remote communities to hold commercial QS may help ensure access to and sustain participation in the commercial halibut and sablefish fisheries for those communities. These communities typically have few alternative economic opportunities, thus the pattern of decline in the number of QS holders in these communities has a severe effect on unemployment and related social and economic impacts. The intent of the action is to provide communities with the opportunity to hold a perpetual investment in nearby fisheries that have been historically available to resident fishermen, in order to provide long-term benefits to community members. The intent is to allow communities to identify or form a non-profit entity to hold QS, purchased on behalf of the community. The community QS would likely be leased to small operators who are residents of the community and possibly provide crew jobs for community members. Finally, because communities may have more access than individual residents to the capital required, as well as the financial stability to risk that investment, the community may better be able to purchase and use the QS as a long-term investment for the benefit of the community.

The 1996 amendments to the Magnuson-Stevens Act require that management programs take into account the social context of the fisheries, especially the role of communities (Sec. 301[a][8], 303 [a][9]). Although halibut is managed under the authority of the Halibut Act (sablefish is managed under the MSA), the Council consistently considers the impacts of all its management measures on fishery-dependent communities. The proposed action represents a policy decision to address any real or perceived negative impacts on communities as a result of the commercial IFQ program and to allow for the entry into and sustained participation by communities in these fisheries.

3.1.1 Background

3.1.1.1 General Description of the Commercial IFQ Program

A detailed description of the IFQ program and its development is provided in Section 1.2 of this document. Briefly, the IFQ program was developed to address concerns about the efficient use of fishery resources resulting from the "open access" nature of the fishery. The IFQ program for halibut and sablefish was proposed by the Council in December of 1991, and implmented in 1995.

The IFQ approach was preferable in that it provides fishermen with the authority to decide how much and what type of investment they wish to make to harvest the resource, in response to competitive market signals. The IFQ program essentially assigns the privilege of harvesting a percentage of the sablefish and halibut quota to specific individuals with a history of harvest in the fisheries (i.e., effectively confers a quasi-ownership interest in a given amount of the harvestable quota). The rights given to each person are proportional to their fixed gear halibut and sablefish landings during the qualifying period determined by the Council and are represented as quota shares.

During the development of the IFQ Program, the Council also built in several provisions to address concerns regarding transferability and the goal of preserving an owner-operated fleet. The Council also addressed the conflict of preventing absentee ownership but providing for the leasing arrangements that many individuals had been making previously.

Many of the provisions of the IFQ Program will be discussed in more detail in the following sections of the RIR, as they apply to the specific elements of the proposed action to allow communities to purchase halibut and sablefish QS. The Council began considering allowing communities to purchase commercial halibut/sablefish QS in June 2000 in response to a proposal from the Gulf of Alaska Coastal Communities Coalition (Coalition).[13] The proposal cited the disproportionate amount of QS transfers out of smaller, rural communities as a symptom of the continuing erosion of their participation in the commercial IFQ fisheries. Anecdotal evidence cited in the proposal suggests that the fishermen in these communities were not awarded sufficient QS during initial issuance to make it economically viable to continue fishing. In contrast, fishermen who received larger initial allocations were able to finance additional QS purchases with the capital provided from their new asset base. In this context, the pattern of increased divestment is specific to small quota recipients and does not depend on whether the fishermen live in a rural or urban community. However, the proposal states, and the RAM Division and CFEC[14] confirm, that: 1) the rate of decline of the amount of QS in the smaller communities is higher than that of the larger communities, 2) the bulk of the QS consolidation has taken place in the smaller holdings, and 3) very few initial large quota share recipients reside in smaller, coastal communities. The Coalition was concerned that because small, remote Gulf coastal communities are dependent on fisheries for a large portion of their employment and income and have few alternative economic opportunities, a decline in the number of QS holders in these communities has a severe effect on unemployment and related social and economic impacts.

3.1.1.2 National Research Council Recommendations

Consideration of including communities in the commercial IFQ program is motivated by several provisions in the MSA and emphasized in current NRC reports (1999a and b). A detailed description of the NRC report is provided in Section 1.2.2 of this document. Briefly, The MSA defines "fishing community" as a

[13] *Community Purchase of Halibut and Sablefish Individual Fishing Quota Shares Discussion Paper*, May 30, 2000. Gulf of Alaska Coastal Communities Coalition.

[14] "Holdings of Limited Entry Permits, Sablefish Quota Shares, and Halibut Quota Shares Through 1998 and Data on Fisheries Gross Earnings," CFEC. 1999.

community which is substantially dependent on or substantially engaged in the harvest and processing of fishery resources to meet social and economic needs; vessel owners, operators, crew members, and processors based in such a community are included (Sec.3 [16]). The NRC report Sharing the Fish (1999a) relates that communities are important to recognize in the discussion of co-management and involvement of stakeholders in the management process, and that the fishing community is relevant to the potential achievement of objectives or assessment of impacts for specific fishery management programs. In addition, the NRC report points out that the policy goals of the MSA have evolved over time, as the fishery has moved from a foreign-dominated to a fully Americanized fishery.

The NRC report also encourages NMFS and the Council to consider the inclusion of fishing communities in initial allocations, where appropriate.[15] For existing IFQ programs, the NRC recommends that Councils should be permitted to authorize the purchase, holding, management, and sale of QS/IFQs by communities. The NRC asserts that the Secretary of Commerce should interpret National Standard 8 of the MSA to support this approach to limited entry management.

The proposed action in this amendment is consistent with the NRC recommendations and the intent that community QS could represent a resource endowment to the community that would allow local residents access to the fish. This action is intended to both help preserve fishing opportunity in small communities and to mitigate adverse impacts on communities resulting from the initial allocation of QS through the IFQ Program.

3.2 Description of the Alternatives

3.2.1 Alternative 1: (No Action) Only qualified persons as defined in the current Federal regulations could hold and use commercial halibut and sablefish QS in the Gulf of Alaska.

The existing IFQ regulations were designed to affect the nature of transfers and to limit QS consolidation. Initial allocations were restricted to "qualified persons" under 50 CFR 679.40 (a)(2), defined as:

> "any individual who is a citizen of the United States or any corporation, partnership, association, or other entity (or their successor in interest), whether or not organized or existing under the laws of any state, who is a U.S. citizen."[16]

To meet the goal of retaining an owner-operator fleet, the current commercial IFQ regulations also require that catcher vessel QS may only be *transferred to individuals*, and those individuals must be aboard the vessel when the fish are harvested and landed. In recognition of historical fishing practices, initial issuees may, with some exceptions, hire skippers to fish their annual IFQ. Currently, the QS holder must demonstrate that she holds at least a 20% ownership interest in the vessel upon which the IFQ is to be fished.

Any U.S. citizen or entity may receive freezer vessel QS (A category) through transfer, but the persons who may buy catcher vessel QS (B,C, and D category) are restricted to those persons who were originally issued catcher vessel QS or those who qualify as IFQ crew members by working for 150 days on the harvesting crew

[15] Sharing the Fish, 1999. p. 9.

[16] See 50 CFR 679.2.

in any U.S. commercial fishery.[17] Thus, under the status quo, communities could receive A category QS through transfer, but not catcher vessel QS.

Alternative 1 would maintain the language and intent of the current regulations, effectively limiting the ownership of QS to individuals and initial recipients. Gulf community residents would continue to be allowed to purchase commercial halibut and sablefish QS and fish the resulting IFQs, but community entities could not receive or hold catcher vessel QS for community benefit.

3.2.2 Alternative 2: Allow eligible Gulf of Alaska coastal communities to hold commercial halibut and sablefish QS for lease to and use by community residents.

Eligible communities, as defined by qualification criteria established by the Council, may purchase and hold commercial halibut and sablefish QS in the Gulf of Alaska. Communities would create or identify an existing entity to purchase and manage commercial halibut and sablefish QS, for lease to and use by qualified individual community members. The community ownership entity would remain the registered owner and holder of the QS, and would lease the ensuing IFQ to qualified residents.

NMFS would issue the IFQ permit and landing card to the individual specified by the community, and treat the transaction as any other commercial IFQ transfer. The community would be responsible, given any constraints or guidelines provided by the Council, for developing a contract between the community and the individual who would lease the IFQ. The community would also be responsible for staying within the guidelines of the overall program, and the community resident leasing the IFQs must abide by any and all regulations pertaining to current operations of the fishery.

This option would expand the universe of eligible halibut/sablefish QS holders for the purpose of allowing a distinct subset of Gulf communities the opportunity for long-term access to and benefits from the halibut and sablefish resource.

3.2.2.1 Elements and options for allowing community purchase of halibut and sablefish commercial quota share[18]

Element 1. Eligible Communities (Gulf of Alaska communities only)

Rural communities with fewer than 2,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut/sablefish fisheries:

Suboption 1. Include a provision that the communities must also be fishery dependent, as determined by:

- Fishing as a principal source of revenue to the community, or
- Fishing as a principal source of employment in the community (e.g., fishermen, processors, suppliers)

Suboption 2. Decrease size to communities with fewer than 1,500 people.

Suboption 3. Increase size to communities with fewer than 5,000 people.

[17] See 50 CFR 679.41(g); "IFQ crew" are defined in 50 CFR 679.2.

[18] Options as adopted by the Council in June 2001 and revised February 2002. Not all of the options under each element are mutually exclusive, i.e., the Council may select more than one option under Elements 1, 2, 5, 6, and 7.

Element 2. Ownership Entity

(a) Existing recognized governmental entities within the communities (e.g., municipalities, tribal councils or ANCSA corporations)
(b) New non-profit community entity
(c) New non-profit formed by an aggregation of communities
(d) Combination of the entities (allow different ownership entities in different communities depending on the adequacy and appropriateness of existing management structures)

Element 3. Use Caps for Individual Communities

Options (a) - (c) would establish **the same use caps** for all eligible communities:

(a) 2% of 2C and 1% of the combined 2C, 3A and 3B halibut QS, and 2% of Southeast and 2% of all combined sablefish QS.
(b) 1% of 2C and 0.5% of the combined 2C, 3A and 3B halibut QS, and 1% of Southeast and 1% of all combined sablefish QS.
    Suboption 1 for (b): Communities in Areas 3A and 3B cannot buy halibut QS in Area 2C and communities in Area 2C cannot buy halibut QS in Area 3B.
(c) 0.5% of 2C and 0.5% of the combined 2C, 3A and 3B halibut QS, and 0.5% of Southeast and 1% of all combined sablefish QS.

Options (d) or (e) would establish **use caps on an area basis** (i.e., eligible communities in Area 2C, 3A, and 3B would have different use caps):

(d) Place caps on individual communities that limit them from using more than 1% of the combined quota share in the area they reside in and an adjacent quota share area. Communities in 3A could not buy quota shares in 2C.
(e) Place caps on individual communities that limit them from using more than 0.5% of the combined quota share in the area they reside in and an adjacent quota share area. Communities in 3A could not buy quota shares in 2C.

    Suboption 1: Place caps on individual communities so that the caps are area specific and not combined with more than one area.

    Thus, under Options d and e:
    - 2C communities would be capped at 1% (or 0.5%) of the combined 2C and 3A halibut QS, and 1% (or 0.5%) of the combined Southeast and West Yakutat combined sablefish QS.
    - 3A communities would be capped at 1% (or 0.5%) of the combined 3A and 3B halibut QS, and 1% (or 0.5%) of the combined West Yakutat and Central Gulf combined sablefish QS.
    - 3B communities would be capped at 1% or (0.5%) of the combined 3A and 3B halibut QS, and 1% (or 0.5%) of the combined Central Gulf and Western Gulf combined sablefish QS.

    Or, under Suboption 1:
    - 2C communities would be capped at 1% (or 0.5%) of the Area 2C halibut QS and 1% (or 0.5%) of the Area 3A halibut QS. They would also be capped at 1% (or 0.5%) of the SE sablefish QS and 1% (or 0.5%) of the WY sablefish QS.

- 3A communities would be capped at 1% (or 0.5%) of the Area 3A halibut QS and 1% (or 0.5%) of the Area 3B halibut QS. They would also be capped at 1% (or 0.5%) of the WY sablefish QS and 1% (or 0.5%) of the CG sablefish QS.
- 3B communities would be capped at 1% (or 0.5%) of the Area 3B halibut QS and 1% (or 0.5%) of the Area 3A halibut QS. They would also be capped at 1% (or 0.5%) of the CG sablefish QS and 1% (or 0.5%) of the WG sablefish QS.

Element 4. Cumulative Use Caps for all Communities

(a) 20% of the combined 2C, 3A, and 3B halibut QS, and 40% of the total combined Gulf of Alaska sablefish QS.
(b) 20% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS.
(c) 10% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS.
(d) 10% of the combined 2C, 3A, and 3B halibut QS, and 10% of the total combined Gulf of Alaska sablefish QS.
(e) 20% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS. However, communities would be limited to 10% of the combined 2C, 3A, and 3B halibut QS and 10% of the combined Gulf of Alaska sablefish QS prior to the Council's review of the program in 3-10 years.
    Suboption 1: Communities would be limited to 5% of the combined 2C, 3A, and 3B halibut QS and 5% of the total combined Gulf of Alaska sablefish QS in the first 2-5 years of the program.
(f) For options a-e, place cumulative use caps that are area specific rather than applying to combined areas.
(g) Communities would be limited to 3% of the Area 2C, 3A, or 3B halibut QS and 3% of the SE, WY, CG, or WG sablefish QS in each of the first seven years of the program, with a 21% total by area, unless modified by the Council's review of the program.
(h) No cumulative use caps.

Element 5. Purchase, use, and sale restrictions
[All restrictions on quota shares (e.g., share class, blocked or unblocked status) would be retained once the quota is sold outside of the community.]

Block Restrictions[19]

(a) Communities would have the same blocked share restrictions as individuals
(b) Allow communities to buy only blocked shares or only unblocked shares
(c) Allow communities to buy blocked and unblocked shares

[19] The halibut IFQ program rules created non-severable "blocks" of QS that were designed to constrain how much QS can be aggregated. Persons received their QS in a block at initial allocation if their QS would have resulted in less than 20,000 pounds of halibut (or sablefish), given 1994 TACs.

Suboption 1: Communities can purchase blocked and unblocked shares up to the ratio of blocked to unblocked shares in that area (i.e., communities are not limited to the number of blocks that they can own, but are limited in the number of pounds of blocked shares). The community would first need to purchase unblocked shares and then could purchase blocked shares up to the ratio in the area.

Suboption 2: Communities can purchase blocked quota shares in excess of the current limit on block ownership, up to:

(a) 5 blocks per community
(b) 20 blocks per community
(c) Without limitation

_____Suboption 3: Restrict community purchase of blocked quota share to blocks of shares which, when issued, exceeded a minimum poundage of IFQ.

(a) For Areas 2C, 3A, and 3B, minimum halibut IFQ poundage in a range of 2,500 - 10,000 pounds.

(b) For SE, WY, CG, and WG, minimum sablefish IFQ poundage in a range of 3,000 - 10,000 pounds.

Vessel Size Restrictions

(a) Apply vessel size (share class) restrictions to the purchase of QS by communities.
(b) Do not apply vessel size (share class) restrictions to the purchase of QS by communities.
(c) Transferability of QS (permanent) and IFQs (on annual basis [leasing]) from commercial to community is restricted to the following class of shares:

(i) C and D category
(ii) B and C category
(iii) B, C, and D category

Sale Restrictions

(a) Communities may only sell their QS:
1. after 3 years of ownership
2. to other communities
3. for one of the following purposes:
(A) generating revenues to sustain, improve, or expand the program
(B) liquidating the entity's QS assets for reasons outside the program. In that event, NMFS would not qualify that entity or another entity to hold QS for that community for a period of 3 years.
4. no sale restrictions

(b) Communities may:
1. divide QS blocks that result in IFQs in excess of 20,000 lbs in a given year in half upon sale
Suboption 1: Allow only Area 3B QS blocks that result in IFQs in excess of 20,000 lbs in a given year to be divided in half upon sale
2. "sweep up" blocks of less than 10,000 lbs and sell as blocks of up to 20,000 lbs.

Use Restrictions

(a) Leasing of community IFQs shall be limited to an amount equal to 25,000 - 75,000 pounds of halibut and sablefish IFQs per transferee

Suboption 1: Leasing of community IFQs shall be limited, inclusive of any IFQ owned, per vessel.

Element 6. Performance Standards

Communities participating in the program must adhere to the following performance standards established in regulation by NMFS:

(a) Leasing of annual IFQs resulting from community owned QS shall be limited to residents of the ownership community.
Suboption 1: Leasing of community QS shall be limited to residents of the ownership community and residents of other qualifying communities.
(b) Maximize benefit from use of community IFQ for crew members that are community residents.
(c) Insure that benefits are equitably distributed throughout the community.
(d) Insure that QS/IFQ allocated to an eligible community entity would not be held and unfished.

Element 7. Administrative Oversight

(a) Require submission of a detailed statement of eligibility to NMFS prior to being considered for eligibility as a community QS recipient. The statement would include:
1. Certificate of incorporation
2. Verification of qualified entity as approved in Element 2
3. Documentation demonstrating accountability to the community
4. Explanation of how the community entity intends to implement the performance standards

(b) Require submission of an annual report detailing accomplishments. The annual report would include:
1. A summary of business, employment, and fishing activities under the program
2. A discussion of any corporate changes that alter the representational structure of the entity
3. Specific steps taken to meet the performance standards Element 6.
4. Discussion of known impacts to resources in the area

Element 8. Program Review

(a) No sunset provision
(b) Review program after 5 years and consider sunsetting program if review reveals a failure to accomplish the stated goals.
(c) Review program after 5 years and, if changes are necessary, provide a "drop-through"[20] of purchase and use privileges, whereby the initial privileges granted to participating communities would continue for an additional 10 years. Additional community purchases would be subject

[22] As described in the National Research Council's 1999 publication Sharing the Fish, p. 150.

to a new set of purchase and use standards. Incentives for communities to convert from the initial set of purchase and use privileges to the new set would be provided.

Suboption 1: Review program after 10 years.
Suboption 2: Review program after 3 years.

3.3 Description of the Fisheries

3.3.1 Commercial Halibut Fishery

The IFQ Program applies to the management of the fixed gear sablefish and halibut fisheries off of Alaska. For halibut, fixed gear was defined to include all fishing gear comprised of lines with hooks attached, including one or more stationary, buoyed, and anchored lines with hooks attached. Longlines, jigs, handlines, and troll gear are examples of halibut fixed gear. A detailed description of the commercial halibut fishery is provided in Section 2.1.5.1 of this document.

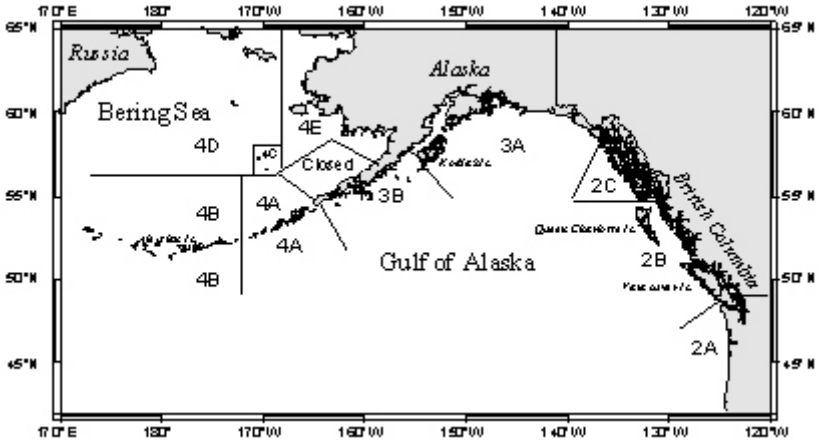


Figure 3-1: IPHC Halibut Management Areas

Breifly, QS were issued to qualified applicants who owned or leased a vessel that made legal fixed gear landings of halibut at any time during 1988, 1989, and 1990. QS are issued specific to one of eight halibut management areas and one of four vessel classes (Figure 3-1). The four vessel classes include a catcher/processor vessel class (or freezer longliner) and three catcher vessel classes.

Landings

Historically, the Gulf halibut season ran from March 15 to November 15. A total of 4,951 halibut permits (as defined by unique combinations of areas and vessel categories) were active as of the year-end 2001. When the season ended, those permits had been used by IFQ holders to report 6,997 vessel landings of IFQ halibut for a total harvest of 95% of the commercial halibut TAC. Table 3.1 displays those landings by regulatory area and IFQ pounds. Area 2C, 3A, and 3B combined for 6,235 vessel landings and 45,323,783 total pounds harvested. This is about 81% of the total commercial halibut catch off Alaska.

Table 3.1: 2001 IFQ Halibut Allocations and Landings

Area	Vessel Landings	Area IFQ TAC	Total Harvest	Percent Harvested
2C	2,738	8,780,000	8,170,172	93%
3A	2,582	21,890,000	21,071,467	96%
3B	915	16,530,000	16,082,144	97%
4A	375	4,970,000	4,823,638	97%
4B	193	3,928,000	3,517,658	90%
4C	156	1,015,000	724,815	71%
4D	38	1,421,000	1,368,875	96%
Total	**6,997**	**58,534,000**	**55,758,769**	**95%**

Source: 2002 Report to the Fleet, RAM, Division, NMFS.
Notes to Table: Vessel landings include the number of reported landings by participating vessels by IFQ regulatory area; each landing may include harvests from multiple permit holders. Halibut weights are reported in net pounds.

Ports of Landing

The Restricted Access Management (RAM) Division of NMFS reports that the top ten Alaska ports in which the IFQ halibut were landed has remained relatively constant over the past seven seasons, as has the percentage of IFQ halibut landed outside of Alaska (Table 3.2). Note that three of the top ports in 2001 (Petersburg, Cordova, and Hoonah) are communities that would potentially be eligible to purchase commercial halibut QS under the proposed action.

Quota Share Transfers and Consolidation

According to the RAM Division, the number of QS and IFQ transfers has declined significantly since 1997.

Table 3.2: Top Ten Alaska Halibut Ports 2001

Port	2001 Rank	2001 Pounds (net wt.)	% of 2001 landings	1995 Rank	1996 Rank	1997 Rank	1998 Rank	1999 Rank	2000 Rank
Homer	1	13,361,782	24.0%	2	2	3	1	1	1
Kodiak	2	8,515,583	15.3%	1	1	1	2	2	2
Dutch/Unalaska	3	6,190,526	11.1%	4	4	2	4	4	3
Seward	4	6,121,758	11.0%	5	3	4	3	3	4
Sitka	5	2,547,093	4.6%	3	5	5	5	6	6
Juneau	6	2,345,232	4.2%	13	8	8	7	5	5
Petersburg	7	2,213,709	4.0%	6	6	6	6	7	7
Adak	8	2,100,258	3.8%	N/A	N/A	N/A	N/A	12	8
Hoonah	9	1,403,894	2.5%	7	7	7	8	9	12
Cordova	10	1,392,609	2.5%	8	9	9	9	8	11
All "Outside"	N/A	2,073,682	3.7%	N/A	N/A	N/A	N/A	N/A	N/A
All Ports	**N/A**	**55,758,769**	**100.0%**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Note: "All Ports" includes some additional Alaskan ports.

Starting in 1998, the number of transfers, both of QS and the leasing of IFQs, appears to have stabilized. The 2002 Report to the Fleet summarizes the QS and IFQ transfers (number of approved transfer applications) from the beginning of the program in1995 through year-end 2001 (NMFS 2002). The total halibut transfers and the consolidation of QS over 1995-2001 are provided in Tables 3.3 and 3.4. Table 3.3 shows that the total number of QS/IFQ transfers has declined over time from 1,279 in 1995 to 690 in 2001. The consolidation of QS is broken out in Table 3.4 for the areas relevant to this analysis (Areas 2C, 3A, and 3B).

The data show that from initial issuance to year-end 2000, the number of IFQ halibut permit holders has declined 37% (from 2,388 to 1,503) in Area 2C, 35% (from 3,072 to 1,995) in Area 3A, and 46% (from 1,057 to 576) in Area 3B. In addition, the number of vessels harvesting the commercial halibut resource has also decreased since the inception of the IFQ program. Before the IFQ program was implemented, 3,097 unique vessels harvested the resource in the Gulf of Alaska (Areas 2C, 3A, and 3B) in 1994. During the first year of implementation, only 1,798 unique vessels participated in the Gulf halibut fishery. Since 1995, the number of participating vessels has decreased gradually to 1,222 in 2001. This reduction in the number of individual vessels fishing was both expected and intended as a goal of the rationalization effort in the halibut and sablefish fisheries.

Table 3.3: Numbers of Approved Halibut QS/IFQ Transfers, 1995-2001

Transfer Type	1995	1996	1997	1998	1999	2000	2001
Regular QS/IFQ	1,217	1,397	1,004	539	611	605	553
IFQ Only (lease)	31	61	53	43	39	49	48
Sweep-up of small blocks	31	63	441	148	150	75	89
Total Transfers	**1,279**	**1,521**	**1,498**	**730**	**800**	**729**	**690**

Source: 2002 Report to the Fleet, RAM Division, NMFS.

Table 3.4: Consolidation of Halibut QS - Initial Issuance through December 2001

Area	Size of Holding ('00 IFQ Pounds)	Number of Initial Issuees	Holders year-end 1996	Holders year-end 1997	Holders year-end 1998	Holders year-end 1999	Holders year-end 2000	Holders year-end 2001
2C	3,000 or less	1,562	1,150	997	946	897	846	803
	3,001-10,000	611	499	496	499	480	475	468
	10,001-25,000	194	217	215	201	204	209	208
	over 25,000	20	29	33	39	42	52	55
	2C Total:	2,387	1,895	1,741	1,685	1,623	1,582	1,534
3A	3,000 or less	1,930	1,497	1,316	1,228	1,143	1,030	981
	3,001-10,000	639	507	510	502	498	487	489
	10,001-25,000	311	305	304	303	300	326	321
	over 25,000	190	206	208	209	215	255	256
	3A Total:	3,070	2,515	2,338	2,242	2,156	2,098	2,047
3B	3,000 or less	460	325	239	204	180	166	148
	3,001-10,000	253	189	149	134	116	95	89
	10,001-25,000	174	135	141	145	146	140	139
	over 25,000	168	175	180	182	188	208	209
	3B Total:	1,055	824	709	665	630	609	585

Source: 2002 Report to the Fleet, RAM Division, NMFS.

Notes: The data in the table is not additive; QS holders may hold QS in more than one area.

3.3.2 Commercial Sablefish Fishery

In the sablefish fishery, fixed gear in the GOA was also defined as all hook and line fishing gear. The commercial sablefish catch is primarily taken by longline gear in the directed fishery (90%), a smaller amount by trawls as bycatch in other directed fisheries (10%), and a very small amount by pots (<1%). The QS are issued specific to one of six sablefish management areas and one of three vessel classes. A detailed description of the commercial halibut fishery is provided in Section 2.1.5.1 of this document.

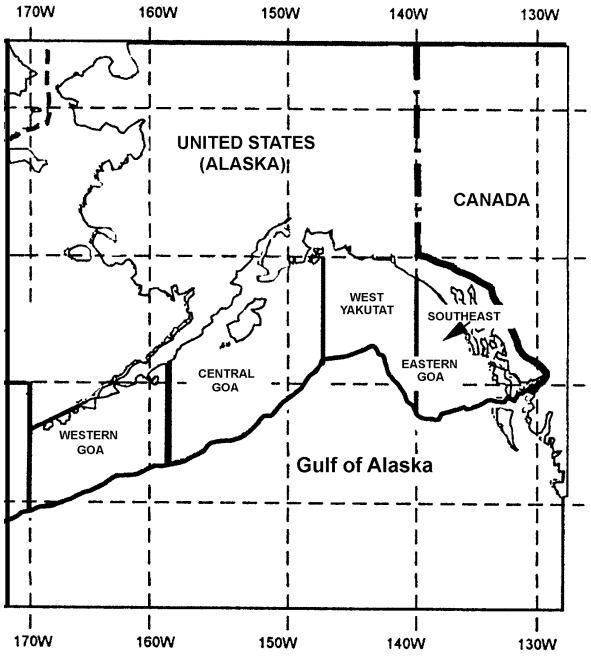


Figure 3-2: Sablefish IFQ Management Areas

Landings

Historically, the season ran from March 15-November 15, concurrent with the halibut IFQ fishery. A total of 1,733 sablefish permits were active as of year-end 2001. IFQ holders reported 2,055 vessel landings of IFQ sablefish, for a total of 90% of the sablefish TAC in 2001 (Table 3.5). The Gulf sablefish fisheries in particular accounted for 1,813 vessel landings and 24,437,991 pounds harvested. This is about 88% of the total 2001 sablefish catch off Alaska. State fisheries in Prince William Sound, Chatham Strait and Clarence Strait also land sablefish outside the IFQ program.

Table 3.5: 2001 IFQ Sablefish Allocations and Landings

Area	Vessel Landings	Area IFQ TAC	Total Harvest	Percent Harvested
AI	129	3,306,900	1,749,556	53%
BS	113	1,375,670	789,872	57%
CG	664	9,541,509	9,295,504	97%
SE	752	7,407,456	7,249,338	98%
WG	149	3,544,997	3,388,374	96%
WY	248	3,944,029	3,875,658	98%
Total	**2,055**	**29,120,561**	**26,348,302**	**90%**

Source: 2002 Report to the Fleet, RAM, Division, NMFS.
Notes to Table: Vessel landings include the number of reported landings by participating vessels reported by IFQ regulatory area; each such landing may include harvests from multiple IFQ permit holders. Sablefish weights are reported in round pounds.

The discard rate in the sablefish fishery is typically very low; in 1999, 13,900 mt of sablefish was caught, 92% of which was retained. Discards have occurred in the hook-and-line sablefish and trawl fisheries targeting flatfish and rockfish.

Sablefish is the highest valued groundfish resource in the GOA, worth $70 million ex-vessel in 1999. Average ex-vessel price was about $2.88/lb for fixed gear fisheries, and $2.35/lb for trawl fisheries. The

primary product produced is head and gut for Japanese markets, with small amounts going to specialty domestic markets.

Ports of Landing

Table 3.6 shows the top ten Alaska ports in which IFQ sablefish were landed in 2001. Similar to the halibut fishery, the top ports of delivery have remained relatively constant over the past seven years, as has the percentage of IFQ sablefish landed outside of Alaska. Note that four of the top ports (Yakutat, Hoonah, Cordova, and Petersburg) are communities that would potentially be eligible to purchase commercial sablefish QS under the proposed action. Both Cordova and Petersburg are considered "large" communities in the CFEC report on Gulf coastal community participation in the IFQ fisheries (CFEC 1999).

Quota Share Transfers and Consolidation

Table 3.6: Top Ten Alaska Sablefish Ports 2001

Port	2001 Rank	2001 Pounds (net wt.)	% of 2001 landings	1995 Rank	1996 Rank	1997 Rank	1998 Rank	1999 Rank	2000 Rank
Seward	1	5,201,716	19.7%	1	1	1	1	1	1
Dutch/Unalaska	2	3,943,412	15.0%	3	4	4	4	4	2
Sitka	3	3,323,245	12.6%	2	2	2	2	2	3
Kodiak	4	2,619,512	9.9%	4	3	3	3	3	4
Homer	5	1,842,522	7.0%	9	8	9	6	5	6
Cordova	6	1,345,448	5.1%	8	7	7	10	9	9
Juneau	7	1,305,179	5.0%	9	13	8	7	7	5
Hoonah	8	1,133,641	4.3%	10	9	6	8	10	8
Petersburg	9	1,047,915	4.0%	7	5	10	9	8	10
Yakutat	10	956,285	3.6%	5	6	5	5	6	7
All "Outside"	N/A	1,245,115	4.7%	N/A	N/A	N/A	N/A	N/A	N/A
All Ports	**N/A**	**26,348,302**	**100.0%**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**	**N/A**

Note: "All Ports" includes some additional Alaskan ports.

Similar to the halibut IFQ program, the number of sablefish QS and IFQ transfers has declined since 1997. The lowest number of annual QS transfers was in 2001 (185 QS transfers and 67 IFQ leases), about half as many as were approved in 1997. The total sablefish transfers and the consolidation of QS over 1995-2001 are provided in Tables 3.7 and 3.8 below. Table 3.7 shows the total number of QS/IFQ transfers has declined over time from 443 in 1995 to 272 in 2001. The consolidation of QS is broken out in Table 3.8, by the areas relevant to this analysis (Central Gulf, Southeast Outside, Western Gulf, and West Yakutat). The data show that from initial issuance to year-end 2001, the number of IFQ sablefish permit holders has declined 33% in the Central Gulf (from 642 to 433), 33% in Southeast (from 713 to 479), 25% in the Western Gulf (from 232 to 174), and 35% in West Yakutat (from 455 to 295).

In addition, the number of catcher vessels landing sablefish has decreased since the inception of the IFQ program. In 1994, the year before the program started, 1,069 unique vessels participated in the commercial sablefish fishery in the Gulf of Alaska (CG, SE, WG, WY). During the first year of the program, 481 unique vessels participated, and in 2001, 352 unique vessels participated.

3.4 Baseline Information for Communities

3.4.1 Proposed Eligible (Target) Communities

Figure 3-3 lists the 44 Gulf coastal communities that would qualify under the proposed general criteria under Element 1. (Note that the maximum number of qualifying communities is 45, under Suboption 3.) All of the communities listed appear to meet the proposed criteria of rural (no road access), coastal Gulf communities with documented historic participation in the halibut/sablefish fisheries, and populations below 2,500. The intent, as originally proposed by the Coalition, is to allow communities with any documented participation (commercial, recreational, subsistence) in either the halibut or sablefish fisheries to qualify to purchase

Table 3.7: Numbers of Approved Sablefish QS/IFQ Transfers, 1995-2001

Transfer Type	1995	1996	1997	1998	1999	2000	2001
Regular QS/IFQ	352	351	388	185	237	238	185
IFQ Only (lease)	76	51	51	57	53	79	67
Sweep-up of small blocks	15	20	82	33	22	29	20
Total Transfers	**443**	**422**	**521**	**275**	**312**	**346**	**272**

Source: 2002 Report to the Fleet, RAM Division, NMFS.

commercial halibut and/or sablefish QS. Residents of all target communities reported commercial landings in the limited entry and IFQ fisheries at some point since 1980, as documented by the CFEC. While many communities have been historically reliant on salmon or herring, all of the communities have documented halibut or sablefish landings and thus qualify under the general criteria.

3.4.1.1 General Dependence on Fisheries (Suboption 1)

Figure 3-3 also notes how the list of communities would change should the Council adopt one or more of the suboptions under consideration in Element 1. Suboption 1 requires that the communities be considered fishery-dependent, as determined by the fishing industry as a principal source of revenue or employment to the community. Note that the criteria does not specify that the community be dependent on the *halibut or sablefish* fisheries in particular, but only on the fishing industry as a whole.

All 45 communities potentially affected by this action appear to qualify as fishing-dependent. The criteria by which to determine fishery-dependence under Suboption 1, however, is general and not well suited to a quantitative assessment. Even if the criteria specified a way to define "principal source of revenue or employment," it would be very difficult to accurately determine the exact percentage of annual revenues or employment for each community that may be attributed to fisheries. Further, it may not be a necessary step to determining fishing-dependence, as annual revenues and other economic indices are not the only relevant indicators to determine fishing dependence. The NRC (1999a) report notes on the issue of fishing-dependent communities, that for small, isolated communities such as many of those in Alaska: "the notion of dependency may include geographic isolation; lack of employment alternatives; social, economic, and cultural systems that have developed in these locations; and their dependence on fishing as a source of nutrition, livelihood, and life-style" (p. 19).

Under the proposed criteria, it also does not appear necessary to discern whether a particular community is more or less "dependent" on fishing than any other. The NRC report (1999a) notes that fishing may be used as part of a diverse set of lifestyles, so the fact that these communities differ means only that they are dependent on fishing in different ways related to their social, cultural, and economic systems. Given that all of these communities are profiled by one or more sources as fishing communities, it is assumed that fishing plays a role in determining the identity of each community. Thus, all of the relevant factors identified

by the NRC were considered in determining whether the target communities qualified under Suboption 1, based on the community profiles provided by one or more sources.

The Draft Programmatic Supplemental Environmental Impact Statement (DPSEIS) (NMFS 2001a) provides sector and regional profiles of the North Pacific fisheries that include several communities in the Alaska Peninsula, Kodiak Island, Southcentral, and Southeast regions. The DPSEIS documents the general dependency on a regional basis, whether through employment opportunities, fisheries-related revenues, local fish taxes, or the fisheries-related shared tax income from the state fish tax. Gross earnings derived from commercial fishing on an area basis will be discussed further in this section. Note that for the purposes of community eligibility in this analysis (Figure 3-3), the combined sources discussed here are considered sufficient documentation of the communities' general dependence on fishing as a whole. The baseline data provided in the remainder of this section supports that conclusion.

The majority of the communities are also discussed in *Faces of the Fisheries*, a publication of community profiles by the NPFMC (1994). This report highlights the involvement of coastal communities in the fisheries off of Alaska, including commercial, recreational, and subsistence participation. Thirty-four of the target communities are also profiled in *Gulf of Alaska Coastal Communities: An Overview,* a report prepared by the Institute for Social and Economic Research (ISER) for the Gulf of Alaska Coastal Communities Coalition (ISER 1999). The communities selected for discussion in the report represent all regions along the Gulf Coast, and information is provided to assess the communities' reliance on commercial or subsistence fishing and identify the availability of economic opportunities other than fishing. In addition, all of the communities are profiled by the Alaska Department of Community and Economic Development, and the majority show some level of dependency on the commercial fishing industry, whether it be processing, harvesting, support services, or seasonal labor. The CFEC also developed a report on Gulf coastal community participation in the State limited entry and IFQ fisheries, which shows historical and current participation (CFEC 1999). The information from this report will be used later in this section to characterize the communities' participation in the IFQ fisheries.

Figure 3-3: List of Proposed Eligible Communities for Community Purchase of Halibut and Sablefish Quota Share (Element 1)

General Qualifying Criteria: Area 2C, 3A, and 3B Gulf coastal communities with populations of fewer than 2,500 (based on the 2000 census), not connected to the road system, and with historic participation[1] in the halibut/sablefish fisheries.

Area 2C

Community	Population[2]
Angoon	572
Coffman Cove	199
Craig	1,397
Edna Bay	49
Elfin Cove	32
Gustavus	429
Hollis	139
Hoonah	860
Hydaburg	382
Kake	710
Kassan	39
Klawock	854
Metlakatla	1,375
Meyers Chuck	21
Pelican	163
Point Baker	35
Port Alexander	81
Port Protection	63
Tenakee Springs	104
Thorne Bay	557
Whale Pass	58
Wrangell	2,308
22 communities	10,427

Area 3A

Community	Population
Akhiok	80
Chenega Bay	86
Cordova	2,454
Halibut Cove	35
Karluk	27
Larsen Bay	115
Nanwalek	177
Old Harbor	237
Ouzinkie	225
Port Graham	171
Port Lions	256
Seldovia	286
Tatitlek	107
Tyonek	193
Yakutat	680
15 communities	5,129

Area 3B

Community	Population
Chignik	79
Chignik Lagoon	103
Chignik Lake	145
Ivanof Bay	22
King Cove	792
Perryville	107
Sand Point	952
7 communities	2,200

[1]As documented by CFEC, DCED, or reported by ADF&G in *Alaska Rural Places in Areas with Subsistence Halibut Uses*.

[2]2000 census data–Alaska Department of Community and Economic Development.

Note: Forty-four Gulf communities may qualify under the general criteria proposed under Element 1. At the time of the Coalition proposal, the estimated populations of Wrangell and Cordova were above 2,500. While Wrangell and Cordova are still considered "larger communities" in the CFEC report, the 2000 census reports populations less than 2,500.

There are also 3 suboptions that could be applied to the above criteria under Element 1. The total number of communities would change as follows:

Under Suboption 1 (fishery-dependent): all of the above communities would continue to qualify.
Under Suboption 2 (decrease community size to 1,500): Cordova and Wrangell would drop out.
Under Suboption 3 (increase community size to 5,000): Petersburg (pop. 3,224) would be included.

Recall also that the criteria proposed for determining fishery dependence under Suboption 1 is not limited to *commercial* fishing or to the *halibut and sablefish* fisheries. However, all communities qualify as having customary and traditional use of halibut as determined by the Subsistence Division of ADF&G, except for Tyonek and Halibut Cove. Most of the target communities rely on subsistence fishing and hunting, as documented by DCED, CFEC, and ADF&G, either as a primary food source or to supplement other sources. The dominant subsistence species harvested are halibut, salmon, shrimp, crab, and clams. For some communities, including Kasaan, Akhiok, Larsen Bay, Old Harbor, Port Lions, Ivanof Bay, Yakutat, and the Chignik area, the majority of the residents continue to participate in subsistence fishing (and hunting) activities. Subsistence fishing does not appear to be of high importance for a few communities that have alternative income sources, including Hollis (which relies mostly on logging) and Halibut Cove (primarily an artist community), Pelican, Wrangell, Port Graham, Petersburg, Cordova, and Seldovia. The level of reliance on the fishing industry varies by community, but because of the limited economic opportunities in these smaller, remote communities, fishing, whether commercial or subsistence, represents a significant factor in the overall economy.

The broad conclusion gathered from these collective sources is that fishing plays a role in the identity of all of the proposed communities–nearly all of the communities are reliant on subsistence harvests, and commercial fishing, whether for sablefish, halibut, or otherwise, is the dominant source of jobs and income in most of these communities.

3.4.1.2 Population (Suboptions 2 and 3)

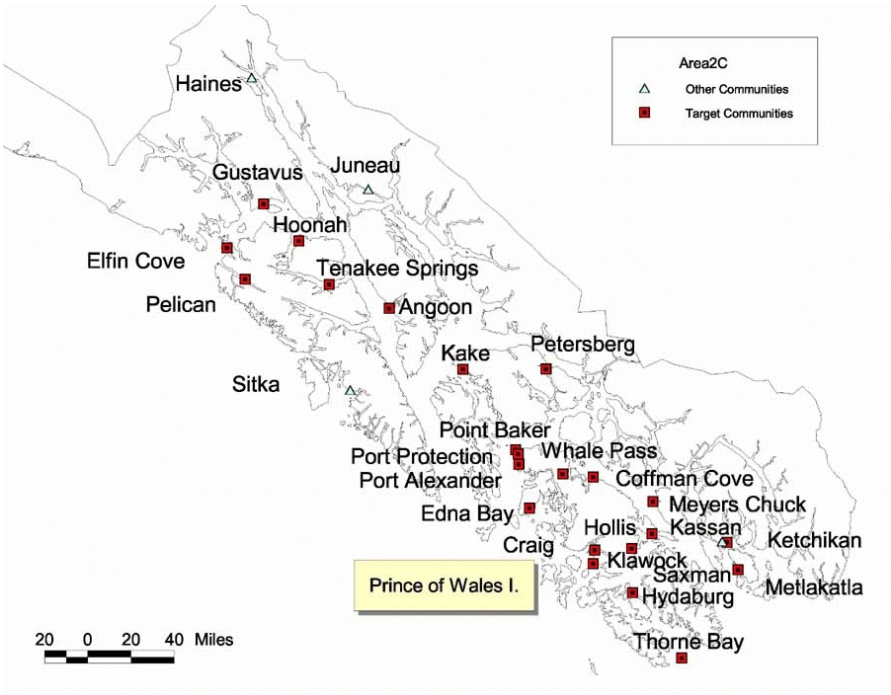
The Council selected two additional suboptions for consideration that are exclusive of one another, but may be applied in combination with the requirement to be fishery-dependent under Suboption 1. Suboption 2 would restrict the eligibility criteria to communities with fewer than 1,500 people, effectively excluding Cordova and Wrangell. Suboption 3 would expand the criteria to include communities with fewer than 5,000 people, effectively including Petersburg. Cordova, Wrangell, and Petersburg are also considered fishery-dependent communities and would qualify under Suboption 1. Thus, the total number of Gulf communities that could qualify for the proposed action under consideration varies only slightly, from 42 to 45. Under Element 1, the Council could select population criteria anywhere within the range of 1,500 to 5,000 and still be bounded by the options analyzed. For the purpose of this analysis, all 45 communities are discussed, representing the maximum that could potentially qualify under the proposed criteria in Element 1.

3.4.2 Location and Description of Target Gulf Communities

The locations of all 45 communities are shown in Figure 3-4, along with the locations of some of the larger Gulf communities which are involved in the fishing industry. Recall that none of the rural communities under consideration are connected with the road system; all are accessible by either air or sea.

Table 3.9 describes the geographical location of the 45 communities under consideration. Of the 23 communities in Area 2C, about half are located on or near Prince of Wales Island. Many of these communities have access to the Prince of Wales Island road system and to the State ferry service at Hollis. Of the 15 communities in Area 3A, nearly half are located on or near Kodiak Island, and several are located on the Kenai Peninsula. Of the 7 Area 3B communities, almost all of them are located on the south side of the Alaska Peninsula.

Figure 3-4: Location of 23 target communities in Area 2C, 15 in Area 3A, and 7 in Area 3B


Area2C
Other Communities
Target Communities
Haines
Gustavus
Juneau
Hoonah
Elfin Cove
Tenakee Springs
Pelican
Angoon
Kake
Petersberg
Sitka
Point Baker
Port Protection
Whale Pass
Port Alexander
Coffman Cove
Meyers Chuck
Edna Bay
Hollis
Kassan
Ketchikan
Craig
Klawock
Saxman
Prince of Wales I.
Hydaburg
Metlakatla
Thorne Bay
20 0 20 40 Miles

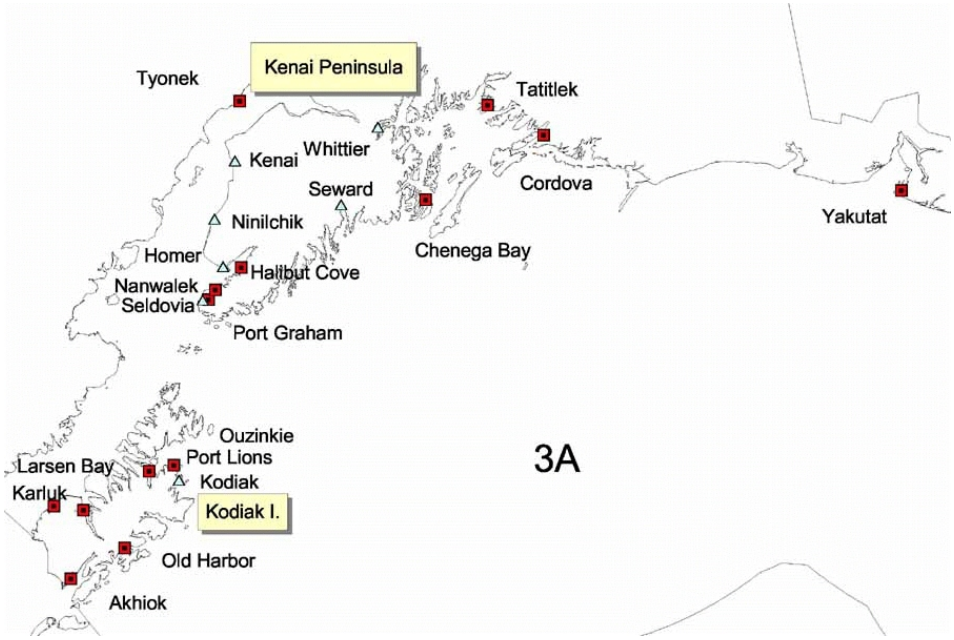

Kenai Peninsula
Tyonek
Tatitlek
Whittier
Kenai
Cordova
Seward
Yakutat
Ninilchik
Chenega Bay
Homer
Halibut Cove
Nanwalek
Seldovia
Port Graham
Ouzinkie
Port Lions
Larsen Bay
Kodiak
Karluk
Kodiak I.
Old Harbor
Akhiok
3A

Figure 3.4 continued.

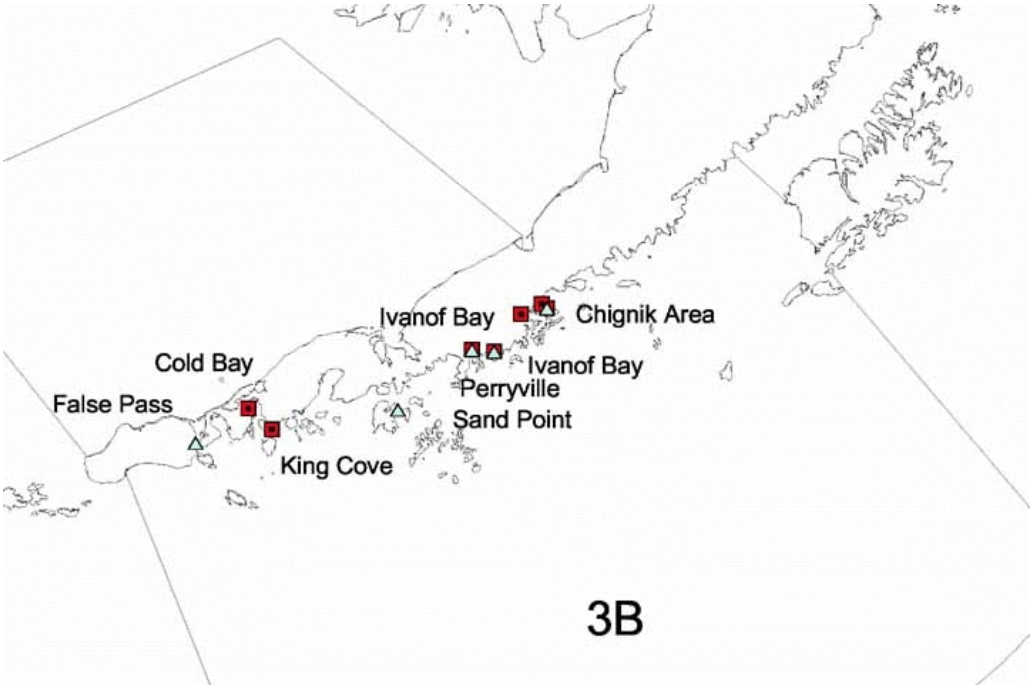


Table 3.9: Description of Location of 45 Gulf Communities (23 in Area 2C, 15 in Area 3A, 7 in Area 3B)

Community	Description of Location
Area 2C	
Angoon	on Admiralty Island
Coffman Cove	NE coast of Prince of Wales Island
Craig	off west coast of Prince of Wales Island
Edna Bay	on Kosciusko Island, NW of Prince of Wales Is.
Elfin Cove	Chichagof Island, 33 miles west of Hoonah
Gustavus	at mouth of Salmon River, 48 air miles from Juneau
Hollis	east side of Prince of Wales Island
Hoonah	NE shore of Chichagof Island
Hydaburg	southwest coast of Prince of Wales Island
Hyder	at head of Portland Canal, a 70 mile-long fjord
Kake	northwest coast of Kupreanof Island
Kasaan	east side of Prince of Wales Island
Klawock	west coast of Prince of Wales Island
Metlakatla	on Annette Island, 15 miles from Ketchikan
Meyers Chuck	on tip of Cleveland Peninsula, 40 miles from Ketchikan
Pelican	NW coast of Chichagof Island
Petersburg	on the northwest end of Mitkof Island
Point Baker	on northern tip of Prince of Wales Island
Port Alexander	southeastern tip of Baranof Island
Port Protection	on northern tip of Prince of Wales Island
Tenakee Springs	east side of Chichagof Island
Thorne Bay	on eastern side of Prince of Wales Island
Whale Pass	on northeast side of Prince of Wales Island
Wrangell	on Wrangell Island, 89 mi NW of Ketchikan
Area 3A	
Akhiok	southern end of Kodiak Island
Chenega Bay	Evans Island, 42 miles SE of Whittier
Halibut Cove	12 miles SE of Homer, south shore of Kachemak Bay
Karluk	west coast of Kodiak Island
Larsen Bay	NW coast of Kodiak Island
Nanwalek	southern tip of Kenai Peninsula, 10 mi. SW of Seldovia
Old Harbor	on the southeast coast of Kodiak Island
Ouzinkie	west coast of Spruce Island, adjacent to Kodiak Island
Port Graham	southern end of the Kenai Peninsula
Port Lions	on north coast of Kodiak Island
Seldovia	on Kenai Peninsula, across from Homer
Tatitlek	northeast shore of Tatitlek Narrows, on Alaska Mainland
Tyonek	on bluff on NW shore of Cook Inlet, 43 mi. SW of Anchorge
Yakutat	along Gulf of Alaska, 212 miles NW of Juneau
Area 3B	
Chignik	on Anchorage Bay on south shore of the Alaska Peninsula
Chignik Lagoon	on the south shore of Alaska Peninsula, 5.5 mi. W of Chignik
Chignik Lake	on the south side of Alaska Peninsula, 13 mi. from Chignik
Ivanof Bay	on the northeast end of the Kupreanof Peninsula
King Cove	on the south side of Alaska Peninsula, fronting Deer Island
Perryville	on the south coast of Alaska Peninsula, 275 mi. SW of Kodiak
Sand Point	on Humboldt Harbor on Popof Island, off the Alaska Peninsula

Source: Based on community profiles from the Alaska DCED

3.4.3 Community Participation in the Halibut and Sablefish Fisheries

This section considers the current (year-end 2000) level of participation of the 45 target Gulf communities in the commercial sablefish and halibut fisheries and their dependence on commercial fishing activities in general. These were the most current data available at the community level at the time of analysis. This section also compares participation and QS transfers out of these smaller Gulf communities to average participation and transfer of QS in all the (smaller and larger combined) Gulf coastal communities. Changes over time are also considered.

3.4.3.1 Participation in Commercial Fisheries

This section provides statistics on the historical and current participation of the 45 Gulf communities in the Federally-managed groundfish and halibut fisheries. Current levels are compared to past levels by comparing the amount of initial issuance of QS in each community versus what was held at year-end 2000.

Commercial Halibut/Sablefish QS Holdings

Table 3.10a shows the amount of QS held by the 45 proposed eligible target communities and the relative percentage of that QS compared to the total halibut and sablefish QS issued in the Gulf of Alaska. Overall, at year-end 2000, residents of the target communities held about 19% of the total halibut QS and 15% of the sablefish QS issued in the Gulf of Alaska. Among individual management areas, residents of target communities held less than 15% of the total QS issued in each area, with the exception of Area 2C.

Table 3.10a: Amount and percent of total halibut and sablefish QS held by residents of the 45 proposed eligible communities (year-end 2000)

Halibut	#QS units	% of total
2C	26,557,072	45%
3A	24,346,955	13%
3B	6,145,031	11%
Total	**57,049,058**	**19%**
Sablefish	**#QS units**	**% of total**
SE	15,480,426	24%
WY	6941298	13%
CG	16447911	15%
WG	1736938	5%
Total	**40,606,573**	**15%**

Source: RAM Division

The high percentage of QS held in Area 2C is primarily attributed to holdings in Petersburg. Residents of Petersburg held 25,907,730 halibut QS units and 26,738,794 sablefish QS units at year-end 2000. This represents almost half (45%) of the total halibut QS and more than half (67%) of the total sablefish QS held by target communities.

Excluding the Area 2C halibut holdings in Petersburg decreases the percentage held by target communities in Area 2C from 45% to 22% and decreases the percentage of overall halibut QS holdings from 19% to 10%. Similar effects extend to the sablefish fishery: excluding QS held by residents of Petersburg decreases the percentage of sablefish QS held by target communities in Southeast from 24% to 10% and decreases the overall sablefish QS holdings from 15% to 5%.

Table 3.10b further breaks out the commercial halibut and sablefish QS holdings attributed to the 45 target Gulf communities, at the time of initial issuance and at year-end 2000. The type of QS held is grouped by management area: halibut QS in Area 2C, 3A, 3B, and sablefish QS in Southeast, West Yakutat, Central Gulf, and Western Gulf. In addition, the percentage of QS lost or gained over that time period is calculated. Note, however, the percentage change does not depict changes in the amount of QS held *each year* between initial issuance and 2000, it only shows the net change between the start and endpoints.

Since the communities are located in Areas 2C, 3A, and 3B, most of the QS held by individuals in target communities corresponds to these management areas. At year-end 2000, individuals residing in the 45 communities held 26,557,072 halibut Area 2C QS units, 24,346,955 Area 3A QS units, and 6,145,031 Area 3B QS units, up from 23,948,016 units for Area 2C, 20,565,704 for Area 3A, and down from 7,859,473 for Area 3B at initial issuance. This represents an increase of about 11% and 18% in Area 2C and 3A QS, and a decline of 22% in Area 3B QS holdings, respectively. In the sablefish fishery, the target communities increased their West Yakutat and Central Gulf QS compared to initial issuance by 13% and 15%, and decreased their Southeast and Western Gulf QS by 5% and 37%, respectively. However, these percentages change considerably when the larger communities (Petersburg, Wrangell, and Cordova) are excluded from the group of 45 target communities.

Table 3.10b: Comparison of QS holdings in target Gulf communities and larger Gulf communities at initial issuance and year-end 2000

Area in which QS is held	45 Target Gulf Communities[1]	Target Communities Excluding Petersburg, Cordova, Wrangell[2]	Total Gulf Communities[3]
HALIBUT			
Area 2C			
Initial issuance	23,948,016	8,744,391	46,338,467
Year-end 2000	26,557,072	7,542,504	49,479,235
% change	10.9	-13.7	6.8
Area 3A			
Initial issuance	20,565,704	8,611,936	107,158,745
Year-end 2000	24,346,955	6,949,359	105,342,941
% change	18.4	-19.3	-1.7
Area 3B			
Initial issuance	7,859,473	6,566,279	24,756,830
Year-end 2000	6,145,031	5,332,366	26,226,498
% change	-21.8	-18.8	5.9
SABLEFISH			
Southeast			
Initial issuance	16,328,000	6,915,786	40,365,406
Year-end 2000	15,480,426	5,875,798	42,221,252
% change	-5.2	-15.0	4.6
West Yakutat			
Initial issuance	6,128,601	937,573	16,570,984
Year-end 2000	6,941,298	517,594	19,447,142
% change	13.3	-44.8	17.4
Central Gulf			
Initial issuance	14,334,673	3,065,595	40,623,992
Year-end 2000	16,447,911	4,260,999	42,879,698
% change	14.7	39.0	5.6
Western Gulf			
Initial issuance	2,758,913	1,511,055	8,124,046
Year-end 2000	1,736,938	1,404,676	9,443,378
% change	-37.0	-7.0	16.2

[1]Includes the maximum 45 Gulf communities potentially eligible under the options in Element 1.

[2]Petersburg, Cordova, and Wrangell are "larger" Gulf communities as defined by CFEC and are near or exceed populations of 2,500.

[3]Includes all "smaller" and "larger" Gulf coastal communities as defined by the CFEC report: "Holdings of Limited Entry Permits, Sablefish Quota Shares, and Halibut Quota Shares Through 1998".

Table 3.10b also shows how much QS is held by the target communities excluding the larger communities of Petersburg, Cordova, and Wrangell. These 3 communities are considered "larger" Gulf communities as defined by the CFEC report.[21] The 2000 census indicates that Wrangell and Cordova have populations just under 2,500, and Petersburg has a population of 3,224. Thus, under Suboption 2, in which the population criteria is restricted to less than 1,500, these 3 communities would not qualify. However, under Suboption 3, which requires populations less than 5,000, all 3 communities would qualify. In addition, Table 3.10b shows the QS holdings at initial issuance and year-end 2000 of all Gulf coastal communities (smaller and larger) as defined by the CFEC. These data are provided to show how the target communities' QS holdings compare to the Gulf area's holdings as a whole, as well as to show the degree of transfer of QS in or out of the target communities compared to the Gulf communities as a whole. While the CFEC report has not yet been updated to reflect Gulf communities' QS holdings to date, the year-end 2000 data used for the following tables were provided by the RAM Division.

There are several comparisons that can be made using Table 3.10b. First, it is useful to show the level of QS holdings in the larger communities (Petersburg, Wrangell, Cordova) that are included in the options for consideration in this amendment, as compared to the remainder of target communities under consideration. For example, at year-end 2000, these 3 communities made up over 72% of the target communities' halibut QS holdings in Area 2C, 71% in Area 3A, and 13% in Area 3B. Residents of these 3 communities also held 62% of the target communities' sablefish QS in Southeast, 93% in West Yakutat, 74% in the Central Gulf, and 19% in the Western Gulf. Wrangell and Petersburg are located in Area 2C (Southeast/West Yakutat), and Cordova is located in Area 3A (Central Gulf), thus the majority of their holdings are in these areas.

Second, the smaller target communities, excluding Petersburg, Cordova, and Wrangell, exhibit a net loss of QS from initial issuance to year-end 2000 in every management area except for the Central Gulf sablefish fishery (+39%), a trend that often reverses itself when Petersburg, Cordova, and Wrangell are included. (The net gain of Central Gulf sablefish QS is primarily attributable to an increase in holdings in Seldovia. The remainder of the communities continued to either lose Central Gulf sablefish QS or retain the same amount issued during initial issuance.)

Tables 3.11 - 3.13 break out the data for the target communities even further, showing the commercial halibut and sablefish QS holdings and the number of unique QS holders by each IPHC area under consideration (2C, 3A, 3B). Table 3.11 corresponds to the 22 target communities located in Area 2C. The table depicts the QS holdings and number of unique holders both including and excluding Petersburg. Excluding Petersburg, the table shows a net loss to these 22 communities in every management area, with the exception of the Western Gulf sablefish QS.

For purposes of comparison, Tables 3.11- 3.13 also show the percentage of the total Gulf coastal communities' QS the target communities hold, and the percentage of unique QS holders in the total Gulf communities that reside in the target communities. Holdings of halibut QS for Areas 4B, 4C, and 4D in target

[21] The CFEC reports, "Holdings of Limited Entry Permits, Sablefish Quota Shares, and Halibut Quota Shares Through 1998," was based on the 1990 census data, and reported Gulf communities with < 2,000 residents as "smaller" and >2,000 residents as "larger". Smaller communities included Akhiok, Akutan, Angoon, Atka, Belkofski, Chenega, Chenega Bay, Chignik, Chignik Lake, Chignik Lagoon, Chignik Bay, Craig, Elfin Cove, False Pass, Hoonah, Hydaburg, Ivanof Bay, Kake, Karluk, Kassan, King Cove, Klawock, Klukwan, Larsen Bay, Metlakatla, Nanwalek/English Bay, Ninilchik, Old Harbor, Ouzinkie, Pelican, Perryville, Port Graham, Port Lions, Sand Point, Saxman, Seldovia, Tatitlek, Tyonek, and Yakutat. Larger communities included Cordova, Haines, Homer, Juneau, Kenai, Ketchikan, Kodiak, Petersburg, Seward, Sitka, Unalaska, Valdez, Whittier, and Wrangell. Some small surrounding communities were also grouped with the larger communities. This report is currently being updated.

communities were minor, and QS corresponding to Area 4E is allocated entirely to the Community Development Quota (CDQ) Program. Similarly, sablefish QS holdings in the Bering Sea and Aleutian Islands were relatively minor and included in the footnote.

Table 3.11: Halibut QS and number of unique QS holders in the AREA 2C target Gulf communities at initial issuance and at year-end 2000

Area in which QS is held	Amount of QS units[1]	% of total Gulf QS held by target communities[2]	Number of unique QS holders	% of total Gulf holders that reside in target communities[2]	Amount of QS when Petersburg is included	# of unique QS holders when Petersburg is included
HALIBUT						
Area 2C						
Initial issuance	12,875,147	27.8	516	30.3	23,836,337	771
Year-end 2000	12,352,667	25.0	373	30.3	26,056,911	584
% change	-4.1		-27.7		9.3	-24.3
Area 3A						
Initial issuance	3,574,374	3.3	91	4.8	12,363,444	157
Year-end 2000	2,718,847	2.6	57	4.5	14,110,973	113
% change	-23.9		-37.4		14.1	-28.0
Area 3B						
Initial issuance	296,330	1.2	9	1.5	1,437,616	18
Year-end 2000	44,990	<1	2	<1	856,350	10
% change	-84.8		-77.8		-40.4	-44.4
Area 4A						
Initial issuance	117,946	1.9	5	2.1	356,968	11
Year-end 2000	181	<1	1	<1	228,437	5
% change	-99.8		-80.0		-36.0	-54.5
SABLEFISH						
Southeast						
Initial issuance	7,319,372	18.1	75	17.4	16,207,752	127
Year-end 2000	6,357,227	15.1	51	16.6	15,480,044	98
% change	-13.1		-32.0		-4.5	-22.8
West Yakutat						
Initial issuance	491,706	3.0	19	8.6	4,893,469	50
Year-end 2000	214,747	1.1	9	6.0	5,660,623	42
% change	-56.3		-52.6		15.7	-16.0
Central Gulf						
Initial issuance	691,797	1.7	14	4.0	11,678,715	51
Year-end 2000	596,493	1.4	3	1.2	12,434,332	29
% change	-13.8		-78.6		6.5	-43.1
Western Gulf						
Initial issuance	97,017	1.2	2	2.1	1,344,875	10
Year-end 2000	206,890	2.2	3	4.0	539,152	7
% change	113.3		50.0		-59.9	-30.0

[1] Excludes small amounts held and few holders for Areas 4B - 4E (21,660 lbs in 2000 and 2 holders, excluding Petersburg. Including Petersburg increases the year-end 2000 4B- 4E total to 129,835 lbs and 6 holders.) Also excludes QS held in the BS/AI (24,931 lbs in 2000 and 5 holders, excluding Petersburg. Including Petersburg increases the year-end 2000 BSAI total to 121,238 lbs and 13 holders.)
[2] Total Gulf QS includes QS held by "smaller" and "larger" Gulf coastal communities as defined by the CFEC. Does not include Gulf QS held by residents of Alaska communities that are not located on the Gulf coast or communities located outside of Alaska.
Source: "Smaller Gulf of Alaska Communities: Holdings of Limited Entry Permits, Sablefish Quota Shares, and Halibut Quota Shares Through 1998," CFEC, and updated data from the RAM Division.

Table 3.12: Halibut QS and number of unique QS holders in the AREA 3A target Gulf communities at initial issuance and at year-end 2000

Area in which QS is held	Amount of QS units[1]	% of total Gulf QS held by target communities[2]	Number of unique QS holders	% of total Gulf holders that reside in target communities[2]
HALIBUT				
Area 2C				
Initial issuance	107,504	<1	16	<1
Year-end 2000	10,128	<1	3	<1
% change	-90.6		-81.3	
Area 3A				
Initial issuance	7,904,760	7.4	257	13.4
Year-end 2000	10,214,826	9.7	185	14.5
% change	29.2		-28.0	
Area 3B				
Initial issuance	976,320	3.9	32	5.5
Year-end 2000	918,052	3.5	15	4.2
% change	-6.0		-53.1	
Area 4A				
Initial issuance	257,211	4.1	7	3.0
Year-end 2000	12,970	<1	2	1.4
% change	-95.0		-71.4	
SABLEFISH				
Southeast				
Initial issuance	65,465	<1	8	1.9
Year-end 2000	69	<1	1	<1
% change	-99.9		-87.5	
West Yakutat				
Initial issuance	1,114,310	6.7	16	7.3
Year-end 2000	1,279,234	6.6	7	4.6
% change	14.8		-56.3	
Central Gulf				
Initial issuance	2,257,544	5.6	27	7.7
Year-end 2000	4,013,558	9.4	17	6.9
% change	77.8		-37.0	
Western Gulf				
Initial issuance	112,230	1.4	4	4.2
Year-end 2000	1,010,110	10.7	4	5.3
% change	800.0		0.0	

[1]Excludes small amounts held and few holders for Areas 4B - 4E (5,925 lbs in 2000, 1 holders), and sablefish QS held in the BS/AI (43,338 lbs in 2000, 4 holders).

[2]Total Gulf QS includes QS held by "smaller" and "larger" Gulf coastal communities as defined by the CFEC. Does not include Gulf QS held by residents of Alaska communities that are not located on the Gulf coast or communities located outside of Alaska.

Source: "Smaller Gulf of Alaska Communities: Holdings of Limited Entry Permits, Sablefish Quota Shares, and Halibut Quota Shares Through 1998," CFEC, and updated data from the RAM Division.

Table 3.13: Halibut and sablefish QS and number of unique QS holders in the AREA 3B target Gulf communities at initial issuance and at year-end 2000

Area in which QS is held	Amount of QS units[1]	% of total Gulf QS held by target communities[2]	Number of unique QS holders	% of total Gulf holders that reside in target communities[2]
HALIBUT				
Area 2C				
Initial issuance	4,175	<1	2	<1
Year-end 2000	568	<1	1	<1
% change	-86.4		-50.0	
Area 3A				
Initial issuance	297,500	<1	11	<1
Year-end 2000	21,156	<1	5	<1
% change	-92.9		-54.5	
Area 3B				
Initial issuance	5,445,537	22.0	121	20.7
Year-end 2000	4,370,629	16.7	74	20.7
% change	-19.7		-38.8	
Area 4A				
Initial issuance	193,820	3.1	13	5.6
Year-end 2000	0	<1	0	<1
% change	-100.0		-100.0	
SABLEFISH				
Southeast				
Initial issuance	54,783	<1	4	<1
Year-end 2000	313	<1	2	<1
% change	-99.4		-50.0	
West Yakutat				
Initial issuance	120,822	<1	4	1.8
Year-end 2000	1,441	<1	2	1.3
% change	-98.8		-50.0	
Central Gulf				
Initial issuance	398,414	1.0	5	1.4
Year-end 2000	21	<1	1	<1
% change	-100.0		-80.0	
Western Gulf				
Initial issuance	1,301,808	16.0	16	16.8
Year-end 2000	187,676	2.0	4	5.3
% change	-85.6		-75.0	

[1]Excludes small amounts held and few holders of halibut QS in Areas 4B - 4E (no QS was held in Areas 4B - 4E at year-end 2000), and sablefish QS in the BS/AI (2,993 lbs in 2000, 2 holders).

[2]Total Gulf QS includes QS held by "smaller" and "larger" Gulf coastal communities as defined by the CFEC. Does not include Gulf QS held by residents of Alaska communities that are not located on the Gulf coast or communities located outside of Alaska.

Source: "Smaller Gulf of Alaska Communities: Holdings of Limited Entry Permits, Sablefish Quota Shares, and Halibut Quota Shares Through 1998," CFEC, and updated data from the RAM Division.

Of primary concern to this action is the relative amount of Gulf QS that residents of the target communities hold compared to other Gulf community residents and compared to the total amount of QS issued in each management area. Especially significant is the amount of QS that residents of the target communities hold in the regulatory area in which they are located. The vessels in these communities are typically smaller in size and tend to fish in close proximity to their communities. Thus, while residents of target communities hold QS in all areas, the most desirable QS to these residents will likely be in the area in which their community is located.

Area 2C

Table 3.11 shows the relative amount of halibut and sablefish QS held by residents of the 22 target communities in Area 2C at initial issuance and year-end 2000. Overall, residents of the target communities have realized a net loss of QS since initial issuance in every management area except Western Gulf sablefish, and they hold a relatively small percentage of QS in areas other than Southeast. **In Area 2C, however, the target communities held 25% of the Area 2C halibut QS and 15% of the Southeast sablefish QS that is held by residents of *all Gulf communities*.** This is due primarily to halibut holdings in Wrangell and sablefish holdings in Elfin Cove. If compared to the total amount of QS issued in Area 2C, which would include QS held by residents of other Alaskan communities not located in the Gulf and holdings by residents in other states, target communities in Area 2C held about **20% of the total Area 2C halibut QS**; including Petersburg increases this percentage to 44%. Target communities in Area 2C also held nearly **10% of the total sablefish QS issued in Southeast**; including Petersburg increases this percentage to 24%.

In addition, residents of the 22 Area 2C target communities made up 30% of the holders of Area 2C halibut QS and 17% of the holders of Southeast sablefish that reside in Gulf communities. A very small percentage of the Gulf holders in the remaining management areas is attributed to residents of target communities.

Area 3A

Table 3.12 shows similar information for the 15 target communities located in Area 3A. Since initial issuance, these communities have exhibited a net loss of halibut QS in every area but Area 3A. The increase in Area 3A is solely attributed to an increase in holdings by residents of Cordova. The target communities also showed an increase in sablefish holdings in the Central and Western Gulf, which are mainly attributed to an increase in holdings by residents of Halibut Cove and Seldovia in the Central Gulf and by residents of Halibut Cove and Port Lions in the Western Gulf.

In Area 3A in particular, residents of the target communities in Area 3A held about 10% of the Area 3A halibut QS and 9% of the Central Gulf sablefish QS that is held by residents of *all Gulf communities*. Compared to the total amount of QS issued in Area 2C, residents of the target communities held about 6% of the Area 3A halibut QS and 4% of the Central Gulf sablefish QS. Overall, residents of target communities in Area 3A held no more than 10% of the QS held by all Gulf communities in any management area. The QS has also consolidated and is held by fewer individuals in each area. In Area 3A, the residents of the target communities make up about 14% of the holders from all Gulf coastal communities.

Area 3B

Table 3.13 portrays the same data for the 7 target communities located in Area 3B. These communities have realized a considerable net loss of QS in every management area since initial issuance and hold a relatively

small amount of QS overall. At the end of 2000, these 7 communities held <1% of the QS held by all Gulf coastal communities in each management area, and the residents made up <1% of the QS holders from all Gulf coastal communities, with the exception of Area 3B.

In Area 3B, residents of the target communities held almost 17% of the Area 3B halibut QS and 2% of the Western Gulf sablefish QS that is held by residents of *all Gulf communities*. Compared to the total amount of QS issued in Area 3B, residents of the target communities held only 8% of the Area 3B halibut QS and less than 1% of the Western Gulf sablefish QS. In addition, residents of the target communities make up almost 21% of the holders of Area 3B halibut QS and 5% of the holders of Western Gulf sablefish QS that reside in Gulf communities.

In sum, Tables 3.10 - 3.13 indicate that there does not appear to be a consistent pattern of QS transfers out of the combined 45 target communities since initial issuance. However, when the larger Gulf communities are excluded (Petersburg, Cordova, and Wrangell), the remaining 42 smaller communities do show a net loss of QS (7% - 45%) and QS holders in each management area, with the exception of Central Gulf sablefish. Not surprisingly, the target communities realized a greater loss of QS in the management areas in which the community is not located. By contrast, the collective of Gulf communities, including target and non-target communities, exhibits a net gain of QS in each area since initial issuance, except for a slight loss of halibut QS in Area 3A (-2%).

Gross Earnings from Commercial Fishing

Table 3.14 provides aggregate gross earnings by fisheries from the 45 communities in 1999 for halibut, sablefish, and other commercial fisheries. Gross earnings are attributed to each community based on the permanent residence reported by the permit holder. For each area (2C, 3A, or 3B), both the number of unique permit holders and the percent breakdowns are provided to show relative reliance on halibut, sablefish, and other fisheries. Several communities' earnings are aggregated, and a few others concealed, for confidentiality purposes.

In Area 2C, 20 of the 23 target communities reported gross earnings from commercial fisheries in 1999. Port Protection, Whale Pass, and Hollis did not report gross earning from commercial fisheries in 1999. Total gross earnings from Area 2C target communities (excluding confidential earnings) were $61.9 million: 22% from halibut, 13% from sablefish, and the balance (65%) from other commercial fisheries (primarily salmon, crab, and herring). Of all of the 2C communities, Petersburg's gross earnings represented more than half of the total (61%), followed by Wrangell (12%), and Craig (7%).

In Area 3A, 13 of 15 target communities reported gross earnings from commercial fisheries in 1999 (no earnings reported by Nanwalek and Karluk), the great majority of which (90%) came from fisheries other than halibut or sablefish. Total gross earnings were $37.9 million. Three communities reported no commercial landings of halibut or sablefish in 1999 (Chenega Bay, Larsen Bay, and Tyonek), but did report earnings from other fisheries such as other groundfish, herring, salmon, and crab. Compared to Area 2C communities, target communities in Area 3A have a higher reliance on other commercial fisheries, such as salmon. Communities in 3A with the largest market share include Cordova (68%) and Seldovia (12%).
In Area 3B, the 7 target communities reported the majority of their 1999 gross earnings from commercial fisheries other than halibut and sablefish (95%), with the remainder earned in the halibut fishery. These communities did not report any gross earnings from sablefish in 1999. Total gross earnings were about $44 million, about 72% of the gross earnings for target communities in Area 2C, and slightly more than was

reported for 3A. Sand Point and King Cove held the greatest market share of 48% and 23%, respectively, with the rest earned by the five remaining communities in the Chignik area.

Table 3.14: 1999 Gross Earnings (1999 dollars) from Commercial Fisheries for 45 Target Communities[1]

Area	Community	$Halibut	# Persons Halibut	$Sablefish	# Persons Sablefish	$Other	# Persons Other	$Total**	# Persons Total
2C	Craig	$575,029	44	$175,778	12	$3,501,661	138	$4,252,468	146
	Hoonah	$559,948	26	$596,149	11	$1,491,014	68	$2,647,111	74
	Hydaburg	$69,882	7	$0	0	$434,203	20	$504,085	23
	Kake	$286,581	18	**	1	$802,184	21	$1,088,765	28
	Metlakatla	$102,052	8	$0	0	$837,428	30	$939,480	32
	Misc. Southeast*	$389,952	36	$231,073	7	$1,111,738	58	$1,732,763	76
	Pelican	$553,752	18	$586,803	13	$560,871	34	$1,701,426	38
	Petersburg	$8,668,439	207	$5,887,733	59	$23,127,177	320	$37,683,349	384
	Point Baker	$88,925	10	$0	0	$439,643	22	$528,568	23
	Port Alexander	$288,930	17	$139,528	4	$663,096	20	$1,091,554	26
	Prince of Wales Area*	$192,903	11	$251,510	4	$1,099,541	45	$1,543,954	46
	Tenakee Springs	**	3	**	1	$383,704	9	$383,704	10
	Thorne Bay	$79,902	4	$0	0	$240,226	12	$320,128	13
	Wrangell	$1,872,879	91	$230,176	4	$5,336,176	156	$7,439,231	185
Subtotal**		$13,729,174		$8,098,750		$40,028,662		$61,856,586	
% breakdown		**22%**		**13%**		**65%**			
3A	Chenega Bay	$0	0	$0	0	**	2	**	2
	Cordova	$1,288,903	50	$257,195	9	$24,144,988	313	$25,691,086	330
	Halibut Cove	**	1	$0	0	$132,863	4	$132,863	4
	Kodiak Area*	$354,394	26	**	2	$3,870,399	53	$4,224,793	65
	Larsen Bay	$0	0	$0	0	$839,959	13	$839,959	13
	Seldovia	$943,334	16	$616,505	5	$2,826,936	34	$4,386,775	42
	Tatitlek	$0	0	**	1	**	3	**	3
	Tyonek	$0	0	$0	0	$99,499	17	$99,499	17
	Yakutat	$298,185	27	**	1	$2,223,570	134	$2,521,755	142
Subtotal**		$2,884,816		$873,700		$34,138,214		$37,896,730	
% breakdown		**8%**		**2%**		**90%**			
3B	Chignik Area*	$315,774	9	$0	0	$12,448,888	50	$12,764,662	50
	King Cove	$393,438	12	$0	0	$9,941,739	50	$10,335,177	50
	Sand Point	$1,413,191	43	$0	0	$19,452,218	96	$20,865,409	100
Subtotal**		$2,122,403		$0		$41,842,845		$43,965,248	
% breakdown		**5%**		**0%**		**95%**			

Source: data extracted from State of Alaska fishticket files as of 10/27/00. Note that this reports all permit activity throughout the year.

*Combines gross earnings for several communities for confidentiality reasons: Misc Southeast = Angoon, Elfin Cove, Gustavus; Prince of Wales Area = Coffman Cove, Edna Bay, Kasaan, Klawock, Meyers Chuck; Kodiak Area = Akhiok, Old Harbor, Ouzinkie, Port Graham, Port Lions; Chignik Area = Chignik, Chignik Lagoon, Chignik Lake, Ivanof Bay, Perryville.

**Masked for confidentiality reasons. Gross earnings totals and subtotals do not include confidential data.

[1]Based on reported permanent residence of permit holder.

3.4.4 Community Needs for Entry into the Commercial Fisheries

3.4.4.1 Economic status of target communities

The general criteria to define eligibility for Gulf communities to buy commercial halibut and sablefish QS is that communities in these areas must be coastal, not connected to the road system, have documented historic participation in the halibut and/or sablefish fisheries, and have populations of fewer than 2,500. The suboptions under consideration would include requirements that the community be dependent on "fishing," but not limited to sablefish and halibut (Suboption 1), and/or that population be either less than 1,500 or less than 5,000 (Suboptions 2 and 3). As stated previously, 44 communities appear to qualify under the general criteria, and a maximum of 45 communities would qualify if combinations of the suboptions were applied.

The criteria are intended to target a subset of Gulf communities that need expanded economic opportunities and assistance in continuing long-term participation in the commercial halibut and sablefish fisheries. The criteria effectively limit eligibility to communities that have essentially received very little QS in the initial allocation and are struggling to remain economically viable. The lack of economic opportunities and loss of QS in these communities are factors that distinguish the target communities from other Gulf coastal communities that are excluded from the proposed action. This section provides general demographic and economic information on the proposed eligible communities to help evaluate community needs for expanded economic development opportunities provided by the proposed action.

Table 3.15 provides an overview of population and economic statistics for the 45 target communities, based on 2000 census data provided by the DCED. Note that the poverty statistics were determined by applying the 2000 national standard, which was not adjusted specifically for Alaska. This definition is based on the size of the household and is applicable to 2000 census data only.

These data show that most of the target communities have a significant portion of their population living at or below the poverty level and relatively high unemployment levels, compared to the State of Alaska as a whole. The State-wide unemployment rate reported by the Alaska Department of Labor in August 2000 was 6.3%. The Kenai Borough, in which most of the target 3A communities are located, reported an average unemployment rate of 10.2% for the year 2000. Of the 15 proposed eligible communities in Area 3A, all but 4 reported higher unemployment rates than the State average, and 8 were higher than the average of the Kenai Peninsula Borough. Likewise, although none of the proposed eligible Area 2C communities are located within an organized borough, the nearby Skagway-Hoonah-Angoon census area reported an unemployment rate of 9.4% in 2000. Seventeen of the 23 proposed eligible communities in Area 2C reported higher unemployment rates than the State average and 14 reported higher than the Skagway-Hoonah-Angoon area average. In Area 3B, only 2 of the 7 target communities fall below the State unemployment average. Five of these communities are in the Lake and Peninsula Borough, which had an average unemployment rate of 10.1% in 2000. Of the 5 target communities located in that borough, two reported higher 2000 unemployment rates than the borough's 2000 average. The remaining 2 Area 3B communities are in the Aleutians East Borough, which had an average unemployment rate of 4.6% in 2000. Both communities reported higher rates than the borough overall.

Table 3.15: Demographic and Economic Statistics of Target Communities

AREA 2C Communities	Population (2000 Census)	Incorporation Type[1]	Native Org.[2]	% Native Pop.	Total Housing Units	Occupied Housing Units	Average # of Persons per Household	Median Household Income	% Unemploy-ment	% Adults Not Working	% At or Below Poverty Level
Angoon	572	2	X	87	221	184	3	29,861	13.0%	50.0%	27.9%
Coffman Cove	199	2		6	99	63	3	43,750	10.5%	33.5%	4.9%
Craig	1,397	1	X	31	580	523	3	45,298	9.0%	29.7%	9.8%
Edna Bay	49	U		4	40	19	3	44,583	0.0%	48.6%	23.1%
Elfin Cove	32	U		0	35	15	2	33,750	23.1%	63.0%	5.6%
Gustavus	429	U		8	345	199	2	34,766	14.0%	45.4%	14.6%
Hollis	139	U		9	95	55	3	43,750	3.1%	34.4%	9.3%
Hoonah	860	1	X	69	348	300	3	39,028	20.5%	51.7%	16.6%
Hydaburg	382	1	X	90	154	133	3	31,625	31.3%	66.3%	24.1%
Kake	710	1	X	75	288	246	3	39,643	24.9%	49.5%	14.6%
Kasaan	39	2	X	49	39	17	2	43,500	20.0%	52.9%	0.0%
Klawock	854	1	X	58	368	313	3	35,000	15.7%	39.6%	14.2%
Metlakatla	1,375	R	X	90	531	469	3	43,516	20.8%	49.0%	8.0%
Meyers Chuck	21	U		10	48	9	2	64,375	0.0%	76.9%	0.0%
Pelican	163	1		26	94	70	2	48,750	8.0%	34.7%	4.7%
Petersburg	3,224	H	X	12	1,367	1,240	3	49,028	10.3%	36.4%	5.0%
Point Baker	35	U		9	23	13	3	28,000	0.0%	58.3%	4.9%
Port Alexander	81	2		14	79	34	2	31,563	9.4%	39.6%	22.9%
Port Protection	63	U		11	52	31	2	10,938	0.0%	44.3%	57.5%
Tenakee Springs	104	2		5	144	59	2	33,125	13.7%	37.1%	11.8%
Thorne Bay	557	2		5	327	219	3	45,625	14.6%	41.1%	7.8%
Whale Pass	58	U		3	51	22	3	62,083	0.0%	62.2%	0.0%
Wrangell	2,308	H	X	24	1,092	907	3	43,250	8.5%	36.8%	9.0%

Source: Alaska Dept. of Community and Economic Development, 2000 census data.

[1] Incorporation Type: 1 = 1st class city; 2 = 2nd class city; U = unincorporated; R = Indian reservation; H = home rule city.

[2] This column indicates whether a Federally-recognized Native organization is located within the community.

Table 3.15 continued.

AREA 3A Communities	Population (2000 Census)	Incorporation Type[1]	Native Org.[2]	% Native Pop.	Total Housing Units	Occupied Housing Units	Average # of Persons per household	Median Household Income	% Unemploy-ment	% Adults not Working	% At or Below Poverty Level
Akhiok*	80	2	X	94	34	25	3.2	33,438	14.3%	47.4%	9.9%
Chenega Bay	86	U	X	78	27	22	3.55	53,750	14.8%	51.1%	15.6%
Cordova	2,454	H		15	1099	958	2.48	50,114	6.9%	33.8%	7.5%
Halibut Cove*	35	U		3	123	18	1.94	127,010	0.0%	38.3%	0.0%
Karluk*	27	U	X	96	24	9	3	19,167	0.0%	47.6%	0.0%
Larsen Bay*	115	2	X	79	70	40	2.88	40,833	10.3%	41.7%	20.5%
Nanwalek*	177	2	X	93	54	45	3.93	42,500	5.1%	33.0%	17.5%
Old Harbor*	237	2	X	86	111	79	3	32,500	23.0%	58.1%	29.5%
Ouzinkie*	225	2	X	88	86	74	3.04	52,500	11.6%	48.3%	6.0%
Port Graham*	171	U	X	88	82	70	2.44	40,250	22.4%	54.3%	18.8%
Port Lions*	256	2	X	64	106	89	2.88	39,107	4.2%	52.4%	12.1%
Seldovia*	286	1	X	23	232	134	2.13	45,313	10.4%	44.6%	7.9%
Tatitlek	107	U	X	85	57	38	2.82	36,875	7.9%	50.7%	24.2%
Tyonek*	193	U	X	95	134	66	2.92	26,667	27.3%	55.6%	13.9%
Yakutat*	680	H	X	47	499	265	2.59	46,786	7.8%	28.2%	13.5%
AREA 3B Communities											
Chignik*	79	2	X	61	80	29	2.72	34,250	35.2%	46.2%	4.5%
Chignik Lagoon*	103	U	X	83	68	33	3.12	92,297	0.0%	47.4%	1.8%
Chignik Lake*	145	U	X	88	50	40	3.63	41,458	8.6%	61.9%	22.0%
Ivanof Bay*	22	U	X	96	12	9	2.44	91,977	0.0%	36.0%	0.0%
King Cove*	792	1	X	48	207	170	2.9	45,893	6.4%	31.5%	11.9%
Perryville*	107	U	X	98	45	33	3.24	51,875	11.1%	52.2%	16.0%
Sand Point*	952	1	X	44	282	229	2.67	55,417	30.8%	48.7%	16.0%

Source: Alaska Dept. of Community and Economic Development, 2000 census data.

*Denotes that the community is located within an organized borough.

[1]Incorporation Type: 1 = 1st class city; 2 = 2nd class city; U = unincorporated; R = Indian reservation; H = home rule city.

[2]This column indicates whether a Federally-recognized Native organization is located within the community.

3.4.4.2 State and Federal Economic Development Programs

The Coalition's original proposal noted that some have suggested that community ownership is unnecessary because improved loan and purchase opportunities already exist for individual residents of smaller coastal communities. By this argument, the problem would be solved if more rural residents of these communities made use of the existing loan programs and purchased QS on their own, cumulatively providing rural communities with employment and an economic base. In light of these concerns, the following section reviews State and Federal economic development programs, to better evaluate whether existing mechanisms can meet the goal of the action being considered. This section also provides a brief overview of some of the funding sources available to community entities and discusses the potential for the tax status of the community entity to affect its ability to secure funding. The purpose of the latter half of this section is to provide an indication of the likely extent to which communities could be expected to purchase quota shares under the proposed action.

3.4.4.2.1 Loan Programs

Loan Programs for Individuals

First, there are several loan programs specific to the fishing industry that are only available to individual applicants. Three loan sources for the acquisition of limited entry permits or QS are:

1. North Pacific Loan Program (NPLP) managed by the NMFS Financial Services Branch in Seattle, Washington;

2. Alaska Division of Investment Commercial Fishing Revolving Loan Fund whose goals are to:
   a) promote Alaska's commercial fishing industry;
   b) preserve commercial fishing as a traditional way of life in rural Alaska; and
   c) reduce the flow of permits from rural Alaska.

3. Alaska Commercial Fishing & Agriculture Bank (CFAB) which offers financing to Alaska residents for fishing vessels, IFQ and Alaska limited entry permits.

<u>The North Pacific Loan Program</u>

Section 304(d)(4) of the Magnuson-Stevens Act reads:

> A. A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 1104A(a)(7) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(a)(7)), to issue obligations that aid in financing the--
>
> (i) purchase of individual fishing quotas in that fishery by fishermen who fish from small vessels; and
>
> (ii) first-time purchase of individual fishing quotas in that fishery by entry level fishermen.
>
> B. A Council making a submission under subparagraph (A) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under clauses (i) and (ii) of subparagraph (A) and the portion of funds to be allocated for guarantees under each clause.

Section 108(g) NORTH PACIFIC LOAN PROGRAM.--

(a) By not later than October 1, 1997 the North Pacific Fishery Management Council shall recommend to the Secretary of Commerce a program which uses the full amount of fees authorized to be used under section 303(d)(4) of the Magnuson Fishery Conservation and Management Act, as amended by this Act, in the halibut and sablefish fisheries off Alaska to guarantee obligations in accordance with such section.

(b) (A) For the purposes of this subsection, the phrase `fishermen who fish from small vessels' in section 303(d)(4)(A)(i) of such Act shall mean fishermen wishing to purchase individual fishing quotas for use from Category B, Category C, or Category D vessels, as defined in part 676.20(c) of title 50, Code of Federal Regulations (as revised as of October 1, 1995), whose aggregate ownership of individual fishing quotas will not exceed the equivalent of a total of 50,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made if the guarantee is approved, who will participate aboard the fishing vessel in the harvest of fish caught under such quotas, who have at least 150 days of experience working as part of the harvesting crew in any United States commercial fishery, and who do not own in whole or in part any Category A or Category B vessel, as defined in such part and title of the Code of Federal Regulations.

(B) For the purposes of this subsection, the phrase "entry level fishermen" in section 303(d)(4)(A)(ii) of such Act shall mean fishermen who do not own any individual fishing quotas, who wish to obtain the equivalent of not more than a total of 8,000 pounds of halibut and sablefish harvested in the fishing year in which a guarantee application is made, and who will participate aboard the fishing vessel in the harvest of fish caught under such quotas.

In FY2000, the NPLP had $5 million in loan authority for IFQ loans for entry-level fishermen who fish from small boats. To be eligible, an applicant must be a crew member on board the vessel that harvests the IFQ. Thus, only individuals, and not community entities or other organizations, are eligible under the current program.

The program provides loans for 80% of the value (20% down) of the purchase of up to 50,000 lb of IFQs by applicants who may own, in whole or in part, a fishing vessel less than 60' LOA in the halibut or sablefish fisheries. The loan period is up to 25 years. Applicants cannot own more than 50,000 lb of IFQ, including the IFQ purchased through the NPLP loan program. It will also refinance debt used to purchase QS.

North Pacific Loan Program loans awarded in 2000 by state.

Alaska:	23
Washington:	8
Oregon:	3
Idaho:	1
Colorado:	1
Georgia:	2

Beginning in FY2002, the NPLP may be partially financed by receipts derived from the cost recovery fee on the ex-vessel value of IFQ harvests. For each of the past three fiscal years, Congress has appropriated $100,000 to NMFS, who has used the funds to guarantee U.S. Treasury loans. This practice has yielded actual loan funds of $5 million for each of the last three fiscal years.

In 2000, the program committed all the funds for a total of 39 loans (K. Ott, NMFS pers. comm.) The state residency for each of these borrowers is listed in the box above. Table 3.16 lists the 82 loans issued to Alaskans, since 1998, by residence. Thirty-three of those loans have been issued to residents of 12 of the communities under consideration in this amendment. Residents of the larger Gulf communities, Petersburg, Cordova, and Wrangell, received the majority of the loans in the target communities.

Increased availability of funds for individual loans may increase competition for QS, thereby driving up QS values. Under the terms of the MSA, up to 3% of the annual ex-vessel value of halibut and sablefish landings must be assessed to recover the actual costs of managing and enforcing the IFQ Program. Further, 25% of the fees received must be deposited in the U.S. Treasury and made available to Congress to appropriate to the Federal loan guarantee program in support of the North Pacific Loan Program. In the past, the loan guarantee program has been able to fund the North Pacific Loan Program with approximately 50 times the appropriated amounts. Given that the 2000 appropriation was about $850,000 and funding available for loans to fishing crewmen exceeded $42 million, there is a substantial amount of funding available to individual loan applicants. The loan terms have typically been 20% down and 5 - 6% interest on a 20-year payment plan (P. Smith, pers. comm.).

Table 3.16: Alaska state residents who have been approved for IFQ financing (1998-2000)

Residence	# Loans
Akutan	1
Anchorage	2
Central	1
Cordova	**5**
Craig	**2**
Douglas	1
Eagle River	1
Elfin Cove	**1**
Gustavus	**1**
Haines	2
Homer	7
Hoonah	**1**
Juneau	5
Kake	**1**
Kasilof	1
Kenai	1
Ketchikan	4
Klawock	**1**
Kodiak	6
Nikolaeusk	1
Ninilchik	1
Pelican	**1**
Petersburg	**15**
Port Alexander	**1**
Sitka	10
Soldotna	1
Valdez	3
Whittier	1
Wrangell	**3**
Yakutat	**1**

Funds available from the NPLP have recently expanded, which could have a potential impact on QS acquisition by individual residents. It is difficult to predict the level of impact on target communities, however, since an individual's qualifications and the level of risk associated with the applicant will be of primary importance in their ability to secure a loan. Some of the major criteria reviewed in the NPLP loan application process are: 1) the applicant must fund 20% of the purchase of QS from funds other than loan proceeds; 2) the ability to repay the loan; 3) the applicant's net worth; 4) a favorable credit/background check. While this list is not all inclusive, it does address the major elements used to evaluate an applicant (K. Ott, pers. comm.). One consideration is that part of the need for the proposed action is based on the fact that many of the residents in the target communities received relatively few initially issued QS. The assertion is that these residents did not have sufficient QS to build a capital base and further their investment in the fisheries as did other initial recipients in larger communities who received a greater amount of QS. In this sense, residents of the target communities may not have the collateral necessary to secure a loan or may not be able to compete with residents of larger communities which may have a steady source of income to pay off loans. However, there are also likely other new entrants, crewmen, or other individuals in non-target communities who received few QS at initial issuance who would be competing for these loans. Disparity will necessarily exist among individuals in the ability to secure a loan and purchase QS, regardless of whether they are residents of smaller or larger communities.

Commercial Fishing Revolving Loan Fund

The State has granted ten loans totaling $911,375 for the purchase of halibut and sablefish QS out of nearly $8.7 million in loans awarded in FY2000. Two loans, one of which was for halibut QS, were awarded to residents of two of the coastal communities under consideration. Similar to the NPLP, this loan is only available to individual applicants; non-profit and other governmental organizations are not eligible.

Commercial Fishing & Agriculture Bank (CFAB)

Thirty-eight loans totaling $5,477,000 for the purchase of sablefish or halibut QS have been granted by CFAB since December 31, 1998 (D. Rogers, CFAB pers. comm.). These data report only loans that are currently open, they do not include loans that have been granted and subsequently closed. Eight of the CFAB loans have been issued to residents of five of the Gulf coastal communities under consideration in this analysis: Cordova (3), Ouzinkie (1), Gustavus (1), Wrangell (2), and King Cove (1). The combined loan amount to residents of these communities was $904,000, less than 17% of total loan amount. Note that five of the eight loans were granted to residents of Wrangell and Cordova, two of the larger target communities potentially eligible under the proposed action. This loan program is also only available to individual applicants.

Loan Programs Available to Other Entities

There are also various loan or economic development programs that are available to individuals and/or organizations such as non-profit, governmental, or tribal entities that are not fishery-specific, but focus on business development. Three examples include:

Alaska Growth Capital

Alaska Growth Capital provides financing for all business needs, including construction lending, lines of credit, permanent working capital, equipment, and leasehold improvements. They also participate in the SBA, USDA, and BIA loan guarantee programs. Loans typically range from $100,000 to $600,000, and not many loans are issued. These loans are typically issued to businesses, and some sole proprietorships. The organization currently holds equity in a fishing vessel as their only fishing-related interest (AGC, pers. comm). While they have not yet financed an individual to purchase a permit or quota share, it is within the scope of their program goals. The most significant qualification criteria are the ability to re-pay the loan and a strong business plan.

Business and Industry Loans

The USDA provides loan guarantees of up to 90% of the loan amount (up to $25 million loan), to assist individuals or organizations in rural areas to obtain quality loans for business development. Applicants may be an individual, profit or non-profit corporation, cooperative, or Alaska Native organization. Projects are restricted to rural areas or cities of less than 50,000 people. In year 2000, USDA issued commitments to guarantee over $23 million in commercial loans. Although a few of these loans were issued to purchase fishing vessels, none of these were administered with the purpose of buying commercial quota share (Stewart, pers. comm.).

Bureau of Indian Affairs.

A loan guarantee program administered by the U.S. Bureau of Indian Affairs offers guarantees of 90 percent on commercial loans from banks to eligible Alaska Native tribes or ANCSA corporations. Interest rates are based on the prime rate plus 1.5 percent for the 90 percent guarantee (FVOA pers. comm.). About half of the target communities in Area 2C, and all but two of the target communities in Area 3A and 3B combined have a Federally-recognized Native organization within the community.

3.4.4.2.2 Funding Sources Available to Communities

Related to the assertion that community QS ownership is unnecessary because improved loans and purchase opportunities already exist for individual residents of smaller coastal communities, there is a concern that if communities are allowed to purchase QS, they will have greater access to funding sources than individual buyers, and thus drive up the price of QS. Given these concerns, the following section reviews some existing

funding mechanisms that may be available to community entities, in order to help evaluate the likelihood that communities will have access to a substantial amount of capital with which to purchase QS.

Community entities may be eligible for a variety of bond, loan, and grant programs that could be used to purchase QS, equipment, vessels, etc., depending on the administration, tax structure, and qualifications of the entity. Some loan programs have already been discussed, specifically the business and industry loans administered by the USDA for individuals and organizations in rural areas. There are also several grant programs available for community economic development purposes, such as:

Alaska Regional Development Organizations–State program

The State (DCED) provides matching grants of up to $100,000 per year to designated Alaska Regional Development Organizations (ARDORs). In year 2001, $620,000 was appropriated for grants to ARDORs resulting in an award of $44,285 per ARDOR (there are currently 14). Applicants eligible for ARDOR designation include nonprofit organizations or corporations formed specifically to encourage economic development within a defined region of the State. A region must meet criteria regarding region size and population, board of directors composition, by-laws content, documentation of regional support, program of work, and eligible local funding.

While only designated ARDORs are eligible for grants under this program, individual communities could work with the board of the ARDOR in their region to get a project (community QS purchases) included in the ARDOR's regional strategy (M. Clouse, pers. comm.). There are four ARDORs that currently exist in the Gulf of Alaska: Southeast Conference (Metlakatla to Yakutat); Prince William Sound Economic Development District (Cordova to Whittier); Kenai Peninsula Borough (all communities located in the borough); and the Southwest Alaska Municipal Conference (covers Kodiak, Bristol Bay, Pribilofs, and Aleutian Chain communities).

Mini-Grants Assistance Program

The USDA Forest Service Community Assistance Program and Denali Commission funds grants to municipalities, Native village councils, and non-profit organizations applying on behalf of a community which has a population of 10,000 or fewer. The DCED is the State administrative agency. The program funds projects that support business or community development projects, including projects using natural resources. The maximum amount each community can receive is $30,000. In year 2001, funding was approximately $620,000.

Other Funding Sources

There are also other potential funding sources that may be available to community entities who wish to purchase commercial QS, should that become possible under this action. These are not typical loan or grant programs but may represent regional or local revenue sources that could be available to the communities of interest for fisheries development.

Alaska Native Claims Settlement Act.

Through the Alaska Native Claims Settlement Act, the Federal government provided 13 Alaska Native regional corporations with approximately $1 billion. Five of these corporations have all or part of their geographic boundaries on the Gulf of Alaska in the areas affected by the proposed action (Areas 2C, 3A, 3B): Aleut Corporation, Chugach Corporation, Cook Inlet Region Corporation, Koniag Incorporated, and Sea Alaska Corporation. These corporations had over $1.4 billion in annual revenues in 2001 (8/8/02, pers. comm.).

Exxon Valdez Oil Spill Trustee Council

The Exxon Valdez Oil Spill Trustee Council funds the acquisition of land to protect the habitat of resources and services injured by the spill. Over 643,000 acres of land in the Gulf of Alaska have been purchased to-date and several other protection possibilities have been identified as part of the Large Parcel Habitat Protection Program. While this is clearly not a loan program, many of the ANCSA Regional and Village Corporations located on the Gulf coast have sold large land parcels to the Trustee Council in recent years, several of which are located in the target communities. Specifically, Akhiok-Kaguyak, Inc., Chenega Corporation, English Bay Corporation, Koniag, Inc., Old Harbor Native Corporation, and Tatitlek Corporation have sold land, easements, or surface title to the State and/or Federal governments for a total of $173 million. In addition, the State purchased surface title to over 26,000 acres on Shuyak Island from the Kodiak Island Borough. The purchase price was $42 million to be paid over seven years, with the final payment scheduled for October 2002.

While the payments received by these Native corporations and the Kodiak Island Borough are not earmarked for fisheries development, it is conceivable that some of this funding could be made available to communities or individuals for the purchase of halibut and sablefish QS. This section does not attempt to assess the likelihood that Native corporations would provide funding to individuals or communities for the purchase of QS. The purpose of this section is only to show the level of revenues attributed to the Native corporations in the area, as well as the recent and potential monies that may be available to these communities through the Trustee Council's land acquisition program.

Non-profit Status

Some have voiced concern that community entities with non-profit tax status, whether a governmental organization, cooperative, or tribal entity, may have an advantage over individuals in the loan or grant application process. There may be more grant opportunities for non-profits, as the goal for most non-profits is to deliver a service, whereas most individuals are trying to increase their income or assets. KPMG, LLP, a consulting firm providing tax and financial advisory services, reports that to be considered a non-profit organization for Federal tax purposes, the corporation must file for tax-exempt status with the IRS under either Section 501(c)(3) as a charitable or educational organization, or under Section 501(c)(4) as a social welfare organization. The organization must also file its articles of incorporation as a "non-profit corporation" in the state in which it's organized. Non-profits typically have a Board of Directors and do not issue stock as many for-profit businesses.

Developing a new non-profit organization is only one option proposed in this analysis for identifying an administrative entity to manage community QS (Element 2). However, an existing tribal or community entity may also have non-profit status, so this information may apply to several different types of entities that could potentially fill the role of "administrative entity." It is likely that a non-profit entity created for the purpose of purchasing and managing QS on behalf of a community would apply for 501(c)(4) status. This status is granted for organizations that are organized and operated for the purpose of promoting social welfare; most community development organizations employ this status (KPMG 2001). If an organization has filed for tax-exempt status for the purpose of community economic development, the organization needs to be able to show its activities are undertaken to meet its stated purpose (KPMG 2001). Thus, the condition for tax-exempt status could depend on whether the entity is benefitting community residents through the lease of IFQs. Some documentation of the entity's activities may be necessary as justification for tax-exempt status.

It is difficult to evaluate the extent to which non-profit status advantages those organizations over other for-profit organizations or individual applicants in the loan process. Anecdotal evidence suggests that banks and other lenders will likely place more importance on whether the applicant is considered a low risk, in effect,

whether there is a steady source of income available to pay off the loan. Thus, it may not be an accurate characterization to state that non-profit status would generally gain one an advantage over an individual in the loan process. A bank typically considers variables such as established history of earnings or income, or assets to collateralize the loan, and there are likely many existing and newly developed non-profits that do not have a steady stream of income or many assets. Thus, it is more likely that the qualifications of the individual or non-profit entity will be the primary factors considered by a lender, as opposed to their tax status (KPMG 2001).

Summary

In sum, the loan programs described in Section 3.4.4.2.1 represent existing mechanisms for individual residents in the target communities to fund the purchase of commercial QS. The North Pacific Loan Program in particular has been expanding funds available to individuals to purchase QS, and may continue to be a viable alternative. A definitive assessment cannot be made, however, regarding the ability of individual residents to secure a loan of this type or the level of concern for the individual financial risk involved. (Part of the rationale in support of allowing community purchases of QS is that community entities may be better able to receive a lower return on their investment in the short-term than individuals, in order to provide long-term benefits to community members.) In addition, a fairly substantial amount of collateral is necessary for individuals to secure this type of loan. Staff does not attempt to assess whether residents of the remote, target communities have the same financial stature or level of collateral with which to compete for loans as individuals of other coastal communities. Disparity will necessarily exist among individual residents' ability to secure a loan, regardless of whether the applicant resides in a target community.

In addition, there is a question of whether community entities will have more loan or grant opportunities than individuals and thereby more available funding to purchase QS. There may be more grant opportunities for entities with non-profit status, as the goal for most non-profits is to deliver a service, whereas most individuals are trying to increase their income or assets. However, the same generalization may not hold true for loan opportunities. Access to capital among individual boat owners is not equal, nor will it be for community entities. It is likely that some community entities will have more access to capital to purchase QS than some individuals; likewise, some individuals will have more access to capital than some community entities. In addition, the tax-exempt status employed by non-profit organizations does not appear to be a significant factor in the ability to secure a loan; the applicant's qualifications and ability to re-pay the loan are likely more important.

3.5 Expected Effects of each of the Alternatives

The commercial IFQ halibut and sablefish fisheries are described in Sections 2.1.5.1 and 2.1.5.2 and Section 3.3. That information will be referenced in this discussion of the economic and socioeconomic impacts of the alternatives. The no action scenario will be presented first. It is followed by the discussion of the proposed alternative management measure.

3.5.1 Alternative 1. No action

Under the no action alternative, only qualified persons as defined in the current IFQ regulations could hold and use commercial halibut and sablefish catcher vessel (B, C, and D category) QS in the Gulf of Alaska (50 CFR 679.40(a)(2) and 50 CFR 679.41(g)). Under this alternative, community entities are eligible to receive A category (freezer) QS by transfer, but are not eligible under this alternative to purchase commercial catcher vessel halibut/sablefish QS. Individual Gulf community residents would continue to be allowed to purchase commercial catcher vessel halibut and sablefish QS and fish the resulting IFQs, but communities could not

hold catcher vessel QS as an entity in and of themselves, for the purpose of leasing the IFQs to community residents.

The existing IFQ regulations were designed to affect the nature of transfers and to limit the amount of QS consolidation. They were also designed to meet the goal of retaining an owner-operator fleet, such that catcher vessel QS (B, C, and D category) may only be transferred to *individuals*, and those individuals must be onboard the vessel when the fish are harvested and landed. (In recognition of historical fishing practices, *initial issuees* may, with some exceptions, hire skippers to fish their annual IFQ, provided this IFQ holder has at least a 20% ownership interest in the vessel upon which the IFQ is fished.) The persons who may buy catcher vessel QS are thus restricted to those persons who were originally issued catcher vessel QS or those who qualify as IFQ crew members by working for 150 days on the harvesting crew in any U.S. commercial fishery.

Alternative 1 would maintain the language and intent of the current regulations, effectively limiting the ownership of catcher vessel QS to initial issuees and individuals as described above. Section 3.5.1.1 describes the number of permit holders and the corresponding amount of QS units they held at initial issuance and year-end 2000, by residency (Alaskan vs. non-Alaskan) for the halibut and sablefish fisheries. Note that many persons will hold QS in more than one management area and for more than one species, thus, the number of unique QS holders is not additive across areas or species.

3.5.1.1 Current permit holders and number of transfers in the halibut and sablefish fisheries

Table 3.17 represents a snapshot of the current universe of permit holders and their holdings since initial issuance, in order to characterize the no action alternative. The table shows that currently (as of December 31, 2001), 2,851 Alaskan residents[22] and 634 non-Alaskans hold halibut QS, for a total of 3,485 permit holders. This is down from the 3,976 Alaskan residents (-28%) and 854 non-Alaskans (-26%) who were initially issued QS at the start of the IFQ program (4,830 total). This is, however, consistent with the objectives and expectations of the IFQ program, namely to "rationalize" the fishery and reduce the serious excess capacity and effort that characterized the "open access" race-for-fish management regime that predated the IFQ program. Only in Area 4D has there been a substantial change (+61%) in the number of halibut QS units held by Alaskan residents. Currently in the sablefish fishery, 561 Alaskan residents and 311 non-Alaskans hold sablefish QS, for a total 872 holders. This is down from the 720 Alaskan residents (-22%) and 332 non-Alaskans (-6%) who were initially issued QS (1,052 total). Note that changes between Alaskan and non-Alaskan holders are a result of both the transfer of QS among Alaska residents and non-residents and address changes by the permit holder.

[22]Designation of Alaskan and non-Alaskan is premised on the holder's self-reported business mailing address; RAM makes no effort to verify residency.

In 2001, there were 690 transfers of halibut QS/IFQ, 48 of which were leases of IFQ (Table 3.3). There were also 272 transfers of sablefish QS/IFQ, 67 of which were leases of IFQ (Table 3.7). The majority of people also continue to hold the smaller size holdings: more people held 3,000 lbs or less in the halibut fishery (Table 3.4) and 5,000 lbs or less in the sablefish fishery (Table 3.8) than any other size of holding. The number of transfers and the number of permit holders in each fishery appears to be stabilizing at current levels. Under Alternative 1, we would expect similar trends to continue.

Table 3.17: Changes in Halibut and Sablefish QS Holdings Since Initial Issuance

Area	Initially Issued				Currently Issued (as of 12/31/01)			
	Alaskan		Non-Alaskan		Alaskan		Non-Alaskan	
	# persons	QS units	# persons	QS units	# persons	QS units	# persons	QS units
HALIBUT								
2C	1,971	49,265,458	417	10,293,932	1,260	50,232,606	243	9,347,197
3A	2,436	118,591,502	636	66,843,449	1,577	113,771,024	418	70,914,849
3B	780	28,061,266	277	26,159,470	401	26,459,075	175	27,441,972
4A	376	7,065,931	155	7,485,405	188	6,645,709	99	7,855,918
4B	80	3,242,733	73	6,050,658	55	3,205,449	57	6,079,325
4C	48	2,199,603	32	1,769,583	40	2,178,131	21	1,783,289
4D	22	665,856	46	4,168,808	14	1,070,628	36	3,798,648
4E	98	127,392	6	12,607	94	122,375	8	17,313
Total Unique Persons	**3,976**		**854**		**2,851**		**634**	
SABLEFISH								
AI	49	7,112,625	87	24,405,551	37	10,229,978	59	21,681,457
BS	62	7,090,226	82	11,514,928	57	7,937,741	58	10,800,327
CG	395	43,422,477	247	68,055,072	263	47,314,070	170	64,290,851
SE	466	42,774,622	247	23,734,199	308	42,510,629	171	23,517,547
WG	107	8,523,462	125	27,562,419	77	9,554,626	97	26,472,610
WY	250	18,494,619	205	34,938,242	155	18,508,987	140	34,709,501
Total Unique Persons	**720**		**332**		**561**		**311**	

Source: 2002 Report to the Fleet, NMFS RAM Division

Notes: Initially issued means QS that is initially issued to its first holder. Initial issuance was accomplished primarily at the

Designation of Alaskan or non-Alaskan is premised on the holder's self-reported business mailing address.

Changes over time between Alaskan and non-Alaskan QS holdings are the result of both QS transfers and of QS holder's address

Total QS units for a species/area may differ from published QS pool sizes as a result of QS units not assigned to any person (for

The number of QS holders is not additive across areas or species.

Impacts of Alternative 1

The proposal under consideration was spurred in part by a concern that residents of smaller fisheries-dependent coastal communities in the Gulf were issued a fairly small amount of halibut and sablefish quota. The CFEC reports (1999) confirm that at initial issuance, Area 2C, 3A, and 3B residents in the smaller communities[23] that would be eligible under the proposed action were issued 3,938,949 lbs or 10.5% of the total halibut IFQ lbs issued, and 1,402,430 lbs or 3.01% of the total sablefish lbs issued. By contrast, residents in the larger Gulf communities were issued 24,838,167 lbs or 66% of the total halibut IFQ issued, and 10,672,846 lbs or 23% of the total sablefish IFQ issued.

In addition, there is a concern that the rate of transfer of QS out of the smaller Gulf communities is much greater than the loss experienced in the larger communities. Table 3.18 provides a summary comparison of the QS loss in smaller communities versus the total Gulf communities from initial issuance to year-end 2000. (Area 4 and the BSAI are not reported here, as the action under consideration is focused on the areas in close proximity to the target communities in the Gulf of Alaska.)

Table 3.18 shows that the *loss* of QS in the smaller target communities ranges from 7% to 45%. The only gain in QS by these communities since initial issuance is in the amount of sablefish QS held in the Central Gulf. (The net gain of Central Gulf sablefish QS is almost primarily attributed to an increase in holdings in Seldovia. The remainder of the communities either lost Central Gulf sablefish QS or retained the same amount issued during initial issuance.) By contrast, the total Gulf communities have experienced QS *gains* of 4.6% to 17.4% in every management area except for a 1.7% loss of Area 3A halibut QS. Including Petersburg, Cordova, and Wrangell in the target communities has the effect of creating a net gain in QS holdings in the management areas in which those communities are located: Areas 2C, 3A, Southeast, and West Yakutat.

Table 3.18: Percent change in QS holdings in target communities and total Gulf communities, from initial issuance to year-end 2000

Area	Target communities (excluding Petersburg, Cordova, Wrangell)	Total Gulf communities
Halibut		
2C	-13.7	6.8
3A	-19.3	-1.7
3B	-18.8	5.9
Sablefish		
SE	-15.0	4.6
WY	-44.8	17.4
CG	39.0	5.6
WG	-7.0	16.2

The general implication is that both the lack of initially issued QS and the transfer of QS out of the target communities contribute to the perceived problem. However, many communities may not have been initially issued much QS because of choices resident fishermen made to invest in other fisheries. In addition, the transfer of QS out of the target communities does not necessarily imply that the residents and the communities themselves are worse off for the transaction. The voluntary business decision to sell QS resulted in a transfer of money to community residents–money which could be used to develop other fisheries such as salmon or herring or for a non-fisheries related business. While the seller remains the direct beneficiary of the transaction, the community could experience positive spillover effects from the sale.

A combination of several possible factors may explain the relatively low amount of initially issued QS and the subsequent transfer of QS out of the target communities. These factors include the lack of general infrastructure to support fisheries; the lack of financial ability of community residents to buy vessels,

[25] As defined by the CFEC report (1999). Includes all potentially eligible communities except Cordova, Wrangell and Petersburg.

equipment, and QS; and the higher transportation costs associated with fishing in small, remote communities that are located further from the major markets. However, regardless of the primary reason for the loss of QS in each of the target communities, the problem statement identifies the increased cost of entry into the IFQ program and the lack of sustained participation of these communities in the IFQ fisheries as a problem for communities that are struggling to remain economically viable. An additional factor that may have contributed to the low initial allocations made to some of these communities is related to the fishing alternatives available to local small boat fishermen during the years selected for determining the catch history used for quota share allocation (1988-1990). During that time period, salmon and herring ex-vessel prices were at or near their historic high. Business decisions made by community resident fishermen to target the potentially more profitable salmon and herring fisheries and forego participation in the halibut and sablefish fisheries may have contributed to the relatively limited catch history and low subsequent allocation of quota share to some community members.

While a lack of detailed socioeconomic data makes it difficult to characterize exactly how communities were and continue to be affected by the implementation of the IFQ program, limited initial allocations and the continued transfer of QS out of these communities has likely contributed to the continuing erosion of participation of community residents in the halibut and sablefish fisheries. The RAM Division and the CFEC confirm that 1) the rate of decline of the number of QS holders in smaller coastal communities is greater than that of larger communities, 2) the bulk of the consolidation has reduced the number of smaller QS holdings, and 3) very few initial QS recipients reside in smaller, coastal communities.

Anecdotal evidence suggests that many small quota recipients at initial issuance (those that received QS that resulted in <10,000 lbs of IFQ), found it uneconomical to fish. Consequently, smaller QS holders have had limited halibut or sablefish profits to reinvest in additional QS. It is difficult to determine the extent that existing regulations contributed to the decline in participation in the IFQ fisheries by smaller, coastal communities, and thus, the impacts of taking no action at this time. However, the proposed action implies that the initial allocation of QS through the IFQ program failed to achieve some of the Council's objectives with respect to preserving fishing opportunity in small communities (SSC 2001). Given the concerns noted above regarding the lack of initially issued QS and the loss of QS in these remote, fishery-dependent Gulf communities, it seems likely that the negative impacts sustained by these communities will continue under the status quo.

Finally, under the status quo there is the potential for individual residents of target communities to use existing loan opportunities to fund the purchase of QS. Existing loan and grant sources and the issues surrounding this potential are discussed in Section 3.4.4.2. A related potential under the status quo is the formation of a community loan pool. If communities are concerned with the lack of QS holdings by residents, communities could potentially create a loan pool to subsidize the purchase of QS by local residents. The result is that more rural residents of the target communities could increase their participation in the IFQ fisheries, cumulatively providing these communities with more employment opportunities and an economic base. The terms and conditions for the award of the loan could include covenants regarding the use and transfer of the QS financed under the loan, in order to meet the long-term purpose of economic development within the community. The community could include specific provisions in the contract to ensure that the IFQs are fished by community residents and that crewmen are hired within the community. This is an alternative to the current action being proposed and would not require an amendment or regulatory action.

3.5.2 Alternative 2: Allow eligible Gulf of Alaska coastal communities to hold commercial halibut and sablefish QS for lease to and use by community residents **(preferred alternative)**

Under Alternative 2, eligible communities, as defined by qualification criteria established by the Council, may purchase and hold commercial halibut and sablefish QS in the Gulf of Alaska. Communities would create or identify an existing entity to purchase and manage commercial halibut and sablefish QS, for lease to and use by qualified individual community members. The community ownership entity would remain the registered owner and holder of the QS, and would lease the ensuing IFQ to a qualified resident(s).

NMFS would issue the IFQ permit and landing card to the individual specified by the community, and treat the transaction as any other commercial IFQ transfer (lease). The community would be responsible, given any constraints or guidelines provided by the Council, for developing a contract between the community and the individual who would lease the IFQ. The community would also be responsible for staying within the guidelines of the overall program. The community resident leasing the IFQs would be subject to any and all regulations pertaining to the current operations of the fishery.

This option would expand the universe of eligible halibut/sablefish QS holders for the purpose of allowing a distinct subset of Gulf communities the opportunity for long-term access to and benefits from the halibut and sablefish resource. The remainder of this section describes the expected impacts of each of the elements and options under consideration in Alternative 2. The primary entities affected by this action are the residents of the target communities and other individual QS holders, thus the discussion of the elements and options focuses mainly on the impacts to these entities. The following sections outline the elements and options and discusses the overall impacts in the context of target communities and other potential stakeholders. The full list of elements and options is also provided in the Executive Summary and in Section 3.2 of this document.

The discussion of each element in the analysis is premised on the intent that communities will purchase QS for use by community residents. **There is an explicit option proposed under Element 6 (Section 3.5.2.6) to ensure that QS will be leased exclusively to residents of the target communities.** Without such a provision, there may be an opportunity under Alternative 2 for communities to purchase QS and lease to non-residents with no improvement in access opportunities for local residents. This issue is discussed further under the relevant elements in this section.

3.5.2.1 Element 1. Eligible Communities

Rural communities in the Gulf of Alaska with fewer than 2,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut/sablefish fisheries **(preferred alternative)**:

Suboption 1. Include a provision that the communities must also be fishery-dependent, as determined by:

- Fishing as a principal source of revenue to the community, or
- Fishing as a principal source of employment in the community (e.g., fishermen, processors)

Suboption 2. Decrease size to communities with fewer than 1,500 people **(preferred alternative)**

Suboption 3. Increase size to communities with fewer than 5,000 people

Element 1 identifies a set of criteria by which to allow communities to purchase commercial halibut and sablefish QS, with three suboptions which slightly modify the resulting number of eligible communities. The original proposers of the amendment did considerable background work to help define the subset of Gulf communities that have been affected more significantly than other community stakeholders. **The four general criteria under consideration are: coastal, no road access, historic participation in the halibut and/or sablefish fisheries, and under 2,500 residents.** These criteria are consistent with the criteria

proposed for the community set-aside of halibut charter quota that the Council recently reviewed, and while it has not been formally adopted, it distinguishes a subset of communities that: 1) may need expanded economic opportunities and 2) may not have received a sufficient amount of quota share during initial allocation and/or have experienced a significant amount of quota share transfers out of the community since initial allocation.

In order to ensure that the number of communities is known at the time of implementation, the Council may want to specify eligible communities as those that meet the selected criteria and are on the list provided in Figure 3-5, or another list the Council designates. Should the Council select Alternative 2, this ensures that the number of eligible communities is determined at final action, and only those communities specified in the analysis are considered eligible. In this sense, communities not on the list would have the opportunity to be eligible at a later date by going through the Council process rather than seeking inclusion by NMFS using the criteria placed in regulation.

The general criteria (without the suboptions) appear to qualify 22 communities in Area 2C, 15 in Area 3A, and 7 in Area 3B, for a total of 44 eligible Gulf communities (Figure 3-5). The criteria are intended to define communities that have experienced common problems associated with the commercial IFQ program, and population appears to be one defining factor. As stated previously, the CFEC created categories of "larger" and "smaller" communities for IFQ reporting purposes, based on populations of greater than or less than 2,000 persons, respectively. Even though the general criteria proposed under Element 1 identify a population threshold of 2,500, all of the proposed eligible communities have populations of fewer than 2,000 and are thus considered "smaller" by the CFEC, except Wrangell and Cordova. The 2000 census reports that these communities have populations of 2,308 and 2,454, respectively.

While Wrangell and Cordova meet the proposed population and other general criteria, they do not appear to have experienced the same decline in participation in the fisheries as the smaller eligible communities. Both communities have increased their overall holdings of halibut quota share from 1995-2000, primarily in the area in which each community is located. Wrangell increased its halibut holdings in Area 2C from 4,236,776 QS units at initial issuance to 5,307,268 QS units at year-end 2000, an increase of 25%. Cordova more than doubled its holdings of halibut QS in Area 3A, since initial issuance, from 2,576,852 QS units to 5,618,642 QS units at year-end 2000. Cordova has also increased its holdings of sablefish quota share by about 24% in both the Central Gulf and Western Yakutat. In contrast, all of the eligible "smaller" communities have experienced a subsequent loss of QS since the IFQ program started in 1995, with the exception of Elfin Cove and Seldovia. Elfin Cove more than tripled its halibut QS in Area 3A from 96,114 QS units to 316,990 QS units and its sablefish holdings in Southeast increased from 137,051 to 333,048 QS units. While this represents a substantial percentage increase in the overall holdings for each species in Elfin Cove, the actual holdings are much smaller than are experienced in Wrangell, Cordova, or the other larger Gulf communities. Seldovia increased its sablefish QS in the Central Gulf by 14%, from 1,828,679 QS units at initial issuance to 2,085,041 QS units by year-end 2000. The Council used the criteria of larger population size, and the realtive increase of QS since initial issuance in Wrangell and Cordova to remove these communities for future consideration as participating eligible communities.

Figure 3-5: List of Proposed Eligible Communities for Community Purchase of Halibut and Sablefish Quota Share (Element 1)

General Qualifying Criteria: Area 2C, 3A, and 3B Gulf coastal communities with populations of fewer than 2,500 (based on the 2000 census), not connected to the road system, and with historic participation[1] in the halibut/sablefish fisheries.

Area 2C

Community	Population[2]
Angoon	572
Coffman Cove	199
Craig	1,397
Edna Bay	49
Elfin Cove	32
Gustavus	429
Hollis	139
Hoonah	860
Hydaburg	382
Kake	710
Kassan	39
Klawock	854
Metlakatla	1,375
Meyers Chuck	21
Pelican	163
Point Baker	35
Port Alexander	81
Port Protection	63
Tenakee Springs	104
Thorne Bay	557
Whale Pass	58
Wrangell	*2,308*
22 communities	10,427

Area 3A

Community	Population
Akhiok	80
Chenega Bay	86
Cordova	*2,454*
Halibut Cove	35
Karluk	27
Larsen Bay	115
Nanwalek	177
Old Harbor	237
Ouzinkie	225
Port Graham	171
Port Lions	256
Seldovia	286
Tatitlek	107
Tyonek	193
Yakutat	680
15 communities	5,165

Area 3B

Community	Population
Chignik	79
Chignik Lagoon	103
Chignik Lake	145
Ivanof Bay	22
King Cove	792
Perryville	107
Sand Point	952
7 communities	2,200

[1]As documented by CFEC, DCED, or reported by ADF&G in *Alaska Rural Places in Areas with Subsistence Halibut Uses*.

[2]2000 census data–Alaska Department of Community and Economic Development.

Note: Forty-four Gulf communities may qualify under the general criteria proposed under Element 1. At the time of the Coalition proposal, the estimated populations of Wrangell and Cordova were above 2,500. While Wrangell and Cordova are still considered "larger communities" in the CFEC report, the 2000 census reports populations less than 2,500. There are also 3 suboptions that could be applied to the above criteria under Element 1. The total number of communities would change as follows:

Under Suboption 1 (fishery-dependent): all of the above communities would qualify.

Under Suboption 2 (communities with pop. <1,500): Cordova and Wrangell would drop out.

Under Suboption 3 (communities with pop. <5,000): Petersburg (pop. 3,224) would be included.

The general criteria also specify that the communities must be coastal, have no road access, and have documented historic participation in the halibut/sablefish fisheries. The DCED community profiles confirm that all of the communities listed in Figure 3-1 are coastal and must be accessed by either air or sea. All of the communities have documented participation in either the commercial or subsistence fisheries for one or both species, as reported by CFEC or DCED. Detailed information on the communities' participation in these and other fisheries is discussed in Section 2.4.3.

Suboption 1: eligible communities must be fishing-dependent

Applying the suboptions to the general criteria changes the number of qualifying communities only slightly. Suboption 1 requires that the communities be considered fishery-dependent, meaning that a principal source of revenue or employment in the community must be derived from the fishing industry. Note this criterion does not specify that the community be dependent on the *halibut or sablefish* fisheries, in particular, but only on fishing in general. All potential communities listed in Figure 3-5 appear to qualify under this suboption, based on the fact that each community is profiled by one or several sources as a fishing community. Section 3.4.1.1 provides the discussion relevant to fishing dependency and summarizes the regional profiles and sources that were used to make this determination. For the purposes of community eligibility under Element 1, these sources are considered sufficient documentation of the communities' general dependence on fishing.

Suboptions 2 and 3 are exclusive of one another, but may be applied in combination with Suboption 1. Suboption 2 would restrict the proposed action to communities with populations of fewer than 1,500 people, effectively excluding Cordova and Wrangell. Suboption 3 would expand the action to include communities with populations of fewer than 5,000 people, effectively including Petersburg. It appears at this time that only these 3 communities would be affected by Suboptions 2 and 3. Cordova, Wrangell, and Petersburg are also considered fishery-dependent communities and would qualify under Suboption 1. **Thus, the total number of Gulf communities that could qualify for the proposed action varies only slightly, from 42 to 45.** All 45 communities that could potentially qualify are represented in the baseline information.

Suboption 2: eligible communities must have populations less than 1,500 **(preferred)**

If the purchase of QS is limited to communities of fewer than 1,500 people (Suboption 2), only two communities (Wrangell and Cordova) appear to drop out, resulting in a total of 42 eligible communities. While it is difficult to evaluate whether 1,500, 2,000, 2,500 or some other population threshold is most appropriate for this action, population does seem to be one of the factors which helps define a subset of communities which have experienced a loss of QS and/or have been negatively impacted by the IFQ program. While there is no difference in the number of qualifying communities whether a population criterion of 1,500 or 2,000 is used, populations greater than 2,000 appear to denote more well-developed (i.e., economically diversified) communities, as determined previously by CFEC. The 42 communities that qualify under Suboption 2 are all considered "smaller" communities by CFEC, and are similar in that, with a few exceptions, they have all experienced a net loss of halibut/sablefish QS since initial issuance. Wrangell and Cordova do not share this characteristic.

Suboption 3: eligible communities must have populations less than 5,000

In considering Suboption 3, in which the population criterion is expanded to <5,000 people, at least one other community (Petersburg, pop. 3,224) would qualify. Residents of Petersburg were issued halibut and sablefish QS in every management area except Area 4C at initial issuance, and have increased their holdings of halibut QS in Area 2C (+25%) and 3A (+30%), and increased their sablefish QS holdings in Southeast (3%), West Yakutat (24%), and the Central Gulf (8%) since that time. While halibut and sablefish holdings

have decreased in Area 3B (-29%) and the Western Gulf (-73%), the initial holdings in these areas were much lower than in the other Gulf areas. Not only has Petersburg seen a marked increase in net QS holdings, but residents of Petersburg also hold more than 1½ times the amount of Area 2C halibut QS and more than twice as much Area 3A halibut QS as the next largest holders in the group of 45 potential communities (Wrangell and Cordova, respectively).

Given that Wrangell and Cordova have also seen net increases in their amount of QS holdings, it may be more meaningful to compare Petersburg with the 42 remaining "smaller" target communities. At year-end 2000, Peterburg residents held about 45% *more* halibut QS in Area 2C and 39% more halibut QS in Area 3A than all 42 of the smaller target communities combined. Similarly in the sablefish fishery, Petersburg residents held 36%, 90%, and 64% *more* sablefish QS in Southeast, West Yakutat, and the Central Gulf, respectively, than all 42 smaller target communities combined.

Table 3.19 shows how the halibut holdings in Petersburg (Area 2C and 3A halibut quota share only) compare to those of other large Gulf communities that are not eligible under the proposed action. Because the current holdings in Petersburg are comparable among the larger communities and there is no defining factor that indicates that Petersburg is any worse off under the IFQ program than any of the other larger communities, it may be difficult to justify selecting a criterion that would qualify Petersburg and not other large Gulf communities. Unlike Suboption 2, which uses population as a defining criterion but effectively captures a group of communities that have experienced similar negative impacts and an obvious decline in participation in the halibut and sablefish fisheries, the population criterion under Suboption 3 (< 5,000) may be too high to warrant excluding other large Gulf communities with similar levels of QS.

Table 3.19: Halibut QS holdings in Area 3A and 2C in Petersburg and other larger Gulf communities (year-end 2000)

Community	3A	Community	2C
Petersburg	11,392,126	Petersburg	13,704,244
Cordova	5,618,642	Haines	1,670,361
Homer	16,462,925	Juneau	4,331,138
Juneau	3,503,683	Ketchikan	3,936,719
Kenai	2,109,308	Sitka	9,850,095
Kodiak	38,964,004	Wrangell	5,307,268
Seward	3,012,847		

Given these statistics and the above discussion, the Council chose Suboption 2 to better conform to the intent of the proposed action and solves the problem outlined in the problem statement. Suboption 2 (which eliminates Wrangell and Cordova) narrows the list of eligible communities to a more defined set of small, remote, and coastal Gulf communities with participation in the halibut and/or sablefish fisheries that were initially issued a relatively small amount of QS and/or have experienced a net loss of QS since initial issuance. The majority of these communities are struggling to continue to participate in the IFQ fisheries and do not appear to have many economic opportunities other than fishing at this time.

Suboption 3 expands the list of eligible communities, effectively including Wrangell and Cordova (which would qualify under Element 1, with or without Suboption 3, but not under Suboption 2) and Petersburg as communities eligible to purchase commercial QS. Given that these three communities appear to have sustained participation in the halibut and sablefish fisheries and have even expanded their participation since the first year of initial issuance, including these three larger Gulf communities in this action may necessitate a more developed rationale. While these three communities could have been harmed by the IFQ program in relation to the level of effort they sustained in the fisheries *prior* to the program's implementation, it would be more difficult to show that these communities are worse off than other larger Gulf communities that are excluded from the proposed action in this amendment.

3.5.2.2 Element 2. Ownership Entity

(a) Existing recognized governmental entities within the communities (e.g., municipalities, tribal councils or ANCSA corporations)
(b) New non-profit community entity **(preferred alternative)**
(c) New non-profit formed by an aggregation of communities **(preferred alternative)**
(d) Combination of the entities (allow different ownership entities in different communities depending on the adequacy and appropriateness of existing management structures)

The proposed action is based on a community entity effectively purchasing and managing commercial halibut/sablefish QS on behalf of an eligible community and subsequently leasing the annual IFQs to resident fishermen. Options (a) - (d) above comprise the list of entities that the Council could potentially select to hold, purchase, and manage the community QS. The options are not necessarily mutually exclusive, thus, more than one option could be selected under Element 2.

Regardless of the option selected under Element 2, the management entity would need to be approved by NMFS RAM Division before the purchase of QS. Potential requirements that would need to be submitted to NMFS to be considered an eligible administrative entity are discussed under administrative oversight in Section 3.5.2.7. Note also that under the Magnuson Stevens Act, the authorization to fish under an IFQ Program is considered a permit, and may be revoked or limited at any time, and does not confer any right of compensation if revoked or limited. Staff assumes that regardless of the type of administrative entity selected, QS held by communities is also subject to these provisions.

Under the proposed action, there would be at least two types of transfers of community-held halibut/sablefish QS, both of which would incur some administrative costs and necessitate use of an administrative entity to manage the QS within the community. The first transfer results from the initial purchase of the QS by the eligible community entity, an action administered by the RAM Division of NMFS. At a minimum this transfer would occur once, if the community held the QS in perpetuity. The second type of transfer results from the leasing of the IFQs from the community management entity to qualified individuals within that community. This type of transfer would occur on an annual basis, as the IFQs are issued, and could occur between the community entity and several members of the community, depending on the amount of QS the community holds. The RAM Division would also administer this transfer, distributing the harvest card and IFQ permit to the individuals specified by the community holding the QS.

In sum, the community entity would be responsible for managing and purchasing the QS on behalf of the community, as well as determining the qualification for and distribution of the IFQs to residents. This second layer of responsibility would entail soliciting and processing individual requests to use the community IFQs, and submitting an annual comprehensive request to NMFS to distribute the harvest cards to the qualified individuals. The remainder of this section discusses the potential advantages and disadvantages of options (a) - (d) above with regard to performing these functions.

Option (a): Existing recognized governmental entities within the communities (e.g., municipalities, tribal councils or ANCSA corporations)

Option (a) identifies existing governmental entities (municipalities, tribal councils, or ANCSA corporations) as possible management options. Setting up a management entity entails several organizational tasks, including establishing a decision-making structure and executive leadership, establishing financial oversight capability, and creating working ties to the RAM Division. These tasks represent an initial cost to the community. Thus, the advantage of option (a) is that these costs could likely be avoided or at least lowered by using an existing entity.

The disadvantage of option (a), however, was noted in the original proposal for this action. While using an existing entity would likely cut down on the initial administrative costs, it may be difficult to find an existing structure that will provide a good fit and/or represent the entire community. Municipal governments, for instance, are focused on a host of issues and priorities, of which fishing may be only one. This concern is relevant to each of the entities proposed under Element 2, and is not unique to this option. Whether the community as a whole benefits from the QS will be highly dependent upon the ownership entity being representative of the entire community.

In addition, municipalities do not exist in many of the target communities identified (see Table 3.15). Eighteen of the 45 target communities are unincorporated, and of the communities with municipal governments, only nine of those are first class cities. Of the remaining communities, 13 are second class cities, 4 are home rule, and one is a reservation. Substantially different governing responsibilities are required under each of these designations, and each form would likely differ in their approach to managing QS. Most communities would likely need to at least modify the structure and representation of such an entity in order for it to be meet the purpose of managing commercial QS.

Similar deficiencies exist for tribal entities and ANCSA corporations (GCCC 2000). These organizations typically face a suite of complex issues, and may not be able to provide a focus on purchasing commercial QS. In addition, neither ANCSA corporations nor tribal entities are representative of all community residents, and the intent of the action is to enable communities to purchase QS to provide all community members with the opportunity to derive the benefits. Using either of these entities to manage the community QS increases the potential that some community residents would perceive an unfair advantage for tribal and ANCSA members.

Option (b): New non-profit community entity **(preferred alternative)**

Option (b) would require communities purchasing commercial QS to develop a new non-profit entity with the sole focus of managing community QS for the benefit of residents. While the option does not explicitly state requirements regarding the make up of the board of directors or a limit on the amount of revenue from the QS that could be used for administrative costs, there are certain practical elements that may guide the development of a new non-profit for this purpose. For instance, a new community entity would likely need to provide for participation and input by all community residents and consist of individuals knowledgeable about the fishing industry and management of QS. The Western Alaska CDQ program, for example, requires that the board of directors of each CDQ group include at least 75% commercial fishermen. A second consideration is the funding mechanism of the management entity. In order to ensure that the majority of the value of the QS is passed onto fishermen and crewmen in the community, perhaps the entity would be limited to a specific percentage of the ex-vessel value of the annual IFQs for debt service and administrative costs.

The above are elements of a management entity that the Council may want to address in general, but are more relevant in considering developing new community entities that do not already have an administrative budget, leadership structure, etc. Alternatively, the Council may desire to allow each community to develop a management entity in the most effective way feasible, without requiring that the community conform to a specific management structure. Option (b) does not require the Council to address the issues mentioned above.

The primary benefit of option (b) is that the community could develop an entity from the ground-up that could perform the functions necessary to effectively manage commercial QS, without having to attempt to restructure or mold an existing entity to take on additional tasks. As mentioned under option (a), it is critical that the administrative entity be representative of the entire community in order for the community to benefit.

The disadvantage of this option is that it may prove very difficult for some of the smaller communities. Communities with few residents may have difficulty finding experienced persons in their community to staff the management entity, as well as the initial funding necessary to establish a non-profit organization and to fund the purchase of QS. If a community cannot garner the funds and persons to start up a management entity, the opportunity to purchase QS no longer exists under this option.

Option (c): New non-profit formed by an aggregation of communities **(preferred alternative)**

Option (c) would allow an aggregation of communities to form a non-profit entity to hold community QS. This option would allow two or more communities to contract together to purchase commercial QS, most likely based on geographic location. This option does not specify or limit the number of communities that could be represented by the non-profit entity, thus, it would also allow for development of a larger "umbrella" entity (Gulf-wide, or on a regional or sub-regional basis) with the purpose of managing and purchasing quota on behalf of the individual communities. The intent under option (c) is that communities would provide the regional entity with funding to purchase QS (or the entity could potentially solicit funding), and the regional entity would contact RAM to distribute the harvest card and IFQ permit to the qualified individual residents. While it is not explicitly stated in the option, the analysts assume that the regional entity would also be responsible for processing individual requests to lease the IFQs, and thus would need to develop qualification criteria satisfactory to all the communities whose QS it manages. As in option (b), this option specifies that the entity must be newly-formed, so that it may be developed with the sole purpose of holding and managing QS on behalf of eligible communities.

There are several potential advantages to this management structure. The primary benefit of this option is the flexibility gained by communities in their purchase options. Smaller communities that are in close proximity to each other, such as Karluk and Akhiok, and that have traditionally fished the same areas, may benefit from being able to pool their resources to fund the purchase of QS. Being able to coordinate with one entity to broker the purchase and hold the QS in trust for lease to community residents may make the concept more feasible for smaller communities that want to combine funding sources. In addition, there may be potential for better access to financing if communities are applying for grants as a group.

Secondly, this structure would impact the types of administrative costs incurred. This option would reduce the coordination with and administrative efforts of the RAM Division, as RAM would need to coordinate with fewer entities rather than potentially 45 individual communities during the initial transfer of QS and the subsequent transfers of IFQ to qualified individuals. This option may also reduce the administrative costs to each community. Establishing a non-profit entity specific to the needs of each community may have merit, but it may prove very difficult for smaller communities. The administrative costs associated with the non-profit entity itself, however, may prove to be relatively high. A coast-wide or regional entity attempting to serve widely distributed communities with very different organizational structures may experience high transportation and communication costs (SSC 2001).

One interpretation of option (c) is that each community would remain distinct in providing funding for and requesting QS from the regional entity; the advantage is that it would not require each community to garner the level of experience and administrative efficiency needed to enter the market to buy QS. This interpretation, however, may not prevent the formation of a non-profit entity in each individual community, with the purpose of securing capital to fund the purchase of QS. Some communities may prefer to create a non-profit entity regardless, in order to better focus the community efforts on securing funding for QS purchases. Other communities may choose to rely upon the regional entity for all administrative tasks, and simply provide the funding through their municipality or other economic development organization. The primary advantage of this option is that eligible communities who find it difficult to create a management

entity may still purchase QS through a non-profit entity representing two or more communities. While maybe unnecessary for several of the larger communities, this capability may determine whether some of the smaller communities can take advantage of the opportunity to purchase and use commercial QS under this action.

A second interpretation of option (c) is that the entity itself would solicit the funding to purchase QS for use in its member communities. Under this interpretation, communities would not provide the funding themselves, but would depend heavily on the regional entity to secure funding. A regional entity benefitting many communities may have better access to financing the purchase of QS than one individual community. While there are definite benefits to this approach, it also assumes a common funding source for all communities and a fair distribution of benefits within the group. Any approach which combines communities and funding sources will complicate the distribution of QS/IFQs among those distinct entities. Without distinct funding sources, the distribution of QS among communities may prove extremely difficult, as the eligible communities vary in their demographics, available vessels, and organizational structures, and will likely vary in their need for and use of QS.

A potential disadvantage of option (c) is that the management entity may not be developed specific to the needs of each community, and, as stated previously, the assessment of benefits within the communities is critically dependent upon the ownership entity being representative of the entire community. Each community will also vary in the number of residents qualified to lease IFQs. In this sense, it may be difficult for one regional entity to establish a set of qualification criteria that is equally appropriate to apply to each community. Additionally, the perception that the QS represents a resource endowment to the communities may be reduced, as the ownership of the QS would not reside at the individual community level. While the IFQs would still be fished by community residents, the umbrella entity would remain the owner of the QS for administrative purposes. As long as the benefits were still being passed to the community residents, this may not be of consequence, but some communities may wish to forego the benefits of a regional entity in order to retain ownership of the QS in the community.

As discussed previously, it is assumed that if a new non-profit entity is formed by an aggregation of communities, it would be the responsibility of the entity to decide how the resulting IFQ is distributed and that those fishing the IFQ abide by all regulations. Under this option, NMFS will still know how much IFQ is being fished by residents of each individual community, as it would distribute the harvest cards accordingly on an annual basis. Although the regional entity would be the official "owner" of the QS, the individual community information would be necessary in order to monitor and enforce other provisions of the program, such as verifying that each individual community stays within the limits of the individual community use cap.

Contrary to the CDQ Program, in which the quota is allocated to western Alaska communities, a buy-in program necessitates funding the purchase of community QS. The fact that quota is allocated to the CDQ groups in the CDQ Program allows the focus of the program to be on the distribution of that quota among the six CDQ groups and the distribution of benefits among the communities in each group. By contrast, in a buy-in program, it is likely that each community will access funding to purchase QS in different ways, such as existing loan programs, municipal resources, or grants. Thus, each community will be interested in tying QS ownership to its initiative in finding capital to purchase QS. It is difficult to predict how individual communities will fund the purchase of QS and whether they would opt to contract together voluntarily to purchase QS in order to maximize their capital. Should communities prefer to contract together to purchase QS, this option would allow the flexibility to do so.

Option (d): Combination of the entities (allow different ownership entities in different communities depending on the adequacy and appropriateness of existing management structures)

The intent of this option is to allow maximum flexibility in the way communities take advantage of the amendment. Option (d) would not restrict communities to any specific management structure but would allow individual communities to identify and use the most efficient ownership entity feasible to them. This could include any or all of the options discussed previously in Options (a) - (c) or something entirely different. Under any of the proposed options, the management entity would need to be approved by RAM Division upon final selection, in order to ensure that it meets the intent of the proposed action (i.e., is representative of the community, provides equal opportunity for all residents, etc.). This issue is addressed in the section on administrative oversight under Element 7.

Options (c) and (d) are not necessarily exclusive of one another, as the Council could allow communities to choose their own type of management entity (option d) but also provide for the development of a new non-profit entity representing an aggregate of communities to assist those communities that need the administrative and purchasing support (option c). The idea being explored in options (c) and (d) is that some communities may wish to go it alone, some may wish to contract with one or two nearby communities to purchase QS, and some may wish to be part of a larger regional or umbrella entity to broker the QS purchases and provide the necessary administrative support. Provided that the eligible community residents receive the benefits from the QS/IFQs, the Council may want to provide flexibility for communities to choose how to exercise that eligibility.

Because so many of the functional details of how these ownership eligible entities may be structured, managed, operated, and funded are, as yet, undecided, it is not possible to be more precise about the costs and benefits attributable to any one of the several competing suboptions. Even with the Council selecting a "preferred alternative" for this element of the proposed action, it will likely not be possible to quantify the anticipated impacts of their choice, because so many of the determining factors will not be known until several years of empirical data, acquired through experience with the system, have been accumulated.

3.5.2.3 Element 3. Use Caps for Individual Communities

Options (a) - (c) would establish the same use caps for all eligible communities in Area 2C, 3A, and 3B:

(a) 2% of 2C and 1% of the combined 2C, 3A and 3B halibut QS, and 2% of Southeast and 2% of all combined sablefish QS.

(b) 1% of 2C and 0.5% of the combined 2C, 3A and 3B halibut QS, and 1% of Southeast and 1% of all combined sablefish QS. **(preferred alternative)**

Suboption 1 for (b): Communities in Areas 3A and 3B cannot buy halibut QS in Area 2C and communities in Area 2C cannot buy halibut QS in Area 3B. **(preferred alternative)**

(c) 0.5% of 2C and 0.5% of the combined 2C, 3A and 3B halibut QS, and 0.5% of Southeast and 1% of all combined sablefish QS.

Options (d) - (e) would establish use caps on an area basis (i.e., eligible communities in Area 2C, 3A, and 3B would have different use caps):

(d) 1% of the combined quota share in the area the community is located in and an adjacent quota share area. Communities in 3A could not buy quota shares in 2C.

(e) 0.5% of the combined quota share in the area the community is located in and an adjacent quota share area. Communities in 3A could not buy quota shares in 2C.

Suboption 1 for (d) and(e): Place caps on individual communities so that the caps are area specific and not combined with more than one area.

Element 3 proposes to cap the amount of community-held QS each community could use, in order to alleviate the concerns of current IFQ holders that a number of small Gulf communities could control excessive amounts of the available halibut and sablefish QS if not restricted. There exists the option to select different community use caps for the sablefish and halibut fisheries, depending on the problem being addressed and the effects of each option in the different fisheries. The primary purpose of a use cap is to establish a minimum number of participants in the fishery, in order to limit consolidation of QS. For all practical purposes, a "use cap" is equivalent to an "ownership cap" in that communities would not be allowed to purchase QS over and above the use cap in regulation. This effectively creates a "floor" on the minimum number of participants in the fishery. Staff assumes that the individual community use caps proposed under this element apply only to the amount of QS held by community entities on behalf of an individual community; thus, a cap would not be inclusive of any QS privately "owned" by individual residents of the community. In addition, if, under Element 2, one administrative entity is allowed to represent an aggregation of communities, it is assumed that the individual community use cap would apply to each individual community, and not to the single entity.

Current use caps in the commercial IFQ program are described in the box below. The amount is expressed in fixed units of QS. The resulting IFQs (in pounds) vary each year with the annual TAC and quota share pool. Because each regulatory area has a different QS:IFQ ratio, the use caps that apply to a combination of areas cannot be directly translated into pounds.

Halibut commercial use caps:
In Area 2C, the use cap is 599,799 QS units. (1%)
In combined areas 2C, 3A, and 3B, the use cap is 1,502,823 QS units. (0.5%)

Sablefish commercial use caps:
In Southeast regulatory area, the use cap is 660,310 QS units. (1%)
In all regulatory areas combined, the use cap is 3,177,580 QS units. (1%)

Current NMFS regulations require the RAM Division to use the 1996 halibut quota share pools (QSPs) to determine the halibut 2001 use caps, but for sablefish, the 2001 QSPs are used. The halibut use caps are expressed as fixed units in regulation, and a similar action is pending for the sablefish use caps.[24] The analysis of the proposed use caps for communities under Element 3 remains consistent with the current regulations for individual ownership and use of QS; the 1996 QSPs are used to determine halibut use caps and the 2001 QSPs are used to determine sablefish use caps.

Note that of the five proposed options for establishing individual community use caps, **Option b mirrors the current regulations as they apply to individual QS holders.** Option b would allow communities to use 0.5% of the combined 2C, 3A, 3B QSP, and 1% of the Area 2C QSP. The original Coalition proposal noted

[24]In 1996, the Council approved an amendment to change the halibut use caps to be expressed as fixed amounts of QS units (50 CFR 679.42(f)). A similar action for the sablefish fishery was approved by the Council (Amendment 54/54) in 1999 and is pending Secretarial review. Although the proposal discusses use caps in terms of percentages, any new regulations would likely be consistent with these changes and express the caps in fixed QS units.

that appropriate community use caps would be difficult to predict because of the unique nature of each community and its size, alternative employment opportunities, proximity to available resources, and harvest ability. Fluctuations in resource availability in each regulatory area, as well as the fact that there are an unequal number of target communities located in each regulatory area, also complicate the development of one universal community use cap. Thus, the Coalition proposal suggested using the same use caps for communities as are currently in place for individual quota share holders.

Suboption 1 applied to **Option b** would prohibit eligible communities in Areas 3A and 3B from buying halibut QS in Area 2C and communities in Area 2C from buying halibut QS in Area 3B. This suboption would allow the same total amount of QS to be held by communities as proposed under Option b, however, those purchases would be limited to specific areas depending on where the community is located. This provision would allow communities to purchase and use halibut QS in the regulatory area in which they are located as well as one adjacent area: communities in Area 2C could purchase QS in Area 2C and Area 3A; communities in Area 3A could purchase QS in Area 3A and 3B; and communities in Area 3B could purchase QS in Area 3A and 3B. This suboption would only allow Area 2C communities to buy Area 2C halibut QS, as there are about the same number of potentially eligible Area 2C communities as there are Area 3A and Area 3B communities combined. The intent of this provision is consistent with the overall intent to increase a community's opportunity to use nearby marine resources. Allowing communities to also fish in an adjacent area is intended to mitigate concerns with communities located close to boundary lines, such as Akhiok and Yakutat, and allow them to continue fishing their traditional grounds. This suboption does not eliminate a combined use cap, which is 0.5% of the combined 2C, 3A, and 3B halibut QS under Option b.

Options a and c provide a broader range for consideration: **Option a** would allow communities to use twice as much QS as individual holders (1% of combined 2C, 3A, 3B QSP and 2% of the Area 2C QSP). Option a was added for consideration should communities be considered differently than individual holders. If communities are able to fund the purchase of additional QS, and find multiple persons within the community to lease the IFQs, there is an argument for allowing a less restrictive use cap to apply, given that the benefits of the fishery will be realized by several community residents and not just one individual. In addition, each community's ability to purchase QS will be affected by the amount of QS available subject to any vessel category and/or block restrictions that are adopted in the preferred alternative.

Staff assumes that regardless of whether a use cap is placed on individual communities, the current vessel use cap would apply to any individual who leases IFQs from the community. This means that if a community held 2% of the QS in an area, the IFQs would have to be fished on at least two separate vessels. Note also that the amount any single individual resident could fish is the sum of his/her own QS plus any leased community QS, subject to the limits imposed for individual use under Element 5 ("Use Restrictions, Section 3.5.2.5.4).

Option c would allow communities to use the same amount of overall QS as individual holders (0.5% of combined 2C, 3A, 3B QSP), but would restrict communities to using half the current use cap in Area 2C (0.5%). This option was intended to allay concerns that the majority of community QS would be purchased in Area 2C, since about half of the target communities are located in Area 2C and residents of Area 2C would likely choose to purchase QS for use near their residence.

Options a , b, and c would establish use caps structured like those currently in regulation for individuals: one use cap applies specifically to use of Area 2C QS, and a second use cap applies to the combined use of QS in Areas 2C, 3A, and 3B. The sablefish fishery is structured similarly: one use cap applies specifically to use of Southeast QS, and a second use cap applies to the combined use of all sablefish QS. Both of these caps

apply to individual QS holders, and the intent of Options a, b and c is that both would also apply to all eligible communities under this action.

By contrast, **Options d and e** would establish one use cap for each community, based on the geographic location of the community. Under Option d, communities in Area 2C could own up to 1% of the combined 2C and 3A quota share pool, and Area 3A and 3B communities could own up to 1% of the combined 3A and 3B quota share pool. Under Option e, the cap is 0.5%. Note that there is no unique use cap to limit ownership of QS solely in Area 2C under these options. The result of Options d and e is that Area 2C, 3A, and 3B communities would be subject to different use caps, based on a percentage of QS in the area in which the community is located and an adjoining area. The intent of the original proposal was to encourage community participation in the harvest of halibut and sablefish near the community, thus geographic caps may be appropriate to meet that intent. Allowing communities to also fish in an adjacent area instead of only the management area in which they are located would mitigate problems with communities located close to boundary lines, such as Akhiok and Yakutat, and allow them to continue fishing their traditional grounds.

In addition, **Suboption 1** may be applied to **Options d and e**, in which the caps on individual communities are area specific. This maintains the intent of Options d and e to allow communities to buy QS only in the management area in which they are located and an adjacent area; the difference is that each area has a separate cap. Thus, under Suboption 1:

- 2C communities would be capped at 1% (or 0.5%) of the Area 2C halibut QS and 1% (or 0.5%) of the Area 3A halibut QS. They would also be capped at 1% (or 0.5%) of the SE sablefish QS and 1% (or 0.5%) of the WY sablefish QS.
- 3A communities would be capped at 1% (or 0.5%) of the Area 3A halibut QS and 1% (or 0.5%) of the Area 3B halibut QS. They would also be capped at 1% (or 0.5%) of the WY sablefish QS and 1% (or 0.5%) of the CG sablefish QS.
- 3B communities would be capped at 1% (or 0.5%) of the Area 3B halibut QS and 1% (or 0.5%) of the Area 3A halibut QS. They would also be capped at 1% (or 0.5%) of the CG sablefish QS and 1% (or 0.5%) of the WG sablefish QS.

The resulting QS use caps and applicable percentages of the quota share pools (QSPs) under each option are provided for halibut and sablefish in Tables 3.20 and 3.21, respectively. Due to the complex nature of the options, the following list is provided to outline the primary impacts of the use caps proposed in Options a - e, assuming *all 45 proposed eligible communities would qualify and purchase QS up to the use cap*. These levels of ownership are hypothetical upper bounds, since reaching these levels would require willing sellers, almost all of whom reside in larger communities. These levels of community-held QS are almost certainly never going to be observed. They are provided here to represent the extreme limit theoretically permitted under the most liberal components of the proposed action.

Option a:

Eligible communities could purchase and use twice the amount of QS that individual holders are allowed for halibut and sablefish under the current use caps.

Eligible communities could potentially hold a maximum of 90% of the halibut QS in Area 2C and 45% of the combined 2C, 3A, and 3B halibut QS. It would also allow communities to hold a maximum of 90% of the sablefish QS in Southeast, and 90% of all sablefish QS across all areas.

Option b:

Eligible communities could purchase and use the same amount of QS as individual holders.

Eligible communities could potentially hold a maximum of 45% of the halibut QS in Area 2C and 22.5% of the combined 2C, 3A, 3B halibut QS. It would also allow communities to hold a maximum of 45% of the sablefish QS in Southeast, and 45% of all sablefish QS across all areas.

Option b

Suboption 1: The same amount of total halibut QS is available to communities as proposed under Option b, but caps are placed on each management area. Area 2C communities could only hold halibut QS in Areas 2C and/or 3A. Area 3A and 3B communities could only hold halibut QS in Areas 3A and/or 3B.

Depending on the number of eligible communities in Area 2C (minimum of 21 and maximum of 23), communities in Area 2C could potentially hold a maximum of 21-23% of the halibut QS in Area 2C and 17-19% of Area 3A QS (if all QS up to the combined use cap was purchased in Area 3A)

Depending on the number of eligible communities in Area 3A and 3B combined (minimum of 21 and maximum of 22), communities in Area 3A could potentially hold a maximum of 17-18% of the Area 3A halibut QS if all QS up to the combined use cap was purchased in Area 3A and 59-61% of the Area 3B halibut QS if all QS up to the combined use cap was purchased in Area 3B.

Option c:

Eligible communities could purchase and use half the amount of halibut and sablefish QS as individual holders in the Area 2C and Southeast regulatory areas, respectively. Communities could use the same amount of halibut and sablefish QS as is allowed for individual holders across combined areas.

Eligible communities could potentially hold a maximum of 22.5% of the halibut QS in Area 2C and 22.5% of the combined 2C, 3A, 3B halibut QS. It would also allow communities to hold a maximum of 22.5% of the sablefish QS in Southeast, and 45% of all sablefish QS across all areas.

Eligible communities (in Area 2C) could potentially hold a maximum of 23% of the Area 2C halibut QS, 23% of the Area 3A halibut QS, 23% of the Southeast sablefish QS, and 23% of the West Yakutat sablefish QS.

Option d:

Only communities in Area 2C would be allowed to use Area 2C halibut QS and Southeast sablefish QS. Area 3A and 3B communities would be prohibited from purchasing QS in Area 2C. Because no use cap applies solely to Area 2C, Area 2C communities could purchase all of their QS from Area 2C. Each Area 2C community could potentially use four times more halibut QS in Area 2C and almost twice as sablefish QS in Southeast than is currently allowed for individuals.

Eligible communities overall could use about 40% more overall halibut QS than individuals, but about 48% - 62% less overall sablefish QS.

Eligible communities located in Area 2C could potentially hold a maximum of about 95% of the Area 2C halibut quota share pool and about 42% of the Southeast sablefish quota share pool (based on 2001 QSPs).

Option e:

Only Area 2C communities could purchase and use halibut QS in Area 2C and sablefish QS in Southeast. Each Area 2C community could hold more than twice the individual cap of Area 2C halibut QS but about 10% less than the individual cap of Southeast sablefish QS.

Eligible communities overall could use about 18% less overall halibut QS and about 74% - 81% less overall sablefish QS than is currently allowed for individuals.

Eligible communities located in Area 2C could potentially hold a maximum of about 47% of the Area 2C halibut quota share pool and about 21% of the Southeast sablefish quota share pool.

Option d

Suboption 1: The same amount of total QS is available to communities as proposed under Option d, but caps are placed on each management area. Each Area 2C community could hold the same amount of Area 2C halibut QS and Southeast sablefish QS as an individual.

Area 3A and 3B communities could not hold Area 2C QS. They could hold 38% more total halibut QS in Areas 3A and 3B than are allowed for an individual and 48%-53% less sablefish QS in Areas 3A and 3B than are allowed for an individual.

Eligible communities overall could use 38%-40% more overall halibut QS and about 48%-63% less overall sablefish QS than is currently allowed for individuals.

Eligible communities (in Area 2C) could potentially hold a maximum of 23% of the Area 2C halibut QS, 23% of the Area 3A halibut QS, 23% of the Southeast sablefish QS, and 23% of the West Yakutat sablefish QS.

Option e

Suboption 1: Each Area 2C community could hold half the individual cap of Area 2C halibut QS and half the individual cap of Southeast sablefish QS.

Area 3A and 3B communities could not hold Area 2C QS. They could hold 20% less total halibut QS in Areas 3A and 3B than are allowed for an individual and 74%-77% less sablefish QS in Areas 3A and 3B than are allowed for an individual.

Eligible communities overall could use about 18%-20% less overall halibut QS and about 74% - 81% less overall sablefish QS than is currently allowed for individuals.

Eligible communities (in Area 2C) could potentially hold a maximum of 11.5% of the Area 2C halibut QS, 11.5% of the Area 3A halibut QS, 11.5% of the Southeast sablefish QS, and 11.5% of the West Yakutat sablefish QS.

Table 3.20: Community Halibut QS Use Caps under Element 3, Options a - e

	QSP Percent Use Cap			QS Use Cap (in QS units)		
	2C	Total		2C	Total	
Individual Limits	1	0.5 of combined QSP[1]		599,799	1,502,823	
Community Limits						
Option a	2	1 of combined QSP		1,199,598	3,005,646	
Option b [2]	1	0.5 of combined QSP		599,799	1,502,823	
Option c	0.5	0.5 of combined QSP		299,900	1,502,823	
Option d [3]						
Area 2C communities	1	1 of 2C and 3A QSP		2,460,594	2,460,594	
Area 3A communities	0	1 of 3A and 3B QSP		0	2,405,847	
Area 3B communities	0	1 of 3A and 3B QSP		0	2,405,847	
Option e						
Area 2C communities	0.5	0.5 of 2C and 3A QSP		1,230,297	1,230,297	
Area 3A communities	0	0.5 of 3A and 3B QSP		0	1,202,924	
Area 3B communities	0	0.5 of 3A and 3B QSP		0	1,202,924	
Option d, Suboption 1 [4]	**2C**	**3A**	**3B**	**2C**	**3A**	**3B**
Area 2C communities	1	1	0	599,799	1,860,793	0
Area 3A communities	0	1	1	0	1,860,793	545,053
Area 3B communities	0	1	1	0	1,860,793	545,053
Option e, Suboption 1						
Area 2C communities	0.5	0.5	0	299,900	930,397	0
Area 3A communities	0	0.5	0.5	0	930,397	272,526
Area 3B communities	0	0.5	0.5	0	930,397	272,526

[1]Combined QSP refers to the combined quota share pool of Area 2C, 3A, and 3B.

[2]There is also a suboption that may be applied to Option b, which would establish area specific use caps but not change the total amount of QS that each community could purchase and use. Under this suboption, communities in Area 2C would only be permitted to hold Area 2C and 3A QS; communities in Area 3A could hold Area 3A and 3B QS; and communities in Area 3B could hold Area 3A and 3B QS.

[3]The limits imposed by Options d and e on community QS holdings apply to the combined holdings in two management areas. Under these options, only communities in 2C are permitted to own 2C QS.

[4]Suboption 1 (applied to Options d and e) would establish area specific use caps.

Note: Per NMFS regulation, the relevant quota share pool (QSP) for calculating halibut use caps is the 1996 QSP; for sablefish, the 2001 QSPs are used.

Individual community use caps would prevent the consolidation of QS by a few communities, but would also limit the total amount of QS that community entities could purchase and use across all areas (a de facto cumulative cap). Table 3.22 shows the percentage of the combined Areas 2C, 3A, and 3B halibut QS and the combined sablefish area QS that could be purchased by communities under the options in Element 3.

Table 3.22 assumes that all 45 proposed target communities are eligible, and that they each purchase the maximum QS up to the proposed use caps. While there may be concerns as to the level of community purchase that could occur in distinct areas, similar concerns may exist regarding the total amount of QS that could potentially be purchased by communities through this amendment.

Table 3.21: Community Sablefish QS Use Caps Proposed under Element 3, Options a - e

	QSP Percent Use Cap				QS Use Cap			
	Southeast	Total			Southeast	Total		
Individual Limits	1	0.5 of combined QSP[1]			660,310	3,177,580		
Community Limits								
Option a	2	1 of combined QSP			1,320,620	6,355,160		
Option b	1	0.5 of combined QSP			660,310	3,177,580		
Option c	0.5	0.5 of combined QSP			330,155	3,177,580		
Option d[2]								
Area 2C communities	1	1 of SE and WY QSP			1,192,620	1,192,620		
Area 3A communities	0	1 of WY and CG QSP			0	1,649,966		
Area 3B communities	0	1 of CG and WG QSP			0	1,477,946		
Option e[2]								
Area 2C communities	0.5	0.5 of SE and WY QSP			596,310	596,310		
Area 3A communities	0	0.5 of WY and CG QSP			0	824,983		
Area 3B communities	0	0.5 of CG and WG QSP			0	738,973		
Option d, Suboption 1[3]	**SE**	**WY**	**CG**	**WG**	**SE**	**WY**	**CG**	**WG**
Area 2C communities	1	1	0	0	660,310	532,311	0	0
Area 3A communities	0	1	1	0	0	532,311	1,117,655	0
Area 3B communities	0	0	1	1	0	0	1,117,655	360,291
Option e, Suboption 1								
Area 2C communities	0.5	0.5	0	0	330,155	266,155	0	0
Area 3A communities	0	0.5	0.5	0	0	266,155	558,828	0
Area 3B communities	0	0	0.5	0.5	0	0	558,828	180,146

[1]Combined QSP refers to the combined quota share pool of Area 2C, 3A, and 3B.

[2]The limits imposed by options d and e on community QS holdings apply to the combined holdings in two management areas. Under these options only communities in Southeast are permitted to own 2C QS.

[3]Suboption 1 (applied to Options d and e) would establish area specific use caps.

Note: Per NMFS regulation, the relevant quota share pool (QSP) for calculating halibut use caps is the 1996 QSP; for sablefish, the 2001 QSPs are used.

Table 3.22 shows that **Option a** would allow communities to potentially purchase the most QS: 45% of the combined Area 2C, 3A, and 3B halibut QS (based on 1% per community), and 90% of the combined area sablefish QS (based on 2% per community), depending on the final number of eligible communities. **Option b** represents the current use caps for individual holders in the IFQ program and would allow communities to purchase up to 22.5% of the combined 2C, 3A, and 3B halibut QS (based on 0.5% per community) and 45% of the sablefish QS (based on 1% per community). **Suboption 1,** as applied to Option b, does not change

the percentages under Option b (and is thus not reflected separately in Table 3.22). **Option c** results in the same combined use caps as Option b.

Options d and e have geographic caps specific to the location of each community and an adjacent area. Overall, however **Option d** would allow target communities to purchase up to 36.5% of the combined Area 2C, 3A, and 3B QS and nearly 20% of the combined area sablefish QS. **Option e** would allow the least total halibut and sablefish QS to be purchased by communities: up to 18% of the combined Area 2C, 3A, and 3B halibut QS, and nearly 10% of the combined area sablefish QS.

Table 3.22: Maximum percent of combined QS that communities could use under the options in Element 3

Individual use cap options	Applicable % of **combined** quota share pools	Maximum % of combined QS held by communities if the **maximum** number qualify (45)[1]
HALIBUT		
Option a	1% of 2C, 3A, 3B	**45%**
Option b[2]	0.5% of 2C, 3A, 3B	**22.5%**
Option c	0.5% of 2C, 3A, 3B	**22.5%**
Option d		
Area 2C communities	1% of 2C and 3A	23% of 2C and 3A
Area 3A communities	1% of 3A and 3B	15% of 3A and 3B
Area 3B communities	1% of 3B and 3A	7% of 3B and 3A
Maximum total QS		**36.5%** of combined 2C, 3A, 3B QSP
Option e		
Area 2C communities	0.5% of 2C and 3A	11.5% of 2C and 3A
Area 3A communities	0.5% of 3A and 3B	7.5% of 3A and 3B
Area 3B communities	0.5% of 3B and 3A	3.5% of 3A and 3B
Maximum total QS		**18.2%** of combined 2C, 3A, 3B QSP
Option d, suboption 1		
Area 2C communities	1% of 2C and 1% of 3A	23% of 2C and 23% of 3A
Area 3A communities	1% of 3A and 1% of 3B	15% of 3A and 15% of 3B
Area 3B communities	1% of 3B and 1% of 3A	7% of 3B and 7% of 3A
Maximum total QS		**36.5%** of combined 2C, 3A, 3B QSP
Option e, suboption 1		
Area 2C communities	0.5% of 2C and 0.5% of 3A	11.5% of 2C and 11.5% of 3A
Area 3A communities	0.5% of 3A and 0.5% of 3B	7.5% of 3A and 7.5% of 3B
Area 3B communities	0.5% of 3B and 0.5% of 3A	3.5% of 3A and 3.5% of 3B
Maximum total QS		**18.2%** of combined 2C, 3A, 3B QSP

[1]Under the options in Element 1, a maximum of 45 (Suboption 3) communities would qualify. The total amount of community QS that could be used under each option is determined by multiplying the number of communities by the individual use cap for each area.

[2]There is also a suboption that may be applied to Option b, which would establish area specific use caps but not change the total amount of QS that each community could purchase and use.

Table 3.22 continued

SABLEFISH		
Option a	2% of all sablefish	**90%**
Option b	1% of all sablefish	**45%**
Option c	1% of all sablefish	**45%**
Option d		
Area 2C communities	1% of SE and WY	23% of SE and WY
Area 3A communities	1% of WY and CG	15% of WY and CG
Area 3B communities	1% of CG and WG	7% of CG and WG
Maximum total QS		**19.7%** of all sablefish QSP
Option e		
Area 2C communities	0.5% of SE and WY	11.5% of SE and WY
Area 3A communities	0.5% of WY and CG	7.5% of WY and CG
Area 3B communities	0.5% of CG and WG	3.5% of CG and WG
Maximum total QS		**9.8%** of all sablefish QSP
Option d, suboption 1		
Area 2C communities	1% of SE and 1% of WY	23% of SE and 23% of WY
Area 3A communities	1% of WY and 1% of CG	15% of WY and 15% of CG
Area 3B communities	1% of CG and 1% of WG	7% of CG and 7% of WG
Maximum total QS		**19.7%** of all sablefish QSP
Option e, suboption 1		
Area 2C communities	0.5% of SE and 0.5% of WY	11.5% of SE and 11.5% of WY
Area 3A communities	0.5% of WY and 0.5% of CG	7.5% of WY and 7.5% of CG
Area 3B communities	0.5% of CG and 0.5% of WG	3.5% of CG and 3.5% of WG
Maximum total QS		**9.8%** of all sablefish QSP

[1]Under the options in Element 1, a maximum of 45 (Suboption 3) communities would qualify. The total amount of community QS that could be used under each option is determined by multiplying the number of communities by the individual use cap for each area.

Suboption 1 under **Options d and e** would not establish any combined use caps but would create a separate use cap for each management area. This differs from the method for establishing the existing use caps, as currently only Area 2C has a unique cap. This suboption would establish a unique cap for every area, but the overall amount of QS used by communities would remain the same as that proposed under Options d and e. The impact of the proposed use caps will be discussed further under cumulative use caps in Element 4.

The percentage of combined area QS that communities could hold is dependent on the final number of eligible communities. If the minimum number of communities (42) qualify under Element 1, the percentage of combined QS that communities could use decreases by 1% - 3% under the options proposed for the halibut fishery and by 1% - 4% under the options proposed for the sablefish fishery.

Policy considerations

The primary purpose of individual community use caps is to establish a maximum amount of QS that each community could hold, in order to limit consolidation of QS by communities and to ensure that an adequate amount of QS continues to be available for existing individual participants. This is consistent with the problem statement which states that the proposed action should help provide for the sustained participation

of the target Gulf communities in the halibut and sablefish IFQ fisheries "without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities."

Limiting communities to the same or more restrictive use caps (**Options b and c**, respectively) than are currently in place for individual QS holders may be appropriate, given the concerns relevant to preserving opportunities for existing individual participants and new entrants. The Council may want to consider starting out with a fairly constrained program, one that mirrors constraints present in the existing IFQ program, and adjust the restrictions that apply to communities if needed. However, the Council may also want to consider whether to apply a limit to a community that is the same or more restrictive than the limit applied to an individual resident, given that the benefits of the QS are intended to be realized by a number of community residents. While the community would own the QS, the resulting IFQs could be fished by a number of individual residents with small operations.

Presumably, the additional economic activity resulting from the local use of community-held QS would be expected to produce benefits. The community could recover some or all of its costs by charging a lease fee to the individuals fishing the community IFQs, and the individual fishermen would benefit from participating in the commercial IFQ fisheries by selling their catch (less the fee paid to the community entity and operating expenses). To the extent that the eligible community has a service sector capable of supplying some of the needs of the fishing sector, that sector should receive benefits as well. Even if the eligible community does not have a full support sector, other nearby communities with such capabilities should benefit from the new fishing activity. Thus, all of these sources should benefit from the proposed action through: 1) direct revenue impacts accruing to the community in the form of rents from use of their QS; 2) earnings accruing to the fishermen leasing the community's IFQs; and 3) secondary impacts attributable to services and supplies demanded by fishermen who have new or expanded fishing opportunities.

One factor to consider is that limiting communities' use of QS might unnecessarily restrict the type of small entity that the use caps were originally intended to protect (small operations, owner/operator fleet). It is assumed that regardless of whether a less restrictive use cap is placed on communities purchasing QS, any individual resident who leases IFQs from the community entity would still be held to the current individual *vessel use* cap (50 CFR 679.42(h)). Thus, should the Council allow communities to hold more QS than an individual is currently allowed, the *individual resident* leasing the IFQs from the community would still be held to the current vessel use limitations, and thus would not be able to fish more IFQ on their vessel than an individual who owns QS.

Another concern is that, because of potential biomass constraints, an individual community use cap that is too low may preclude some communities from purchasing QS because the anticipated benefits would not be worth the administrative cost and effort to participate. For example, with the 2001 TAC of 8.78 million pounds in Area 2C, a 1% use cap specific to Area 2C (Option b) would limit each community entity to 87,800 pounds of IFQ. During the implementation of the IFQ program, anecdotal evidence suggests that some individuals in small communities found that the small amount of QS they received at initial issuance was not enough for a viable commercial operation. Given the number of smaller QS holders that chose not to fish at all after initial issuance,[25] it is possible that many small QS holders find it not economically practical to fish less than 10,000 lbs of IFQs. However, because of the diverse range of communities and

[27]RAM Division evaluated participation by amount of initially issued QS held, and found a 'break-point' at about 10,000 lbs, whereas holders with initial issuance of >10,000 lbs appeared to stay in the fishery, and those with <10,000 lbs typically sold their QS.

resident fishermen at issue in this analysis, one cannot conclude that this or any other threshold is applicable across all holders in all communities. While none of the proposed options would restrict communities to less than 10,000 lbs of IFQ under the current TAC, the TAC will vary annually with changes in stock abundance.

There should also be some consideration as to whether communities will potentially have the capital necessary to purchase QS up to the use cap. It is difficult to predict the level of use cap necessary to meet the problem statement's objectives, given the above considerations and the inability to predict how much capital each community will have to fund the purchase of QS. Option a would allow individual communities to hold more QS than any other option. Under Option a, each community could purchase up to 2% of the Area 2C QSP and 1% of the combined 2C, 3A, and 3B QSP. Prices vary considerably among areas and also depend on the type of vessel class share and whether the QS is blocked. In 1998, the CFEC estimated that, depending on these factors, halibut IFQ prices varied from about $6.50/lb to $9.60/lb, and sablefish IFQ prices varied from about $6.80/lb to $10.15/lb. Using an average price of $8/lb of halibut IFQ and $8.50/lb of sablefish IFQ, it is possible to make a rough estimate of the level of investment necessary for a community to reach the proposed use caps. Under Option a and the 2001 halibut Area 2C TAC of 8.78 million lbs, a community would need to invest $1.4 million to purchase QS up to the Area 2C use cap. The level of investment needed to reach the combined area use cap is more difficult to estimate because of several possible combinations of QS within that purchase. However, if the community purchased all of its QS up to the 1% combined use cap in Area 3A, it would cost approximately $1.75 million, all else equal. A slightly higher level of investment would be required in the sablefish fishery.

These estimates are only intended to provide a general assessment of the level of funding that would be required of communities in order to purchase QS up to the cap proposed under Option a. The level of purchasing power required shows that the market itself may prove to be the limiting factor with regard to community QS purchases. Indeed, as additional "buyers" (i.e., communities seeking QS) enter the market, they will bid the price of QS up. The greater the demand, the higher the marginal cost of acquiring an additional unit will become. The impact of this upward pressure on QS price will affect both communities and private individuals. To the extent that "eligible communities," as defined under this action, are advantaged (e.g., subsidized) in this marketplace, as compared to private individuals, the latter group will incur a welfare loss, due to the additional competition for access to QS. The extent of this loss is dependent upon several exogenous factors (e.g., the number of communities seeking QS, the number of individual fishermen seeking to acquire QS, the total amount of QS demanded, the amount being offered for sale, etc.) and cannot be quantified, *a priori*. These costs do, nonetheless, reflect an attributable impact of the proposed action. It is also true that higher "bid" prices for QS will benefit those current holders who choose to sell.

As QS price increases, some fishermen who otherwise might have remained in the fishery will be induced to exit the industry. It is likely that the least efficient, least profitable operators will be among those taking advantage of the increased QS price to liquidate their "assets", and leave the fishery. To the extent that (as discussed above) the least profitable, less economically viable operators "tend" to be residents of small, remote communities, the proposed action may actually induce these fishermen to sell their "privately held" QS, aggravating the very problem the proposed action is seeking to resolve. At the very least, the outcome may, in effect, be characterized as facilitating the transfer of QS ownership in these communities from the private sector, to the public sector. Whether (or to what extent) the proposed action will ultimately result in any net increase in QS holdings within the 42 (or 45) qualifying communities, is an empirical question. These questions of net benefit are discussed in more detail in Section 3.7.

Suboption 1, proposed under Option b, would establish the same individual use caps as those proposed under Option b, but would restrict the area in which communities could purchase and hold QS to the area in which

they are located and one adjacent area. Specifically, Area 2C communities could only hold halibut QS in Areas 2C and/or 3A. Area 3A and 3B communities could only hold halibut QS in Areas 3A and/or 3B.

Depending on the number of eligible communities in Area 2C (minimum of 21 and maximum of 23), communities in Area 2C could potentially hold a maximum of 21-23% of the halibut QS in Area 2C and 17-19% of Area 3A QS (if all QS up to the combined use cap was purchased in Area 3A). Depending on the number of eligible communities in Area 3A and 3B combined (minimum of 21 and maximum of 22), communities in Area 3A could potentially hold a maximum of 17-18% of the Area 3A halibut QS if all QS was purchased in Area 3A and 59-61% of the Area 3B halibut QS if all QS was purchased in Area 3B.

This suboption would help mitigate some concerns with a substantial influx of community QS purchases in Area 2C, as there are about the same number of potentially eligible Area 2C communities as there are Area 3A and Area 3B communities combined. The intent of this provision is also consistent with the overall intent to increase a community's opportunity to use nearby marine resources. Allowing communities to also fish in an adjacent area is intended to account for communities located close to boundary lines, such as Akhiok and Yakutat, and allow them to continue fishing their traditional grounds. This suboption does not eliminate a combined use cap, which is 0.5% of the combined 2C, 3A, and 3B halibut QS under Option b.

There are two primary considerations related to **Options d and e**, which would allow communities to use QS in the area in which they are located as well as an adjacent area and would allow only Area 2C communities to use Area 2C QS. The first is the effect on Area 2C communities versus Area 3A and 3B communities. While Area 2C communities could potentially hold halibut and sablefish QS in Area 2C and 3A under these options, Area 3A communities are limited to holding QS in Area 3A and 3B, even though their preference may be to hold QS in the adjacent Area 2C. Area 3A and 3B communities would be prohibited from purchasing QS in Area 2C.

The impact of this concept warrants consideration of the number of proposed eligible communities located in each area and the available QS pool. There are 23 target communities located in Area 2C that are potentially eligible under Element 1. Using the 2001 commercial catch quotas, the combined quota share pool for Area 2C and Area 3A (**244,536,429 units**) translates to 30.67 million pounds of halibut IFQ. For sablefish, the quota share pool in Southeast and West Yakutat (**119,262,027 units**) translates to 11.35 million pounds of sablefish IFQ. By comparison, there are 22 communities located in Areas 3A and 3B that are potentially eligible to purchase available QS in Areas 3A and 3B. In 2001, the combined commercial quota share pool in Area 3A and 3B (**238,810,095 units**) translates to 38.42 million pounds of halibut in Area 3A and 3B combined. Similarly for sablefish, the quota share pool in West Yakutat and the Central Gulf (**164,996,568 units**) translates to 13.48 million pounds of sablefish IFQ. Thus, while the IFQs will vary annually depending on the commercial catch limits established for each area, the current quota share pools potentially available to communities located in each area under Options d and e are fairly comparable.

A related concern may be how many holders and what type of QS is available in each area. Assuming that communities would prefer to purchase smaller holdings of QS (holdings of 3,000 lbs or less are the smallest reported halibut holdings), Area 2C communities would be attempting to purchase available QS currently held by 1,576 holders in Area 2C and 2,099 holders in 3A (year-end 2000). Recall that these numbers are not additive as QS holders may hold QS in more than one area. About 53% of those holders owned QS which equated to 3,000 lbs or less at year-end 2000. Area 3A and 3B communities would be vying to purchase QS held by 2,099 holders in Area 3A and 607 holders in Area 3B, 52% of which equates to IFQs of 3,000 lbs or less in Area 3A and 27% in Area 3B. The concern is that because there are so few holders in Area 3B relative to the other areas and the average holdings are larger, it may be more difficult to find QS for sale,

especially in the smaller quantities. Therefore, while communities in Area 3A and 3B have the option to purchase Area 3A and 3B QS under Options d and e, they may be disproportionately affected by Options d and e depending on the actual amount of QS available in each area. It may also be the case that the market for QS in these two areas will result in a significantly higher price structure than in Area 2C. As previously suggested, this will have implications for both qualifying communities and private individuals wishing to acquire Area 3A and 3B QS.

The second consideration regarding Options d and e is the effect on the existing individual QS holders in Area 2C. While the intent of the options is to protect existing individual holders in Area 2C from a flood of communities entering the market for Area 2C QS, Option d would potentially allow communities to hold up to 95% of the Area 2C halibut QS, more than any other option. This is because there is no unique use cap attributed to Area 2C under Options d and e, so all 23 Area 2C communities could potentially purchase QS in Area 2C up to the overall use cap (which is based on 1% of the combined QSP in Area 2C and 3A). Thus, if the Council wants to afford additional protection to existing holders in Area 2C, Option d may not satisfy that intent. With the economic and regulatory advantages conferred upon qualifying communities under the proposed action (e.g., tax advantages, access to subsidized public grants and loans), the market for QS may be distorted, as suggested earlier. If the reservation price of Area 2C fishermen is exceeded by the bidding up of QS prices by qualifying communities, QS will transfer from private ownership.

Suboption 1, proposed under Options d and e, may serve to mitigate some of the impacts described above. This suboption would create unique use caps for each halibut and sablefish management area in which a community is eligible to purchase QS. Thus, instead of the current system in which only Area 2C has a separate use cap, each area would have a use cap applicable only to community holdings of QS. Communities would still be held to the geographic restrictions proposed in Options d and e, in that each community could only hold QS in the area in which they are located and an adjacent area, and communities in Area 3A and 3B could not purchase QS in Area 2C. **Thus, while this suboption allows communities as a whole to hold the same amount of QS across all areas as Option d and e, it limits the amount of QS communities could hold in each area by eliminating the use cap for *combined* areas and establishing *separate* use caps for each area.**

Using the maximum of 23 potentially eligible communities in Area 2C under Suboption 1, communities could hold a maximum of 23% (Option d) or 11.5% (Option e) of the total QS in Area 2C. This is much less than the 95% and 47% that could be held by communities under Options d and e, respectively, without the suboption. Communities could potentially hold a relatively higher percentage of the Area 3A QS than the Area 2C or 3B QS, since communities in every area would be allowed to hold Area 3A halibut QS. Overall, communities could hold 45% (Option d) and 22.5% (Option e) of Area 3A QS when the suboption is applied. (Under Options d and e alone, communities could hold up to 59% and 29% of the Area 3A QS, respectively.) Finally, communities could potentially hold 22% (Option d) and 11% (Option e) of the Area 3B QS when the suboption is applied. (Under Options d and e alone, communities could hold up to 28% and 14% of the Area 3B QS, respectively.)

The same general effect extends to the sablefish fishery: under Suboption 1, the 23 proposed eligible communities in Area 2C would be limited to holding 23% (Option d) and 11.5% (Option e) of the sablefish QS in Southeast, as opposed to 42% and 21% under Options d and e, alone. In sum, while the suboption allows the same amount of halibut and sablefish QS to be purchased by communities overall, it places certain constraints on communities' purchases in each area by eliminating the combined area use cap. Ultimately, except as discussed above, whether the QS is purchased by communities in Area 2C, communities in Area

3A , or other individual holders is largely irrelevant–what matters to an existing IFQ holder is the general availability and price of QS.

The Council may opt to select different community use caps for the sablefish and halibut fisheries, depending on the problem being addressed and the effects of each option in the different fisheries. Whether the concern is to prevent excessive community holdings in Area 2C or to afford the most protection to existing IFQ participants as possible, the options can be selected separately for each fishery in order to meet these concerns. In sum:

Halibut: Option e, Suboption 1 allows the least Area 2C QS to be purchased by communities and Option d allows the most.

Option e (with or without Suboption 1) allows the least QS across combined areas 2C, 3A, and 3B to be purchased by communities and Option a allows the most.

Sablefish: Option e, Suboption 1 allows the least Southeast QS to be purchased by communities and Option a allows the most.

Option e (with or without Suboption 1) allows the least QS across all combined regulatory areas to be purchased by communities and Option a allows the most.

3.5.2.4 Element 4. Cumulative Use Caps for all Communities

(a) 20% of the combined 2C, 3A, and 3B halibut QS, and 40% of the total combined Gulf of Alaska sablefish QS

(b) 20% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS

(c) 10% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS

(d) 10% of the combined 2C, 3A, and 3B halibut QS, and 10% of the total combined Gulf of Alaska sablefish QS.

(e) 20% of the combined 2C, 3A, and 3B halibut QS, and 20% of the total combined Gulf of Alaska sablefish QS. However, communities would be limited to 10% of the combined 2C, 3A, and 3B halibut QS and 10% of the combined Gulf of Alaska sablefish QS prior to the Council's review of the program in 3-10 years.

Suboption 1: Communities would be limited to 5% of the combined 2C, 3A, and 3B halibut QS and 5% of the total combined Gulf of Alaska sablefish QS in the first 2-5 years of the program.

(f) For options a-e, place cumulative use caps that are area specific rather than applying to combined areas.

(g) Communities would be limited to 3% of the Area 2C, 3A, or 3B halibut QS and 3% of the SE, WY, CG, or WG sablefish QS in each of the first seven years of the program, with a 21% total by area, unless modified by the Council's review of the program. **(preferred alternative)**

(h) No cumulative use caps.

Element 4 proposes to establish a cumulative use cap for the entire group of eligible communities. Note that although the options for a cumulative use cap are expressed in terms of percentages, the current use caps in

the commercial IFQ program are expressed in fixed units of QS. Should the Council choose to implement a cumulative use cap, the percentages selected would be translated into QS units based on the 2002 quota share pool and be fixed in regulation, in order to remain consistent with current regulations. This would prevent the cap from fluctuating on an annual basis from any slight adjustments to the quota share pool.

While individual use caps can be applied to control consolidation of QS within the eligible communities; the cumulative use cap can be applied to control the total amount of QS used by communities collectively. However, if the Council decides to establish an individual community use cap, the result is a de facto cumulative cap. **A cumulative cap is only necessary if the Council determines that the maximum QS communities can use should be *lower* than the total number of communities multiplied by the individual use cap.** If the Council prefers that each community should have the opportunity to purchase the maximum amount of QS up to the individual use cap, then a de facto cumulative cap is established at the appropriate level. Because the number of communities under this action would be fixed at the time of approval (i.e., additional communities that do not qualify under the criteria and are not identified in the analysis could not purchase QS unless the program were modified at a later time), individual use caps alone would result in an absolute maximum amount of QS that could potentially be purchased by communities; both individually and collectively.

A second consideration pertaining to the necessity of a cumulative use cap relates to the existing economic barriers some communities may face in securing large amounts of capital to purchase QS. This will likely vary on a case-by-case, community-by-community basis, but as mentioned previously, may be the limiting factor for community QS purchases, regardless of the individual or cumulative use caps selected. It is also fairly unlikely that every eligible community would invest in the IFQ fisheries at all, notwithstanding the individual community use cap.

Table 3.22 in the previous section shows the maximum total amount of QS that could be used by the eligible communities under the options for individual use caps under Element 3. A summary of that table is provided in the box at right, as well as the cumulative caps proposed under Element 4. Figure 3-6 shows that the cumulative use caps proposed would limit communities to significantly less total QS than the individual use caps, depending on the options selected. Note that, with the exception of Options (f) and (g) which are area-specific, the cumulative use cap options apply to the total halibut QS used by communities across combined Areas 2C, 3A, and 3B, and the total sablefish QS used across all areas.

The options for a cumulative use cap under Element 4 were based on the original Coalition proposal that estimated 40 Gulf communities would potentially qualify. In the halibut fishery, Options a and b were developed so that each of 40 communities would be capped at 0.5% of the combined 2C, 3A, and 3B halibut quota share pool (as are individual holders currently) and Options c and d were developed so that each of 40 communities would be capped at half that amount (0.25%). In the sablefish fishery, Option a was developed assuming that each of 40 communities would be capped at 1% of the combined sablefish quota share pool (as individual holders are currently); Options b and c were developed so that each of 40 communities would be capped at half that amount (0.5%); and Option d was based on each of 40 communities using 0.25% of the total quota share pool. Options (e) - (h) were added at subsequent Council meetings.

Figure 3-6: Maximum total QS that could be purchased by communities under individual use caps proposed under **Element 3** (summary of Table 3.22) and cumulative caps proposed under **Element 4**.

Individual use caps

Option	% of 2C, 3A, 3B combined halibut QS	% of all sablefish combined QS
a	45%	90%
b	22.5%	45%
c	22.5%	45%
d	36.5%	19.7%
e	18.2%	9.8%

Cumulative use caps

Option	% of 2C, 3A, 3B combined halibut QS	% of all sablefish combined QS
a	20%	40%
b	20%	20%
c	10%	20%
d	10%	10%
e	step from 10-20%	step from 10-20%
Suboption 1	step from 5-10-20%	step from 5-10-20%
f*	area specific caps	area specific caps
g**	21% by area over 7 yrs	21% by area over 7 yrs
h	none	none

*Option f would apply the percentages proposed in Options a-e to each individual management area for halibut and sablefish.
**Option g would allow communities to hold up to 3% of the QS in each halibut and each sablefish area in each of the first 7 years of the program

If the method described above for **Options a - d** is deemed appropriate to establish a cumulative cap, these options may not be consistent with the final number of eligible communities and the individual community caps. At the present time, it appears that 42 - 45 communities would qualify, as opposed to 40. However, as discussed previously, a cumulative cap based on allowing each community to purchase QS up to the individual community cap would not be necessary, as the individual cap creates a de facto cumulative cap. The necessity of a cumulative cap exists only if the Council determines that the communities collectively should be restricted to a percentage of the combined quota share pools less than that established by the individual community use caps. For instance, should the Council select Option a under Element 3 (individual use cap of 1% of the combined 2C, 3A, and 3B halibut QS), communities could potentially hold a maximum of 45% of the total halibut QS without a distinct cumulative cap in place. Thus, while the Council may want to cap each individual community in order to prevent a few communities from dominating the program, it may also want to limit the collective of communities to a specified percentage of commercial QS. Each type of cap addresses a different concern.

Option e proposes a step-wise approach to allowing communities to purchase commercial QS. Option e would allow communities as a whole to purchase 10% of the halibut and sablefish QS, and then potentially increase that to 20% upon review by the Council in 3-10 years. This option essentially embodies that of Options b and d, employing a more conservative approach in the beginning of the program without eliminating the opportunity for expanding the program in future years. If Option e is preferred, it is inextricably linked to a Council review of the program in 3-10 years. A program review is also proposed under Element 8 (program review), whereby the Council could choose to require a program review between

3-10 years of implementation. Thus, if the Council prefers Option e and requires a program review under Element 8, the time frame of this review process under both options should be consistent. However, if the Council selects Option e and an associated review period, action under Element 8 may become unnecessary.

Suboption 1, as applied to this option, would limit purchases by communities even further at the start of the program. This suboption would allow only 5% of the total QS to be initially purchased by eligible communities, stepping up to 10% after 2-5 years, and then potentially 20% after a Council review in 3-10 years. If the Council prefers Suboption 1 under Option e, it is important to establish how long each cumulative cap is in place before it is increased, and to make those time periods conform to the Council's chosen review. If communities start under a 5% cumulative cap, for instance, and then step up to 10% after three years, it may be reasonable to establish a review after several more years of participation in the program. In this case, it would not be as effective to choose to review the program after only three years of activity, as communities would not yet have had an opportunity to participate in the program at the 10% cap, and therefore no information would be available with which to determine if a 20% cap is appropriate. As discussed under Element 8, it may be necessary to give communities several years to organize and garner funds to purchase QS before a meaningful evaluation of the proposed action could be conducted.

The purpose of this step-wise approach is to create a fairly constrained program for communities and an opportunity to review the program after several years of implementation and decide whether it should be expanded. One issue is whether starting at a cumulative cap of 5% is too low for 45 potential communities to participate; whether it would be so constraining that it negates the purpose of the program and the individual caps. For example, if 45 communities are capped at 5% of the total halibut combined area QS (15,028,232), and each individual community is capped at 0.5% of the combined QS (the same as individual holders), each community would average about 333,961 QS units or only 10 of the 45 communities would be able to purchase QS up to the individual cap. This effect varies depending on the individual community use cap selected under Element 3.

Limited analysis can be done to determine whether communities should be held to a cumulative cap that is more restrictive than the individual caps, but there may be some practical concerns with this approach. Under the current combinations of options, there exists the potential for many individual communities to not yet approach their individual caps, but for the entire program to already have reached a cumulative cap. Expanding the above example shows that if an individual community cap is set at 0.5% of the combined Area 2C, 3A, and 3B halibut QS and half of the 45 potentially eligible communities are able to purchase QS up to that limit, a cumulative cap of 10% would prohibit the remaining half of the communities from purchasing any QS. This could potentially disadvantage eligible communities that may take longer to enter the program. Depending on the size and nature of the community, some communities may take longer to organize an eligible administrative entity to manage the QS, secure capital to purchase QS, or find the appropriate amount and class of QS that can be used by community residents. This situation may also cause some communities to make less than ideal business decisions, as they may be tempted to rush to purchase QS before the cumulative cap is reached. It may also discourage some communities from attempting to purchase QS altogether.

Option f would establish area-specific cumulative use caps based on the percentages proposed under Options a-e. This option would essentially eliminate the cumulative use caps for all combined areas in the Gulf and replace them with individual use caps for each unique management area. **Thus, under Option f, communities as a whole would be held to using the same total amount of QS as proposed under Options a -e, but the use of that QS would be further limited by area.** For instance, under Option f (as applied to the percentages proposed under Options a - e) communities would be limited to using 5% - 20%

of the Area 2C QS, 5% - 20% of the Area 3A QS, and 5% - 20% of the Area 3B QS, as well as 5% - 40% of the QS in each sablefish management area.

This option mirrors the concerns discussed under the individual use caps in Element 3. The nature of combined area use caps allows for a limit on the total amount of QS used, but does not restrict the area in which the QS is used. This is the primary reason for the development of a separate use cap in southeast, to constrain the amount of QS used in that specific area with certainty. Option f would have the same essential purpose: to limit the amount of QS used in each area with certainty, in order to retain some stability for the existing IFQ participants. Area specific use caps would force eligible Gulf communities to distribute their QS purchases across all areas and prevent a major influx of community-held QS in one area. Recall, however, that several of the options under individual use caps would already prevent this situation from occurring. If communities are restricted to using QS only in the area in which they are located and an adjacent area, a maximum of 23 communities would be able to buy QS in Area 2C, 45 in Area 3A, and 22 in Area 3B. Such geographic restrictions are proposed under Element 3, Options d and e. In addition, if area-specific use caps are placed on individual communities (Element 3, Suboption 1), this may effectively meet the intent of Option f. In that case, Option f would only be necessary if it is determined that the total number of eligible communities should be limited to purchasing a lower amount of QS in each area than would be allowed if each community purchased up to their individual cap.

Option g would also establish area-specific use caps, but combined with a step-wise approach similar to Option e. Option g would require that eligible communities are limited to 3% of the Area 2C, 3A, or 3B halibut QS and 3% of the SE, WY, CG, or WG sablefish QS in each of the first seven years of the program, with a 21% total by area, unless modified by the Council through a program review.

Similar to the discussion under Option e, the step-wise approach of allowing communities to collectively hold an additional 3% of the total QS in each area each year, subject to a maximum of 21% by area, is intended to allow communities to build their participation slowly. Limiting the amount of QS that communities can purchase each year will help to ensure stability in the QS market for all current and prospective individual QS holders as well as community participants. In addition, some communities may take longer to enter the program than others, as some communities will likely need a few years to organize and qualify an administrative entity to hold the QS, secure capital to buy QS, and find the appropriate amount and type of QS for sale that can be used by community residents. If the cumulative cap is more restrictive than the individual use caps (i.e., not all communities will be able to purchase up to their individual QS cap before the communities reach the cumulative cap), this program would be expected to incite competition among eligible communities to enter the program first. Further, it is likely the larger of the eligible communities that will be best positioned to participate in the program first, should it be implemented. Thus, a step-wise approach to a cumulative cap would provide an opportunity for communities to enter and build their participation slowly, so that the smaller communities have a chance to get organized and participate before the cumulative cap is reached.

The cumulative use caps for each area (in quota share units) and the effect on the number of communities that can purchase QS up to the individual use caps in the first year of the program is shown in Figure 3-7.

Figure 3.7: Cumulative use caps (3% in first year) for each area and number of communities that could purchase QS up to the individual use cap* in that area in the first year of implementation, based on 2002 TACs.

Halibut	Cumulative use cap (in QS units)	Cumulative use cap (in pounds, by area)	Individual use cap (in QS units)	Individual use cap (in pounds, by area)	# communities that could purchase up to the individual use cap* in that area in Year 1
Area 2C:	1,799,399	256,478 lbs	599,799	85,492 lbs	3
Area 3A:	5,582,382	683,328 lbs	1,502,823	183,957 lbs	3
Area 3B:	1,635,158	519,592 lbs	1,502,823	477,541 lbs	1
Sablefish					
SE	1,980,929	212,302 lbs	660,310	70,767 lbs	3
WY	1,596,932	111,244 lbs	3,176,122	221,252 lbs	<1
CG	3,348,592	287,304 lbs	3,176,122	272,506 lbs	1
WG	1,080,873	118,519 lbs	3,176,122	348,266 lb	<1

Note: The halibut use cap (in QS units) is based on the 1996 quota share pool; the sablefish use cap (in QS units) is based on the 2002 quota share pool. The use caps represented in pounds are based on the 2002 TACs. The use cap is fixed in QS units, but the pounds that equate to the use cap will vary each year with the annual TAC.

*The individual use cap is assumed to be the same as in the current IFQ Program. Halibut individual use cap: 1% of Area 2C and 0.5% of Area 2C, 3A, and 3B combined. Sablefish individual use cap: 1% of SE and 1% of all combined areas. Note that because there is not an individual use cap specific to Area 3A or Area 3B for halibut, the poundages provided indicate the cap in each area if QS was purchased up to the cap only in that area. The same situation applies to WY, CG, and WG sablefish.

This figure assumes that each community entity is subject to the same individual use cap as individuals currently participating in the IFQ Program (Halibut: 1% of Area 2C and 0.5% of 2C, 3A, and 3B combined; Sablefish: 1% of SE and 1% of all areas combined). These individual caps are proposed under Element 3, Option b. Recall that the use caps for halibut are determined using the 1996 quota share pool and the use caps for sablefish are determined using the 2002 quota share pool.

Note that only a few communities would be able to purchase QS up to the individual community use cap in the first year of the program under the cumulative caps proposed in Option (g). Each year communities could purchase an additional 3%, and thus each year more communities would have the potential to buy more QS. For instance, in Area 2C, the 3% cumulative cap is equivalent to 1,799,399 QS units. Thus, this is an amount equal to what just 3 communities would be permitted, under regulations, to purchase (i.e., up to the individual cap of 599,799 QS units) and stay below the 1,799,399 QS cumulative cap for that area in the first year of the program. In the second year of the program, the cumulative cap would increase to 3,598,799 QS units (6%), an amount of QS equal to what 6 communities would be permitted to hold, under the individual cap, and so on. Recall that this analysis is dependent on the individual use cap proposed under Element 3, Option b.

In sum, after seven years of implementation, a cumulative cap of 21% by area would be in place under the preferred alternative, unless modified by Council review. Thus, assuming each community were to hold the maximum allowed, the number of communities that could potentially hold QS up to the individual use caps in each area is, for halibut: 21 in Area 2C, 21 in Area 3A, and 7 in Area 3B; and for sablefish: 21 in Southeast, 7 in West Yakutat, 7 in Central Gulf, and 7 in the Western Gulf. If only the 21 communities are deemed eligible in Area 2C under Element 1, and only Area 2C communities are allowed to buy halibut QS in Area 2C under Element 3, the cumulative cap provides for each of those communities to buy halibut QS up to the individual use cap after seven years of implementation. However, the cumulative cap is potentially constraining to community purchases in each of the remaining management areas in that each eligible community would not be able to purchase QS up to the individual use caps and have the total holdings still meet the cumulative cap.

Currently under Elements 3 and 4, there are options for area specific *individual* community use caps and area specific *cumulative* community use caps. While the Council is not tied to selecting area specific individual use caps if they choose to establish area specific cumulative use caps, this situation does impose some practical difficulties. For example, if *each* community is allowed to use up to 0.5% of the halibut QS across all combined areas (Options b and c under Element 3), but eligible communities *as a whole* are limited to using 10% of the Area 2C QS, 10% of the Area 3A QS, and 10% of the Area 3B QS, there exists the potential for very few individual communities to purchase QS in one area up to their individual cap. This effect is most pronounced in Area 2C. In the example given above, only four communities would be able to purchase QS up to their individual cap (1.5 million QS units) in Area 2C with a 10% area specific cumulative cap (6 million QS units). Given that there are 23 proposed eligible communities in Area 2C, this level of incongruity may preclude meeting the overall goal of the program in this area. Thus, while the intent of the option is to limit transfer of QS to communities in specific areas, it is important for the Council to consider how the individual and cumulative caps will work jointly and impact the ability of communities to purchase QS in the area in which they are located.

A second concern relates to the enforcement and monitoring of use caps, a responsibility of the RAM Division of NMFS. While individual caps would also necessitate monitoring, this task would be an extension of the use cap system that NMFS currently uses for QS holders. Cumulative caps would represent an added

monitoring responsibility as NMFS tracks individual QS transactions on a community-by-community basis to ensure they do not exceed a cumulative cap. In addition, NMFS currently enforces one QS use cap for Area 2C and another for all combined areas in the Gulf (in both the halibut and sablefish fisheries). Establishing separate use caps for each unique management area in the Gulf, as proposed under Options f and g, would require NMFS to modify their current system substantially more than would be required under Options a - e.

While the RAM Division confirms that the necessary modifications to the system would be feasible, it also notes that it could prove difficult for both eligible communities and the agency if the program were close to reaching a community use cap. If the program were about to reach the cumulative use cap, a transfer application by a community holder would be denied. This could pose an administrative burden if: 1) communities turned down for QS transfers had to keep resubmitting requests and standing in line, or 2) RAM were expected to keep transfer requests on file indefinitely in a priority order while waiting for the program to dip below the cumulative cap, then re-notifying applicants of newly available QS "room"and trying to revive stale applications. These two potential problems, however, may be associated with any type of cumulative cap, and are not unique to area-specific cumulative use caps. The enforcement and monitoring provisions are discussed in more detail under Elements 6 and 7.

In sum, a cumulative cap is necessary if the Council determines that eligible communities as a whole should be limited to using a smaller percentage of the overall quota share pool than would result if each community purchased QS up to their individual caps. The Council may determine this necessary if a less restrictive individual community use cap is selected and there exists a concern that each eligible community will be financially able and willing to buy QS up to the individual community cap. Recall that under Element 3, a community would need to invest about $1.4 - $1.75 million to purchase QS up to the proposed use cap in option a, based on the 2001 TAC and prevailing average prices. An even higher level of investment would be required in the sablefish fishery. It is uncertain whether communities would in fact purchase QS up to the proposed use cap, as the market itself may prove to be the limiting factor with regard to community QS purchases. However, given the concerns about preserving existing opportunities for individuals, a more restrictive cumulative cap would be certain to constrain community purchases to a specified amount.

As mentioned previously, a cumulative cap that is more restrictive than the individual use caps would be expected to incite competition among eligible community entities to enter the program first. This could serve to drive up QS prices for all current and prospective individual QS holders as well as program participants. This could also disadvantage eligible communities that may take longer to enter the program; some communities will likely need a few years to organize an eligible administrative entity to manage the QS, secure capital to purchase QS, and find the appropriate amount and class of QS for sale that can be used by community residents. Thus, a cumulative cap that is very restrictive compared to the individual caps may not provide an opportunity for communities to enter and build their participation slowly, with sound business and organizational planning, which in turn may have a negative effect on both current holders and potential community holders. In this sense, a more restrictive cap could exceed the impacts that a less restrictive use cap may have on current and prospective QS holders, even though a less restrictive cumulative cap would potentially allow more QS to be held by communities overall.

If the Council chooses not to implement a cumulative cap (**Option h**), a de facto cumulative cap would be established based on the final number of eligible communities and the individual community caps selected under Element 3.

3.5.2.5 Element 5. Purchase, use, and sale restrictions

3.5.2.5.1 Block Restrictions

(a) Communities would have the same blocked share restrictions as individuals
(b) Allow communities to buy only blocked shares or only unblocked shares
(c) Allow communities to buy blocked and unblocked shares **(preferred alternative)**

Suboption 1: Communities can purchase blocked and unblocked shares up to the ratio of blocked to unblocked shares in that area (i.e., communities are not limited to the number of blocks that they can own, but are limited in the number of pounds of blocked shares). The community would first need to purchase unblocked shares and then could purchase blocked shares up to the ratio in the area.

Suboption 2: Communities can purchase blocked quota shares in excess of the current limit on block ownership, up to: **(preferred alternative: 10 blocks halibut per community; 5 blocks sablefish per community)**
(a) 5 blocks per community
(b) 20 blocks per community
(c) Without limitation

Suboption 3: Restrict community purchase of blocked QS to blocks of shares which, when issued, exceeded a minimum poundage of IFQ.
(a) for Areas 2C, 3A, and 3B, minimum halibut IFQ poundage in a range of 2,500 - 10,000 pounds **(preferred alternative for Areas 2C and 3A: 3,000 lbs)**
(b) for SE, WY, CG, and WG, minimum sablefish IFQ poundage in a range of 3,000 - 10,000 pounds **(preferred alternative: 5,000 lbs)**

During implementation of the IFQ program, any initial allocation of halibut or sablefish QS that translated into less than 20,000 lbs (based on the 1994 TAC) was identified as "blocked," meaning it must be sold as a unit (50 CFR 679.40(a)). Current IFQ regulations prohibit an individual from holding more than two blocks of QS in an area, and persons with two blocks may not hold unblocked QS in that area (50 CFR 679.42(g)). The overall intent of the block restriction was to ensure that QS would be available to a part-time fleet of smaller operators, in order to help maintain some of the diversity of the fleet that existed under open access and thereby make the IFQ program less disruptive to isolated Alaska fishing communities (CFEC 1999b). The intent remains the same in applying a block provision to QS held by community entities. By limiting communities to two blocks of QS, it would help prevent communities from consolidating the type of QS that is most attractive to and feasible for existing smaller operators to purchase. As expected, the CFEC reports that during the first four years of the program, blocked QS sold for less than unblocked QS, and smaller blocks sold for less than larger blocks (1999b). Small blocks of QS continue to be the most affordable option for some smaller and part-time operators.

Table 3.23 shows how much QS was blocked and unblocked for both halibut and sablefish at year-end 1998, the number of holders of that QS, and the relative distribution across management areas. As of year-end 1998, about 71% of the halibut QS in Area 2C, 35% in Area 3A, and 66% in Area 3B was blocked. Across all areas, about half of the Gulf halibut QS is blocked (48%) and half is unblocked (52%). This is because more than half of the Gulf QS is issued in Area 3A, and the majority of this is unblocked. In the sablefish fishery, about 15% of the QS in Southeast, 13% in West Yakutat, 8% in the Central Gulf, and 20% in the Western Gulf was blocked, for an overall Gulf sablefish total of about 12%. While the halibut fishery has a much higher percentage of blocked QS than the sablefish fishery, the majority of holders in both fisheries own blocked QS:

86% in Area 2C, 81% in Area 3A, and 82% in Area 3B; and 51% in Southeast, 56% in West Yakutat, 60% in Central Gulf, and 58% in Western Gulf.

Table 3.23: Halibut and sablefish QS and number of holders by area and block, year-end 1998

Area	1998 Amount of QS[1]	Percent of Area QS	1998 Number of QS Holders[2]	Percent of Area QS Holders
HALIBUT				
Area 2C				
Blocked	42,189,794	71%	1,506	86%
Unblocked	17,361,463	29%	254	14%
Area 3A				
Blocked	65,352,057	35%	1,921	81%
Unblocked	119,371,419	65%	443	19%
Area 3B				
Blocked	35,508,084	66%	572	82%
Unblocked	18,332,504	34%	122	18%
Total 2C, 3A, 3B				
Blocked	143,049,935	48%		
Unblocked	155,065,386	52%		
SABLEFISH				
Southeast				
Blocked	9,776,050	15%	300	51%
Unblocked	56,191,798	85%	293	49%
West Yakutat				
Blocked	6,860,592	13%	206	56%
Unblocked	46,346,633	87%	165	44%
Central Gulf				
Blocked	8,429,805	8%	311	60%
Unblocked	102,602,618	92%	209	40%
Western Gulf				
Blocked	7,229,732	20%	120	58%
Unblocked	28,721,280	80%	86	42%
Total Gulf Sablefish				
Blocked	32,296,179	12%		
Unblocked	233,862,329	88%		

Source: CFEC data, Changes Under Alaska's Halibut and Sablefish IFQ Program, 1995-1998.

[1]Unblocked QS includes CDQ compensation "swappable" QS, which is unblocked and can be used on any size vessel until the first transfer. During development of the CDQ Program, part or all of the BSAI TAC was set aside for CDQs, reducing harvest limits for individuals who received QS in the BSAI. CDQ compensation QS is QS that was given to fishermen from the CDQ areas (Areas 4B, 4C, 4D, and 4E) from each of the management areas in which CDQs were not allocated (Areas 2C, 3A, 3B, and 4A), in order to compensate for this reduction and spread the burden of the compensation equally among all persons who initially received QS.

[2]The counts of QS holders do not represent unique individuals.

Table 3.24 shows the estimated prices per unit of QS, expressed in dollars per pound of IFQ, as reported by CFEC by block and area (1999b). Note that these are not average actual prices, and instead represent average estimates produced by a simulation model to permit comparisons of prices across management areas.[26] Table 3.24 shows that the 1998 estimated prices of unblocked QS are higher than those for blocked QS, across all areas and vessel categories. In addition, the C category QS (35 - 60 ft vessels) generated the highest price across all areas, with D category as generating the next highest price, followed by the freezer category (A).

Table 3.24: Estimated 1998 prices[1] per unit of halibut and sablefish QS, expressed in dollars/lb of IFQ

Area and Vessel Category		Unblocked Price	Large Block Price	Medium Block Price	Small Block Price
HALIBUT					
Area 2C	A	8.67	7.76	7.40	6.56
>60 ft	B	8.54	7.63	7.27	6.43
35 to 60 ft	C	9.04	8.14	7.78	6.94
<35 ft	D	8.76	7.85	7.49	6.65
Area 3A	A	9.13	8.06	7.61	6.56
	B	8.97	7.90	7.45	6.40
	C	9.60	8.54	8.08	7.03
	D	9.24	8.18	7.72	6.67
Area 3B	A	8.43	7.61	7.30	6.58
	B	8.32	7.50	7.19	6.47
	C	8.75	7.94	7.63	6.90
	D	8.50	7.69	7.38	6.65
SABLEFISH					
Southeast	A	9.46	8.70	8.32	7.45
>60 ft	B	9.32	8.56	8.19	7.32
<60 ft	C	9.98	9.22	8.84	7.97
West Yakutat	A	9.46	8.57	8.09	6.96
	B	9.29	8.40	7.91	6.79
	C	10.12	9.25	8.76	7.63
Central Gulf	A	9.46	8.62	8.19	7.17
	B	9.30	8.47	8.03	7.02
	C	10.06	9.23	8.79	7.78
Western Gulf	A	9.46	8.57	8.09	6.96
	B	9.29	8.40	7.91	6.79
	C	10.14	9.25	8.76	7.63

Source: CFEC data, Changes Under Alaska's Halibut and Sablefish IFQ Program, 1995-1998.

[1]Prices represent an average of the quarterly estimates provided in Tables 4-7 and 4-6 in the CFEC reports for halibut and sablefish, respectively.

[28]The CFEC report (1999b) notes that the calculations behind the prices in Table 3.24 are based on the assumption that all estimated associated IFQ lbs have been sold with the QS. A comparison of the estimates and the average prices shows that about 80% of the time when a comparison can be made between area and vessel class, the estimated prices fall within the range of average prices. About half of the exceptions occur in Area 2C, where the average price is above the estimated price in 5 of 14 comparisons.

Because the amount of QS contained and transferred in a block can vary widely, CFEC defined the blocks as large, medium, and small, based on an evaluation of the distribution of actual block size holdings at the end of 1996 and after a review of the size distribution of blocks transferred during 1995 and 1996. Large, medium, and small blocks are defined to have 13,000 pounds, 6,000 pounds, and 1,000 pounds of current-year IFQ, respectively. Unblocked transfers were assumed to have 5,500 pounds of IFQ. The unblocked transfer sizes are approximately equal to the mean transfer size during 1995 and 1996. These block sizes, although constant in terms of pounds of IFQ, were associated with different units of QS in different areas, since the QS to IFQ ratios varied between areas. For the purposes of this action, only the most recent price estimates (1998) are shown here.

Table 3.23 shows the amount of QS potentially available for community purchase and the number of existing QS holders: the majority of the Gulf halibut QS is blocked in Area 2C (71%) and Area 3B (66%), while the majority of the Area 3A halibut QS is unblocked (65%). Likewise, the vast majority of the Gulf sablefish QS is unblocked across all Gulf management areas. Thus, if small blocks of QS are likely the more feasible purchase option for community entities developing their IFQ fisheries, communities located in the areas which hold primarily unblocked QS may have a more difficult time financing and securing community QS. Similarly, current participants that wish to expand their operations or new individual entrants may also find blocked QS to be a more desirable purchase. Thus, there must be some consideration of applying block limits to community purchases relative to existing participants or new entrants that will be financing their own QS. However, because any eligible Gulf communities will be leasing their IFQs to local residents who will likely fish on smaller vessels or as a part-time operation, these are likely the same type of holder that the block provisions were originally established to protect.

Table 3.25 shows the relative amounts of blocked and unblocked QS held by residents of the maximum 45 proposed eligible communities, as compared to all holders of QS in the Gulf. Table 3.25 also reports the amount of blocked quota share held by target communities when Petersburg is excluded from the data. Recall that only under Element 1, Suboption 3, would Petersburg be included as an eligible community. Finally, the table provides the same data excluding Petersburg, Wrangell, and Cordova, in order to show the effects of these three communities on the overall percentages of blocked QS. These three communities would not be eligible under Element 1, Suboption 2, due to a lower population criterion of <1,500.

Table 3.25 shows that while the 45 target communities generally hold a slightly higher *percentage* of blocked QS relative to their total QS than do the total holders of Gulf QS, the ratio of blocked to unblocked QS is fairly similar. About 55% of the halibut QS held by target communities was blocked at year-end 2000, compared to 48% of the QS held by all Gulf holders. However, when Petersburg is excluded, 68% of the total halibut QS held by target communities is blocked, and when Petersburg, Cordova, and Wrangell are excluded, that percentage increases to 77%.

Similarly, target communities held about 13% blocked sablefish QS at year-end 2000, compared to 12% by all Gulf sablefish QS holders. Excluding Petersburg, 19% of the total sablefish QS held by target communities is blocked, and excluding Petersburg, Wrangell, and Cordova, the percentage decreases slightly to 18%. It is reasonable to expect that excluding Petersburg and the other larger communities from the data would increase the percentage of blocked QS held by the target communities, since the remaining target communities hold much less QS overall and were initially issued much smaller amounts (largely blocked). In addition, purchasing blocked QS is often a more feasible alternative for residents of these remote communities who have small or part-time operations, or fewer financial resources with which to purchase QS.

Table 3.25: Amount of QS held by target communities, by blocked status

Overall, the table reflects that a greater share of the QS in the target communities is blocked (excluding Petersburg, Wrangell, and Cordova) as compared to the total Gulf QS: about one-third (31%) of the combined

Table 3.25: Amount of QS held by target communities, by blocked status

Blocked Status	QS held by target communities[1]	%	Excluding Petersburg[2]	%	Excluding Petersburg, Cordova, Wrangell[3]	%	%of total Gulf QS[4]
HALIBUT							
Blocked	31,929,768	55%	21,259,618	68%	15,306,808	77%	48%
Unblocked	25,759,609	45%	10,035,865	32%	4,670,844	23%	52%
Total Halibut	57,689,377	100%	31,295,483	100%	19,977,652	100%	100%
SABLEFISH							
Blocked	5,341,589	13%	2,738,521	19%	2,280,000	18%	12%
Unblocked	37,324,365	87%	11,963,520	81%	10,613,329	82%	88%
Total Sablefish	42,665,954	100%	14,702,041	100%	12,893,329	100%	100%
COMBINED (Halibut and Sablefish)							
Blocked	37,271,357	37%	23,998,139	52%	17,586,808	54%	31%
Unblocked	63,083,974	63%	21,999,385	48%	15,284,173	46%	69%
TOTAL (Halibut and Sablefish)	100,355,331	100%	45,997,524	100%	32,870,981	100%	100%

Note: QS reported for target communities includes a very small amount of QS held in the BSAI and Area 4; percentages do not change by including this data.

[1]QS held by the maximum number of communities (45) that could qualify under Element 1 (Suboption 3).

[2]QS held by the 44 communities that qualify under Element 1 with no suboptions (excludes Petersburg).

[3]QS held by the 42 communities that qualify under Element 1 with Suboption 2.

[4]Percent blocked/unblocked of all QS issued in the Gulf (see Table 3.7). Note that the data for this column is year-end 1998, while the data for the target communities is year-end 2000.

sablefish and halibut Gulf QS is designated as blocked, while about half (54%) of the QS held currently by the target communities is blocked.

Option a : *same block restrictions as individual holders*

The options proposed under Element 5 range from allowing communities to only purchasing blocked or unblocked shares to not applying block restrictions to communities at all, with several variations in between. **The analysts have assumed that regardless of the restrictions determined (block, vessel class, etc.) for community purchase of QS, the original designations and restrictions of the QS apply if it is subsequently transferred (sold) from a community entity to an individual.**

Option a would apply the same block provision to communities as currently applies to individual holders. The analyst has interpreted this option to mean that, consistent with the current regulations, communities could hold up to 2 blocks in each management area. One consideration is whether a community should be subject to the same restrictions as individual holders. While one community entity may hold the QS, the intent is to lease the resulting IFQs to several individual residents, effectively allowing many smaller operators to exist within the community. The original intent of the block provision was to ensure that QS would be available

to a part-time fleet of smaller operators, in order to mitigate some of the negative impacts to isolated fishing communities. Thus, because block provisions were intended to protect the very stakeholders targeted in this action, and because community use of QS would potentially benefit many individual residents, applying the same limit on the number of blocks that can be held by community entities may be somewhat counter to the goal of this action.

Alternatively, if no limit on the acquisition of blocked QS is applied and, as assumed, blocked QS is the most "affordable" form available, qualifying communities would logically seek to acquire as much of this form of QS as they could. With the entry of potentially as many as 45 qualifying communities into the market for QS, the price "bid" for all forms of QS would be expected to rise. The price of blocked QS would be expected to rise relatively more than unblocked, due to this being the preferred form sought by the new market entrants. In order to buy blocked QS, these qualifying communities must find willing sellers. It will be the least efficient, least profitable holders of QS who will be induced by this price rise to liquidate their marginally profitable (or unprofitable) QS holdings and exit the fishery. But, as suggested earlier in the analysis, these most likely will be the current QS holders residing in the target communities, who, not coincidentally, hold a disproportionate amount of blocked QS relative to that held by all Gulf communities. The result may be that the expected net benefit of the proposed action accruing to these small, isolated, economically undiversified communities may be smaller than at first anticipated, if no limit on acquisition of the "entry level" blocked shares is applied. That is, gains in community QS holdings may (potentially in large part) reflect losses of QS holdings among residents of these same target communities, i.e., a transference of "private" ownership, to "public" (community) ownership.

It is also the case that the amount of quota communities could potentially purchase under this action depends not only on the amount of blocked and unblocked QS available for sale, but on the use caps selected under Element 3. Recall that regardless of the block provisions selected, communities will be held to the individual and/or cumulative caps selected under Elements 3 and 4. If the maximum number of communities qualify (45) and community entities purchase exclusively blocked halibut QS up to a (maximum proposed) 1% use cap in the area in which they are located, there would still be about 48% blocked QS available to individual commercial fishermen in Area 2C, 20% in Area 3A, and 59% in Area 3B.

This same scenario results in a greater impact on the sablefish fishery. If all 45 communities were allowed to purchase exclusively blocked sablefish QS up to the (maximum proposed) 2% use cap in the area in which they reside, they could hold all the blocked sablefish QS in each Gulf area, with the exception of the Western Gulf. This result is based on the least restrictive use cap under Element 3, and also assumes that each proposed eligible community would purchase the maximum allowable amount of QS and would only purchase blocked shares. Given the above discussion and the fact that there is much less blocked QS available in the sablefish fishery on a percentage basis, the Council may want to consider choosing different block restrictions for each fishery.

While the block provision was originally intended to protect the "type" of smaller operator characteristic of those living in communities targeted in this action, there remains the concern that smaller, individual operators who are <u>not</u> residents of the target communities will find it more difficult to purchase blocked QS if communities are allowed to enter the program. Indeed, what emerges from the foregoing discussion is that, as the relative (and absolute) price of blocked QS is bid up by the entry of perhaps as many as 45 qualifying communities, the barriers to (i.e., cost of) entry through private ownership of QS into these fisheries for the small scale and/or part-time participant will be much greater. Thus, there is also an argument for considering the same restrictions for community entities as for individual purchasers, regardless of the intent to lease community IFQs to several community residents. Because of the relative uncertainty associated with the

number and level of participation of eligible communities, the Council may want to mirror the constraints present in the existing IFQ program and adjust the program in the future should it be necessary to meet the goals of this action.

Option b: communities could hold only blocked or only unblocked QS

Option b proposes to allow communities to buy only blocked, or only unblocked QS. Depending on the use caps selected under Element 3, restricting communities to only one type of QS may make it extremely difficult for communities to find available QS to purchase. As discussed in Section 2, the number of unique QS holders has continued to decrease since the start of the IFQ program and now appears to be stabilizing. The CFEC reports that the transfer rate of sablefish and halibut QS has decreased every year in every catcher vessel category since 1995. The box above summarizes the halibut and sablefish QS transfer rates in each management area, comparing the rate at initial issuance to that documented in 1998. The apparent decrease in transfers of QS may indicate that new entrants (both community entities and individuals) may find less available QS for purchase than was available at the beginning of the program.

The constraints imposed by Option b, combined with the other proposed restrictions, may make it practically infeasible for eligible communities trying to purchase a limited amount of available QS. Option b is interpreted as two mutually exclusive options: 1) communities are only allowed to purchase blocked QS, or 2) communities are only allowed to purchase unblocked QS. Firstly, as just treated above, allowing communities to only buy blocked QS is counter to the concerns of small individual operators that also want to purchase blocked QS because it is cheaper and typically represents a more feasible amount of QS for a small or part-time operation.

Under Option b, because of the limited amount of blocked halibut QS in Area 3A and across all areas for sablefish, communities could potentially purchase all of the available blocked shares in those areas, effectively preventing further individual purchases. This is directly contrary to the concerns reflected in the problem statement: to provide for community participation without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities.

Relatedly, because there is less blocked QS currently available, there exists the possibility that communities would not be able to purchase QS up to their individual use caps (refer to Tables 3.20 and 3.21 under Element 3). As mentioned previously in this section, 35% of the halibut QS in Area 3A is blocked, and relatively little of the Gulf sablefish QS is blocked (12%). Thus, in the sablefish fishery, if the maximum 45 eligible communities purchased up to a 2% use cap (Option a under Element 3), that would equate to about 286 million QS units. Table 3.23 shows, however, that there are only about 32.3 million sablefish QS units that are blocked. Thus, there exists only enough blocked QS to accommodate the amount that 5 of the 45 communities would be authorized to purchase, if qualifying communities were restricted to only buying blocked QS. Specifically in Southeast, if all 23 proposed eligible communities wanted to purchase up to a 2% use cap in that area, it would equate to about 30.4 million QS

Halibut QS transfer rate (%)

Area	1995	1998
2C	17.8	6.0
3A	15.6	6.2
3B	13.7	5.7

Sablefish QS transfer rate (%)

Area	1995	1998
SE	9.0	5.2
WY	6.2	4.0
CG	7.3	4.2
WG	5.4	5.7

Source: CFEC report "Changes under Alaska's Halibut and Sablefish IFQ Program, 1995-1998.

units. However, only 9.78 million units are blocked in Southeast, equating to the amount just 7 Southeast communities would be authorized to obtain.

Even if the individual community use caps are set at 1% of Southeast QS and 1% of the combined sablefish QS (Option b under Element 3, Table 3.21), communities would still be restricted to less QS than the caps allow because of the lack of available blocked QS. There exists only an amount of blocked Area 2C sablefish Southeast QS to accommodate the authorized "area specific" ownership limit for 14 communities. Thus, relegating communities to only purchasing blocked QS if they are capable of buying unblocked QS would both add market competition for existing individual operators and may provide unnecessary constraints on communities.

The second possibility under Option b is to restrict communities to purchasing only unblocked QS. This option, which may advantage existing individual participants trying to purchase blocked shares, is somewhat counter to the goal of the overall action. Given the eligibility criteria, most of the communities targeted in this action are remote communities that are typically struggling to remain economically viable and whose resident fishermen have had and continue to have difficulty meeting the cost of entry into or expansion in the commercial halibut and sablefish fisheries. This amendment was proposed to provide an opportunity for the sustained participation of these communities in the IFQ fisheries. Thus, requiring these communities to purchase the most costly QS may work against the primary goal of the action. And, as noted above, with perhaps as many as 45 qualified communities entering into the market for QS under the proposed action, the price of QS will rise, making the cost of acquiring the already relatively more expensive "unblocked" QS that much higher. In addition, there may not be sufficient unblocked QS available for sale in small enough allotments to be practically feasible for communities to purchase, to say nothing of their subsequent ability to find sufficient "local" capacity to profitably fish it. Recall that only 29% of the halibut QS in Area 2C and 34% in Area 3B is unblocked.

The primary considerations under Option b are the amount of blocked QS it would preserve for existing participants to purchase and the constraints it would impose on communities trying to enter the program. The residents of the target communities were initially issued relatively few QS compared to residents of other Gulf communities and have experienced continued transfer of QS out of their communities, since initial issuance. If the intent of the action is to increase participation in the IFQ fisheries by members of these remote communities, there may be more appropriate restrictions to apply to limit community use of QS than relegating communities to purchasing only blocked or only unblocked QS. One example discussed previously is the individual use caps. As long as communities are held to a fixed level of QS, there may be an argument for allowing them sufficient flexibility to be able to purchase and use that QS to the maximum extent possible. In addition, restricting communities to purchasing only blocked QS may undermine the goal of preserving opportunities for individual owner/operators wishing to enter or expand participation in these fisheries, as blocked QS is typically the least costly to purchase.

Option c: communities could hold both blocked and unblocked QS

Option c provides an alternative to the current regulations for individual purchase, but would still allow communities to buy both blocked and unblocked QS. **Suboption 1** would require that community shares be purchased up to the same ratio of blocked and unblocked shares currently in the area, but would not limit the number of blocked shares purchased. Rather, each community would be limited in the number of pounds of blocked shares. The intent of this suboption is to preserve the current ratio of blocked to unblocked QS available in each area, in order to be less disruptive to existing participants and ensure that blocked QS continues to be available for individual purchase.

While it may be less disruptive to current participants, Suboption 1 may not provide the most practical solution to the problem that block provisions are intended to address. By design of the option, each community would have to first purchase unblocked shares and could then purchase blocked shares up to the ratio in the area. Assuming that each community could afford and find available unblocked shares to purchase initially, it is difficult to predict whether communities would then be able to find blocked shares that would meet the ratio for the overall area and still stay below their individual use caps. Because communities are limited in the number of pounds of blocked shares, they could potentially be forced to refrain from buying available QS in their area due to its blocked status, regardless of whether the community has reached its use cap. For example, if a community in Area 2C buys unblocked QS that results in 30,000 pounds of IFQs in a given year, it would have to next buy blocked QS not exceeding an equivalent of 8,700 pounds to maintain the ratio in Area 2C (79% blocked: 21% unblocked). Such a requirement would clearly impose much higher transactions costs on participating communities. The resulting increases in management cost and complexity could be prohibitive for small communities. Recall that many of the target communities do not have elaborate, sophisticated local government institutions, as would be characteristic of larger municipal governments. The administrative and management complexities and costs of this proposed suboption could effectively preclude participation by the smallest of the qualifying communities, listed previously. This conclusion may provide a basis for, and some impetus towards, the proposals to establish one or another of the "affiliated" or "umbrella" management structures discussed under Element 2, to more efficiently distribute administrative costs across a broader base.

Thus, while, as proposed, Suboption 1 would serve to maintain the area's block ratio, it would also ensure that communities would be purchasing blocked QS if they desired a second purchase. A possible concern is whether Suboption 1 would then mandate purchasing behavior by communities that might negatively impact individual operators. Even though unblocked QS may become available for community purchase at an earlier time, a community would have to forego that purchase until the appropriate amount of blocked QS was acquired. Thus, existing participants may or may not be better off under this option, depending on the total amount of QS each community purchases .

Apart from the higher administrative costs and complexity of this proposal, this scenario assumes that the community can find QS both in the appropriate block ratio and the allowable vessel category. Vessel size restrictions are discussed in the next section and are necessary to consider in a discussion of general availability of QS.

Suboption 2 would allow communities more flexibility to purchase blocked QS than is currently allowed for individuals, such that each community would be allowed to purchase: a) 5 blocks; b) 20 blocks; or c) unlimited blocks. Recall that individual holders are allowed to purchase up to two blocks of QS in an area, and holders of two blocks cannot hold any unblocked QS. Staff has interpreted this option to mean that, consistent with the current regulations, communities could hold up to 5, 20, or unlimited blocks in each area. Thus, under (a), communities could still hold more than 5 total blocks, depending on the areas in which each community is allowed to purchase QS. If all eligible communities are allowed to purchase QS in Areas 2C, 3A, and 3B, this option would mean that each community could hold up to 15 blocks of halibut QS and 20 blocks of sablefish QS total. Under (b), each community could hold up to 60 blocks of halibut QS and 80 blocks of sablefish QS total. In addition, each community would be able to purchase unblocked shares. The practical limit of this suboption, however, is that each community would still be restricted by the individual and/or cumulative use caps selected under Elements 3 and 4.

This section has already discussed some of the reasons why a less restrictive block provision may be appropriate for community purchase of QS. Because the purpose of community QS is to lease IFQ to and

benefit several members of the community, there is a question whether communities should be held to the same limitations as individual holders. In addition, the fleets characteristic of the smaller, remote communities targeted in this action are generally small, owner-operated vessels that fish close to shore. Because the original intent of the block provision in the IFQ program was to ensure that QS would be available to this type of operator, it may be counter-productive to restrict an action whose primary goal is to mitigate some of the negative impacts of the IFQ program on isolated fishing communities and provide more opportunity for this type of operator.

However, as noted by the SSC, a relaxation of the block restrictions would be as advantageous to any current quota share holder as it would be to communities. The Council may want to consider the possibility that the relaxation of these constraints could lead to consolidation and changes in ownership that may not be consistent with Council objectives for this fishery.

Suboption 3 would restrict communities to purchasing blocks of QS that exceeded a specified minimum poundage at initial issuance, effectively prohibiting communities from purchasing the smallest blocks of QS. The suboption proposes prohibiting communities from purchasing halibut QS which translated into 2,500 - 10,000 pound blocks and sablefish QS which translated into 3,000 - 10,000 pound blocks at initial issuance (1994). This suboption is intended to allow some community purchase of blocked QS while preserving the smallest (and least costly) blocks for individual holders. Note that under existing regulations individuals can combine blocks of QS if their combined total is worth less than 3,000 lbs in the halibut fishery and 5,000 lbs in the sablefish fishery. The sweep-up provisions were added to the IFQ Program because many of the QS blocks that were issued were very small, and in some cases probably too small to make a fishing trip worthwhile. Indeed, this likely is reflected in the loss of QS from small communities, which prompted the present action.

For purposes of analysis, the range proposed under Suboption 3 is broken out in Table 3.26 in segments of 2,500 pound blocks in order to show the number of blocks that would be available for community purchase should the suboption be implemented at a given threshold. Under any of the thresholds proposed under Suboption 3, community entities would be limited from holding a substantial amount of the blocked QS in each area. The vast majority of blocked halibut QS translated to IFQs of 10,000 lbs or less in 1994: 86% in 2C; 86% in 3A; and 90% in 3B. Similarly, most blocked sablefish QS translated into IFQs of 10,000 lbs or less at initial issuance: 70% in SE; 77% in WY; 82% in CG; and 70% in WG. While 10,000 lbs represents the upper bound of the proposed range, the majority of blocked QS was even lower: about 5,000 pounds or less in the halibut fishery and 7,500 pounds or less in the sablefish fishery.

The greatest impact of these options is in the halibut fishery. In Area 3B, for example, if communities were restricted from purchasing QS that equated to 10,000 pounds or less at initial issuance, about 90% of the total blocked QS in Area 3B would be unavailable for community purchase. Lowering the threshold to 7,500 lbs has only a slight effect: 84% of the blocked QS in Area 3B would remain unavailable for community purchase. **Thus, at the higher end of the range, Suboption 3 has nearly the same effect as that of Option b, in which communities could only hold *unblocked* QS.** The last two columns of the table show how much QS would be potentially available for community purchase should Suboption 3 be implemented at the 10,000 pound threshold. In effect, only 10%-14% of the blocked halibut QS and 18%-30% of the blocked sablefish QS equaled more than 10,000 pounds of IFQ at initial issuance and would be available for purchase by potentially 45 eligible communities.

The intent of the suboption is to provide for community purchase of QS while preserving the smallest blocks for individual use, as they may be the most feasible for purchase by smaller or start-up operators. However, any QS that was blocked in Area 3B at initial issuance equals much more IFQ using the current ratio than it did in 1994, as it is the only area in which the ratio of quota share to IFQ has *decreased* since initial issuance. This is because the TAC has increased dramatically in that area since initial issuance. In effect, the change in ratio has resulted in the development of very large blocks of QS in Area 3B, the maximum of which is almost 80,000 pounds of IFQ. For example, a 10,000 pound block of QS in Area 3B in 1994 is now worth almost 40,000 pounds using the 2001 ratio. Thus, in Area 3B in particular, some blocks of QS are now much larger than may be considered "start-up" blocks, and under Suboption 3, would still be restricted from

Table 3.26: Number of QS blocks[1] by area that met a minimum poundage (2,500 - 10,000 lbs) at initial issuance (1994)

HALIBUT	2,500 lbs		5,000 lbs		7,500 lbs		10,000 lbs		> 10,000 lbs	
	# blocks	%	# blocks	%	# blocks	%	# blocks	%	# blocks	%
2C	756	43%	1,157	66%	1,359	77%	1,517	86%	243	14%
3A	1,055	48%	1,518	69%	1,737	79%	1,896	86%	312	14%
3B	305	46%	504	76%	560	84%	599	90%	68	10%
SABLEFISH	**3,000 lbs**		**5,000 lbs**		**7,500 lbs**		**10,000 lbs**		**> 10,000 lbs**	
	# blocks	%	# blocks	%	# blocks	%	# blocks	%	# blocks	%
SE	107	33%	138	43%	183	56%	227	70%	97	30%
WY	84	39%	97	45%	131	61%	165	77%	49	23%
CG	184	56%	211	64%	242	73%	269	82%	61	18%
WG	43	36%	56	47%	71	59%	84	70%	36	30%

[1]Values represent catcher vessel (B, C, and D category) QS only. Percentage values represent % of total catcher vessel QS blocks.

purchase by communities.

Table 3.27 further breaks out the information provided in Table 3.26, in order to show how communities and existing holders would be affected by the suboption relevant to vessel share class. The table shows that the great majority of the total blocked halibut and sablefish QS in each area equated to less than 10,000 pounds of IFQ at initial issuance in each vessel category, and that the smaller vessel classes more frequently meet this threshold. While all thresholds proposed under Suboption 3 would restrict communities from purchasing a substantial share of blocked QS, the greatest impact is in the D share class. For instance, the majority of blocked halibut QS that is designated D class translated into less than 2,500 lbs at initial issuance: 67% in Area 2C; 73% in Area 3A; and 70% in Area 3B. **Virtually none of the D class halibut QS exceeded 10,000 pounds of IFQ at initial issuance, thus, an indirect effect of implementing Suboption 3 at 10,000 pounds is that communities would be prohibited from purchasing *blocked* D class halibut QS.**

The suboption has a similar, but slightly more modest effect, in the sablefish fishery. Communities would be prohibited from purchasing much of the blocked C class QS in each area: 35%-71% in SE; 43%-82% in WY; 59%-83% in CG; and 35%-71% in WG.

Further, because almost all of the D class halibut QS is *blocked* in each area (99% in Area 2C and 3B; 90% in Area 3A), implementing Suboption 3 at 10,000 pounds would restrict communities to purchasing very little D class halibut QS altogether. Table 3.28 shows how much total QS in each area would be available for community purchase should Suboption 3 be implemented and restrict communities from purchasing blocked QS that resulted in 2,500 pounds and 10,000 pounds of IFQ at initial issuance. These thresholds represent the lower and upper bounds of the range proposed under Suboption 3, and thus represent the least and most restrictive scenarios for community purchase, respectively. This information provides some context as to the effect of this option on the proposed program as a whole. Overall, the range proposed under Suboption 3 would be most restrictive with respect to D class halibut QS, allowing communities to potentially purchase: 3% - 34% in Area 2C, 12% - 34% in Area 3A, and 1% - 31% in Area 3B, depending on the preferred threshold. Because the majority of sablefish QS is unblocked in each area, this suboption has a relatively modest effect on the total amount of sablefish QS communities could potentially purchase.

Table 3.27: Number of QS blocks[1] by area and category that met a minimum poundage (2,500 - 10,000 lbs) at initial issuance (year 1994)

HALIBUT		2,500 lbs		5,000 lbs		7,500 lbs		10,000 lbs		> 10,000 lbs	
		# blocks	%	# blocks	%	# blocks	%	# blocks	%	# blocks	%
2C	B	10	22%	22	49%	29	64%	37	82%	8	18%
	C	228	24%	444	47%	600	64%	721	77%	217	23%
	D	581	67%	691	89%	730	94%	759	98%	18	2%
3A	B	28	21%	59	44%	74	56%	89	67%	44	33%
	C	355	31%	633	55%	785	68%	906	79%	247	21%
	D	672	73%	826	90%	878	95%	901	98%	21	2%
3B	B	43	26%	85	52%	103	63%	120	74%	43	26%
	C	203	48%	336	80%	373	89%	395	94%	25	6%
	D	59	70%	83	99%	84	100%	84	100%	0	0%
SABLEFISH		**3,000 lbs**		**5,000 lbs**		**7,500 lbs**		**10,000 lbs**		**> 10,000 lbs**	
		# blocks	%	# blocks	%	# blocks	%	# blocks	%	# blocks	%
SE	B	4	12%	7	21%	16	48%	19	58%	14	42%
	C	103	35%	131	45%	167	57%	208	71%	83	29%
WY	B	12	26%	13	28%	21	45%	28	60%	19	40%
	C	72	43%	84	50%	110	66%	137	82%	30	18%
CG	B	39	46%	45	54%	54	64%	64	76%	20	24%
	C	145	59%	166	67%	188	76%	205	83%	41	17%
WG	B	20	36%	25	45%	32	58%	38	69%	17	31%
	C	23	35%	31	48%	39	60%	46	71%	19	29%

[1] Values represent catcher vessel (B, C, and D category) QS only. Percentage values represent % of total catcher vessel

Recall that there are also options proposed to restrict the purchase of QS by communities to specific vessel classes. While a separate decision-making point, it is important to note that one option for vessel class restrictions would prohibit communities from purchasing D class QS; thus, depending on the preferred option relevant to vessel class restrictions, some of the concerns outlined in this section may no longer be relevant. If the primary goal under Suboption 3 is to severely limit the amount of D class QS communities could purchase (for example, by implementing a 10,000 lb threshold), a less complicated solution may be to address this concern under vessel class restrictions and explicitly prohibit communities from purchasing D class halibut QS. The options for vessel size restrictions are detailed in the following section starting on page 90.

Staff recognizes the difficulty in analyzing the barriers to community purchase of QS several years after the start of the IFQ program and how block restrictions would compound that effect. This is due to the uncertainty in predicting market transactions and each individual community's future available revenue to purchase QS. It is equally difficult to anticipate how much blocked QS communities would purchase if no block restrictions were provided. While it appears unlikely, concerns remain that communities would flood the market and buy up all the blocked QS available to individual operators. While the desire is to mitigate these concerns, there is a related concern that some of the options provided under Element 5 (Option b, Option c/Suboption 1) would prevent a community from being able to take advantage of the program altogether. Option a appears to be a more feasible alternative that meets the dual goal of enabling communities to purchase QS and protecting existing operators and new entrants. Option c/Suboption 2 would provide additional opportunity for communities to purchase blocks of QS than is currently allowed for individuals. Option c/Suboption 3 would preserve the smaller blocks of QS for individuals and allow communities to buy only larger blocks of QS. Because much of the smaller class halibut QS is blocked, any option that limits the level of blocked QS communities can purchase also directly affects the type (share class) of QS that would available for community purchase.

3.5.2.5.2 Vessel Size Restrictions

(a) Apply vessel size (share class) restrictions to the purchase of QS by communities
(b) Do not apply vessel size (share class) restrictions to the purchase of QS by communities **(preferred alternative)**

Table 3.28: Maximum and minimum amount of TOTAL catcher vessel QS available for community purchase by area and category under Suboption 3 (using the 2,500 lb and 10,000 lb threshold)[1]

HALIBUT		Max. % of total QS (2,500 lb)	QS units	IFQ lbs (2001 ratio)	Min. % of total QS (10,000 lb)	QS units	IFQ lbs (2001 ratio)
Area 2C	B	88%	2,346,877	345,536	57%	1,520,136	223,813
	C	84%	39,249,540	5,778,790	48%	22,428,309	3,302,166
	D	34%	3,057,332	450,137	3%	269,765	39,718
Area 3A	B	98%	67,165,581	7,951,507	93%	63,738,766	7,545,817
	C	85%	83,998,024	9,944,243	63%	62,257,359	7,370,439
	D	34%	4,332,295	512,886	12%	1,529,045	181,019
Area 3B	B	88%	26,385,149	8,090,626	64%	19,189,199	5,884,092
	C	57%	11,782,115	3,612,816	15%	3,100,557	950,741
	D	31%	514,864	157,876	1%	16,609	5,093
SABLEFISH		**% of total QS**	**QS units**	**IFQ lbs (2001 ratio)**	**% of total QS**	**QS units**	**IFQ lbs (2001 ratio)**
SE	B	99%	13,299,700	1,491,985	95%	12,762,338	1,431,702
	C	94%	43,675,165	4,899,560	88%	40,887,389	4,586,822
WY	B	98%	31,616,295	2,342,538	96%	30,971,064	2,294,731
	C	88%	14,604,307	1,082,073	77%	12,778,768	946,814
CG	B	98%	51,965,155	4,436,309	96%	50,904,641	4,345,773
	C	92%	37,753,992	3,223,090	88%	36,112,514	3,082,956
WG	B	93%	14,501,256	1,426,811	87%	13,565,691	1,334,759
	C	82%	5,547,264	545,808	63%	4,261,922	419,340

[1]These values represent the lower and upper bounds of the range proposed under Option c, Suboption 3.

(c) Transferability of QS (permanent) and IFQs (on annual basis [leasing]) from commercial to community is restricted to the following class of shares:
   (i) C and D category
   (ii) B and C category **(preferred alternative for Areas 2C and 3A)**
   (iii) B, C, and D category (no restriction) **(preferred alternative for Area 3B)**

The options for vessel size restrictions under Element 5 address two related issues. **Options a and b** refer to whether the share class restrictions associated with the QS that is transferred from the commercial sector to communities should apply when the QS is held by communities. (It is assumed that regardless of this decision, if the community sells the QS back into the commercial sector, the original share class designations will apply. This is consistent with current regulations for individual use.) **Option c** addresses what type of QS community entities can purchase from the commercial sector. The suboptions under Option c span all combinations of B, C, and D category QS. **Therefore, while the Council must choose either Option a or Option b, that decision is exclusive of the decision under Option c.** This section provides background data on the vessel classes held by the target communities and in the Gulf overall, in order to compare the current status of holdings. An evaluation of the impacts of Options a - c follows that discussion.

Current IFQ regulations define quota share by four vessel categories for the halibut fishery:
   A - catcher/processor (freezers)
   B - catcher vessel of any length
   C - catcher vessel less than or equal to 60 feet
   D - catcher vessel less than or equal to 35 feet.

The sablefish fishery is defined by three vessel categories:
   A - catcher/processor (freezers);
   B - catcher vessel greater than 60 feet; and
   C - catcher vessel less than or equal to 60 feet.

Quota from one vessel category cannot be transferred to another vessel category (with some limited exceptions applicable to CDQ compensation quota). Quota can, however, be "fished down" on a smaller vessel (quota with a B class designation could be fished on a vessel <60 feet) but quota with a smaller designation cannot be "fished up" (quota with a D class designation could not be fished on a vessel >35 feet). The Council added this flexibility to allow owners to acquire more QS. The amendment allows the use of larger vessel category QS on smaller vessels, except in the Southeast area where "fishing down" category
B (>60 feet) QS is allowed only for blocks worth less than 5,000 pounds (based upon 1996 quotas). This amendment became effective August 16, 1996.[27]

[29] 50 CFR 679.40(a)(5)(ii) and 679.42(a)

Table 3.29 shows how much halibut and sablefish QS was held in each vessel class at year-end 1998, the number of holders of that QS, and the relative distribution across management areas. As of year-end 1998, the majority of halibut QS held in Areas 2C and 3A was C category, and the majority of QS held in Area 3B was B category. Across all areas, about half (56%) of the Gulf halibut QS is designated C class and about one-third (34%) is B class, with A and D class QS making up the remainder (10%). In the sablefish fishery, B class QS dominates in every area except Southeast (70% is C class). Overall, 43% of the sablefish QS in the Gulf is B class, and 42% is C class. In addition, more halibut QS holders hold C class QS than any other category: 50% in Area 2C, 47% in Area 3A, and 53% in Area 3B. Similarly, more sablefish QS holders hold C class QS in every area except the Western Gulf: 74% in Southeast; 57% in West Yakutat; 59% in the Central Gulf,

Table 3.29: Halibut and Sablefish QS and number of holders by area and vessel class, year-end 1998

Area and Vessel Class		1998 Amount of QS[1]	% of Area QS	1998 Number of QS Holders[1]	% of Area QS Holders
HALIBUT					
Area 2C	A	1,249,141	2%	29	2%
	B	2,702,528	5%	83	5%
	C	46,512,181	78%	855	50%
	D	9,087,407	15%	758	44%
Area 3A	A	4,755,112	3%	37	2%
	B	68,347,490	37%	277	12%
	C	98,745,121	53%	1,111	47%
	D	12,875,753	7%	923	39%
Area 3B	A	1,593,155	3%	18	3%
	B	29,944,248	56%	175	25%
	C	20,621,534	38%	374	53%
	D	1,681,651	3%	139	20%
Total 2C, 3A, 3B	A	7,597,408	3%		
	B	100,994,266	34%		
	C	165,878,836	56%		
	D	23,644,811	8%		
SABLEFISH					
Southeast	A	6,070,866	9%	40	7%
	B	13,460,403	20%	102	19%
	C	46,436,579	70%	397	74%
W. Yakutat	A	4,349,897	8%	32	9%
	B	32,261,525	61%	119	34%
	C	16,595,803	31%	203	57%
C. Gulf	A	16,969,807	15%	37	7%
	B	53,025,668	48%	171	34%
	C	41,036,948	37%	300	59%
W. Gulf	A	13,594,180	38%	30	15%
	B	15,591,876	43%	91	46%
	C	6,764,956	19%	78	39%
Total Gulf Sablefish	A	40,984,750	15%		
	B	114,339,472	43%		
	C	110,834,286	42%		

Source: CFEC data, Changes Under Alaska's Halibut and Sablefish IFQ Program, 1995-1998.

[1]The counts of QS holders do not represent unique individuals.

and 39% in the Western Gulf. Overall, both fisheries primarily consist of B and C class QS.
Table 3.30 shows the relative amount of QS held by the 45 proposed target communities by vessel class, as compared to all holders of Gulf QS. Note that small amounts of BSAI and Area 4 QS are included in the data for the target communities; however, the overall percentages are not affected. Table 3.30 also reports the QS held by target communities when Petersburg is excluded from the data, in order to show the effect of the largest community on the percentages attributed to each vessel class. Recall that under Element 1, Petersburg would be included as an eligible community under Suboption 3.
Table 3.30 shows that the residents of the target communities hold a slightly higher percentage of C class QS

Table 3.30: Amount of QS held by residents of target communities, by vessel share class designation

Vessel Class	QS held by target communities[1]	% of total	QS held by target communities excluding Petersburg[2]	% of total	% Total Gulf QS[3]
HALIBUT					
A	324,195	1%	272,785	1%	3%
B	9,512,529	16%	5,317,504	17%	33%
C	41,632,770	72%	20,949,097	67%	56%
D	6,219,883	11%	4,756,097	15%	8%
Total Halibut	57,689,377	100%	31,295,483	100%	100%
SABLEFISH					
A	2,811,202	7%	110,055	1%	15%
B	14,816,399	35%	6,925,112	47%	43%
C	25,038,353	59%	7,666,874	52%	42%
Total Sablefish	42,665,954	100%	14,702,041	100%	100%
COMBINED (Halibut and Sablefish)					
A	3,135,397	3%	382,840	1%	9%
B	24,328,928	24%	12,242,616	27%	38%
C	66,671,123	66%	28,615,971	62%	49%
D	6,219,883	6%	4,756,097	10%	4%
TOTAL (Halibut and Sablefish)	100,355,331	100%	45,997,524	100%	100%

Source: CFEC data and report Changes Under Alaska's Halibut and Sablefish IFQ Program, 1995-1998.
Note: The QS reported for target communities includes a very small amount of QS held in the BSAI and Area 4.
[1]QS held by the maximum number of communities (45) that could qualify under Element 1 (Suboption 3).
[2]QS held by the 44 communities that qualify under Element 1 with no suboptions (excludes Petersburg).
[3]Breakdown of total Gulf QS by vessel class (target and non-target communities). See Table 3.10. Note that the data for all holders of Gulf QS is year-end 1998, while the data for the target communities is year-end 2000.

(72%) than all holders of Gulf QS combined (56%). When Petersburg is excluded, the percentage of C class QS held by target communities decreases to 67%, and the D class category increases. Holders of Gulf QS overall hold about twice as much combined A and B class halibut QS than residents of the target communities. Similarly, target communities held about 59% C class sablefish QS at year-end 2000, compared to 42% held by all Gulf sablefish QS holders. Excluding Petersburg decreases the percentage of C class sablefish QS held by residents of the target communities to 52%.

It is reasonable to expect that excluding Petersburg from the data would increase the percentage of D class halibut QS held by the target communities, since many of the remaining target communities are fishing on smaller vessels close to shore. However, excluding Petersburg from the data does not reverse the overall

trend. In sum, the table reflects that the residents of target communities generally hold more smaller class QS than the Gulf holders overall: about half (49%) of the combined sablefish and halibut Gulf QS is C class, and about two-thirds (66%) of the QS held by the target communities is C class. While the total Gulf QS holders hold about 38% B class QS, only about 24% of the target communities' QS is designated B class.

It is also important to consider prices per unit of halibut and sablefish QS, in order to evaluate whether the price of the QS among vessel categories would significantly influence the type of QS purchased by communities. Freezer and catcher vessels produce different products, and catcher vessels of different sizes could produce different volumes for different markets. Catcher vessel size could also affect operating characteristics, including the ability to operate in different weather conditions, fixed costs, variable material costs, and vessel, skipper, and crew shares. This large number of considerations could affect QS among vessel classes in different ways, making it difficult to predict how vessel class should affect QS prices.

The CFEC reports (1999b, 1999c) provide a detailed breakout of QS price estimates by management area and vessel category. In many of the area and vessel category combinations there are so few transactions that to preserve confidentiality the averages were not reported. There are generally enough transactions, however, to report QS prices for the catcher vessel categories in Areas 2C, 3A, and 3B. Rather than report all of the data in those reports, some general observations can be made. For instance, QS prices tend to be higher in the larger catcher vessel categories. In each year 1995-1998, halibut QS prices in the >60 feet (B) catcher vessel category tended to be higher than QS prices in the 36-60 feet (C) category; both tended to be higher than the ≤35 feet (D) category. In Areas 2C through 3B, estimated catcher vessel average prices tended to increase from 1995 to 1997 and then fall in 1998.[28]

It is more difficult to establish pricing patterns among vessel categories in the sablefish fishery. In many of the area and vessel category combinations there are so few transactions that confidentiality standards do not permit reporting the price data. In some of the cases where estimated prices are reported, they are based on small numbers of transactions. In the Southeast, West Yakutat and Central Gulf areas, the price of QS tended to go up over the 1995 through 1998 time period, but there is no consistent trend across vessel categories during those years (CFEC 1999c).

Options a and b: whether to apply vessel size restrictions to community QS

Option a would apply share class designations to QS held by community entities; Option b would not. One goal of the community quota concept is to use fishermen and vessels already available in the qualifying communities, so that resident fishermen and crew members can benefit from the resulting IFQs. The eligibility criteria targets communities that are small and remote and the majority of the proposed eligible communities hold a relatively small portion of the total Gulf QS. Recall that excluding Petersburg, the target communities hold about 10% and 5% of the total Gulf halibut and sablefish QS, respectively. Thus, because there may be substantial obstacles for these communities to participate in the IFQ fisheries, there is an argument for creating a program sufficiently flexible to allow communities to take advantage of the resources already available in the community without jeopardizing the opportunity for new entry or the sustained participation of existing individual holders.

---

[30]These QS price movements occurred during a period of rising halibut TACs, which were accompanied by declines in ex-vessel prices in 1997 and 1998. The ex-vessel price and quantity movements through 1997 were associated with large increases in gross revenues in the fishery. These movements in gross revenues appear to have been reflected in rising QS prices through 1997. In 1998 the decline in ex-vessel prices offset the increases in harvest to lower the estimated gross revenues. This decline in gross revenues could have been reflected in the 1998 decline in QS prices (CFEC 1999b).

Without being able to predict what size vessels will be available in each community, the type of QS currently held by residents of target communities is some indication of the size of vessels currently fishing halibut and sablefish. In the halibut fishery, the great majority (83%) of the QS currently held in target communities is C and D class. Thus, one would expect that primarily vessels ≤60 feet are fishing in those communities. A similar situation exists in the sablefish fishery (59% is C class QS). If these statistics are any indication of the available vessels in the community currently, one would expect that community entities would attempt to purchase C and D class QS, not only because it is the lowest in cost among the vessel categories, but also to make the most of available vessels.

Because a lower percentage of the QS in Area 3B is designated for the smaller vessel classes, there may be a concern in creating inequities among eligible communities due to vessel size restrictions (Option a). Area 2C, for instance, has about 93% C or D class halibut QS, while Area 3B has only 41%. Thus, it appears that communities in Area 2C may find it easier to purchase QS fishable by local vessels in proximity to their communities than will communities in Area 3B. However, this argument does not account for the existing market conditions in Area 3B. Area 3B has less smaller class QS because the fishery is typically prosecuted with larger vessels. Anecdotal evidence suggests that even some new entrants with smaller vessels buy B or C class QS in Area 3B, with the anticipation of eventually buying a bigger vessel. Thus, even though there is less D class QS in Area 3B, that does not necessarily mean that QS will be less available for community purchase. Existing QS holders in Area 3B contend that many current D class QS holders in Area 3B are struggling to sell their QS with no available buyers. These are holders that were either initially issued D class QS or bought into the fishery with a smaller vessel and would now like to expand their operations to use a larger vessel. As a result of the lack of a market for D shares in Area 3B, these holders do not have the capital to invest in a larger vessel or buy B or C class QS. This situation is evidenced by an IFQ proposal submitted in 1998 to allow D class QS to be "fished up" on larger vessels in Area 3B. Thus, the fact that there is less C and D class QS in Area 3B does not necessarily mean that there is less C and D class QS *available* for community purchase in Area 3B than in Area 2C or 3A.

The primary consideration under this option is the potential ability for communities to purchase the smaller vessel class shares and lease the IFQs to fishermen with larger vessels. The discussion so far has focused on the intent of the action to lease community IFQs to community residents. The general implication of this section is that because there are likely a limited number of vessels in these communities and they are typically smaller, there may not be a compelling reason to apply vessel share designations to community-held QS. **Yet this is dependent on the requirement that community QS is leased only to residents of eligible communities; such a provision is proposed under the performance standards in Element 6.** If communities are permitted to acquire C and D class QS and vessel share designations do not apply to community QS and there is no provision to ensure leasing to community residents, there may be an opportunity for community entities to receive a substantial financial gain by leasing to non-residents with larger vessels. This scenario would not lead to improved access opportunities for local residents of the eligible communities, and is thus not consistent with the goal of the overall action. This type of unintended effect would only occur if the Council chooses to allow the leasing of community-held IFQs to residents of non-target communities.

In sum, there may not be a compelling reason to apply vessel share designations to QS when it is held by community entities, and the flexibility to use vessels currently available in these remote communities may be worth considering. Currently, the target communities appear to follow the same general trends regarding the type of QS most prevalent in each Gulf management area, and only about 16% of the catcher vessel QS in the target communities is B class (for use on vessels >60 ft). Given the makeup of these communities and the limited vessel availability, it is fairly unlikely that communities would purchase smaller class QS (C and D)

to be fished on vessels greater than 60 ft if the vessel share designation did not apply. It is more likely that communities would buy the type of QS that is available for purchase and fish it on smaller vessels. As stated previously, this is allowed under the current regulations for individuals. Target communities that are relatively small and limited in the number of resident fishermen available may need the flexibility to use the QS on whatever size vessel is available in the community. However, unless there is a specific provision included to ensure that community IFQs are leased only to residents of the eligible communities, not applying vessel class designations to community-held QS would potentially allow community entities to purchase the smaller vessel classes of QS and lease the IFQs to larger vessels owned by non-residents.

Option c: type of QS communities can purchase

The options proposed under **Option c** address a different, yet related, issue. These options restrict the initial transferability of QS from the commercial sector to communities to the following class of shares:

(i) C and D category
(ii) B and C category
(iii) B, C, and D category

Under the current regulations, the transfer of A category (freezer) QS is not restricted to individuals, unlike the B, C, and D category (catcher vessel) QS. As described in Section 3.1.1, any U.S. citizen or entity may receive freezer vessel QS through transfer, but only those persons who were originally issued catcher vessel QS or those who qualify as IFQ crew members by working 150 days on the harvesting crew in any U.S. commercial fishery may purchase catcher vessel QS.[29] Thus, under the status quo, communities could receive A category QS through transfer, but not catcher vessel QS.

Since communities can currently receive A category QS through transfer (and many CDQ corporations have done so in the past, as confirmed by the RAM Division), the options proposed only address the transfer of catcher vessel QS, namely B, C and D category.

In order to evaluate the impacts of allowing communities to purchase B, C, or D category QS, or any combination thereof, it is necessary to consider how much of each class of QS would potentially be available for community purchase. As discussed previously, the distribution of different vessel classes of QS varies in each management area and would affect the availability of QS to community recipients (Table 3.29). Note that whether or not the QS is used according to its vessel designation depends on the Council's decision under Options a and b; Option c *only* addresses whether or not communities can buy a specific class of shares from the commercial sector.

Given the uncertainty as to the size of vessels available to fish the IFQs in each individual community, it is difficult to predict what class of catcher vessel shares communities would prefer to purchase if given the opportunity. However, the previous section emphasized that the target communities currently hold primarily C class shares, for use on vessels less than or equal to 60 feet. In addition, QS prices tend to be lower in the smaller catcher vessel categories. In each year 1995-1998, halibut QS prices in the >60 feet (B) catcher vessel class tended to be higher than QS prices in the 36-60 feet (C) category; prices were even lower in the ≤35 feet (D) category (CFEC 1999b). One may conclude then, that communities would prefer to purchase C and D

[31]See 50 CFR 679.41(g); "IFQ crew" are defined in 50 CFR 679.2.

class catcher vessel shares over B class, if that is the size vessel most likely available in the community and the least costly type of QS.

In evaluating the IFQ fisheries, there are some definite area limitations with regard to accessing specific vessel share classes. Table 3.31 provides the percentage of total catcher vessel (B, C, and D) QS that could potentially be available for community purchase by area, given the options under consideration. Note that because the sablefish fishery only operates under B and C catcher vessel designations, only Option (i) would limit communities in the sablefish fishery, in that they could only purchase C class shares. Option (ii) would effectively provide for no transferability restrictions on community purchases of sablefish QS. Each of the options under Option c will be explored first for the halibut fishery and then for sablefish, with the assumption that the Council could opt to select a different option for each fishery.

Effects on the halibut fishery

Option (i): communities could only purchase C and D shares
In Area 2C, about 80% of the catcher vessel QS is C class and 15% is D class. The B class shares make up the remaining 5%. Thus, allowing communities to only purchase C and D shares under Option (i) would only restrict communities from accessing 5% of the total halibut catcher vessel QS available in Area 2C (Table 3.31). However, not knowing how many communities will only have access to vessels >60 feet, it is not possible to predict what level of impact this restriction could impose. In addition, C and D shares have been the most desirable in the past to new entrants and existing participants in Area 2C, thus, it is uncertain what protection is gained for current participants by limiting community purchase to only these classes.

Option (i) has slightly different implications for Areas 3A and 3B. While the majority (62%) of halibut catcher vessel QS in Area 3A is C and D share, about 38% is B share. Thus, restricting Area 3A communities from purchasing about one-third of the Area 3A catcher vessel QS may impact communities' ability to fully participate in the program. If, for instance, the 15 target communities located in Area 3A cannot find enough C and D shares available for purchase in Area 3A, they may be disposed to purchasing QS outside of their area. This could impact the amount of QS being purchased by communities in adjoining areas, and could possibly conflict with the goal of having communities purchase QS in close proximity to their traditional fishing grounds.

Option (i) could have a similar effect in Area 3B, as only 43% of the catcher vessel QS in that area is C and D class, and the majority (57%) is B class. However, note that there are only 7 proposed eligible communities located in Area 3B (as opposed to twice that many in Area 3A), so theoretically the amount of C and D class QS available per community is about the same in Area 3A and Area 3B under this option.

It is important to note, however, that even if communities are restricted to buying C and D class shares in

Table 3.31: Percent of total catcher vessel QS available to communities and % of current holders under each option for vessel use restrictions[1]

Area in which QS is located	Option (i): C and D		Option (ii): B and C		Option (iii): B, C, and D	
Halibut	**% QS**	**% holders[2]**	**% QS**	**% holders**	**% QS**	**% holders**
Area 2C	95%	95%	85%	55%	100%	100%
Area 3A	62%	88%	93%	60%	100%	100%
Area 3B	43%	74%	97%	79%	100%	100%
Sablefish						
Southeast	78%	80%	100%	100%	100%	100%
W. Yakutat	34%	63%	100%	100%	100%	100%
C. Gulf	44%	64%	100%	100%	100%	100%
W. Gulf	30%	46%	100%	100%	100%	100%

Source: CFEC data, Changes Under Alaska's Halibut and Sablefish IFQ Program, 1995-1998.

[1]Note that this table only applies to catcher vessel QS. Because there is no D category in the sablefish fishery, only Option (i) would create vessel class restrictions for communities holding sablefish QS.

[2]The % holders does not represent percentage of unique individuals, a person can hold QS in more than one vessel class.

limited areas such as Area 3B, the C and D class shares are held by more individual holders than the B class shares. The B class shares tend to be consolidated into fewer hands than the smaller class shares (Table 3.29). Thus, even though Area 3B only has 43% C and D class shares combined, those shares are held by about 74% of the total number of catcher vessel holders in Area 3B, which may create a more feasible purchasing environment for the smaller class shares. In addition, anecdotal information suggests that many D share holders in Area 3B are unable to find buyers in the current market. Thus, an indirect effect is that it may benefit D share holders in Area 3B to expand the available universe of buyers to include communities. Similarly, even though Area 3A holds 62% C and D shares, those shares are held by about 88% of the total holders in Area 3A.

In sum, allowing communities to purchase only C and D class QS under Option (i) would effectively restrict communities from purchasing the largest class of catcher vessel QS (B). In addition to increasing competition for the C and D class pool that may be more desirable to new entrants and existing smaller operators, this option may create inequities between Area 2C communities and Area 3A and 3B communities based on the availability of C and D class shares. There does not appear to be a compelling reason to restrict communities from purchasing B class QS. It is unlikely that this would be the first choice of most of the target communities both because of the higher cost and because these smaller, remote communities may primarily have access to smaller vessels.

Option (ii): communities could only purchase B and C class shares

Comparatively, Option (ii) would restrict communities to buying only B and C class shares. Restricting communities from buying D class halibut QS would limit them from purchasing 15%, 7%, and 3% of the total catcher vessel QS available in Areas 2C, 3A, and 3B, respectively. While this class of QS makes up the smallest percentage of the catcher vessel QS in the Gulf, it is held by 45%, 40%, and 20% of the total Gulf holders, respectively, meaning that communities would be restricted from negotiating a purchase of QS with a substantial percentage of the current holders. In addition, from 1995 to year-end 1998, the highest rate of

QS transfer has been in smallest vessel class shares in every regulatory area, with the exception of Area 2C (see box).

Option (ii) would essentially allow communities access to about 85%, 93%, and 97% of the catcher vessel QS in Areas 2C, 3A, and 3B, respectively (Table 3.31). Compared to Option (i), Option (ii) increases the potential QS pool available to communities in Area 3A and 3B substantially, and only slightly decreases the pool available in Area 2C. However, as noted above, the pool of QS holders also decreases substantially in Area 2C and Area 3A, and increases slightly in Area 3B. This is because the majority of holders in Area 3B hold B class shares, while the majority of holders in Area 2C and 3A hold C class shares.

Halibut and sablefish QS transfer rates by vessel class, average 1995-98

Halibut Area		QS transfer rate (%) ave. 1995-98	Sablefish Area		QS transfer rate (%) ave. 1995-98
2C			**SE**		
	B	15.9		B	6.9
	C	11.6		C	8.1
	D	15.0	**WY**		
3A				B	5.1
	B	9.7		C	8.7
	C	12.0	**CG**		
	D	19.2		B	6.3
3B				C	9.9
	B	8.6	**WG**		
	C	15.9		B	5.6
	D	22.5		C	16.1

Source: CFEC report "Changes under Alaska's Halibut and Sablefish IFQ Program, 1995-1998.

The intent of Option (ii) was to help ensure that D class quota share would continue to be available for new individual entrants and existing QS holders that wish to expand their operations. This is likely most relevant to Area 2C participants, who would be more vulnerable to communities locking up the D class QS as the number of proposed eligible communities in Area 2C (23) is about the same as the combined number of Area 3A and 3B communities (22). Because communities could still use B and C class QS on vessels <35 feet, this option is only restrictive to communities in that they may have to pay a higher cost for quota share (B and C) if current pricing trends continue. It is uncertain whether the higher cost of B and C class shares would be prohibitive to communities entering the program. Thus, although Option (ii) may have a greater impact on the communities' financial ability to purchase QS, unlike Option (i), it would not affect the ability of communities to make use of any size vessel in the community.

Another issue to consider under Option (ii) is the situation referenced previously in Area 3B. There is currently an IFQ proposal to allow Area 3B holders to fish D class QS on vessels >60 ft. This proposal has not yet been addressed, but the situation persists that many Area 3B holders cannot find buyers for their D class QS. There may be an indirect benefit in expanding the universe of buyers to include communities, as it may create a better market opportunity for existing Area 3B holders of D class QS while providing for increased participation by communities. This opportunity is precluded under Option (ii).

Option (iii): communities could purchase B, C, and D class shares

Option (iii) would allow communities the opportunity to purchase any class of QS without restriction. Clearly, while communities would benefit from this added flexibility, concerns have been noted regarding the preservation of D class QS for existing participants. This option would allow communities to compete with individual holders for all types of QS on the open market. The concern is that communities will have access to more capital to fund the purchase of QS than individual holders, thus "locking up" all the smaller class shares. This concern is likely most significant in Area 2C, which has the highest percentage of D class QS than any other area. While communities may have an advantage over individuals in securing funding, it is difficult to predict the level of funding that will be available to communities on either an individual or regional

basis (see Section 3.4.4.2.2). Regardless, the overall intent is for the community QS to benefit several individual residents within the community, which may make this type of protection unnecessary.

Overall, target communities would benefit most from Option (iii), in which no vessel restrictions are placed on community purchases of halibut QS. However, the effects of Options (i) and (ii) will vary with the regulatory area. Area 3B communities may benefit more from Option (i) than Option (ii), even though the amount of available Area 3B QS and the pool of QS holders would increase under Option (ii). This is because there may be more sellers of D class QS in Area 3B, due to the existing holders' desire to fish on larger vessels. Assuming the 7 target communities located in Area 3B would want to purchase QS in that area, Option (i) would advantage those communities by allowing them a better market in which to purchase QS. For the same reasons, communities in Area 2C would benefit more from Option (i) than Option (ii). Option (i) allows access to a larger pool of QS and QS holders in Area 2C between the two options. The effect of the options is not clear for communities located in Area 3A. While the QS pool increases by 31% under Option (ii), the percentage of holders that can sell the QS decreases by 28%. It is difficult then to determine whether Option (i) or (ii) would be more advantageous to Area 3A communities, given that the actual availability of QS is going to depend on the market at any given time. This fundamental economic fact is not unique to Area 3A, nor to this option.

Option (ii) may be preferred by some individual participants in the IFQ program, but not by others. Option (ii) would restrict community purchases to B and C class shares, thereby reserving the smaller, least costly D class shares for existing operators and new entrants. As noted previously, however, some current holders of D class QS in Area 3B are finding it difficult to sell their QS and may benefit from allowing communities the purchase opportunity. Compared to Option (i), Option (ii) increases the potential QS pool available to communities in Area 3A and 3B substantially, and only slightly decreases the pool available in Area 2C. However, as noted above, the pool of QS holders also decreases substantially in Area 2C and Area 3A, and increases slightly in Area 3B.

Effects on the sablefish fishery

The sablefish fishery only operates under B and C class catcher vessel shares, thus the possibilities under Option c are further diminished. Essentially, only two discrete options exist for communities to purchase sablefish QS: Option (i) - C and D category; and Option (ii) - B and C category (no restrictions). Option (i) would essentially limit communities to only purchasing C category sablefish QS, as D category does not apply to this fishery.

Option (i): communities could only purchase C shares

Option (i) would restrict communities to purchasing only C class sablefish QS. The majority (59%) of the sablefish QS currently held by target communities is C class. This may indicate that C class is preferred over B class, because of a lower price or the size of vessels available. Regardless, without knowing how many communities will have access to vessels >60 feet, it is not possible to predict what level of impact this restriction would impose. In addition, the smaller class shares have been the most desirable in the past to new entrants and existing small operators, thus, it is uncertain what protection is gained for current participants by limiting community purchase to only C class QS. Indeed, should communities be restricted to purchasing only C class QS, the price of these shares will likely be bid up in absolute terms, as well as relative to the price of B class shares. This implies that fewer C class shares may be held by the private sector.

Table 3.31 shows that under Option (i), target communities would be limited to the following: 78% of the catcher vessel QS in Southeast; 34% in West Yakutat; 44% in the Central Gulf; and 30% in the Western Gulf. These shares are held by 80%, 63%, 64%, and 46% of the total catcher vessel QS holders in those areas,

respectively. Thus, even though target communities may prefer to purchase C class QS, because the majority is B class in each area except Southeast (Table 3.29), restricting communities to only purchasing C class shares may make it prohibitively difficult for communities to find available QS for purchase. This is especially relevant in West Yakutat, Central Gulf, and the Western Gulf, areas in which only about one-third of the QS is comprised of C class shares. Given the lack of C class QS available in these areas, Option (i) may create an inequity between communities located in Southeast versus all other areas.

Option (ii): communities could purchase B and C shares
Option (ii) would allow communities the opportunity to purchase any class catcher vessel sablefish QS without restriction. As noted in the discussion of the halibut fishery, communities would likely benefit from this added flexibility, even though the level of impact is not quantifiable. Because the majority of the Gulf sablefish QS is B class, it may be more reasonable to allow communities to compete on the open market for all types of QS than restrict them to purchasing a limited amount of C class QS and increasing competition for the class of QS that small individual operators would also most desire. In this sense, Option (ii) may be preferable when considering the impact on individual participants in the sablefish fishery.

3.5.2.5.3 Sale Restrictions

(a) Communities may only sell their QS:
1. after 3 years of ownership
2. to other communities
3. for one of the following purposes:
   (A) generating revenues to sustain, improve, or expand the program
   (B) liquidating the entity's QS assets for reasons outside the program. In that event, NMFS would not qualify that entity or another entity to hold QS for that community for a period of 3 years. **(preferred alternative)**
4. no sale restrictions

(b) Communities may:
(a) divide QS blocks that result in IFQs in excess of 20,000 lbs in a given year in half upon sale
   Suboption 1: Allow only Area 3B QS blocks that result in IFQs in excess of 20,000 lbs in a given year in half upon sale
   Suboption 2: "sweep up" blocks of less than 10,000 lbs and sell up to 20,000 lbs blocks

The options for sale restrictions under Element 5 address two related issues. Option a refers to whom, when, and for what purpose communities may sell their QS. Option b addresses whether communities should be able to divide and/or sweep up quota share blocks beyond what is allowed under the current regulations for individuals. These options are therefore exclusive of one another and addressed independently.

<u>Option a: restrictions on sale of QS</u>

Option a includes four parts, three of which would restrict communities in the sale of their QS. Option 1 would require communities to hold their QS for a minimum of three years before selling it. Option 2 would restrict communities to selling their QS only to other qualifying communities. Option 3 would restrict communities to only selling QS for the purpose of improving their position in the program, unless the community chooses to exit the program for a period of at least 3 years. These three options are independent of one another, and the Council could therefore select any combination (or none) of these options. Selecting

none of these options effectively results in choosing Option 4: no sale restrictions, which is included in the context of the discussions of Options 1, 2, and 3. Overall, Option a considers *additional* restrictions that would be specific to community ownership; it is assumed that communities would need to comply with all other current regulations regarding the sale of QS.

Option 1: communities must hold QS for at least 3 years

Option 1 under Option a would require communities to hold their QS for a minimum of 3 years. The overall intent of the proposed action is for communities to hold the QS for long-term use by community residents. If this option is intended to force communities to hold the QS for the long-term, instead of re-selling it for profit, a three-year commitment may not be sufficient to meet this intent. It is possible that this restriction may make communities consider more seriously their QS investment and whether there is a reasonable likelihood that they can find a qualified resident to fish the IFQs. However, small, remote communities with both limited funds and few alternative economic development opportunities are not likely to purchase QS if there are not residents ready and able to lease the IFQs, regardless of this restriction.

Regardless of whether Option 1 would have any meaningful effect on a communities' investment decision, there may be a major disadvantage to restricting the sale of community QS in this way. Communities which have purchased QS with the intent of leasing the IFQs to benefit community residents and have subsequently not realized those benefits for various reasons (sunk vessel, the qualified resident relocates outside the community, etc.), would be negatively affected by Option 1. If a better business decision under the circumstances would be to sell the community QS and re-invest the capital for the benefit of the community, it may negatively impact communities to force them to hold the QS. While the intent of the action would be for the IFQs to be used by community residents, if for some reason this becomes infeasible, it would be more efficient to allow the community to sell the QS to someone who can use it, rather than forego potential benefits from the fishery. Communities would be better off with this flexibility, as would individual holders who would gain access to a new pool of QS for purchase. In addition, there remains the question as to whether communities should be forced to hold the QS for a minimum time period when this type of restriction does not apply to individual ownership.

Option 2: communities can only sell their QS to other communities

Option 2 under Option a would restrict communities to selling their QS only to other communities. **The primary effect of this option would be to create a separate class of QS that is held and traded only by communities.** Any QS that is purchased from the commercial sector by community entities would remain in the target communities until the Council acted to end the program. This option would effectively create permanent community ownership and a one-way transfer of QS from the commercial sector to communities for the duration of the amendment.

Given that the major concern expressed with regard to this amendment is the possibility that communities will "lock up" a substantial amount of QS that would otherwise be available to individual holders, Option 2 would exacerbate that concern by ensuring a one-way transfer system. This option would effectively create an entirely new class of community QS, as opposed to expanding the existing program to include communities in the universe of current buyers. A permanent accumulation of QS to eligible communities would irreversibly deplete the pool of QS available for private purchase and substantially limit the opportunity for communities to divest of their QS holdings (SSC 2001). The Council may wish to consider whether this restriction is necessary to meet the goals of the proposed action and whether it is consistent with the problem statement.

The overall impact of this option may depend heavily on the individual community use caps selected under Element 3, as that would determine how much QS could potentially be held by communities without the

option to transfer back into the commercial sector. Recall that under Element 3, the maximum total halibut and sablefish QS that could be purchased by communities is 43% - 45% of the combined Area 2C, 3A, and 3B halibut QS, and 86% - 90% of the combined area sablefish QS, depending on the final number of eligible communities (Option a, Table 3.22). The minimum total halibut and sablefish QS that could be purchased by communities under the proposed use caps is 17% - 18.2% of the combined Area 2C, 3A, and 3B halibut QS, and 9.2% - 9.8% of the combined area sablefish QS (Option e, Table 3.22). Recall also that about 64% of the halibut QS in the combined Areas 2C, 3A, and 3B is comprised of C and D class, and about 42% of the Gulf sablefish QS is C class (Table 3.29). Thus, depending on the use caps and vessel restrictions selected, communities could potentially purchase all of the smaller class QS. Option 2 could therefore have significant impacts on individual IFQ participants or new entrants that are trying to purchase QS that is now "locked in" as community QS. A substantially reduced QS pool available to individual holders, especially in the smaller vessel classes, could ultimately affect the price of QS and disrupt the current market for individual holders.

Similar to the discussion under Option 1, the Council may also want to consider whether this option would introduce excessive inefficiencies by prohibiting the sale of QS held by communities to individual buyers. Should a community find for any reason that it cannot lease its IFQs, limiting the pool of available buyers to other communities may inhibit communities from being able to find a willing buyer, or substantially increase the administrative efforts and time necessary to do so, potentially foregoing benefits from the fishery during that time period. Although there are 45 proposed eligible communities, many communities may only wish to buy QS in the area in which they are located. For example, should an Area 3B community need to sell their QS in Area 3B for any reason, there are only six other communities in Area 3B that would represent potential buyers.

In addition, regardless of a community's area preference for owning QS, the suboptions under Element 3 could potentially restrict communities to purchasing QS only in the area in which they are located and an adjoining area. These same suboptions restrict communities in Area 3A or 3B from buying QS in Area 2C. The combination of these options may result in some inequities among communities by area and shrink the available pool of community buyers even further under Option 2. Under the geographic restrictions proposed under Element 3 and the sale restrictions under Option 2, communities that want to sell their QS would be limited to the following universe of potential community buyers:

- Communities in Area 2C could hold Area 2C and 3A QS. A community in Area 2C could sell its Area 2C QS to the other 22 Area 2C communities and its Area 3A QS to 37 communities (22 in Area 2C and 15 in Area 3A).

- Communities in Area 3A could hold Area 3A and 3B QS. A community in Area 3A could sell its Area 3A QS to all 44 other communities and its Area 3B QS to 21 buyers (14 in 3A and 7 in 3B).

- Communities in Area 3B could hold Area 3A and 3B QS. A community in Area 3B could sell its Area 3B QS to 21 buyers (14 in 3A and 7 in 3B) and its Area 3A QS to all 44 other communities.

While the intent of the amendment is to encourage long-term ownership of QS by community entities, Option 2 clearly limits the available buyers should a community need to sell its QS. If for some reason the IFQs cannot be leased within the community, it would be more efficient to allow the QS to be sold to someone who can use it, rather than forego potential benefits from the fishery. Under this action there would be a very small universe of potential community buyers (45) relative to the universe of potential individual buyers (3,541 unique halibut QS holders, 875 sablefish QS holders, plus any new entrants). Thus, communities would

clearly be better off with access to the same universe of buyers as individual holders, and individual holders would also be better off maintaining access to the entire QS pool. On a net benefit level, this would decrease the risk that the IFQs would not be used in any given year.

In sum, the benefits associated with adopting Options 1 and 2 are not clearly understood. A general consideration may be whether to add sale restrictions to communities that are not applicable to individual holders. The intent of the proposed action is to provide an opportunity for communities to purchase QS; once communities have purchased QS with their own funds, the Council may want to consider how much control over these purchases is warranted. Both options substantially limit the opportunity for communities to divest of their QS holdings.

The overall concern with adopting this action, however, is more relevant to its effect on the market for existing participants and potential new entrants. The proposed sale restrictions appear to exacerbate the concern that individual holders will be negatively affected, without providing significant benefits to any stakeholder. Both options add restrictions that increase the risk that the benefits from the IFQ fisheries will not be realized. Moreover, a permanent accumulation of QS by eligible communities under Option 2 would irreversibly deplete the pool of QS available for private purchase.

Option 3: communities can only sell QS to improve participation in the program
Option 3 would limit communities in the sale of their QS to one of the following purposes: (A) generating revenues to sustain, improve, or expand the program; or (B) liquidating the entity's QS assets for reasons outside the program. In the event that the community chooses to sell their QS for reasons outside of the program, NMFS would not qualify that entity or another entity to hold QS for that community for a period of three years. Thus, that community would not be eligible to participate in the program for three years.

This sale restriction makes it clear that community QS can be treated as an internal asset to further the communities' participation in the program, but cannot be used as an external asset of the community at large. In this sense, communities could sell QS for such purposes as repayment of debt incurred when QS was acquired, to provide for program management or administrative costs, or to obtain QS of a different share class, status, or area. However, generation of general community revenue may be outside the purpose of this program as stated in Section 3.1. Thus, Option 3 would serve to narrow the use of revenues generated from the sale of QS to only those that would expand or improve the communities' participation in the program. If an eligible community entity chose to liquidate any portion of their QS holdings for purposes outside of the program, such as to fund public events, services, or other projects, then the community would be restricted from purchasing QS for three years. This restriction would apply to the community entity that purchased QS and sold it or to any other entity who wants to submit an application to hold QS for the community.

The sale restriction proposed in Option 3 is also intended to address the unique pressures that a community entity holding QS might experience as part of a small coastal community. Unlike individual QS holders, community entities are likely to receive funding requests to assist with community events and projects that are not related to the IFQ Program. In the small coastal communities targeted by this action, it is also likely that some board members representing the entity holding the QS would be active elsewhere in the community and commonly sought out for public funding and assistance. An example of this situation is in the Community Development Quota Program, in which the majority of the revenues derived from the use of CDQ is restricted to fisheries-related projects, despite common requests from participating communities to fund other community development projects. This restriction may benefit community entities in that it would be easier for these broad-based community participants to refuse public funding requests if the rules of the program

explicitly disallow this action. An explicit prohibition removes the option to respond positively to potential requests for QS to be sold in order to fund other community needs.

A related advantage of this type of restriction is that it would help ensure that the program is being implemented for the purpose in which it was intended, to create opportunities for rural community residents to increase participation in the IFQ fisheries. The more the QS assets are used to strengthen the program, the more likely the program stays on track in promoting local fishing and processing employment.

There are also associated disadvantages with this option. Should a community choose to sell its QS for reasons other than to improve, expand, or sustain its participation in the program, the restriction provides for a three-year period in which the community would not be eligible to hold any amount of QS and participate in the program. This applies to a community which has sold either a portion or all of its QS. For instance, a community that holds a total of 100 QS units and then sells 25 QS units for a reason outside the purposes of the program would be required to sell its remaining 75 QS units and discontinue participation in the program for three years. This creates a significant disadvantage to community entities which may have a compelling, but unauthorized, reason to sell a portion of their QS but do not wish to discontinue participation altogether. Staff would expect a significant reduction in negotiating power held by communities in the market if they are required to sell their remaining QS by a specified time. Indeed, mandating that these communities divest themselves of QS, in what under these circumstances would surely be a "buyer's market," could impose severe economic hardship on these small, isolated, and (as argued as the basis for the current proposed action) "marginally viable" communities. Communities would expect to receive fewer benefits from that transaction, and the program as a whole, if the transfer is mandated by Federal regulations.

This provision, however, would allow communities to make a choice to fund other priorities with assets derived from the QS without being eliminated from the program in perpetuity, as it would allow a community entity to apply for eligibility as a qualified entity representing the community of interest after three years. While the program is intended as an opportunity for community residents to sustain participation in the IFQ fisheries for the long-term, this provision would help account for specific, unique situations in which a community entity feels compelled to sell their QS holdings for other purposes.

The restriction proposed under Option 3 may again spur the question of whether communities should be subject to additional restrictions on the use and sale of their QS beyond those imposed on individual holders. However, similar to other elements of the program, should the Council choose to implement this restriction to ensure that communities are not using QS to generate general community revenues, the Council may consider relaxing or modifying this constraint upon a future program review.

Implementation of Option 3 *(provided by NMFS)*
If the Council selects Option 3, NMFS/RAM would require communities to submit information to NMFS prior to the sale of QS to describe the reasons for the sale. Presumably, if the QS were sold, a community QS holder could argue that the sale was used to generate funds that may be used in the future for additional QS purchases. It may be difficult for NMFS to determine whether a community QS holder is selling QS to generate revenue for the program or for reasons unrelated to the program.

However, if NMFS received information that quota had been sold for reasons other than to generate revenues to sustain, improve, or expand the program, or to meet the requirements of court proceedings or upon the dissolution of the representative non-profit entity, NMFS would withhold annual IFQ permits on any remaining QS and would disqualify that community from holding QS for the time period specified. The community entity could use the existing administrative appeals process employed by RAM to contest any decision to withhold IFQ permits or to disqualify a community from holding QS for 3 years. As an example,

when RAM makes an adverse determination on an application, or proposes any action that disadvantages a QS/IFQ holder, the affected party is given time to appeal the decision to the NMFS Office of Administrative Appeals before RAM withholds an IFQ permit. The determination of whether QS would be withheld or withdrawn would be addressed as an administrative matter, using the same process as is currently in place for the IFQ Program. In this case, community entities would testify as to the purpose of the sale, and if NMFS discovers that the purpose of the sale was other than that testified on their application, the community QS holder could be prosecuted for fraud.

Alternatively, the Council could establish this sale restriction as a voluntary guideline to be followed by the communities rather than recommending NMFS implement regulations to enforce this alternative.

Option b: provisions to divide/sweep-up blocks of QS

Communities may:

1. divide QS blocks that result in IFQs in excess of 20,000 lbs in a given year in half upon sale
   Suboption 1: Allow only Area 3B QS blocks that result in IFQs in excess of 20,000 lbs in a given year to be divided in half upon sale
2. "sweep up" blocks of less than 10,000 lbs and sell as blocks of up to 20,000 lbs

Option b under Element 5 includes two exclusive options. Option 1 would allow QS blocks owned by communities in excess of 20,000 lbs to be divided in half upon sale, and a related suboption would apply this provision only to Area 3B blocks. Option 2 would allow communities to sweep-up blocks of less than 10,000 lbs and sell them as up to 20,000 lbs blocks. Thus, while the options previously discussed under Option a would further restrict communities in the sale of QS, Option b proposes to increase the flexibility communities have in selling QS. Recall, however, that the block restrictions proposed under Element 5 include an option to prohibit communities from purchasing blocked QS altogether. Option b only applies to the sale of blocked QS; thus, the remainder of the discussion relevant to Option b assumes that communities are allowed to hold and sell blocked QS.

Option 1: communities may divide blocks >20,000 lbs

Upon implementation of the IFQ program, the Council decided that QS units that were worth less than 20,000 lbs of IFQ (based on the 1994 TACs and QS pool) would be placed into a block. The current IFQ regulations do not allow an individual QS holder to break up a block upon transfer; all of the QS in a block has to be sold or passed on to another person as a single unit. Option 1 would grant communities additional flexibility in selling their QS by allowing them to split a block that results in greater than 20,000 lbs of IFQ in half upon transfer. This would likely expand the universe of available buyers and provide communities with a competitive advantage relative to individual holders selling QS. It may also change the market by creating smaller blocks of QS than currently exist. Although, with implementation of the most burdensome restrictions on the sale of community QS, as just outlined above, the amount of market activity from this source could be expected to be quite small.

The original threshold for blocking QS was 20,000 lbs of a hypothetical IFQ, thus, any initially issued QS that resulted in IFQs less than 20,000 lbs at that time was issued as blocked. Given that the TACs for both halibut and sablefish have decreased in all areas (with the exception of Area 3B) and the quota share pools have increased in all areas since initial issuance, **it now takes more QS to make 20,000 lbs of IFQ than it did at initial issuance. Thus, there is currently no blocked QS that results in an excess of 20,000 lbs of IFQs under the 2001 TAC**. Area 3B provides the only exception and will be discussed separately in this section.

Another way to understand this issue is that one unit of QS will currently equate to fewer pounds than it did at initial issuance. Because the threshold for blocking QS was initially 20,000 lbs, this means that all blocked QS will necessarily equate to less than 20,000 lbs today. Thus, unless the TACs increase dramatically in each area (and they are not projected to do so), Option 1 is practically irrelevant. Figure 3-8 below shows how much QS it took at initial issuance to equate to 20,000 lbs of IFQ, compared to the amount of QS it takes to equal 20,000 lbs of IFQ today.

Figure 3-8: Number of halibut and sablefish QS units that equal 20,000 lbs of IFQ, at initial issuance and in 2001.

Area	**Initial Issuance**		**2001**	
Halibut	# QS units	ratio (QS:IFQ)	# QS units	ratio (QS:IFQ)
2C	102,920	5.146	135,840	6.7920
3A	135,580	6.779	168,938	8.4469
3B	260,800	13.040	65,224	3.2612
Sablefish				
SE	82,260	4.113	178,282	8.9141
WY	97,600	4.880	269,932	13.4966
CG	103,760	5.188	234,272	11.7136
WG	165,740	8.287	203,268	10.1634

The box above shows that any blocked Gulf halibut and sablefish QS, with the exception of Area 3B, will necessarily equate to less than 20,000 lbs of IFQ, given today's TACs and quota share pools. For instance, in Area 2C, any person that was initially issued up to 102,920 QS units (20,000 lbs of IFQ) was awarded that QS in a block. Today, that same 102,920 QS units only equates to a little over 15,000 lbs of IFQ. This is a result of the Area 2C TAC decreasing from about 11 million lbs at initial issuance to 8.78 million lbs in 2001, and the quota share pool increasing from about 56.6 million units at initial issuance to over 59.5 million units in 2001. This trend holds true for both Area 2C and Area 3A, as well as every regulatory area in the Gulf sablefish fishery.

The only area in which the ratio of quota share to IFQ has decreased since initial issuance is Area 3B. **Suboption 1**, which would allow only Area 3B blocks greater than 20,000 lbs to be split in half upon transfer, was developed in response to the large blocks that have formed in Area 3B since initial issuance. Thus, while Option 1 may not be a meaningful option given the current IFQ status in all other areas, Suboption 1 could be a practical option for communities holding Area 3B halibut QS.

The blocked QS in Area 3B equates to more IFQs today than it did at initial issuance because the TAC has increased dramatically in that area since 1995. The hypothetical TAC on which the calculation to determine blocked QS was based was 4 million lbs; the 2001 TAC is 16.53 million lbs (a 300% increase). While the quota share pool in Area 3B also increased slightly (from 52,143,321 QS units at initial issuance to 53,977,509 in 2001), the TAC increase more than offset the increase in the quota share pool. For example, any person that was initially issued up to 260,800 QS units (20,000 lbs of IFQ) in Area 3B was awarded that QS in a block. Today, that same block of 260,800 QS units equates to almost 80,000 lbs of IFQ.

The impact of Suboption 1 is not easily quantified. Using the 2001 TAC, there are 169 blocks of Area 3B QS that exceed 20,000 lbs, about half of which are held by Alaskan residents.[30] This is about 25% of the total number of blocks in Area 3B. The number of blocks that meet this criteria would obviously vary each year as the TACs change, and the number of blocks that would initially be available for community purchase is unknown. Even so, it seems unlikely that many communities would take advantage of Suboption 1 beyond the 7 target communities located in Area 3B.

Should communities purchase blocked Area 3B QS that results in IFQs greater than 20,000 lbs, however, the ability to split the block into two equal, smaller blocks will likely make the QS more desirable to smaller operators, whether they be other communities or individual holders. Blocked QS sells for a lower price than unblocked QS, and smaller blocks are generally cheaper than larger blocks.[31] The great increase in the "value" of westward area halibut QS blocks is the basis for similar IFQ program proposals to split blocks, increase the block limits, etc., for Areas 3B through 4D. Suboption 1 was added to increase the level of flexibility communities would have in the sale of QS, understanding that if they cannot find a buyer for the entire block, the option exists to split the block and make it available as two separate blocks. These smaller blocks may make a more attractive purchase option for a specific sector of potential buyers, who may re-sell the block accordingly. The Council may want to consider, however, that relaxation of this constraint would be as advantageous to any current QS holder as it would be to communities, as evidenced by the IFQ proposal developed to undertake a similar action for individual holders of Area 3B QS.
Staff assumes that under this provision, the block could re-enter the commercial sector split into two separate blocks, and that this provision is not limited to the sale of blocked QS from one community to another community. Staff also assumes that the splitting of blocks is <u>not</u> reversible. Once a community splits the block upon transfer to an individual holder, the block cannot be re-consolidated. Staff at the RAM Division confirm that allowing this provision to be reversible would be administratively burdensome using the current database. The Council may want to confirm or clarify these assumptions.

Option 2: communities can sweep-up blocks of <10,000 lbs

Option 2 is exclusive of Option 1 but has a similar overall intent. Option 2 would allow communities to sweep-up blocks of less than 10,000 lbs and sell them as up to 20,000 lbs blocks. Note again that staff assumes that this provision is not reversible; once blocks are combined to form a larger block, the block cannot be further modified.

The current IFQ regulations allow individuals to combine, or sweep-up, more than two blocks of QS if the combined total is worth less than 3,000 pounds of a hypothetical halibut IFQ (based upon the 1996 TACs, 50 CFR 679.41(e)(3)). The sablefish fishery has a similar restriction, allowing individuals to combine more than two blocks of QS if their combined total is worth less than 5,000 pounds of the hypothetical IFQ (50 CFR 679.41(e)). In regulation, this translates into a maximum number of QS units that may be consolidated into a single block in each IFQ regulatory area as follows:

Area	Halibut QS units	Area	Sablefish QS units
2C	19,992	SE	33,270
3A	27,912	WY	43,490
3B	44,193	CG	46,055

[30]Confirmed by RAM Division, 8/2/01.

[31]CFEC 1999. Changes Under Alaska's Halibut and Sablefish IFQ Program, 1995-1998, Chapter 4.

		WG	48,410

Option 2 specifies that communities could combine blocks that equal less than 10,000 lbs of halibut or sablefish IFQ and sell them as blocks of up to 20,000 lbs. **While not specified in the option, staff assumes that the 20,000 lb threshold would be calculated on the 1996 TAC and fixed in regulation as a maximum number of QS units that communities could consolidate into a single block, in order to be consistent with current regulations.** In regulation, this option would translate into a maximum number of QS units that may be consolidated into a single block in each IFQ regulatory area as follows:

Area	Halibut QS units	Area	Sablefish QS units
2C	133,280	SE	133,080
3A	186,080	WY	173,560
3B	294,620	CG	184,220
		WG	193,640

Option 2 would allow communities to consolidate over six times more halibut QS and four times more sablefish QS into a single block than individual holders are allowed under the current sweep-up provisions. Given the above, it is important to consider how many blocks could potentially be modified under Option 2. The majority of all blocks in each regulatory area equate to less than 10,000 lbs of IFQ under the 2001 TAC. Currently, over 90% of the halibut QS blocks in Area 2C and 3A and about 42% in Area 3B equate to less than 10,000 lbs. In the sablefish fishery, all of the blocked QS in Southeast, the Central Gulf, and Western Yakutat and about 85% of the blocks in the Western Gulf equate to less than 10,000 lbs of IFQ. Therefore, although it is difficult to predict how many communities would take advantage of this option, there exists the potential for almost all of the community-owned halibut QS blocks in Areas 2C and 3A, and almost all of the community-owned sablefish blocks across all areas, to be consolidated into larger blocks of up to 20,000 lbs.

Allowing communities to create larger blocks of QS upon transfer would benefit communities in that they would likely expand the universe of potential buyers. The community could choose to sell the QS as two or more smaller blocks or as a larger block, and would have the opportunity to find the most lucrative sale given either scenario. A potential buyer may be more apt to purchase the QS from a community if they can purchase more QS within one block; individual sellers would not share this market advantage. (This assumes that communities are not restricted under Option a to only sell QS to other communities.) The result is that individual holders would be able to acquire more QS and stay under the current two block restriction.

While this option would create more flexibility for communities in the sale of QS and benefit both parties to the initial transaction, it may have a negative impact on smaller, existing operators or new entrants who wish to purchase smaller blocks of QS in the future. Because this option would be irreversible, it would create the potential for many smaller blocks to be eliminated. Given that the smaller blocks are the cheapest and sometimes most attractive purchase option for smaller or part-time operators, it may negatively affect the group of participants that the block provisions were initially developed to protect.

In sum, Option 1 would have a limited impact on the IFQ fisheries or communities, as it would likely be impossible to put into practice. Option1/Suboption 1, however, would have application to splitting blocks of Area 3B QS that are significantly larger than the blocks in all other areas. Option 2 would provide for additional flexibility in that it would allow communities to sweep-up blocks that result in <10,000 lbs of IFQ and create larger blocks of up to 20,000 lbs upon sale. These options have the potential to benefit both communities and individual buyers by adding flexibility to the QS transaction and allowing more QS to be consolidated into one block. However, this option would create a competitive advantage for communities

selling QS relative to individual sellers who are subject to a more restrictive sweep-up provision. Option 2 has the potential to negatively impact smaller individual operators by irreversibly decreasing the number of small blocks available for purchase. Depending, also, on how restrictive the rules are on community sales of QS, these options may have impacts ranging from almost none (if sales are tightly limited), to very significant (if community sales of QS are unregulated). With this level of uncertainty it is not possible to offer a more precise estimate of the likely economic and operational impacts of these proposed options.

Should the Council prefer Options 1 and 2, the Council may want to further develop the rationale for including these provisions for communities and not allowing the same flexibility for individual holders, especially in light of recent IFQ proposals that have advocated similar allowances in the existing IFQ program. If the Council decides under Element 5 to make communities subject to the current block and vessel class restrictions and essentially treats them as other qualifying "persons," it may be more difficult to justify either further restrictions or added flexibility in the sale of community-held QS.

3.5.2.5.4 Use Restrictions

(a) Leasing of community IFQs shall be limited to a maximum amount equal to 25,000 - 75,000 pounds of halibut and sablefish IFQs per transferee **(preferred alternative: 50,000 pounds)**

Suboption 1: Leasing of community IFQs shall be limited, inclusive of any IFQ owned, per vessel. **(preferred alternative: 50,000 pounds)**

This option was developed because of a concern about how the IFQs resulting from the community QS would be allocated among community members. This provision would limit community entities in the maximum amount of annual IFQs they could lease to an individual community resident; the options propose a cap at some point between 25,000 - 75,000 pounds per individual. Note that this provision does not propose a minimum amount of IFQs that community entities could lease to an individual resident. If the Council chooses not to adopt this option, each community would be free to decide how to allocate to community residents on an annual basis, subject to any performance standards relevant to this issue adopted under Element 6.

The restriction described under Option a is intended to help ensure that the benefits from the community QS are distributed among community fishermen and not dominated by a select few residents. This restriction would establish a maximum limit in the range of 25,000 to 75,000 pounds per transferee per year, effectively creating an annual cap for individual residents and controlling how the community leases the IFQs. Staff assumes that the cap would apply separately in each fishery; thus, an individual fisherman could lease up to 25,000-75,000 pounds (depending on the cap selected) of halibut IFQ and 25,000-75,000 pounds of sablefish IFQ from the community entity in any given year.

This restriction may have a positive potential impact on participating communities and their residents in that it would help prevent one person from controlling all of the IFQs in a given community on an annual basis. This may be a significant factor in the participation of communities and their efforts to spread the benefits from the QS among the entire community. The discussion under Element 2 regarding qualified administrative entities notes that the assessment of benefits within the communities is critically dependent upon the administrative entity being representative of the entire community. This is directly related to the option proposed in this section; it is intended, as is the selection of the type of qualified administrative entity, to help ensure that the benefits of the proposed action are "fairly" distributed throughout the community. Note that the performance standards proposed in Element 6 are also intended to regulate the use of community-owned QS in this manner, by providing some minimum requirements relevant to the leasing of IFQs.

The effect of this option will depend both on the amount of QS each individual community is allowed to buy (up to the individual use cap) and how much the community actually purchases. For example, if individual communities are held to the same standard as individual holders and allowed to use up to 1% of the Area 2C halibut QS, that equates to about 85,000 IFQ pounds using the 2002 TAC. If, as a result of the individual and cumulative community use caps selected under Elements 3 and 4, a community is limited in its purchase of QS so that the IFQs derived from that quota are sufficient for only one or two fishermen to lease per year, the restriction under Option a may not meet the purpose for which it was developed. This is mainly because while this restriction would help prevent one person from controlling all the IFQs in a given community in a given year, it would not prevent the same few residents from being issued the IFQ permits resulting from community-owned QS year after year. This is because the restriction only applies to the transfer of IFQs on an annual basis and does not restrict the leasing of IFQs over a longer period of time. In this sense, and depending upon how much QS the community has purchased, the restriction may not be very effective in preventing control by few residents of the community.

This issue relates to other potential negative impacts of this option. Assuming that a community could purchase QS up to the individual use cap, and assuming that the cumulative community use cap had not yet been reached, a community would also need to have a resident(s) to fish the resulting IFQs. If a community only has one or two resident fishermen with licensed vessels who are able to lease the IFQs in a given year, a restriction of this type may: 1) limit communities to purchasing an amount of QS less than their individual cap, or 2) force communities to leave some of their annual IFQs unfished in order to stay within the cap on leasing to individual residents. The first situation could limit the smallest of the target communities and prevent them from taking advantage of the program to the fullest extent allowed, simply because they have fewer residents to which to lease IFQs. The latter situation would reflect negatively on a community in an evaluation of their ability to meet the performance standards outlined in Element 6, as one of the proposed standards requires that community QS/IFQ is not held and unfished. The combination of these two requirements then, in communities with low populations and few available vessels, may serve to create a conflicting policy environment.

In addition, staff assumes that the limit proposed applies to the amount of IFQs that an individual could fish, *inclusive of any IFQ "privately" owned by the individual*. This means that the amount any single individual resident could fish is the sum of his/her own IFQ plus any leased community IFQ, subject to the proposed limits imposed for individual use. In a community with very few qualified resident fishermen (vessels), any one of whom is likely to already hold 'some' QS, there may be unanticipated barriers imposed by these individual community use caps that will diminish the potential value of the program.

This leads to a discussion of the performance standards proposed in the following section (Element 6). If there is a predetermined goal that the benefits of community QS should be distributed throughout the community, allowing several resident fishermen and crew members to take advantage of the opportunity to benefit from community IFQs, then this could potentially be addressed in the performance standards. The proposed performance standards reflect the intent of the action to assist fishermen in target communities by allowing communities to hold the harvest privilege and thus lower the barriers to entry for individual resident fishermen. Performance standards serve to make the community accountable for using the QS for the purpose and the manner in which it was intended, and thus it may be more appropriate to address the issue of "fairness" within the community in the performance standards and allow the community entity the freedom and flexibility to determine the specific steps to prove that they are meeting this standard. This is discussed in more detail under Element 6.

Given the concerns noted above, should the Council prefer to cap the leasing of community IFQs to individual residents at a specified amount, it would benefit the smaller of the target communities to allow the maximum of the proposed range (75,000 pounds). The smaller communities may have few resident fishermen available in any given year and the maximum cap of 75,000 pounds would have the least impact on their ability to participate in the program overall.

Suboption 1 proposes to also limit the amount of halibut IFQ and sablefish IFQ, inclusive of any IFQ owned, that can be used per vessel. This suboption is effectively a vessel use cap, in which a limited amount of IFQs may be fished on any one vessel. Staff assumes that the vessel use cap would apply separately in each fishery; thus, an individual fisherman could fish up to his individual limit of halibut IFQ and up to his individual limit of sablefish IFQ on one single vessel. Similar to the discussion provided above, this option is intended to affect the participation of communities and their efforts to spread the benefits from the QS among the community. Note that this restriction only applies to the transfer (leasing) of IFQs on an annual basis and would be inclusive of any QS owned by the individual transferee. This is intended to ensure that an individual

that is already participating to a reasonable extent in the IFQ fisheries does not profit excessively from community holdings of QS.

Should a limit be placed on the amount of community IFQ that an individual can lease under Option (a), it may be beneficial to establish a vessel use cap that is *not less* than that amount. This would prevent an individual from leasing, for example, 50,000 pounds of IFQ and then needing two separate vessels on which to fish that quota. A vessel use cap that is aligned to match that limit may be more appropriate, similar to the current structure of the IFQ Program. The current (2002) vessel use caps for individuals participating in the halibut and sablefish fisheries are: 85,000 net halibut pounds in Area 2C; 295,050 net halibut pounds in total; 70,768 round sablefish pounds in Southeast; and 293,882 round sablefish pounds in total. These vessel caps are closely aligned with the amount of QS units that any one individual is currently allowed to hold. Creating a vessel use cap that is *higher* than the amount of community IFQ that an individual can lease under Option (a) is another possibility. This would potentially allow two or more residents of the community to combine their community IFQ and fish it on the same vessel. This may represent a gain in operational efficiencies, especially for communities in which there may be a limited number of vessels as well as a limited number of resident fishermen. It is assumed, however, that the Council would not want to select a vessel use cap that is higher than that currently in place for individual participants in the IFQ Program.

3.5.2.6 Element 6. Performance Standards *(provided by NMFS, in consultation with Council staff)*

Communities participating in the program must adhere to the following performance standards established by NMFS:

(a) Leasing of annual IFQs resulting from community owned QS shall be limited to residents of the ownership community. **(preferred alternative)**
   Suboption 1: Leasing of community QS shall be limited to residents of the ownership community and residents of other qualifying communities.
(b) Maximize benefit from use of community IFQ for crew members that are community residents **(preferred alternative)**
(c) Insure that benefits are equitably distributed throughout the community **(preferred alternative)**
(d) Insure that QS/IFQ allocated to an eligible community entity would not be held and unfished **(preferred alternative)**

(The Council's preferred alternative specified that performance standard (a) would be required in Federal regulations and (b) - (d) would be provided as voluntary program 'guidance' monitored through the annual report.)

Upon request of the Council at the December meeting, NMFS and the State of Alaska worked together to develop a "code of conduct" and a proposal for administrative oversight (Element 7). The following section represents this joint approach. The Council revised the "code of conduct" for analysis at the February 2002 Council meeting and changed the options to "performance standards." The revision was made at the request of NMFS, in order to ensure that the standards could be implemented in regulation. This section defines the proposed performance standards that communities would need to meet to participate in the program and clarifies the role NMFS would have in monitoring and enforcing these standards.

By amending the existing IFQ program to allow community entities to hold QS, NMFS recognizes that the Council perceives that residents of eligible communities are uniquely disadvantaged by the terms of the existing program and that they could potentially benefit from a program that allows communities to hold

QS/IFQ. In turn, communities could further benefit by using available economic development funds for the purposes of retaining QS/IFQ within the community. It is therefore appropriate that the intent of achieving those benefits be set out by the community entities that will seek authority to participate in the program. The manner in which the intent is "set out" is through the implementation of performance standards.

The performance standards are the specific goals that the community QS holders must meet. There are two ways to implement performance standards: 1) as guidance and a voluntary reporting mechanism for community QS holders; or 2) as requirements placed in Federal regulations. As guidance, the performance standards outline how the Council intends the QS to be used and allow individual community entities to devise the specific steps to meet those goals. By definition, however, these voluntary guidelines would not be implemented in regulation or required for a community entity to hold QS. The benefit of a voluntary reporting mechanism is that it provides communities with the ability to maintain flexibility in the day-to-day management of the program and allows each community to determine the best way to meet the goals of the program within their unique community. Oversight of the community entities could be informal or through the periodic reviews. If individuals within the communities or outside of the communities were concerned about the management of the community QS, they could voice their concerns through the Council process. If community QS holders are failing to meet the goals of the performance standards voluntarily, or if, through review of an annual report, there is a clear deviation from the intent of the program, then the Council could recommend regulations to NMFS to address those concerns.

Alternatively, performance standards could be requirements placed in Federal regulation. Establishing regulations for the performance standards requires developing regulations that can be monitored and enforced by NMFS. Those regulations will be developed by NMFS to meet the goals of the performance standards within budgetary and personnel limits. The Council will need to weigh the possible benefits of monitoring and enforcing such regulations with the administrative costs to the communities for compliance with these requirements.

The decision exists whether to establish certain performance standards in regulation, while leaving others as "policy goals" that the community QS holders could follow voluntarily. When selecting a preferred alternative, the Council should clarify whether a specific performance standard is to be accompanied by implementing regulations, or if that performance standard is to be voluntarily monitored and enforced by the community QS holders. The following section provides an overview of regulations that NMFS can monitor and enforce, should the Council select to implement each proposed performance standard in regulation.

(a) Leasing of annual IFQs resulting from community owned QS shall be limited to residents of the ownership community.

Suboption 1: Leasing of community QS shall be limited to residents of the ownership community and residents of other qualifying communities

This performance standard is intended to insure that the IFQ resulting from the QS held by the community entity will be used in a way to benefit the residents of the eligible communities. This performance standard directly addresses the goals of the action as described in the problem statement adopted by the Council. This performance standard would be relatively easy to monitor and enforce if implemented in regulation. The process of "leasing" the IFQ involves an application to NMFS to transfer the annual IFQ permit from the QS holder to the lessee. NMFS could require that the person applying to be the lessee/transferee swear that he is, and intends to remain, a resident of the community.

Enforcement of this performance standard would be relatively straightforward. NMFS can require that QS cannot be leased to an individual until he or she has testified on the annual transfer application that he or she is a resident of a given community. If evidence to the contrary emerges, the matter would be referred to the Alaska Enforcement Division to initiate a fraud investigation.

Suboption 1 requires that the lessee would be limited to residents of the community owning the QS or residents of another community which is qualified to hold community QS. This provision would not be significantly different from resident-only leasing requirements. Individual residents of qualified communities would submit proof of residence in a qualified community to NMFS at the time of application to lease IFQ from the community QS holder.

(b) Maximize benefit from the use of community-held IFQ for crew members that are community residents

The goal of this performance standard may be met by implementing regulations that require that crew members employed by lessees of community IFQ permits must be residents of the ownership community. The term "maximize benefit" in this performance standard is vague. **NMFS suggests that the Council rephrase this performance standard so that it more accurately reflects the goal and is able to be implemented in regulation. Suggested revision: "Require that crew members employed by individuals leasing community-held IFQ are community residents."**

Enforcement and implementation would be accomplished during the application for transfer. As an example, NMFS could implement regulations that would not approve a transfer of an annual IFQ permit to a fisherman unless he stated, as part of the transfer agreement with the community entity, that he would only hire residents of the community to serve as crew members in the harvesting operations.

This approach is slightly less "certain" than the sworn statement of the proposed transferee that he or she is a resident. If that crew member displaces another (local resident) crew member, then one would assume a complaint could be made through the community entity and the entity would take appropriate steps to enforce the terms of its agreement with the transferee (up to, and including, bringing tort charges in state courts for breach of contract).

Another example of regulatory requirements that may meet the goals of this performance standard would be to require that all crew members hired by an individual leasing community IFQ testify that they are residents of that community, or residents of qualified communities, if that alternative is chosen. The same monitoring and enforcement system that NMFS could use to verify residency of IFQ lessees as described in Option a could be extended to crew members. Requiring individual crew members to testify that they are residents as described in Option a would expand the bureaucratic presence in the program. Given the number of potential crew members in this program, requiring each crew member to testify that they are a community resident prior to fishing could overwhelm the existing administrative oversight capacity of RAM.

(c) Insure that the benefits are equitably distributed throughout the community

Implementing, monitoring, and enforcing this performance standard poses several potential challenges. In a broad sense it is difficult if not impossible to design regulations that insure equity. Equity is a fluid concept and definitions of what constitutes an equitable distribution of benefits will vary among individuals in a community. Depending on the regulations implemented to meet the goal of this performance standard, NMFS may need to significantly extend its monitoring and enforcement effort. If the requirements are clearly stated, then the existing RAM administrative oversight structure can be adapted to insure that the requirements are

being followed. The difficulty is in deciding what those requirements should be to achieve "equity." **Given these concerns, NMFS suggests that the Council make this performance standard a voluntary provision rather than specifically defined in regulation.**

However, if the Council wishes to have this performance standard in regulation, NMFS suggests that the Council rephrase this performance standard so that it more accurately reflects the goal and is able to be implemented in regulation. Suggested revision: "Limit the amount of leasing of community held IFQ to individual community members."

Essential to the community QS program is the ability of the community QS holders to manage the potential benefits in response to community guidance. If the Council does intend this performance standard to be implemented in regulation, then it is important to note that regulations that carefully circumscribe individual leasing decisions by the community QS holders is beyond the current monitoring and enforcement infrastructure of NMFS.

NMFS can implement regulations that the community QS holders must consider prior to leasing IFQ. These could include a provision that the proposed lease agreements between the community QS holder and the lessee contain certain information (e.g., who is receiving the lease, why he or she is receiving the lease); that the community QS holders consider relevant factors in making leasing decisions; and that it provides a reasonable explanation of the application of these factors. NMFS' primary role in the leasing process would be to review the process used to make those leasing decisions to ensure that the process follows existing regulations and provides a clear rationale for the decisions made.

As an example, NMFS could promulgate regulations that include provisions that require community QS holders to meet regulations such as:

- community QS holders may not transfer their annual IFQ to the same transferee for more than 5 consecutive years, and/or
- an application from a community QS holder to transfer/lease its annual IFQ to a community member will not be approved unless that community QS holder provides evidence that the proposed transfer has been approved by a committee of community members. This "committee of community members" could be required prior to the sale of QS to the community and could be comprised of members selected by community groups such as tribal organizations, city council's, etc. In this case, NMFS would have to establish rules for the conduct of that committee, which could prove unduly burdensome.

NMFS could further require: public announcement of the application period; specify the length of time for potential lessees to apply to the community QS holder for consideration; that community QS holders must consider all individuals who apply who are qualified to lease IFQ under existing regulation with fishing expertise as defined under the existing regulations required to receive a Transfer Eligiblity Certificate (TEC); community QS holders must consider individuals who do not currently hold halibut or sablefish QS; or that community QS holders must consider individuals who have vessels capable of fishing the quota and carrying crew; or other regulations.

Under this process for implementing the performance standards, the community entity would be responsible for describing how it addressed the requirements set forth in regulation and the rationale used to lease IFQ. NMFS would review the adequacy of the community entity's decision-making process for adherence to the regulations (e.g., Did they provide public announcements? Did they consider the applications of all qualified lease applicants?).

By limiting NMFS' role to ensuring adherence to the proper process, the community entities would maintain control of specific allocation decisions. The problem statement indicates that the goal of this program is to provide communities with the opportunity to hold QS for the benefit of the community as a whole and community residents. This approach presumes that the community QS holder's are best able to determine which applicants are best qualified to lease IFQ in the communities.

NMFS can enforce the regulations meeting this performance standard through the existing administrative appeals process used by RAM. As an example, if a community QS holder fails to provide a rationale for their decision-making process, does not provide public announcements in the community, or does not provide a rationale for their decision-making process, RAM could deny the community entity's application to lease IFQ or transfer QS. Community entities holding QS could appeal those decisions through the existing administrative appeals process in the Office of Administrative Appeals.

Note also that the use restrictions proposed under Element 5 (Section 3.1.2.5.4) attempt to meet the intent of this performance standard. Provided under Element 5 is an option to require that leasing of community IFQs shall be limited to an amount equal to 25,000 - 75,000 pounds of halibut and sablefish IFQs per transferee. This option is intended to help ensure that the benefits from the community QS are distributed among community fishermen and not dominated by a select few residents. If the Council prefers this type of restriction, it could be incorporated as a regulation that NMFS implements in order to meet the goal of performance standard (c). NMFS notes that such a restriction is easier to monitor and enforce than some of the provisions described in the examples above.

(d) Ensure that QS/IFQ allocated to an eligible community entity would not be held and unfished

The term "ensure" in this performance standard is vague. **NMFS suggests that the Council rephrase this performance standard so that it more accurately reflects the goal and is able to be implemented in regulation. Suggested revision: "Require that QS/IFQ allocated to an eligible community is leased and fished."**

If the Council wishes to recommend that this performance standard be implemented in regulation, it would be relatively easy to do so. As an example, NMFS could require that if a community QS holder fails to transfer any of its annual IFQ to a community resident for a specified period of [(2), (3), (4)] years, that community QS holder will forfeit its eligibility to receive QS by transfer and may not receive annual IFQ in subsequent years until such time as NMFS has approved another application for a Certificate of Eligibility from that community. If the community did not lease IFQ within the period of time specified in regulation, then NMFS could require that the community entity divest of its QS. Community entities holding QS could use the existing appeals process that is available to any person aggrieved by a RAM determination.

In addition, the Council could specify that a certain <u>percentage</u> of community QS be leased or fished, or it could require that <u>any</u> amount of leasing and fishing is adequate to comply with the intent of this regulation.

<u>Summary</u>
In sum, if the proposed performance standards are to be required in regulation, they need to be clearly defined so that they are able to be implemented and enforced by NMFS. Some of the current wording of the proposed performance standards is subject to various interpretations and would make it very difficult for NMFS to evaluate whether a community entity is meeting those standards. The suggested revisions are intended to clarify the goals of the performance standards and thus make it easier to determine whether an individual community entity is meeting those standards. Note that requiring the proposed standards in Federal

regulations would demand that NMFS further clarify in regulation how it would evaluate communities using these standards, as described in the above sections.

3.5.2.7 Element 7. Administrative Oversight *(in consultation with NMFS and the State of Alaska)*

(a) Require submission of a detailed statement of eligibility to NMFS prior to being considered for eligibility as a community QS recipient. The statement would include: **(preferred alternative)**
1. Certificate of incorporation
2. Verification of qualified entity as approved in Element 2
3. Documentation demonstrating accountability to community
4. Explanation of how the community entity intends to implement the performance standards

(b) Require submission of an annual report detailing accomplishments. The annual report would include: **(preferred alternative)**
1. A summary of business, employment, and fishing activities under the program
2. A discussion of any corporate changes that alter the representational structure of the community entity
3. Specific steps taken to meet the performance standards (outlined in Element 6)
4. Discussion of known impacts to resources in the area

The discussion under Element 7 describes how an administrative oversight process might function. Under Element 6, there is an implicit assumption that the community QS holder would submit information to NMFS concerning various aspects of the program for monitoring and enforcement. **If the performance standards proposed under Element 6 are adopted into regulation, it would also be necessary to choose an alternative under Element 7 that requires submission of a report to NMFS detailing the actions undertaken by community QS holders.**

Option a: Information to determine eligibility of community entities

The process of administering community QS would require an initial qualifying or approval process and some level of annual oversight of the program. Assuming that the list of eligible communities would be determined at final action and fixed in regulation for the duration of the program, the qualification process for entities representing individual communities should be fairly straightforward. Because it currently administers the commercial IFQ Program, the Restricted Access Management (RAM) Program of NMFS will be responsible for this task. In this sense, RAM would need to conduct the initial approval/qualification process for each community. This would likely entail each community entity or entity representing a group of communities to submit a type of statement of eligibility. The four requirements outlined under Option a include a certificate of incorporation, verification that the entity represents a qualified entity under Element 2, documentation which demonstrates the entity's accountability to the community, and explanation of how the community entity intends to implement the performance standards. These minimum requirements would be listed explicitly in regulation so that an entity representing a community would understand exactly what minimum documentation was necessary to provide to NMFS in order to seek eligibility as a community QS recipient. It is assumed that should an administrative entity meet these requirements in submitting a statement of eligibility to NMFS, entities would be qualified to represent individual communities on a first-come, first-serve basis. Some competition for the representation of a community could occur and this provision would

reduce the possibility of multiple entities competing to represent a community, potentially creating even greater competition on the QS market.

The purpose of the four requirements under this option is relatively straightforward. The entity would need to provide a certificate of incorporation and verification that it is a legally recognized organization consistent with the Council's intent under Element 2. For instance, if the Council limits eligible administrative entities to only new non-profit organizations created for the specific purpose of purchasing and managing community QS under Element 2, the entity would need to show its certificate of incorporation and documentation of its non-profit tax status to comply. The entity would also need to provide documentation demonstrating its accountability to the community(ies) to be represented. Such documentation could consist of resolutions from the local governing body, IRA body (some Native villages have organized under the 1934 Indian Reorganization Act, with a constitution and elections as prescribed there), tribal council, and/or the village corporation formed under the Alaska Native Claims Settlement Act (ANCSA). This type of documentation would help to ensure that the entity is recognized within the community and that the community supports the organization as a representative of the community and its stated purpose. This requirement will assist NMFS in evaluating whether the entity is using the QS for the benefit of the community as whole. If a municipality or some other community body did not support the entity as a representative of the community for this purpose, it would be evident in the lack of documentation relative to this requirement and create a "red flag" for NMFS during consideration of whether to qualify this entity. Finally, the entity would need to explain how it intended to meet the performance standards under Element 6, either implemented as regulation or policy guidance, associated with the program.

Upon verifying that the information submitted demonstrates that the group comports with the regulatory requirements, and after considering the comments from the Governor of Alaska (or his/her designee, most probably the Alaska Commissioner of Community and Economic Development) NMFS would issue a "Community Transfer Eligibility Certificate" which would attest to the group's eligibility to receive QS on behalf of the community(ies) it represents. Any adverse determination could be appealed to the NMFS Office of Administrative Appeals. The cost of any such appeal is not expected to be significant, because it is anticipated that RAM would work with the community groups to improve their applications before formally denying an application. Therefore, this process is expected to give rise to very few appeals. Arbitrarily assuming, however, that adverse determinations give rise to 5 appeals, it is anticipated that the time to resolve them at the regional level would be no more than 25 working days for an appeals officer in the Office of Administrative Appeals; this level of activity reflects about 10% of one officer's working load in one year (or a cost of approximately $10,000). Once a Final Agency Action is taken, the matter will not be reconsidered.

Consultation with the State

It is well recognized that the Alaska Department of Community and Economic Development (DCED) maintains significant outreach to the eligible coastal communities, is aware of the levels of economic activity within those communities, and is sensitive to local concerns. Further, DCED routinely provides technical assistance to communities in such areas as: a) forming a functional non-profit corporation, b) developing appropriate codes of conduct and local planning documents, and c) coordinating with other communities. Accordingly, it is highly appropriate that any eligibility determination by NMFS provide the Department's Commissioner an opportunity to comment on each application.

Further, it is anticipated that the State, through its ongoing community assistance programs, could assist communities to develop their applications. In such cases, a compelling case could be made that the State would actually be a "party" to the application.

Although the State would not have the authority to veto an application for eligibility, NMFS would consider its insights and comments and to place them on the record. Further, if an application for eligibility were to be denied, premised in whole or in part based upon information provided by the State of Alaska comments, such comments would be placed on the record and the adverse determination could be appealed to the NMFS Office of Administrative Appeals.

Option b: Annual report

Once a community organization is qualified to purchase QS, most of the oversight and monitoring function would be part of NMFS' normal review of transfer information, the enforcement of use caps and other restrictions, and collection of the IFQ cost recovery fee, all of which are part of the existing IFQ program. **Community held quota share would not be exempt from the IFQ cost recovery fee**. Similar to the current IFQ Program, it is assumed that the fisherman leasing the IFQs from the community would be responsible for submitting payment to NMFS. Community holders in the IFQ Program would represent a new type of eligible participant in the program, and would therefore be subject to the same fee to recover the actual costs of managing and enforcing the program as are individual participants. While adding community groups as eligible QS holders would necessarily increase the administrative cost of managing the IFQ program, the marginal increase in the first few years would not be significant. However, as more communities begin to take advantage of the program and the review of community reports, additional consultation with the State, and an overall program review became essential, the administrative cost of including communities in the IFQ program would necessarily increase. However, even assuming full utilization of the program by all 45 potentially eligible communities, the costs to NMFS would not be significant, estimated to be approximately 50% of one staff (Permit Assistant) person's annual salary and benefits (approximately $35,000).

Once a community entity is determined eligible to purchase QS and enters the QS market, very little additional oversight may be necessary. It is important to note that regardless of the administrative requirements selected under this action, community entities that are established as non-profit corporations would be regulated by statute outside of the Council process. Also, if an entity (e.g., the State of Alaska or a private foundation) advances funds to a community entity to purchase QS, such entity may establish its own eligibility and performance criteria (to ensure that the purpose of the funding is being preserved) and its own reporting requirements.

It may be appropriate to require the entities representing communities to prepare and submit an annual report. Under Option b, such a report would include, at a minimum, the following:

- a summary of business, employment, and fishing activities under the program
- a discussion of any corporate changes that alter the representational structure of the group
- specific steps taken to meet the performance standards
- discussion of known impacts to resources in the area

The first three minimum requirements under this option are in addition to the information required of an individual IFQ holder, and focus primarily on the representation of the community within the administrative entity. Overall, this information would assist NMFS in understanding the structure of and guidelines for the operation of the entity and help ensure that any annual changes do not threaten the adequacy of that representation. The last requirement is intended to be a general discussion of any local depletion, habitat, or any other known impacts to resources in the area. The report is not intended as a large administrative burden, and may be as simple as a few page report. The assumption is that if NMFS can certify a community entity to purchase QS, it can also decertify, and information submitted annually by the group would provide the starting point for an inquiry if questions are raised. Any adverse action taken against a group by the agency (including withholding annual IFQ for lack of submitting reports or fees, and escalating to decertification)

would be subject to administrative oversight and administrative due process (i.e., the existing appeals process) through NOAA's Office of Administrative Appeals.

Consultation with the State

Upon receipt of each entity's annual report, NMFS would provide a copy to the State (DCED) and solicit comments and recommendations. Such comments could be informal and simply noted in the record, or they could be formal and bring forth concerns that could lead to adverse action against the entity. If the latter, any such comments would be in writing and made part of an administrative record.

3.5.2.8 Element 8. Program Review

(a) No sunset provision

(b) Review program after 5 years and consider sunsetting program if review reveals a failure to accomplish the stated goals **(preferred alternative)**

(c) Review program after 5 years and, if changes are necessary, provide a "drop-through"[32] of purchase and use privileges, whereby the initial privileges granted to participating communities would continue for an additional 10 years. Additional community purchases would be subject to a new set of purchase and use standards. Incentives for communities to convert from the initial set of purchase and use privileges to the new set would be provided.

Suboption 1: Review program after 10 years.
Suboption 2: Review program after 3 years.

This section provides an analysis of the implications of allowing communities to purchase commercial QS if there is (a) no sunset provision; (b) a program review after 5 years and consideration of a sunset; or (c) a program review after 3 (Suboption 2) , 5, or 10 (Suboption 1) years and consideration of a drop-through provision.

Option a: No sunset provision

One of the main purposes of the amendment is to increase participation in the commercial IFQ fisheries for certain remote communities that are relatively underdeveloped and whose residents received few QS at initial issuance. As proposed, the purchase of QS is intended as a long-term investment in the fisheries resource for the benefit of community members, without jeopardizing entry-level opportunities for new entrants and fishermen residing in other fishery-dependent communities. Several provisions in the proposal are designed to encourage this outcome. Firstly, the number of eligible communities would be fixed at final decision, thus, additional communities could not qualify after implementation of the program. Secondly, there is a proposal to cap the amount of QS each individual community could hold, as well as a suboption to limit the areas in which certain communities can hold QS. Thirdly, there is a cumulative use cap proposed which would limit the amount of QS communities could collectively purchase. Fourth, there are several block and vessel size restrictions proposed which would limit the use of QS to specific types and classes. Finally, there are specific sale provisions for consideration which would limit the sale of community QS to other communities and require communities to hold the QS for at least three years. Thus, the breadth of options under the proposed elements allow the Council to develop a program with as much flexibility or constraint as deemed necessary.

[34]As described in the National Research Council's 1999 publication Sharing the Fish.

The problem statement notes that part of the concern being addressed by this action is that a number of small, remote, coastal communities in the Gulf of Alaska are struggling to remain economically viable. Assuming then that part of the goal of the action is to further economic development in the target communities by providing a mechanism to participate in the halibut and sablefish fisheries, contemplation of termination of such a program suggests a view of development as a terminal concept.[33] There may be the perception that there may come a time when it can be declared that this action has achieved its goals and is providing for the sustained participation of these communities in the halibut and sablefish fisheries–but termination of the program would directly inhibit that participation, unless individual community residents were willing and financially able to purchase the QS upon termination of the program.

The organizational and administrative efforts necessary to create a qualified management entity, as well as the ability to secure funding for the purchase of QS, may be the actual limiting factors for community purchases. Some communities' decision to invest in the IFQ fisheries may depend on the ability to rely on that investment for the long-term. Given the significant financial commitment associated with purchasing QS subject to the restrictions outlined in this program, it seems unlikely that most communities would choose to purchase QS if there was not a reasonable likelihood that they could continue to hold the QS long enough to secure a return and retire the debt incurred to acquire those shares. Option a would not implement a sunset provision in regulation and thus would allow communities the potential to hold QS for an undetermined duration. However, the Council has the authority to terminate this action at any time under its standard amendment process.

Understanding that the intent of the program is not just to provide short-term relief to communities that are struggling economically, establishing a sunset date may prove too limiting to establish the program. The concept is based on allowing community entities to purchase QS, as communities may have more access than individual residents to the capital required, as well as the financial stability to risk that investment. The individual QS owner is subject to different economic restraints and may need to sell QS because of short-term economic needs, whereas the community can make a public policy decision to reduce or eliminate expected return on capital in the short-term and view the QS as a long-term investment. If the intent of the program is truly to provide an opportunity for communities to sustain their participation in the fisheries, a program sunset may place an unnecessary limit on the community (as opposed to individual holders) rather than serve to encourage communities to increase their investments in fisheries.

Option b: Program review in 5 years and consideration of a sunset **(preferred option)**

A program review five years after implementation, which would include consideration of a possible sunset provision, is more likely to ensure that any unanticipated adverse impacts of allowing communities to purchase QS are contained. Should the community QS program be ended, communities would not be able to purchase or hold commercial QS and the QS obtained during the program would have to be relinquished in some way. It is presumed that, if there was sufficient justification to end the program, based upon adverse impacts on the fisheries, the effects of the overall action on the commercial sector would partially reverse, although the allocations to different sectors (different vessel classes, residents of other communities) would

[35]While the proposed action is structurally distinct from the existing CDQ program, some of the factors considered in the development of the CDQ program may have relevance to the action, to the extent that the action is intended to further economic development by providing opportunities in the commercial fisheries for remote communities. The NRC study (1999b) on Alaska's CDQ program specifically considered the issue of program duration in the context of an economic development program like the CDQ program, and noted that "programs that are succeeding cannot–by that very success–then be regarded as candidates for elimination."(p.98)

likely differ from their starting points as a result of transfers that have taken place over the duration of the program.

Should a program review warrant establishing a sunset provision, it is assumed that communities would need to sell their QS before the program expires. Thus, knowing that communities must relinquish their QS by a specific date, individual buyers would be at an advantage in the purchase of that QS. Communities that must sell their QS subject to a deadline would be in a less favorable bargaining position. Indeed, mandating that these municipalities divest themselves of QS, in what under these circumstances would surely be a "buyer's market," could impose severe economic hardship on these small, isolated, and (as argued as the basis for the current proposed action) "marginally viable" communities.

It is potentially the case that these communities would actually be left "worse off" after a community QS program of brief duration, than if no such program had ever existed. This is because most participating communities will likely incur a substantial debt burden to acquire QS at prevailing market prices (which coincidentally will likely rise in the short run, in response to the new community demand for shares). Should the Council subsequently terminate the program and require these same communities to "sell," especially if that decision is made before the original debt can be substantially retired, the prevailing market value of the QS they must relinquish could leave these communities holding debt in excess of their QS asset value (noting, as suggested, that a mandated divestiture of all community QS would drive prices down).

Consideration of this possibility may cause some communities to commit their limited funds to some other long-term investment, as opposed to purchasing QS for a limited period of time with the uncertainty of being able to secure a reasonable return. However, if participants know in advance that the program will sunset, they are more likely to make alternative provisions for the future. Thus, while a sunset may not be necessary, and in fact could discourage some communities from participating, if the Council deems a sunset necessary, it may be beneficial to participating communities to set a potential sunset date at the time of final action, rather than introducing the uncertainty and associated economic cost of a possible "sunset" into the QS investment decision. In this sense, communities would know that after the first five years, there is the real possibility the program will end at a "date certain" (e.g., in another year, five years, or some other specified time period).

Another consideration is the timing of the program review. Given the nature of the target communities, five years may not be enough time for a sufficient number of communities to participate in the program to the extent that a meaningful review of the impacts of the program can be made. For example, a five-year review may be reasonable if it takes most communities only a year or two to organize an administrative entity, secure funds, and find available QS that meets the use restrictions of the program. In this sense, enough communities may have received limited benefits from the purchase of QS to conduct a review of the impacts of the program. More likely, the inherent barriers to entry and/or unforeseen circumstances may make it difficult for many communities to purchase QS within the first few years of the program. For example, participation could be delayed if a community cannot find available QS to purchase within the permissible vessel classes and areas and a qualified resident to fish the IFQs.

The benefits of Option b are related to the notion that there is a considerable amount of uncertainty regarding the amount of QS that communities would purchase under this amendment. The Council may benefit from conducting a review of this action several years after implementation, and this review may serve to allay some of the concerns about the more essential elements of this action. Thus, if at final action there is sufficient uncertainty associated with the overall impacts of this action on the IFQ fisheries, the Council may want to establish a review period and consider modifications to the program or a sunset provision at that time. While there is an argument for not including a sunset provision, the NRC notes (in the context of the CDQ Program)

that it may be entirely appropriate to evaluate the changes that the program has created in coastal communities and review the progress of the program in achieving improved economic opportunities. This same concept may also apply to this action, and Option b would allow for this process. It is also the case that the Council may revisit the action to allow eligible communities to hold QS at any time it chooses, whether or not it formally establishes a date-certain review, with or without a "sunset" provision.

Option c: Program review in 3 (Suboption 2), 5, or 10 (Suboption 1) years, with consideration of a drop-through provision

As an alternative to establishing a sunset provision, the Council may opt to provide for a program review with consideration of a drop-through provision. Option c was added by the Council, upon recommendation by the Advisory Panel, in June 2000. Note that the drop-through system is described in the NRC report (1999a) as it relates to the initial issuance of QS, as a method of making incremental changes to an IFQ program without causing major disruptions to current participants. It is also used to offer positive incentives to individuals who engage in fishing in a manner consistent with established policy goals. It is intended as an alternative to making vast regulatory changes, by allowing any small changes to the program to be done on a periodic basis that can be well anticipated by the QS holder.
By contrast, the action being considered for analysis is the purchase of QS within an IFQ program that has been in effect for several years. The drop-through system is based on an initial "entitlement" of QS that would be defined for a finite period. Upon the review of the program, the Council would determine whether the original provisions of the program (e.g. purchase, use, and sale restrictions) warrant modification, and if so, create a new set of entitlements to reflect those changes. Upon implementation of the new entitlements, communities that had previously purchased QS could continue to hold the QS under the original provisions for an additional 10 years. All subsequent community QS purchases, however, would be subject to the new provisions, thus reducing the economic risk of the initial investment decision.

Option c does not clarify whether the review of the program should be conducted only after the first five years or whether it would continue periodically every five years. The resolution of this issue relates to the effective life of the program. Depending on the time of program review (3, 5, or 10 years) and assuming a ten year entitlement, the drop-through provision would allow communities to participate in the program under the original provisions for up to 13 (3-year review), 15 (5-year review), or 20 years (10-year review). After that, each participating community would be subject to the modified provisions.

Note also that while Option c does not set an explicit sunset date, it is assumed that a sunset provision could be developed under this option if the program review results in such a conclusion. The essential difference between this option and Option b is that the current community participants would be assured that they could continue their participation in the program for an additional 10 years after this determination.

The primary benefit of a drop-through provision is that it retains the Council's ability to continue to tweak the program to better suit its intent without drastically disrupting current participants. Even without this provision, the Council may review or modify the action at any time it deems necessary under its standard procedures. The NRC report (1999b) on the CDQ program notes: "There can be a balance between certainty and flexibility if [a] program is assured to exist for some reasonable time (e.g., ten years) and if major changes in requirements are announced in advance with adequate time to phase in new approaches (e.g., five years)." The duration of the initial entitlement, however, is crucial to the success of this concept. For instance, with a 5-year review and a 10-year entitlement, a community that does not have the capital to purchase QS until the fifth year of the program would still have ten years to benefit from the use of that QS with adequate security that no changes would ensue. For holders to initially purchase QS, participants must have enough

assurance that they can benefit from that QS for a sufficient number of years to ensure a reasonable return. Establishing a drop-through provision may encourage communities to organize and purchase QS as soon as possible, in order to have a longer time period to benefit from the original provisions of the program.

The difference between reviewing the program after 3, 5, or 10 years is a policy decision. The existing commercial sector would likely prefer a shorter review and an explicit sunset, since at least part of the impact of the action could be reversed sooner, making more QS available to individual holders. The choice between 3, 5, or 10 years is likely more important to the participating communities and should be based on the number of years required to achieve the program's goals. For example, a three- or five-year review may be reasonable if it takes most communities only a year or two to organize, secure funds, and find available QS that meets the use restrictions of the program. As stated previously, this may be sufficient time for enough communities to participate to realize some limited benefits from the purchase of QS. More likely, the inherent barriers to entry and/or unforeseen circumstances may make it difficult for communities to purchase QS within the first few years of the program. In addition to not conforming to the intent of the action, a review after three or five years would likely not supply enough information in order to determine whether a sunset provision is warranted. A ten-year program review may be more reasonable to allow more time for the goals of the program to be realized.

In sum, the nature of both the action and the target communities may warrant not developing a sunset provision at this time (Option a). Communities with the intent of purchasing QS to promote access to the halibut and sablefish fisheries would be more apt to participate if they were assured a reasonable time period in which to receive a return. However, if there is a sufficient level of uncertainty associated with the potential impacts of this action, the Council may wish to consider a program review and possible sunset after 5 years (Option b). A program review could serve as a mechanism by which the Council can evaluate whether or not the action is having the intended effect and to determine whether the program needs to be modified. A review after 5 years, however, may be too short to adequately assess the program as many communities will likely take several years to organize and secure funding to participate. Should the Council wish to retain some flexibility in modifying the program without disrupting current participants, the drop-through provision (Option c) may be appropriate. Again, a review after 3 or 5 years, as proposed in Option c, may not represent a sufficient amount of time by which the Council could determine whether program changes are necessary, although it may provide an indication of whether or not the program seems to be moving in the desired direction.

3.6 Monitoring and Enforcement

Given that NMFS would be the primary entity administering the program, Phil Smith of the Restricted Access Management (RAM) Division has provided the following, regarding these issues (1/10/02):

First, it should be understood that "enforcement" in this context means enforcement of the particular rules that may apply to community-based organizations receiving, transferring, and fishing QS/IFQ, and not to enforcing the rules that govern actual fishing operations. With respect to those operational requirements, no special rules, other than those imposed and enforced through the proposed performance standards, would apply to QS/IFQ held by community-based entities that do not already apply to all other IFQ holders.

So, "enforcement" herein means ensuring that the regulations that govern eligibility to receive QS by transfer, purchase and sale of QS, transfer of IFQ permits to designated fishermen, and related matters are followed. In this manner, enforcing the community-based IFQ element of the IFQ program will be no more burdensome than enforcing the requirements for all other QS holders and IFQ fishermen, but they could be somewhat

different. It is proposed under Element 6 that specific performance standards either be provided as guidance or implemented in Federal regulations to govern the use of QS/IFQ held by community entities. If that is part of the final action, monitoring and enforcing these standards would be a function of ongoing program management, as conducted by NMFS/RAM and as described in Section 3.1.2.6.

Note that residents leasing community IFQs would also be subject to the IFQ cost recovery fee, as are individual QS holders, to help pay for the cost of managing and enforcing the program. Similar to the current IFQ Program, it is assumed that the fisherman leasing the IFQs from the community would be responsible for submitting payment to NMFS.

3.7 Net Benefit Implications

Three possible general outcomes of the proposed action are possible, each of which could have different net benefits. The first possible outcome (which is easily dismissed in this analysis) is that no communities purchase QS. Net benefits will not change under this outcome as the market for QS is unchanged and any administrative expenses are close to zero.

The second scenario is that communities purchase a moderate amount of QS. The price of QS would likely remain unchanged as communities make relatively few purchases and, therefore, exert little overall pressure on the market. It is nonetheless possible that, given the likelihood that qualifying communities would seek QS suited to "smaller operations," even moderate levels of entry by communities could bid up prices for these (e.g., blocked, Class D) shares to some degree.

The third possible outcome is that communities purchase a substantial share of the QS in the market, significantly driving up the price of QS. This last possible outcome overlaps with the second, as small scale purchases of QS are likely to precede any larger purchases that would substantially affect the market price of QS. Since these last two outcomes overlap, this analysis considers them jointly.

This analysis examines two approaches to assessing the net benefits of the proposed action. The first examines the action's net benefits from a private perspective considering only the change in economic efficiency. This approach relies only on private benefits and private costs to estimate the effects of the action. This relatively narrow analysis suggests that the initiative would result in a reduction of net benefits. The second method of analysis uses a broader, more comprehensive view of economic value, which considers social benefits and costs, as well as private benefits and costs. In the broader analysis, which includes social costs and benefits, the net benefits of the action are indeterminate.

A simple private benefit/cost analysis would suggest that the current distribution of QS provides greater net benefits than one arrived at by a program that allows community purchase of QS. The current market for IFQs affords private fishermen the opportunity to purchase QS and enter the fishery. In a competitive market with a functioning capital market and low transaction costs, the least cost fishermen will purchase QS and harvest fish. Production costs will be minimized since the lowest cost producers will be most able to afford to purchase QS, and maximum net benefits would be achieved. Under this line of reasoning, if small community fishermen were able to harvest fish at a lower cost than the current QS holders, then they would purchase QS in the market and enter the fishery. The dearth of QS holdings in small communities and the transfer of QS from fishermen in small communities to fishermen in larger communities is arguably the result of small community fishermen having higher costs. Any program that shifts QS to these fishermen would therefore increase harvest costs in the fishery and result in a decrease in net benefits. While this, in fact, is the appropriate framework for evaluating the "efficiency" of the policy action being considered, this approach

by-in-large ignores social values which are not captured in the private market, created under the IFQ program. Therefore, a broader assessment of the "net National benefits" of the proposed action, which captures both market and non-market effects, is appropriate here.

To an unknown extent, some private interests could be overshadowed in a market that includes communities. A potential cost from the program is that fishermen wishing to purchase QS may face higher market prices because of community purchases. In some cases these fishermen could be unable to bear costs for their purchases of QS that communities might be willing to bear. For example, a community might be willing to incur a net loss on QS purchases if those purchases are believed to benefit the community significantly. Fishermen priced out of the market may be lower cost producers that could afford QS in a market that does not include the community purchasers. In terms of strict economic efficiency, these displaced fishermen would create the highest net benefit. When communities participate in the market, these private fishermen may no longer be willing or able to pay the higher price for QS.

Current QS holders may argue that their QS holdings are threatened by community purchases permitted by the action. This argument is specious since QS holders have a choice of whether to sell their QS to a community. QS holders that sell their QS will be fully compensated with the purchase price and may receive an added windfall if community purchases increase the market price. This windfall would be the result of communities paying a premium for QS, reflecting the "re-distributive" objectives of the program, whereas private buyers would be willing or able only to pay the private value. QS holders that do not sell their QS are unaffected.

If communities are permitted to participate in the market for QS, community purchases will be based on the community's assessment of the total value of the QS, including the value of the QS to the private fishermen in the community and the broader community values deriving from the added local economic activity. Social values may include improved economic circumstances in the community, the stimulation of community activity, and an increase in the economic welfare of community members.[34] Small communities that include these broader welfare considerations in their calculation of the value of QS will be willing to pay more for the QS than private individuals in those small communities. The result is a market in which price and the distribution of QS is based on the total value of QS (including both the private and social values of the QS), rather than a distribution based simply on the private value of QS. Whether this change is likely to result in an increase in net benefits cannot be determined. Several factors, the impacts of which cannot be determined, make a definitive determination of the net benefits impossible.

Perhaps the greatest unmeasurable effect of the purchase of QS by small communities is economic loss to larger communities, whose residents sell QS and/or are unable to acquire QS, due to the competition in the marketplace from qualifying communities. Small communities that purchase QS will do so based on the total benefit (including the private and social benefit) derived from the QS. Since, under the proposed action, larger communities would not be permitted to participate in the market for QS, the loss of community welfare to those communities resulting from the sale of QS by their residents will not be represented in the market. If this loss is of the same or larger magnitude as the social benefit realized by small communities that purchase QS, the action would likely still have a net benefit, owing to the weighting scheme implicit in the Council's

[34] Many economists may balk at the inclusion of values such as these in a net benefits calculation arguing that the shift of activity is merely a transfer of these activities from one community to another, with no impact on net benefits. The willingness of communities to purchase QS that would not be purchased by private fishermen suggests that some social benefit is realized by the community that is not represented in the private market price.

proposal.[35] Net benefits cannot be quantified because of the importance of non-market social costs and benefits in the proposed action. The sale of QS to the community QS holders will increase the revenues of some community members who may wish to exit the fishery (from both large and small communities), or redirect capital into other industries within the larger communities incurring a net loss of QS. To the extent that residents within larger communities currently hold proportionally more quota shares, these residents (and presumably the communities where they live) will benefit from the compensation received by the sale of QS, otherwise they would not voluntarily choose to sell.

An added benefit could arise if the action broadly permits communities to purchase small blocks that are not currently fished by their owners. Unfished IFQs represent a leakage of potential benefits from the fishery. If communities are provided the latitude to purchase these shares for use by local fishermen, the benefits of these QS will be a new addition to the economy, resulting in an increase in net benefits. Unlike the previous benefits discussed, both private and social benefits would be realized from fishing currently unfished IFQs. Since unfished IFQs are a very small share of the fishery, the benefit from fishing these shares is likely to be relatively small.

Community involvement is critical to the success of this action and may overcome barriers to entry to fishermen in remote, small communities. Such potential barriers include limited accessability to financing, capital, and higher operating costs. Although not true for all communities that would be included in the program, one reason for the flow of QS from remote, small community fishermen to fishermen in more accessible areas is that the transportation costs of delivering fish to the market are less for fishermen based in more accessible locations. Fishing closer to an established point of delivery reduces costs of production. Fishermen in remote communities that participate in a private QS market are likely to have higher costs simply because of the proximity of their communities to these delivery locations. Involving remote communities in this action could help fishermen overcome some of these transportation cost hurdles. Improvements in transportation networks are rarely undertaken by private interests. Areas well served by transportation networks are well served in part because of community action to develop the transportation system. Areas that are poorly served by existing transportation systems require (at a minimum) the support of local government for the development of their own transportation networks. Community purchase of QS is a financial commitment to the success of fishermen in these communities, thus, a potential added benefit may be a commitment on the part of the community to support development of more efficient transportation networks to support delivering fish to market. More likely, resident fishermen in small communities would expand their use of existing ports in other communities with established purchasing-processing arrangements, reflecting the economic efficiencies of delivering catch to a centralized location.

An additional potential conservation benefit could arise from the transfer of QS to remote, small communities due to an increased spatial dispersion of catch. Harvests of fish in remote areas are less common than harvests in accessible areas simply because of the transportation costs of delivering fish to market. If this action stimulates development of the fisheries and harvests in remote areas, the likely effect is an increase in harvest in these remote, less intensively fished areas. Because halibut and sablefish are considered single stocks, this action would not affect the overall stock abundance, as the total catch limits would not change. However,

[35] Some persons may argue that the benefits of the economic activity generated by additional quota shares are greater in small communities that have less economic activity than larger communities. Indeed, this is precisely the position of the Council, as reflected in their statement of objectives for this action. To the extent that services needed by QS holders are less available in small communities, it is possible that small communities could realize proportionally less economic activity than large communities from local QS holdings. QS holdings, however, are likely to have a greater impact on a small community because the activity that it generates will be a larger part of the overall economic activity in the community. The total amount of economic activity generated by the QS, however, is likely to be similar regardless of the size of community in which the QS holder is located.

because the geographic distribution of catch might change, there may be some effect on local abundance levels. Thus, purchase of QS by remote communities could create an unintended benefit of dispersing catch. These benefits are not represented in the private market (or even in the market created by permitting the communities to purchase QS) but could arise simply from the regional distribution of the communities entering the market.

Whether or not this effect is realized depends on the amount of QS purchased by remote communities and the location of the fishing by community residents. The majority of resident fishermen own C and D class QS and likely own small vessels which fish closer to shore. If a substantial amount of QS was purchased by communities and existing vessels were used to fish the resulting IFQs, the amount of nearshore effort could increase in remote communities. Any increase in nearshore effort would be expected to be contained mainly nearby remote communities, however, which typically do not have the same level of local depletion concerns as do the larger, more accessible ports.

Using a private estimate of net benefits, the purchase of QS by small communities is likely to result in either no change in net benefits or a loss of net benefits because the action could result in a shift of QS from lower cost operations to higher cost operations in small, remote communities. Allowing community purchases of QS, however, introduces a mechanism by which the Council's re-distributive objectives can be realized. Consequently, the purchase of shares by small communities could provide a benefit to remote communities, and the fishermen in those communities. Whether an overall increase in net National benefits would result from the purchases, however, cannot be determined. Since larger communities would not be permitted to purchase QS, any benefits which accrue to these communities from QS held by their residents are not represented in the market. These larger communities could suffer a welfare loss if their residents sell QS to small communities. This potential welfare loss cannot be quantitatively estimated, given information currently available to the analysts. Nonetheless, it is implicit in the Council's stated objectives for this action that expected welfare "gains" accruing to small, remote Alaska communities are given greater relative weight than are potential welfare "losses," which may accrue from this action to larger communities. While not readily amenable to quantification, the expectation is that the proposed action will yield a net benefit to the Nation. Only empirical experience with the program can confirm this expectation, which is part of the rationale for including a systematic program review as part of this amendment.

3.8 E.O. 12866 Conclusion

E. O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant." A "significant regulatory action" is one that is likely to:

(a) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
(b) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
(c) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
(d) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Based on the analysis and the above criteria, none of the alternatives constitute a "significant" action under the E.O. 12866, recognizing that there may be distributional impacts among the various participants affected

by this proposed action.

3.9 Summary of the Council's Preferred Alternative

At the Council's April 2002 meeting, the Council approved a preferred alternative for allowing a distinct set of Gulf communities to purchase and use commercial halibut and sablefish catcher vessel quota share in the Gulf of Alaska. The preferred alternative would make numerous changes to the existing IFQ Program in the Gulf of Alaska, essentially creating a new type of eligible QS holder (new non-profit entities representing eligible communities) with additional restrictions specific to quota share when it is held by communities. This section outlines each component of the preferred alternative with regard to the specific provisions and related issues that were identified as decision points in Section 3.5.

The Council action targets small, rural, coastal fishing communities in the Gulf of Alaska that have documented participation in the halibut or sablefish fisheries. The criteria proposed to determine eligible communities are intended to distinguish a distinct set of Gulf communities that have experienced a decline in the amount of QS since the implementation of the IFQ Program and have few alternative economic opportunities. While not necessarily a direct result of the IFQ Program, the problem statement notes that declines in the number of community fishermen and access to nearby marine resources are on-going problems in rural communities that may be exacerbated by the IFQ Program. The action is an attempt to mitigate the identified problem and provide eligible communities with an opportunity to increase their participation in the IFQ fisheries through the leasing of community-held QS to community residents. This action was designed to increase communities' access to the fisheries without precluding entry-level opportunities for fishermen in other communities. The purpose and design of the action is therefore intended to have distributional effects, as it is intended to increase the number of residents participating in the IFQ fisheries (by leasing IFQs from the community entity) in these remote communities.

This section focuses on the eight elements adopted by the Council which make up the preferred alternative to allow communities to buy commercial catcher vessel halibut and sablefish quota share. It is the combination of these elements which determine the whole of the action. Several of these elements either mirror or are modifications of the existing IFQ regulations, however, communities are fully subject to the existing provisions of the IFQ Program unless described otherwise in this section.

3.9.1 Eligible Communities

Eligible communities are those that met the qualifying criteria at the time of Council final action and are listed among a defined set of qualifying communities in Federal regulation. The qualifying criteria are as follows: 1) population less than 1,500; 2) no road access to larger communities; 3) direct access to saltwater; and 4) a documented historic participation in the halibut or sablefish fisheries. These criteria qualify 42 communities located on the coast of the Gulf of Alaska, which will be listed in Federal regulation if approved by the Secretary of Commerce and implemented by NMFS. The list of eligible communities is in Table 3.32. Communities not listed in Federal regulation, but wishing to be added, must apply to the Council to be approved for participation in the program and will be evaluated using the above criteria.

Table 3.32: (42) Eligible Communities for Purchase of Commercial Halibut and Sablefish Quota Share

General Qualifying Criteria: Rural communities in the Gulf of Alaska with fewer than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation[1] in the halibut or sablefish fisheries.

Area 2C

Community	Population[2]
Angoon	572
Coffman Cove	199
Craig	1,397
Edna Bay	49
Elfin Cove	32
Gustavus	429
Hollis	139
Hoonah	860
Hydaburg	382
Kake	710
Kassan	39
Klawock	854
Metlakatla	1,375
Meyers Chuck	21
Pelican	163
Point Baker	35
Port Alexander	81
Port Protection	63
Tenakee Springs	104
Thorne Bay	557
Whale Pass	58
21 communities	8,119

Area 3A

Community	Population
Akhiok	80
Chenega Bay	86
Halibut Cove	35
Karluk	27
Larsen Bay	115
Nanwalek	177
Old Harbor	237
Ouzinkie	225
Port Graham	171
Port Lions	256
Seldovia	286
Tatitlek	107
Tyonek	193
Yakutat	680
14 communities	2,675

Area 3B

Community	Population
Chignik	
Chignik Lagoon	79
Chignik Lake	103
Ivanof Bay	145
King Cove	22
Perryville	792
Sand Point	107
	952
7 communities	
	2,200

[1]As documented by CFEC, DCED, or reported by ADF&G in *Alaska Rural Places in Areas with Subsistence Halibut Uses*.

[2]2000 census data, Alaska Department of Community and Economic Development.

Note: The above 42 communities appear to meet the qualifying criteria at Council final action on April 10, 2002, and will be listed as a defined set of qualifying communities in Federal regulation. Communities not listed must apply to the North Pacific Fishery Management Council to be approved for participation in the program and will be evaluated using the above criteria.

These criteria are intended to define communities that have experienced common problems associated with the IFQ Program and do not have many alternative economic opportunities or road access to larger communities. The Gulf communities that are eligible under the Council's criteria have experienced a net loss of 7% - 45% of QS since initial issuance in 1994. The only gain in quota share by these communities since initial issuance is in the amount of sablefish QS held in the Central Gulf. (The net gain of Central Gulf sablefish QS is primarily attributed to one or two holders in Seldovia. The remainder of the communities either lost Central Gulf sablefish QS or retained the same amount since initial issuance.) By contrast, the total Gulf communities have experienced a net gain of 5% - 17% in every management area, except for a slight decrease in Area 3A halibut QS.

Population appears to be one defining factor in determining communities which either were issued a relatively small amount of halibut and sablefish QS or have experienced a substantial loss of that QS. The smaller rural communities have realized a decline in participation by their residents in the IFQ fisheries that the larger communities (including Cordova, Wrangell, and Petersburg, who were considered but not approved for eligibility under the preferred alternative) have not experienced. Cordova, Wrangell, and Petersburg have all either sustained or expanded participation by their residents in the IFQ fisheries, primarily in the area in which each community is located. As of year-end 2000,residents of Wrangell increased their halibut holdings in Area 2C by 25%, and residents of Cordova more than doubled their holdings of Area 3A halibut QS. Residents of Cordova also increased their holdings of sablefish QS by about 24% in both the Central Gulf and Western Yakutat. Similarly, residents of Petersburg have increased their holdings of halibut QS in Area 2C (+25%) and 3A (+30%), and increased their sablefish QS holdings in Southeast (3%), West Yakutat (24%), and the Central Gulf (8%). At year-end 2000, Petersburg residents held about 45% more halibut QS in Area 2C and 39% more halibut QS in Area 3A than residents of all 42 of the smaller target communities combined. Similarly in the sablefish fishery, Petersburg residents held 36%, 90%, and 64% more sablefish QS in Southeast, West Yakutat, and the Central Gulf, respectively, than residents of all 42 smaller target communities combined.

3.9.2 Ownership Entity

The administrative entity permitted to hold quota share on behalf of eligible communities must be a *new* non-profit organization representing an eligible community or aggregation of two or more eligible communities. There is no limit as to the number of communities that may be represented by a new non-profit entity, thus, eligible communities may develop a Gulf-wide or regionally-based administrative entity to act as a trustee for individual eligible communities.

Administrative entities must be approved by NMFS to be considered "qualified" prior to purchasing QS on behalf of an eligible community or group of communities. The minimum information requirements necessary for qualification are detailed in Section 3.9.7. These minimum requirements would be listed explicitly in regulation so that an entity representing a community would understand exactly what minimum documentation was necessary to provide to NMFS in order to seek eligibility as a community QS recipient. Only one non-profit entity can be qualified to represent each individual eligible community. It is assumed that, should an administrative entity meet the requirements in submitting a statement of eligibility to NMFS, entities would be qualified to represent individual communities on a first-come, first-serve basis.

The purpose of the requirement that the non-profit organization be newly formed is to ensure that the entity is explicitly designed to meet the objective of purchasing and holding quota share on behalf of the community. Existing administrative structures, such as municipal governments or tribal councils, may be focused on a host of priorities and issues, of which fishing may be only one. Considering comments from the Scientific and

Statistical Committee, the Council adopted this provision in order to help ensure that the administrative entity designated to purchase and manage the quota share is representative of the entire community, with an express purpose to manage commercial quota share. Whether the community as a whole benefits from the quota share will be highly dependent upon the ownership entity being representative of the entire community and not just one defined segment of the population or interest group in the community.

A new non-profit entity would likely need to provide for participation and input by all community residents and consist of individuals knowledgeable about the fishing industry and the management of QS. The Council did not specify requirements as to how the entity would be funded or whether there would be a limit on the entity's annual administrative costs. However, in order to ensure that the intent of the action is met and the majority of the QS value is passed on to fishermen, crewmen, and other individuals in the community, the entity may consider specifying a specific maximum percentage of the ex-vessel value of the annual IFQs to be used for debt service and administrative costs.

The Council also allowed for the possibility that some eligible communities may find it more cost efficient and feasible to participate in the program if they collectively form a new non-profit entity to manage QS. The primary benefits of this option are the flexibility gained by communities in their purchase options and the potential reduction of administrative costs. This option would allow groups of communities to contract together to purchase commercial QS, likely based on geographic location. Smaller communities that are in close proximity to each other and that have traditionally fished the same areas may benefit from being able to pool their resources to fund the purchase of QS. In addition, smaller communities with few residents may have difficulty finding experienced persons in their community to staff a non-profit organization, as well as the funding necessary to establish and maintain a non-profit entity. The Council adopted this provision so that those smaller eligible communities with very limited resources will not be precluded from taking advantage of this program.

Finally, if two or more communities decide to form a new-non-profit to hold QS for those communities, the intent is that the non-profit entity purchases the QS and is the designated holder. While the communities may provide the entity with funding to purchase QS, the regional entity would manage the QS on behalf of the communities and contact the RAM Division to distribute the harvest card and IFQ permit to qualified individual residents. While not explicitly stated in the Council's preferred alternative, it is assumed that the regional entity would also process individual requests to lease the annual IFQs and perform general administrative functions. However, communities may still find it necessary to form a non-profit entity, in order to focus the community on securing funding for QS purchases and to assist in determining the criteria by which individual residents will be evaluated to lease the IFQs. This provision was included to allow for participation by communities who may find it difficult to perform some of the administrative duties necessary to manage the QS, such as contacting NMFS to distribute the annual IFQ permits and submitting required information for an annual report. While maybe unnecessary for several of the larger communities, this option may determine whether some of the smaller communities can take advantage of the opportunity to purchase and use commercial QS.

3.9.3 Use Caps for Individual Communities

Each qualified administrative entity representing an eligible community or communities may own, hold, or otherwise control, but may not exceed, 1% of the Area 2C and 0.5% of the combined Area 2C, 3A, and 3B

halibut QS, and 1% of Southeast and 1% of all combined sablefish QS, on behalf of each of its member communities. The purpose of an individual use cap is to control consolidation of QS by a few individual communities. The Council's intent was to mirror the use caps that are currently in place for individuals in the IFQ Program, although these caps are represented in the regulations in terms of fixed QS units as opposed to percentages. For consistency, the caps as applied to community QS holders would also be represented in QS units as shown in Table 3.33 below. Note that current regulations require that NMFS use the 1996 halibut quota share pools to determine the 2002 halibut use caps and the 2002 sablefish quota share pools to determine the 2002 sablefish use caps.

The original proposal indicated that appropriate community use caps would be difficult to predict because of the unique nature and size of each community, alternative employment opportunities, proximity to available resources, and harvest ability. Fluctuations in resource availability in each regulatory area, as well as the fact that there is not an equal number of eligible communities in each regulatory area, further complicate the development of one universal community use cap. Thus, the Council recommended that the same use caps be applied to QS when it is held by communities as are currently in place for individual holders.

Table 3.33: Individual community use caps

Halibut commercial use caps:
In Area 2C, the use cap is 599,799 QS units. (1%)
In combined areas 2C, 3A, and 3B, the use cap is 1,502,823 QS units. (O.5%)

Sablefish commercial use caps:
In Southeast regulatory area, the use cap is 660,310 QS units. (1%)
In all regulatory areas combined, the use cap is 3,177,580 QS units. (1%)

Public testimony and the problem statement further support this recommendation, in that the Council noted concern with providing for community participation without undermining the goals of the current halibut and sablefish IFQ Program. The individual community use cap is intended to cap the amount of QS each community could use, in order to alleviate the concerns of current IFQ holders that a number of small Gulf communities could control excessive amounts of the available commercial halibut and sablefish QS. Thus, although the intent of the action is to lease the resulting IFQs to *several* residents in each eligible community, the Council adopted the same use cap in the existing program in order to allow each community to purchase a relatively conservative amount of QS. In this sense, each of the 42 eligible communities would represent the equivalent of a potential new "individual" QS holder, subject to the existing use caps.

In addition, the Council recommended that eligible communities in Areas 3A and 3B cannot buy halibut QS in Area 2C, and communities in Area 2C cannot buy halibut QS in Area 3B. This provision would allow communities to purchase and use QS in the regulatory area in which they are located as well as one adjacent area. The intent of this provision is consistent with the overall intent to increase a community's opportunity to use nearby marine resources. Allowing communities to also fish in an adjacent area is intended to mitigate concerns with communities located close to boundary lines, such as Akhiok and Yakutat, and allow them to continue fishing their traditional grounds.

Under this provision, and without a cumulative cap on the amount of QS all eligible communities could hold collectively, the 42 eligible communities could potentially hold a maximum of 21% of the halibut QS in Area 2C and 21% of the combined Area 2C, 3A, and 3B halibut QS. Eligible communities could also hold a

maximum of 42% of the sablefish QS in Southeast and 42% of all combined sablefish QS. However, the Council has recommended establishing a cumulative cap that would apply to the total amount of QS held by all eligible communities collectively (see Section 3.9.4).

3.9.4 Cumulative Use Caps for All Communities

In addition to the use cap proposed for each individual community, the Council approved a use cap that would apply to the amount of QS that can be held by all eligible communities collectively. Eligible communities are limited to 3% of the Area 2C, 3A, or 3B halibut QS and 3% of the SE, WY, CG, or WG sablefish QS in each of the first seven years of the program, with a 21% total by area, unless modified by the Council through the program review (see Section 3.9.8). As discussed in the above section, if approved by the Secretary, the percentages selected by the Council for a cumulative use cap would be translated into QS units and fixed in regulation, in order to remain consistent with current regulations governing the IFQ Program.

The purpose of the cumulative use cap is to limit the amount of QS that can be consolidated by the total of eligible communities, in order to keep a specified level of QS available for individual holders. In addition, the step-wise approach of allowing communities to collectively hold an additional 3% of the total QS in each area each year, subject to a maximum of 21% by area, is intended to allow communities to build their participation slowly. Limiting the amount of QS that communities can purchase each year will help to ensure stability in the QS market for all current and prospective individual QS holders as well as community participants. In addition, some communities may take longer to enter the program than others, as some communities will likely need a few years to organize and qualify an administrative entity to hold the QS, secure capital to buy QS, and find the appropriate amount and type of QS for sale that can be used by community residents. The Council considered that because there is a cumulative cap that is more restrictive than the individual use caps (i.e., not all communities will be able to purchase up to their individual QS cap before the communities reach the cumulative cap), this program would be expected to incite competition among eligible communities to enter the program first. Further, it is likely the larger of the eligible communities that will be best positioned to participate in the program first, should it be implemented. Thus, a step-wise approach to a cumulative cap was selected to provide an opportunity for communities to enter and build their participation slowly, so that

the smaller communities have a chance to get organized and participate before the cumulative cap is reached.

The cumulative use caps for each area (in quota share units) and the effect on the number of communities that can purchase QS up to the individual use caps is shown in Table 3.34

Table 3.34: Cumulative use caps (3% in first year) for each area and number of communities that could purchase QS up to the individual use cap* in that area in the first year of implementation, based on 2002 TACs.

Halibut	Cumulative use cap (in QS units)	Cumulative use cap (in pounds, by area)	Individual use cap (in QS units)	Individual use cap (in pounds, by area)	# communities that could purchase up to the individual use cap* in that area in Year 1
Area 2C:	1,799,399	256,478 lbs	599,799	85,492 lbs	3
Area 3A:	5,582,382	683,328 lbs	1,502,823	183,957 lbs	3
Area 3B:	1,635,158	519,592 lbs	1,502,823	477,541 lbs	1
Sablefish					
SE	1,980,929	212,302 lbs	660,310	70,767 lbs	3
WY	1,596,932	111,244 lbs	3,176,122	221,252 lbs	<1
CG	3,348,592	287,304 lbs	3,176,122	272,506 lbs	1
WG	1,080,873	118,519 lbs	3,176,122	348,266 lb	<1

Note: The halibut use cap (in QS units) is based on the 1996 quota share pool; the sablefish use cap (in QS units) is based on the 2002 quota share pool. The use caps represented in pounds are based on the 2002 TACs. The use cap is fixed in QS units, but the pounds that equate to the use cap will vary each year with the annual TAC.

*The individual use cap is assumed to be the same as in the current IFQ Program. Halibut individual use cap: 1% of Area 2C and 0.5% of Area 2C, 3A, and 3B combined. Sablefish individual use cap: 1% of SE and 1% of all combined areas. Note that because there is not an individual use cap specific to Area 3A or Area 3B for halibut, the poundages provided indicate the cap in each area if QS was purchased up to the cap

Recall that the use caps for halibut are determined using the 1996 quota share pool and the use caps for sablefish are determined using the 2002 quota share pool. Note that only a few communities would be able to purchase QS up to the individual community use cap in the first year of the program under the recommended cumulative caps. Each year communities could purchase an additional 3%, and thus each year more communities would have the potential to buy more QS. For instance, in Area 2C, the 3% cumulative cap is equivalent to 1,799,399 QS units. Thus, this is an amount equal to what just 3 communities would be permitted, under regulations, to purchase (i.e., up to the individual cap of 599,799 QS units) and stay below the 1,799,399 QS cumulative cap for that area in the first year of the program. In the second year of the program, the cumulative cap would increase to 3,598,799 QS units (6%), an amount of QS equal to what just 6 communities would be permitted to hold, under the individual cap.

In sum, after seven years of implementation, a cumulative cap of 21% by area would be in place under the preferred alternative, unless modified by Council review. Thus, assuming each community were to hold the maximum allowed, the number of communities that could potentially hold QS up to the individual use caps in each area is, for halibut: 21 in Area 2C, 21 in Area 3A, and 7 in Area 3B; and for sablefish: 21 in Southeast,

7 in West Yakutat, 7 in Central Gulf, and 7 in the Western Gulf. Because only the 21 eligible communities in Area 2C are allowed to buy halibut QS in Area 2C, the cumulative cap provides for each of those communities to buy halibut QS up to the individual use cap after seven years of implementation. However, the cumulative cap is potentially constraining to community purchases in each of the remaining management areas in that each eligible community would not be able to purchase QS up to the individual use caps and have the total holdings still meet the cumulative cap.

3.9.5 Purchase, Use, and Sale Restrictions

There are four major elements of the program contained in this section: block restrictions, vessel size restrictions, sale restrictions, and restrictions on the leasing of annual IFQs resulting from community QS.

Block Restrictions

The Council approved allowing community entities to purchase up to 10 blocks of halibut QS and 5 blocks of sablefish QS in each management area in the Gulf, which is more flexible than the two block restriction which applies to individual holders. This is the equivalent of a total of 20 blocks of halibut QS per community (because of geographic restrictions on purchasing halibut QS, see Section 3.9.3) and 20 blocks of sablefish QS. The overall intent of the original block provision was to ensure that QS would be available to a part-time fleet of smaller operators, in order to mitigate some of the negative impacts to isolated fishing communities. The purpose of allowing communities to hold QS is to lease the resulting IFQs to several individual residents, effectively allowing many smaller operators to exist within the community. Thus, because block provisions were intended to protect the very stakeholders targeted in this action, and because community use of QS would potentially benefit many individual residents, the Council recommended applying a less restrictive block provision to community entities in order to more effectively meet the goal of the action.

The Council also approved a provision which would restrict community purchase of blocked QS to blocks of shares which, in 1996, exceeded the following minimum pounds of IFQ: (a) for Areas 2C and 3A, halibut IFQ of 3,000 pounds; (b) for Areas SE, WY, CG, and WG, sablefish IFQ of 5,000 pounds. This means that community entities would be prohibited from purchasing blocks of halibut QS that were less than or equal to 3,000 pounds and blocks of sablefish QS that were less than or equal to 5,000 pounds (based on the 1996 quota share pool). There have been concerns expressed in public testimony that allowing communities, which may have more access to capital, to purchase QS may introduce market competition for the smallest and least costly blocks of QS. These are the same types of blocks that are the most feasible purchase options for some smaller and part-time operators, thus, the Council determined there was a need to preserve these smaller blocks for individual holders in order to maintain opportunities for new entry and expansion in the program.

The Council's recommendation regarding the minimum block size that communities are allowed to purchase is based on the current 'sweep-up' provisions in the IFQ Program. Under existing regulations, individuals can combine blocks of QS if their combined total is worth less than 3,000 lbs in the halibut fishery and 5,000 lbs in the sablefish fishery. The 'sweep-up' provisions were added to the program because many of the QS blocks that were initially issued were very small, and in some cases probably too small to make a fishing trip worthwhile. Thus, the Council added this provision to allow some community purchase of blocked QS while preserving the smallest and least costly blocks for individual holders. Because individuals can combine blocks up to the thresholds of 3,000 and 5,000 pounds in the halibut and sablefish fisheries, respectively, the Council recommended that communities can purchase any blocks of QS over and above those amounts.

Note that the Council did not apply this block restriction to community purchases of Area 3B halibut QS. This is because the intent of the provision is to preserve the smallest blocks for individual use, as they may be the

most feasible for purchase by smaller or start-up operators. Only Area 3B has experienced a dramatic decline in the QS-to-IFQ ratio since initial issuance, thus only in Area 3B is one QS unit worth more IFQ pounds today than it was in 1994. The effect is that, in Area 3B, blocks of QS are now much larger than may be considered start-up level, thus the same intent is not met by restricting communities from purchasing these larger blocks in Area 3B. The 3,000 pound threshold (based on 1996 QSP) does not represent the same entry-level block of QS as it does in Areas 2C and 3A. In addition, anecdotal evidence suggests that there is a lack of a market for D category QS in Area 3B, most of which is in large blocks, and thus there is no apparent benefit gained by restricting communities from buying this type of QS.

Vessel Size Restrictions

The Council recommended that quota share held by community entities would be exempt from vessel size (share class) restrictions while the QS is owned and leased by the community. However, it is explicitly stated that vessel size restrictions are retained if the community transfers the QS to an individual holder. This means that although a given amount of halibut QS may be designated "C" class, for use on catcher vessels less than or equal to 60 feet, when that QS is held by an eligible community it can be used on a catcher vessel of any length. This provision was recommended to further the concept of using fishermen and vessels already available in the qualifying communities, so that resident fishermen and crew members can benefit from the resulting IFQs. Recall that the eligible communities have small populations and are remote by definition, and residents of eligible communities hold a relatively small amount of QS currently (about 6% of the total Gulf halibut QS and 4.5% of the total Gulf sablefish QS). Thus, there are likely a limited number of resident fishermen and vessels currently available to participate.

In addition, if approved, eligible communities would be entering the IFQ Program several years after implementation. Noting the declining rate of transfer and consolidation of QS since 1995, it is difficult to predict the amount and type of QS that will potentially be available on the market for community purchase. Because substantial obstacles already exist for communities to participate in the IFQ fisheries, the Council found it appropriate to create a program sufficiently flexible to allow communities to take advantage of the resources already available in the community without jeopardizing the opportunity for new entry or the sustained participation of existing holders.

The Council's preferred alternative also included a provision that would restrict the transfer of halibut QS in Areas 2C and 3A from the commercial sector to community entities to B and C category QS. Since community entities can currently receive A category QS (for use on catcher processors) through transfer, this action addressed only the transfer of catcher vessel QS (B, C, and D category for halibut QS and B and C category for sablefish QS). Thus, the only effective prohibition under the preferred alternative is that community entities cannot purchase D category halibut QS (for use on catcher vessels $\leq$35 feet) in Areas 2C and 3A. Because D category QS does not exist for the sablefish fishery, this provision only affects the halibut fishery.

The impetus for this restriction is based on concerns that D category QS, while constituting only 15% of the QS in Area 2C, 7% in Area 3A, and 3% in Area 3B, needs to be preserved for existing operators and new entrants that want to buy the least costly class of shares. In addition, while only 8% of the overall Gulf halibut QS is D class, 44% of the individual holders in Area 2C and 39% in Area 3A hold D class QS. Thus, D category QS is often more available for transfer in these regulatory areas and available in smaller blocks. Because the Council restricted communities to purchasing blocks of QS that exceed 3,000 lbs in the halibut fishery, only about one-third of the total D class QS is potentially available for community purchase under the block restriction. Thus, the prohibition on purchasing D class QS altogether effectively restricts communities from purchasing the additional 34% of D class QS that is either unblocked or in blocks greater than 3,000 lbs (using the 1996 ratios).

Again, the Council did not apply this restriction to Area 3B for several reasons, primary of which is the lack of a market for D category QS in Area 3B. The TAC has increased dramatically in this area since initial issuance, the effect of which was to create very large blocks of QS. Thus, because D category QS does not represent the same type of "start-up" opportunity for new entrants and part-time operators in Area 3B as it does for other regulatory areas, the Council found no compelling reason to restrict communities from purchasing D shares in Area 3B.

Sale Restrictions

The Council adopted one provision relevant to the sale of community QS, in that community entities may only sell their QS for one of the following purposes:

(a) generating revenues to sustain, improve, or expand the program, or
(b) liquidating the entity's QS assets for reasons outside the program. In that event, NMFS would not qualify that entity or another entity to hold QS for that community for a period of 3 years.

Provisions (a) and (b) encompass all of the possible reasons a community may decide to sell their QS. The intent is that should a community choose to sell their QS for reasons beyond increasing or sustaining their participation in the program, the community would not be eligible to participate in the program for three years. The purpose of this provision is to allow community QS to be treated as an internal asset to further communities' participation in the program but not to allow it to be used as an external asset to develop general community revenues. This provision narrows the use of revenues generated by the sale of QS to those that would expand or improve the communities' participation in the program. For example, communities could sell QS for such purposes as debt repayment, administrative costs, or to obtain QS of a different share class, status, or area.

Part of the impetus of this provision is that it would help ensure that the program is being implemented for the purpose in which it was intended, to create opportunities for rural community residents to increase participation in the IFQ fisheries. The more the QS assets are used to strengthen the program, the more likely the program stays on track in promoting local fishing opportunities. A related benefit is that it would help address the unique pressures that a community entity holding QS may experience as part of a small community. These entities may receive funding requests to assist with community events and projects that are not related to the IFQ Program, and this provision formally restricts them from entertaining these requests unless they choose to discontinue participation in the program for the next three years.

Should communities choose to sell QS to fund other public projects, the restriction provides for a 3-year period in which communities could not hold QS. This precludes communities from selling *all or a portion* of their QS to generate general community revenues unrelated to the program and continuing participation in the program. Thus, if communities sell a portion of their QS for reasons outside of the program purposes, they must sell their remaining QS as well and forego eligibility under the program for three years. Part of the rationale supporting this provision is related to the cumulative use cap on the amount of QS all eligible communities can hold combined. Because the cumulative use caps will potentially constrain the number of communities that can purchase QS up to the individual use cap in each regulatory area for at least the first six years of the program, some communities will be fairly limited in their purchase options. Given the potential for the program to reach the cumulative use cap, this provision requires that communities that are not using QS in the manner in which the program intended must sell that QS, essentially freeing up some room under

the cumulative cap to permit QS to be purchased by other communities that have not yet reached their individual cap.

Use Restrictions

The Council recommended two provisions related to use restrictions: 1) leasing of community quota share is limited to a maximum of 50,000 pounds of halibut and 50,000 pounds of sablefish IFQs, inclusive of any IFQ owned, per transferee, and 2) leasing of community quota share is limited to a maximum of 50,000 pounds of halibut and 50,000 pounds of sablefish IFQs, inclusive of any IFQ owned, per vessel.

The first part was developed because of a concern with how the IFQs resulting from community-owned QS would be allocated among community members. This provision is intended to help ensure that the benefits from the community QS are distributed among community fishermen and not dominated by a select few residents on an annual basis. This approach presumes that the community QS entity is best able to determine which resident applicants are best qualified to lease IFQ in the community, but places some controls on the process related to equity concerns. Thus, an operator who 'privately owns' 25,000 pounds of IFQ may still profit from leasing an additional 25,000 pounds of IFQ (meeting the 50,000 pound limit) from the community entity. This provision does not provide a minimum or "floor" for the lease of IFQs

The second part of this provision is effectively a vessel use cap, in which a limited amount of IFQs may be fished on any one vessel. This is also intended to affect the participation of communities and their efforts to spread the benefits from the QS among the community. Note that this restriction only applies to the transfer (leasing) of IFQs on an annual basis. The use restriction is inclusive of any QS owned by the individual transferee, in order to ensure that an individual that is already participating to a reasonable extent in the IFQ fisheries does not profit excessively from community holdings of QS.

3.9.6 Performance Standards

The Council recommended the following performance standard to be established in Federal regulation:

> *Leasing of annual IFQs resulting from community owned QS shall be limited to residents of the ownership community. (Residency criteria similar to that established for the subsistence halibut provisions shall be used and verified by affidavit.)*

This provision was included to ensure that the QS held by community entities will be leased to benefit the residents of the eligible communities. The goal of the program is to provide opportunities for the sustained participation of these communities in the IFQ fisheries. Thus, this provision was deemed necessary to uphold the overall goal of the program and ensure that community residents would benefit from the proposed action. In addition, many of the impacts of other provisions of the program, such as allowing quota share held by eligible communities to be exempt from vessel size restrictions, are dependent upon whether the leasing of community-held IFQs is restricted to community residents. The Council recommended that this provision be provided in regulation, in order to clearly relate the intent of the program to benefit residents of eligible communities. This provision therefore requires that the lessee pool is limited to residents of the community owning the QS, effectively requiring that individual residents of qualified communities submit proof of residency in a qualified community to NMFS at the time of application to lease IFQ from the community QS holder.

The Council also recommended three additional performance standards that are intended as goals of the program with voluntary compliance monitored through the annual reporting mechanism and evaluated when the program is reviewed. These performance standards would not be placed in regulation. If, through review

of the annual report or other program monitoring, there is clear deviation from the intent of the program and community QS holders are failing to meet the goals of the performance standards voluntarily, the Council could recommend implementing regulations to NMFS to address those concerns. The intent, however, is that community entities must describe how their use of QS will comply with these program guidelines upon application for eligibility in the program. This information will be used as a benchmark for evaluating the program. The following performance standards are recommended as general program guidelines:

- *Maximize benefit from use of community IFQ for crew members that are community residents.*
- *Insure that benefits are equitably distributed throughout the community.*
- *Insure that QS/IFQ allocated to an eligible community entity would not be held and unfished.*

Each of these standards is important to the overall effectiveness of the program, and is thus necessary to be addressed. However, because of the difficulty in objectively monitoring and enforcing these types of largely subjective equity considerations in regulation, the Council determined it was more appropriate to recommend them as general policy guidelines to be monitored through the information required in the annual report. In addition, the Council recognized that, because of the unique differences among eligible communities, it may be more effective to set out these general policy guidelines and allow the community entities the freedom and flexibility to determine the specific steps to prove that they are meeting these standards. In this sense, the community entity is left to decide the most effective way to meet these standards, yet it is clear that not meeting these standards would reflect negatively on the program upon review.
In sum, each of the three standards above expresses the intent of the program as recommended by the Council. When possible, crew members employed by lessees of community IFQ permits should be residents of the eligible community, in order to benefit others in the community that are not directly leasing the IFQs. The second standard is to ensure that benefits are equitably distributed throughout the community. The equity concerns relevant to this standard are also addressed in the use restrictions described in Section 3.9.5. Finally, there is standard to ensure that QS/IFQ transferred to an eligible community entity would not be held and unfished. This is included to ensure that, consistent with National Standard 1 of the Magnuson-Stevens Act, this management measure will continue to allow for achieving the optimum yield from each fishery.

3.9.7 Administrative Oversight

Under the above program standards in Section 3.9.6, it is implicit that the community QS holder would submit information to NMFS concerning various aspects of the program for monitoring and enforcement. The Council's recommendations regarding administrative oversight are intended to address that need. The Council recommended two elements of administrative oversight: 1) submission of a statement of eligibility prior to being considered for eligibility as a community QS recipient; and 2) submission of an annual report detailing accomplishments. The combination of these two elements is expected to fulfill both the annual information needs and facilitate a program review without being administratively burdensome on the community entities.

The Council recommended that the community entity's statement of eligibility include:

(a) Certificate of incorporation
(b) Verification of qualified entity (as described in Section 3.9.2)
(c) Documentation demonstrating accountability to the community
(d) Explanation of how the community entity intends to implement the performance standards

The Council recommended that the annual report include:

(a) A summary of business, employment, and fishing activities under the program
(b) A discussion of any corporate changes that alter the representational structure of the entity
(c) Specific steps taken to meet the performance standards (as described in Section 3.9.6)
(d) Discussion of known impacts to resources in the area.

Assuming that the list of eligible communities would be determined at final action and set in regulation, an initial approval or qualification process for entities representing those eligible communities is necessary to administer the community QS. The Council, upon consultation with NMFS, recommended the four requirements above as the minimum documentation necessary to provide to NMFS in order to seek eligibility as a community QS recipient. These requirements address the intent relative to the administrative entity eligible to hold QS on behalf of a community (Section 3.9.2) and the performance standards to which the community entity is held (Section 3.9.6).

Once a community entity is qualified to purchase QS, most of the oversight and monitoring function would be part of NMFS' normal review of transfer information, the enforcement of use caps and other restrictions, and collection of the IFQ cost recovery fee, all of which are part of the existing IFQ Program. Individuals leasing IFQs from eligible community entities are subject to the IFQ cost recovery fee, which is assessed annually to manage and enforce the program.

The Council also recommends that the participating community entities prepare and submit an annual report. The minimum requirements of this report (listed above) are in addition to the information required of an individual IFQ holder and focus primarily on the representation of the community within the administrative entity. This information is intended to help NMFS understand the structure of and guidelines for the operation of the entity and help ensure that annual changes do not threaten the adequacy of that representation. This requirement is not intended as a large administrative burden and may be as simple as a brief written report. Information submitted in the annual report would provide necessary information to monitor how the program is being used in each community and would likely provide a starting point for an inquiry if questions are raised.

3.9.8 Program Review

The Council recommended that the amendment to allow eligible communities to purchase and hold commercial halibut and sablefish quota share in the Gulf of Alaska be reviewed five years after implementation (i.e., five years from the effective date of the final rule). The preferred alternative encompasses a suite of elements which allow a certain amount of flexibility and constraint regarding community QS purchases. A program review was recommended to determine the program's effects on the commercial sector and individual holders in communities that are not eligible under this action. A program review will also allow the Council to determine whether the program is being implemented as intended, the breadth of community participation, and whether the overall goal of the program is being met. In this sense, a review would evaluate the changes that the program has created in coastal communities and the progress of the program in achieving improved halibut and sablefish commercial fishing opportunities in those communities.

While the Council may recommend changes to the IFQ Program at any time, establishing a review period sets a formal schedule for the Council to evaluate the effects of the program and consider potential modifications. Five years was deemed adequate to allow a sufficient number of communities to participate to the extent that a meaningful review of the impacts of the program can be conducted. Five years may allow most eligible

communities time to organize, secure funds, find available QS that meets the use restrictions of the program, and realize some limited benefits from the purchase of QS.

3.9.9 Other Provisions

The Council also recommended forming a Community Quota Share Implementation Committee, in order to ensure that the program is implemented as intended and to address concerns that arise as a result of the program. Pending Secretarial approval, this committee is not expected to meet before the proposed rule is published.

4.0 CONSISTENCY WITH OTHER APPLICABLE LAWS

4.1 Halibut Act Requirements

The North Pacific Halibut Act of 1982 governs the promulgation of regulations for managing the halibut fisheries, in both State and Federal waters. The language in the Halibut Act has been interpreted to assign responsibility to the Council on halibut management issues concerning allocation and limited entry. It is also clear that while the jurisdictional authority for allocation measures resides within the provisions of the Halibut Act, consideration of those types of measures is subject to many of the same criteria described under the MSA. Therefore, the following sections from the National Standards of the MSA are provided to discuss the consistency of the proposed action with the MSA and other applicable laws, and is relevant to the proposed action as it relates to both halibut and sablefish.

4.2 National Standards

Below are the ten National Standards as contained in the Magnuson-Stevens Act (Act), and a brief discussion of the consistency of the proposed alternatives with each of those National Standards, where applicable.

National Standard 1 - Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery

Nothing in this amendment would undermine the current management system that prevents overfishing. If the proposed amendment allows a greater percentage of the available halibut and/or sablefish TACs to be harvested because communities buy the smaller blocks of QS that are not currently being fished, then the management measure may help achieve optimum yield.

National Standard 2 - Conservation and management measures shall be based upon the best scientific information available.

Nothing in this amendment would affect the conservation or overall management of the halibut or sablefish fisheries. Information previously developed on these fisheries has been incorporated into this analysis. It represents the best scientific information available.

National Standard 3- To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

Separate TACs are set for the halibut and sablefish fisheries. The IPHC conducts the stock assessment and sets the commercial catch limit for halibut, and NMFS conducts the stock assessment for sablefish. The Council sets the sablefish TAC based on the most recent stock assessment. Pacific halibut is considered to be one large interrelated stock, but is regulated by subareas through catch quotas. Sablefish are also considered to belong to a single population, but are managed by subareas in the Gulf of Alaska. The directed fisheries for both species primarily use longline gear and thus are not subdivided by gear type. Nothing in this amendment would diminish the ability for halibut and sablefish stocks to be managed as a unit throughout its range.

National Standard 4 - Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen,

such allocation shall be (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation, and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The proposed amendment targets small, geographically isolated, rural communities with salt water access, adjacent to the fishing grounds, and with a historical link to the halibut and sablefish fisheries, as the intended beneficiaries of the program. Communities that do not meet these criteria may not participate in and do not benefit from this program, without regard to the state within which the community is located. This is because the action is designed to provide opportunities for sustained participation in the fisheries, specifically for communities in this class which, collectively, are struggling economically, and have experienced a significant loss of QS or were initially issued relatively few QS. This policy choice specifically defines those communities to be included, and cannot help but exclude others. However, those which have been excluded from participation in the program include both Alaska and non-Alaska communities, so the action is not predicated upon any effort to "... discriminate between residents of different states."

National Standard 5 - Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

This amendment was proposed to improve the opportunities for remote Gulf communities to participate in the halibut and sablefish fisheries by allowing community entities to purchase QS. By introducing community purchases as a mechanism for capturing the total value (including social values) of QS, the net benefits of the IFQ fisheries could potentially change. The purchase of shares by small communities could provide a benefit to remote communities and community residents. Whether an increase in overall net benefits would result cannot be determined. However, this action does not have economic allocation as its sole purpose and is not based on a net economic efficiency argument. Rather, the proposed action is a redistribution of opportunity based on equity considerations. It intends to mitigate some of the unanticipated negative impacts of the IFQ program and attempts to preserve fishing opportunity in small, remote communities.

National Standard 6 - Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

This amendment takes variations in the fishery into account when determining who can hold and use commercial halibut and sablefish QS. Variations in the fishery and localized depletion may cause some QS to remain unharvested if conditions arise in the future that limit some vessels' ability to harvest their IFQs. This proposal would expand the opportunity for fishermen in more remote communities, as opposed to the more accessible locations, to harvest commercial halibut and sablefish. Development of fisheries in more remote locations may provide an added conservation benefit by spatially dispersing the catch. However, this effect will depend on the amount of QS purchased by communities and where the community residents actually fish the resulting IFQs. While this action would not have an effect on the overall stock abundance, changes in the geographic distribution of the catch may have some effect on local levels of abundance.

National Standard 7 - Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

This management measure would modify existing regulations and allow a new category of "qualified person" to be eligible to hold halibut and sablefish commercial QS. It would not be a duplication of any other laws. The costs to NMFS may increase slightly if this amendment is implemented. The costs would be primarily due to modification in the data system used to track the harvest of each IFQ permit holder and the transfer of community QS among holders. Monitoring and enforcement of the program would also represent a slight increase in administrative costs.

National Standard 8 - Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

This amendment was proposed solely to provide for the sustained participation of small, fishery-dependent, rural communities in the Gulf of Alaska in the IFQ fisheries. This amendment is intended to provide fishing opportunities for residents of the target communities, as well as minimize the adverse economic impacts of the current IFQ program on such communities. The concept necessitates that there be a change in the distribution of halibut and sablefish QS. Overall, Gulf communities will still reap the benefits of the QS, but more of the revenues will be captured in the small, remote communities, than are currently, and less in the larger, more accessible ones or in communities outside of Alaska, where QS holders may reside.

Information on the various fishing communities that could be affected by this amendment is found in Section 3.4 and 3.5 of this analysis. Section 3.4 discusses both the target communities and their historical and current participation in the halibut and sablefish fisheries, while Section 3.5 discusses the potential impacts of the proposed action on target communities and individual QS holders.

National Standard 9 -Conservation and management measures shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

This amendment is not likely to impact bycatch levels in an appreciable way. The distribution of the QS may shift, but the way the IFQ fisheries are conducted and the gear type used will not change. Bycatch and mortality of species other than halibut and sablefish are not expected to increase or decrease as a result of this amendment.

National Standard 10 - Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

This amendment is not likely to spur safety concerns, as the same types of vessels will be used to harvest the fishery as are used currently. While more smaller vessels may be used due to the make up of the fleet in the target Gulf communities, the IFQ fisheries tend to be characterized as slower and longer than most and provide fishermen with greater operational flexibility which reduces safety risks.

4.3 Section 303(a)(9) - Fisheries Impact Statement

Section 303(a)(9) of the Magnuson-Stevens Act requires that any management measure submitted by the Council take into account potential impacts on the participants in the fisheries, as well as participants in adjacent fisheries. The impacts of allowing communities to purchase commercial halibut and sablefish QS

have been discussed in previous sections of this document. The amount of halibut and sablefish available for harvest is not affected by this action and would remain limited by the annual TAC and the total quota share pool. These factors would not change upon approval of this amendment. Because it is the choice of an individual holder to sell their QS to an eligible community, there should be no "spillover" effects of vessels being forced to spend more time in other fisheries. Any holder that wishes to sell their QS and move into an adjacent fishery would have the same incentives and ability to do so regardless of this amendment.

There could be some impact on current participants or new individual entrants in the halibut and sablefish fisheries. If communities purchase a moderate amount of QS, the price of QS would remain unchanged and likely not affect other individual participants in the IFQ program. If communities purchase a substantial share of the available QS in the market, the price of QS could increase, as private fishers may no longer be the purchasers willing to pay the highest amount for QS. The potentially higher price of QS would result from the community's assessment of the total value of the QS, including the value of the QS to the private fisher in the community and the social value of the added economic activity to the community. Thus, a potential negative impact on individual participants is a higher market price of QS.

By introducing community purchases as a mechanism for capturing the total value (including social values) of QS, the net benefits resulting from the IFQ fisheries could change. The purchase of shares by small communities could provide a benefit to remote communities and the residents of those communities. This total benefit is likely to be greater than the private benefit realized only by the private fisher. Whether an overall increase in net benefits would result, however, cannot be determined. Since larger communities would not be eligible to purchase QS, the social benefits of QS to these communities would not be represented in the market. These larger communities could suffer a loss in social benefits, if their residents choose to sell QS to target communities. This loss, which cannot be measured, could be larger than the gains to target communities which purchase QS. Because of the measurable cost to larger communities, using a broader measure of net benefits that includes social benefits and costs, the net benefits of the action cannot be determined.

4.4 Regulatory Flexibility Act

4.4.1 Requirement to prepare an IRFA

The Regulatory Flexibility Act (RFA), first enacted in 1980, was designed to require the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a Federal regulation. Major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact of the proposed rule on small entities. When an agency publishes a final rule, it must prepare a Final Regulatory Flexibility Analysis (FRFA). Analysis requirements for the IRFA are described below in more detail. In the case of the issues and alternatives considered in this analysis (GOA Amendment 66), the Council has made recommendations for the preferred alternative, and, if approved by the Secretary, NMFS will develop

proposed regulatory amendments to implement the Council's preferred alternative. The IRFA contained in this section reflects the preferred alternative selected by the Council in April 2002.

The IRFA must contain:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and the legal basis for, the proposed rule;
- A description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);
- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule;
- A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:

    1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
    2. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
    3. The use of performance rather than design standards;
    4. An exemption from coverage of the rule, or any part thereof, for such small entities.

In determining the scope, or 'universe', of the entities to be considered in an IRFA, staff generally includes only those entities, both large and small, that are directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the industry (e.g., user group, gear type, geographic area), that segment would be considered the universe for the purpose of this analysis. Staff interprets the intent of the RFA to address negative economic impacts, not beneficial impacts, and thus such a focus exists in analyses that are designed to address RFA compliance.
Data on cost structure, affiliation, and operational procedures and strategies in the fishing sectors subject to the proposed regulatory action are insufficient, at present, to permit preparation of a "factual basis" upon which to certify that the preferred alternative does not have the potential to result in a "significant adverse impact on a substantial number of small entities" (as those terms are defined under the RFA). Because, based on all available information, it is not possible to 'certify' this outcome, should the proposed action be adopted, a formal IRFA, focusing on the complete range of available alternatives (including the designated "preferred" alternative), has been prepared and is included in this package for Secretarial review.

4.4.2 What is a Small Entity?

The RFA recognizes and defines three kinds of small entities: (1) small businesses, (2) small non-profit organizations, and (3) and small government jurisdictions.

Small businesses. Section 601(3) of the RFA defines a 'small business' as having the same meaning as 'small business concern' which is defined under Section 3 of the Small Business Act (SBA). 'Small business' or 'small business concern' includes any firm that is independently owned and operated and not dominant in its field of operation. The SBA has further defined a "small business concern" as one "organized for profit, with a place of business located in the U.S., and which operates primarily within the U.S. or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor... A small business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture."

The SBA has established size criteria for all major industry sectors in the US including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of $3.5 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the $3.5 million criterion for fish harvesting operations. Finally, a wholesale business servicing the fishing industry is a small businesses if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

Small organizations. The RFA defines "small organizations" as any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

Small governmental jurisdictions. The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

4.4.3 Reason for Considering the Proposed Action

The proposed action targets small, rural, fishing-dependent coastal communities in the Gulf of Alaska. The goal is to provide for sustained participation of these communities in the IFQ fisheries. While not necessarily a direct result of the implementation of the commercial IFQ program, declines in the number of community fishermen and access to nearby marine resources are on-going problems in rural communities that may be exacerbated by the IFQ program. There has been a substantial decline in the amount of QS and the number of QS holders in most of the target Gulf communities since initial issuance, and this trend may have a severe effect on unemployment and related social and economic impacts. Effectively, the action is an attempt to alleviate the identified problem and provide communities with an opportunity to increase participation in the IFQ fisheries. Alternative 2, which would allow a distinct set of remote communities with few economic alternatives to hold commercial QS in Areas 2C, 3A, and 3B, may help ensure access to and sustain participation in the commercial halibut and sablefish fisheries for those communities.

4.4.4 Objectives of, and Legal Basis for, the Proposed Action

The objective of the issues and alternatives described in this analysis is to increase the opportunities for participation in the IFQ fisheries by remote, small, coastal fishing communities in the Gulf of Alaska. The Magnuson-Stevens Fishery Conservation and Management Act provides the legal basis for this proposed action. The 1996 amendments to the Magnuson-Stevens Act (MSA) require that management programs take into account the social context of the fisheries, especially the role of communities (Sec. 301[a][8], 303 [a][9]).

4.4.5 Number and Description of Small Entities Affected by the Proposed Action

All of the directly regulated entities would be considered small entities under the RFA (Section 601(3)). There are 42 community entities determined eligible under the Council's preferred alternative, which this action intends to directly benefit. Each of the eligible communities is considered a small entity (small governmental jurisdictions) under the RFA, since they are governments of towns or villages with populations of less than 50,000. In addition, individual QS holders (existing or potential new entrants) who are residents of communities not targeted in this action may be indirectly affected. Most of these affected entities would be considered small entities; a business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation and if it has combined annual receipts not in excess of $3.5 million for all its affiliated operations worldwide. There are currently (as of December 31, 2001, the most recent data available) 3,485 unique halibut QS holders (2,851 Alaska residents and 634 non-Alaska residents) and 872 unique sablefish QS holders (561 Alaska residents and 311 non-Alaska residents) across all management areas. These entities (and any future entrants, the number of which is unknown) could potentially be affected if community purchases of QS increase the market price of QS. However, because NMFS considers only those entities that are directly regulated by the proposed action under the IRFA, the remaining analysis will focus primarily on the 42 communities that comprise the universe of small entities directly regulated by the proposed action. Because the purpose and intent of the proposed action is to have participating communities acquire QS and make it available by lease to community residents, and those residents will be required under provisions of the action to make a series of reports and declarations to NMFS in order to be found eligible to participate, those commercial fishing operations would be "directly regulated" small entities, although their number is unknown at this time. Further, it is expected that any economic impacts accruing from the proposed action to these small entities would be "beneficial."

4.4.6 Recordkeeping and Reporting Requirements

Implementation of the proposed amendment would not change the overall reporting structure and recordkeeping requirements of the vessels in the IFQ fisheries. Under the Council's preferred alternative, in order for eligible communities to participate and benefit from the program, they would have to create and qualify a non-profit entity to purchase, hold, and lease the quota share on behalf of the community. These entities would be subject to recordkeeping and reporting requirements beyond those required of individuals in the current IFQ Program. Under the Council's preferred alternative, eligible community entities would be required to submit a statement of eligibility to the NMFS RAM Division which includes: a certificate of incorporation; verification that is it a qualified entity (see Section 3.9.2); documentation demonstrating accountability to the community; and an explanation of how the entity intends to implement the performance standards (see Section 3.9.6). Also under the preferred alternative, eligible community entities are required to submit an annual report which includes: a summary of business, employment, and fishing activities under the program; a discussion of any corporate changes that alter the representational structure of the entity;

specific steps taken to meet the performance standards (as described in Section 3.9.6); and a discussion of known impacts to resources in the area.

The cost to each community entity in fulfilling these administrative requirements will vary, but is expected to be minimal relative to the potential benefits. Neither the statement of eligibility nor the annual report is intended to be significantly burdensome on these small communities and may be comprised of a brief written document(s). Communities that are already well organized and familiar with the IFQ Program will likely have lower administrative costs than those that are not well acquainted with the program, but overall, the reporting requirements are not intended to be so costly as to be prohibitive to any eligible community wishing to enter the program. The statement of eligibility required by each participating community entity could be estimated at 200 hours to compile information, develop, and submit the statement to NMFS, which, at a hypothetical wage rate of $20.00/hour, results in an economic burden of $4,000 for the "average" community entity. This would be a one-time cost, as the statement of eligibility is required upfront in order to qualify an entity to represent an eligible community and purchase QS. This statement would only need to be submitted once, notwithstanding any major changes to the entity's structure. The annual report may require more resources and/or technical skills to develop. An estimate of 40 hours to complete the report, also at a hypothetical wage rate of $20.00/hour, would result in costs of $800 per "average" community entity.

In sum, eligible communities will not be mandated to fulfill these reporting requirements unless they choose to participate in the program, and participation in the program is on a voluntary basis. Individuals that are leasing IFQs from eligible communities will generally be subject to the same recordkeeping and reporting requirements as are individuals who 'privately own' QS. The primary recordkeeping and reporting requirements beyond those required for individual QS holders, as discussed above, are the responsibility of the community entity listed as the QS holder. These requirements are necessary under the preferred alternative to monitor how the QS is being used among and within the eligible communities and to collect information necessary to evaluate the action in the program review, which is required under the Council's preferred alternative five years after implementation.

4.4.7 Relevant Federal Rules that may Duplicate, Overlap, or Conflict with Proposed Action

Staff is not aware of any other Federal rules that would duplicate, overlap, or conflict with this proposed action.

4.4.8 Description of Significant Alternatives

The alternatives under consideration are provided in Section 3.2, and the reason for considering the action is in Section 4.4.3. Alternative 1 is the no action alternative, and Alternative 2 would allow eligible Gulf of Alaska coastal communities to hold commercial halibut and sablefish QS for lease to and use by community residents. Although the analysis identifies two primary alternatives, the second alternative contains eight elements and multiple options within each element, that effectively operate as separate alternatives. Thus, the Council was able to specify options within each of the elements under Alternative 2 independent of each other. These elements and options effectively provided the Council with hundreds of different possible combinations, or "alternatives" from which to select a preferred alternative at final action. The Council therefore identified a wide range of elements to be analyzed which would meet the stated objective of this action, while minimizing, to the extent practicable, any adverse impacts on small entities. For a complete treatment of each of these competing elements, options, and suboptions, refer to the RIR. The comprehensive economic analysis of all of the elements and options under consideration in Alternative 2 is provided in Section 3.5.

4.4.9 Potential Impacts of the Alternatives on Small Entities

The preceding analysis (Section 3.0) addresses the issues required under the RFA to analyze the potential impacts of the alternatives on small entities. All of the directly affected entities (42 eligible communities identified in the preferred alternative) would be considered small entities under the RFA. The existing QS holders or new individual entrants could be adversely affected if eligible communities purchase a substantial share of QS under this action which results in an increase in the price of QS, however these entities are not directly regulated under this action and are therefore not considered under the RFA. The economic impacts on these entities are fully addressed within the RIR, however.

Note that it is not possible to determine how many communities and community residents would participate in the program, and thus, the potential impact on eligible communities, until the program has been implemented. The elements and options analyzed effectively provided the Council with a myriad of possible combinations that represent a broad range of ways in which to implement the program (including the option to not implement the program under Alternative 1). The Council's preferred alternative limits eligible communities to 3% of the Area 2C, 3A, or 3B halibut QS and 3% of the Southeast, West Yakutat, Central Gulf, or Western Gulf sablefish QS in each of the first seven years of the program, with a 21% total by area, unless modified by the Council through the five-year review provision of the action. This cumulative cap on the amount of quota share that may be used by all eligible communities necessarily limits the benefits that communities may receive from the IFQ fisheries. However, any option under Alternative 2 (the Council's preferred alternative) is expected to result in beneficial impacts to eligible communities that choose to participate in the IFQ fisheries. While some combinations of elements and options would benefit eligible communities more so than others, no negative effects on directly regulated small entities were identified in Section 3.0 as a result of the proposed action.

As previously suggested, the analysis found no "differential" adverse impacts, based upon RFA definitions of "large" versus "small" entities, because all of the potentially impacted entities are "small," based upon the RFA criteria. The preferred alternative does distinguish between the "very small" (e.g., communities with populations of fewer than 1,500) and the "less small" (e.g., communities of fewer than 5,000 but more than 1,500), choosing elements and options in every case which confer benefits on (and reduce compliance burdens to) these "very small" entities. See the RIR for a detailed analysis of these choices.

4.5 Marine Mammal Protection Act (MMPA)

The MMPA of 1992 (16 U.S.C. 1361 *et seq*.), as amended through 1996, establishes a federal responsibility to conserve marine mammals with management responsibility for cetaceans (whales) and pinnipeds (seals) other than walrus vested with the Department of Commerce, NMFS. The Department of the Interior, U.S. Fish and Wildlife Service, is responsible for all other marine mammals in Alaska including sea otters, walrus, and polar bear. Congress found that certain species and population stocks of marine mammals are or may be in danger of depletion due to human activities. Congress also declared that marine mammals are resources of great international significance and should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management.

The primary management objective of the MMPA is to maintain the health and stability of the marine ecosystem, with a goal of obtaining an optimum sustainable population of marine mammals within the carrying capacity of the habitat. The MMPA is intended to work in concert with the provisions of the Endangered Species Act (see Section 2.1.3). The Secretary is required to give full consideration to all factors regarding regulations applicable to the "take" of marine mammals, including the conservation, development, and utilization of fishery resources, and the economic and technological feasibility of implementing the regulations. If a fishery affects a marine mammal population, then the potential impacts of the fishery must

be analyzed in the appropriate EA or EIS, and the Council or NMFS may be requested to consider regulations to mitigate adverse impacts. No adverse impacts on marine mammals are anticipated as a result of implementing the alternatives under consideration.

5.0 REFERENCES

Alaska Department of Community and Economic Development (DCED). Alaska Community Database online: *www.dced.state.ak.us/mra/CF_COMDB.htm*

Alaska Department of Community and Economic Development. Economic Development Resource Guide online: www.dced.state.ak.us/mra/EDRG/EDRG.htm

Alaska Growth Capital. Staff, personal communication, 12/20/01.

Council on Environmental Quality (CEQ). 1997. *Considering Cumulative Effects under the National Environmental Policy Act.* Executive Office of the President, Washington D.C.

Commercial Fisheries Entry Commission (CFEC). 1999a. *Holdings of Limited Entry Permits, Sablefish Quota Shares, and Halibut Quota Shares Through 1998 and Data on Fishery Gross Earnings*. Juneau, Alaska.

CFEC. 1999b. *Changes Under Alaska's Halibut IFQ Program, 1995-1998.* November 1999. Juneau, AK.

CFEC. 1999c. *Changes Under Alaska's Sablefish IFQ Program, 1995-1998.* November 1999. Juneau, AK.

Clouse, Midge. Program Director, Division of Community & Business Development, DCED. Personal communication, 12/18/01.

Exxon Valdez Oil Spill Trustee Council. Habitat Protection Large Parcel Program status online: www.oilspill.state.ak.us/habitat/lparcel.htm

Gulf of Alaska Coastal Communities Coalition (GCCC). *Community Purchase of Halibut and Sablefish Individual Fishing Quota Shares Discussion Paper*. May 30, 2000.

ISER (Institute of Social and Economic Research). 1999. *Gulf of Alaska Coastal Communities: An Overview*. University of Alaska Anchorage. November 2, 1999.

Johnson, K. A. 2002. A review of national and international literature on the effects of fishing of benthic habitats. NOAA Technical Memorandum NMFS-F/SPO-57.

National Marine Fisheries Service (NMFS). Online: IFQ Halibut/Sablefish Reports and CDQ Halibut Program Reports. *www.fakr.noaa.gov/ram/ifqreports.htm*

NMFS. 2002. The IFQ Program Report to the Fleet. NMFS, Alaska Region, Restricted Access Management Program, Juneau, Alaska. February 2002.

NMFS 2001a. Stock Assessment and Fishery Evaluation Report for the Groundfish Resources of the Gulf of Alaska Region. November 2001.

NMFS. 2001b. *Alaska Groundfish Fisheries: Draft Programmatic Supplemental Environmental Impact Statement.* NMFS, Alaska Region, Juneau, Alaska.

NMFS. 2000a. *Ecosystem Considerations for 2001.* National Marine Fisheries Service, Alaska Fisheries Science Center, Seattle, WA. November 2000.

NMFS. 2000b. Section 7 consultation on the authorization of the Bering Sea and Aleutian Islands groundfish fishery under the BSAI FMP and the authorization of the Gulf of Alaska groundfish fishery under the GOA FMP. Office of Protected Resources, NMFS. Nov. 30, 2000.

NMFS. 1998. *Supplemental Environmental Impact Statement*. National Marine Fisheries Service, Alaska Region, Juneau, Alaska.

North Pacific Fishery Management Council (NPFMC). 2001a. *Groundfish of the Gulf of Alaska: A Species Profile*. June 1, 2001. NPFMC, Anchorage, Alaska.

NPFMC. 2001b. EA/RIR/IRFA for the Halibut Charter IFQ or Moratorium Program. Public Review Draft. March 12, 2001. NPFMC, Anchorage, Alaska.

NPFMC. 1998. Environmental Assessment/Regulatory Impact Review for Amendment 55/55 to the Fishery Management Plan for the groundfish fishery of the BSAI area and the Fishery Management Plan for the groundfish fishery of the GOA area: Essential Fish Habitat. June, 23, 1998.

Northeast Region Essential Fish Habitat Steering Committee. 2002. Workshop on the effect of fishing gear on marine habitats off the Northeastern United States, October 23-25, 2001, Boston Massachusetts. Northeast Fisheries Science Center Reference Document 02-01. 86 p.

National Research Council (NRC). 1999a. *Sharing the Fish: Toward a National Policy on Individual Fishing Quotas*. National Academy Press, Washington, DC.

NRC. 1999b. *The Community Development Quota Program in Alaska*. National Academy Press, Washington, DC.

Ott, Kimberly. NMFS, Seattle, WA. Personal communication, 12/18/01.

Parma, A. M. 1998. Changes in halibut recruitment, growth, and maturity and the harvesting strategy. *International Pacific Halibut Commission 74th Annual Meeting Report*. International Pacific Halibut Commission. Seattle, WA.

Rogers, Dave. Commercial Fishing & Agriculture Bank, Anchorage, AK. Personal communication 12/18/01.

Smith, Phil. RAM Division, Alaska Region, NMFS. Juneau, AK. Personal communication and written submission 1/10/02.

Stewart, Dean. Rural Development, U.S. Department of Agriculture. Palmer, AK. Personal communication. 8/7/02.

Sullivan and Parma. 1998. Population assessments, 1997. *International Pacific Halibut Commission Report of Assessment and Research Activities, 1997*. International Pacific Halibut Commission. Seattle, WA.

Witherell, D. 2002. A preliminary evaluation of fishery effects on essential fish habitat off Alaska. North Pacific Fishery Management Council, Anchorage, AK. Unpublished draft manuscript.

6.0 PREPARERS

Council Staff: NPFMC
Nicole Kimball 605 W. 4th Avenue, Suite 306
Mark Fina Anchorage, AK 99501

Individuals consulted:
Jeff Bush, DCED
Jessie Gharrett, NMFS
Earl Krygier, ADF&G
Glenn Merril, NMFS
Phil Smith, NMFS
Kate Troll, ADF&G

Gmerrill
C:\Documents and Settings\gmerrill\Local Settings\Temp\AM66_FINAL_SOC_03-15-2004.ea.wpd
r:region\2003\sf\aug\AM66_FINAL_SOC_03-15-2004.ea.wpd