

Secretarial Review Draft

Regulatory Impact Review for Proposed **Amendment 94** to the
Fishery Management Plan for Groundfish of the Gulf of Alaska

**Revising the vessel use caps applicable to quota share held
by GOA Community Quota Entities**

November 2011

North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, Alaska 99501
(907) 271-2809

Table of Contents

| | |
|---|-----------|
| Executive Summary | iv |
| 1.0 Introduction..... | 1 |
| 2.0 Regulatory Impact Review..... | 3 |
| 2.1 Purpose and need..... | 3 |
| 2.2 Proposed alternatives..... | 4 |
| 2.3 Statutory authority for this action..... | 5 |
| 2.4 Background | 6 |
| 2.4.1 Affected resource and areas | 13 |
| 2.4.2 Commercial halibut and sablefish IFQ fishery..... | 13 |
| 2.4.3 CQE Program | 20 |
| 2.5 Related documents and actions | 30 |
| 2.6 Effects of the alternatives | 31 |
| 2.6.1 Alternative 1 | 31 |
| 2.6.2 Alternative 2 | 38 |
| 2.6.3 Alternative 3 | 42 |
| 2.6.4 Net benefit impacts..... | 45 |
| 2.7 Proposed FMP and regulatory changes | 45 |
| 2.7.1 Proposed regulatory changes..... | 45 |
| 2.7.2 Proposed FMP changes | 45 |
| 3.0 Consistency with Applicable Law and Policy..... | 47 |
| 3.1 National Standards | 47 |
| 3.2 Section 303(a)(9) – Fisheries Impact Statement | 49 |
| 4.0 References..... | 50 |
| 5.0 List of preparers and contributors | 51 |
| Appendix 1 Excerpt of vessel use cap regulations from 50 CFR 679.42(h)..... | A-1 |
| Appendix 2 Council motion on CQE Program, GOA FMP Amendment 66..... | A-2 |
| Appendix 3 Map of eligible CQE communities..... | A-6 |
| Appendix 4 Name and contact information for Community Quota Entities..... | A-7 |
| Appendix 5 Table 50 to Part 679: excerpted from final rule for GOA FMP Amendment 86..... | A-9 |

List of Tables

| | | |
|----------|--|----|
| Table 1 | Percent of QS held by residents of CQE communities, at initial issuance (1995) and 2011..... | 9 |
| Table 2 | Annual prices for halibut QS with IFQ transfers by area and year | 11 |
| Table 3 | Commercial halibut catch limits in the Gulf of Alaska, 2002 – 2011 | 14 |
| Table 4 | Halibut IFQ allocations and landings, 2009 - 2010..... | 14 |
| Table 5 | Commercial sablefish IFQ TACs in the Gulf of Alaska, 2002 – 2011..... | 15 |
| Table 6 | Sablefish IFQ allocations and landings, 2009 - 2010..... | 15 |
| Table 7 | 2011 vessel use caps..... | 16 |
| Table 8 | Number of vessels, buyers, and QS holders in the IFQ fisheries, 2006 - 2010..... | 16 |
| Table 9 | Top 10 IFQ halibut ports, 2005 - 2010 fishing years | 16 |
| Table 10 | Statewide halibut and sablefish TACs, ex-vessel prices, IFQ landed pounds, and QS prices, 2000 - 2009..... | 17 |
| Table 11 | Halibut estimated ex-vessel prices by management area and year..... | 18 |
| Table 12 | Sablefish estimated ex-vessel prices by management area and year..... | 19 |
| Table 13 | Estimated ex-vessel value of the halibut IFQ fishery, 2005 - 2010 | 19 |
| Table 14 | Eligible CQE communities, as of June 2011 | 20 |
| Table 15 | 2011 quota share use caps for CQEs and individuals..... | 21 |
| Table 16 | Cumulative CQE quota share use caps ¹ | 21 |
| Table 17 | Amount of Gulf QS held by residents of CQE communities, at initial issuance (1995) and 2011 | 24 |
| Table 18 | Reduction in Gulf QS holdings by residents of CQE communities, from initial issuance (1995) to 2011 | 24 |
| Table 19 | Halibut QS holdings and holders that are residents of Area 3A and 3B CQE communities, and percent change since initial issuance | 25 |
| Table 20 | Sablefish QS holdings and holders that are residents of Area 3A and 3B CQE communities, and percent change since initial issuance | 26 |
| Table 21 | Halibut QS holdings and holders that are residents of Area 2C CQE communities, and percent change since initial issuance | 27 |
| Table 22 | Sablefish QS holdings and holders that are residents of Area 2C CQE communities, and percent change since initial issuance | 28 |
| Table 23 | 2011 vessel use caps applicable to individually-held IFQ and CQE-derived IFQ | 32 |
| Table 24 | Number of vessels with <50,000 lbs of IFQ onboard in the GOA, 2010..... | 33 |
| Table 25 | Number of halibut QS holders in CQE communities that hold less than or greater than 50,000 IFQ lbs in 2011 | 35 |
| Table 26 | Number of sablefish QS holders in CQE communities that hold less than or greater than 50,000 IFQ lbs in 2011..... | 36 |
| Table 27 | Number of vessels homeported in CQE communities that used <50,000 lbs or ≥50,000 lbs of halibut and sablefish IFQ, 2010 | 37 |
| Table 28 | Number of vessels that met vessel use caps and IFQ landed, 2010 | 39 |
| Table 29 | Comparison of annual vessel use caps under Alternatives 1 - 3 | 40 |
| Table 30 | Number of vessels homeported in CQE eligible communities that met the vessel use caps applicable under Alternatives 1 – 3, in 2010 | 41 |

List of Figures

| | | |
|----------|---|----|
| Figure 1 | IPHC regulatory areas for the commercial halibut fishery..... | 13 |
|----------|---|----|

EXECUTIVE SUMMARY

This Regulatory Impact Review (RIR) was prepared, as required under Presidential Executive Order 12866, to evaluate the economic and socioeconomic effects of Gulf of Alaska (GOA) Amendment 94 and associated regulatory amendments to change the vessel use caps, applicable to halibut and sablefish quota share when it is held by Community Quota Entities (CQEs). The proposed amendment is a revision to the Gulf of Alaska CQE Program, which was approved by the North Pacific Fishery Management Council (Council) in 2002 and implemented by NMFS in 2004, under Amendment 66 to the GOA Fishery Management Plan. The program was developed in order to allow a distinct set of 42 small, remote coastal communities located in the Gulf of Alaska to purchase catcher vessel quota share (QS) under the existing halibut and sablefish Individual Fishing Quota (IFQ) Program.

The existing CQE Program limits the annual amount of halibut QS that can be fished on a vessel to 50,000 lbs. of IFQ halibut, if that vessel is used to harvest any amount of IFQ halibut derived from QS held by a CQE. Similarly, it limits the annual amount of sablefish QS that can be fished on a vessel to 50,000 lbs. of IFQ sablefish, if that vessel is used to harvest any amount of IFQ sablefish derived from QS held by a CQE. This limitation was established in the regulations of the original CQE Program, in tandem with a limit on the annual amount of IFQ that an individual could lease from a CQE, in order to ensure a broad distribution of QS, and thus benefits, among qualified residents of the CQE community.

The proposed action would amend the GOA FMP and Federal regulations at 50 CFR 679.42(h)(1)(ii) and (h)(2)(ii) to make the vessel use caps applicable to CQEs similar to those applicable to individuals. This analysis was initiated by the Council in December 2010, in response to public testimony in December 2010 and a previous IFQ proposal, stating the current vessel use caps are unnecessarily restrictive. The Council selected a preferred alternative (Alternative 2) in October 2011.

In effect, individual QS holders are subject to a less restrictive vessel use cap than CQEs. The current vessel use caps applicable to individuals are 1% of Area 2C halibut IFQ TAC (23,300 lbs. in 2011) and 0.5% of all halibut IFQ TAC combined (151,910 lbs. in 2011). For sablefish, the vessel use caps are 1% of Southeast sablefish IFQ TAC (64,815 lbs. in 2011) and 1% of all sablefish IFQ TAC (267,947 lbs. in 2011). The vessel use caps for IFQ derived from CQE-held QS are fixed at 50,000 lbs. of each species, inclusive of any individually-held IFQ being used on the vessel, on an annual basis, and are not based on a percentage of the IFQ TAC. Representatives of CQEs have testified that the more restrictive vessel use caps reduce the flexibility that small communities need to develop long-term plans for using the potential opportunities afforded by the CQE Program. By definition, the eligible CQE communities are very small and not connected to the road system; many have few vessels owned by residents and are trying to attract people back to the community by providing economic opportunities. Thus, CQEs have stated they wish to purchase QS and lease it to individuals who may not own vessels, so that they may find employment as crew members and fish the IFQ derived from CQE-held QS on other vessels. However, once any amount of IFQ derived from CQE-held QS is used onboard, the vessel is limited by the 50,000 pound vessel use cap. This limitation may discourage vessels from using IFQ derived from CQE-held QS onboard, as the vessel would otherwise be subject to the higher individual vessel use caps for the IFQ Program in general.

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

Alternative 1. Status quo:

- No vessel may be used, during any fishing year, to harvest more than 50,000 lbs. of IFQ halibut from any halibut QS source if that vessel is used to harvest IFQ halibut derived from halibut QS held by a CQE.

- No vessel may be used, during any fishing year, to harvest more than 50,000 lbs. of IFQ sablefish from any sablefish QS source if that vessel is used to harvest IFQ sablefish derived from sablefish QS held by a CQE.

Alternative 2 (Council preferred alternative). Revise current regulations such that:

- No vessel may be used, during any fishing year, to harvest more than 50,000 lbs. of IFQ halibut derived from quota share held by a CQE; and no vessel may be used, during any fishing year, to harvest more than 50,000 lbs. of IFQ sablefish derived from quota share held by a CQE.
- The vessel would also be subject to the same vessel use caps applicable in the overall IFQ Program.¹

Alternative 3. Revise current regulations such that:

- Vessels harvesting halibut or sablefish IFQ derived from quota share held by a CQE are subject to the same vessel use caps applicable in the overall IFQ Program.

Alternative 1 would retain the current annual vessel use caps applicable to IFQ derived from CQE-held QS as 50,000 lbs. of halibut IFQ, inclusive of any individually-held halibut IFQ; and 50,000 lbs. of sablefish IFQ, inclusive of any individually-held sablefish IFQ. Note that because no vessels are exempt from the overall vessel use caps in the IFQ Program, these caps are applicable under all alternatives. Thus, in the case that the 50,000 lbs. caps applicable to vessels with CQE quota onboard are less restrictive than the overall vessel use caps in a given year due to fluctuating TACs, all vessels would still be subject to the overall vessel use caps.

Alternative 2, the Council's preferred alternative (PA), would revise current regulations such that the 50,000 lbs. vessel use cap would still apply for each species, but it would not be inclusive of any halibut or sablefish IFQ that is individually-held. In effect, a vessel could not use more than 50,000 lbs. of halibut IFQ derived from QS held by a CQE during the fishing year, but it could use individually-held IFQ over and above the 50,000 lbs., up to the vessel use cap applicable in the overall program (e.g., 151,910 lbs. of halibut IFQ in 2011). Thus, overall, the vessel would be subject to the vessel use caps applicable in the general program, regardless of whether CQE quota is being used on the vessel.

Table E- 1 Comparison of annual vessel use caps under Alternatives 1 through 3

| Alternatives | Limit on amount of CQE quota that can be used on a single vessel | Limit on amount of total IFQ that can be used on a single vessel, if ANY CQE quota is used onboard |
|--------------------------------------|--|--|
| Alternative 1 | 50,000 lbs halibut; 50,000 lbs. sablefish | 50,000 lbs. halibut; 50,000 lbs. sablefish ¹ |
| Alternative 2 (Council PA) | 50,000 lbs halibut; 50,000 lbs. sablefish | 1% of Area 2C halibut IFQ TAC and 0.5% of the entire halibut IFQ TAC; 1% of Southeast sablefish IFQ TAC and 1% of the entire sablefish IFQ TAC |
| Alternative 3 | 1% of Area 2C halibut IFQ TAC and 0.5% of the entire halibut IFQ TAC; 1% of Southeast sablefish IFQ TAC and 1% of the entire sablefish IFQ TAC | 1% of Area 2C halibut IFQ TAC and 0.5% of the entire halibut IFQ TAC; 1% of Southeast sablefish IFQ TAC and 1% of the entire sablefish IFQ TAC |

¹If the vessel use caps in the IFQ Program are lower than 50,000 lbs. in a given year, then the lower cap applies.

Alternative 3 would eliminate the 50,000 lbs. vessel use caps for CQEs. CQEs would be subject to the same vessel use caps for halibut and sablefish that are applicable in the general IFQ Program. Table E- 1

¹The existing vessel use caps for the IFQ Program currently applicable under Alternatives 2 and 3 are: 1% of Area 2C halibut IFQ TAC and 0.5% of the entire halibut IFQ TAC; 1% of Southeast sablefish IFQ TAC and 1% of the entire sablefish IFQ TAC.

compares the annual vessel use caps that would be applicable to CQE quota and the total amount of IFQ onboard a single vessel under Alternatives 1 through 3.

None of the alternatives proposed would change the use restriction pertaining to how much IFQ can be annually leased from a CQE to an individual community resident. Leasing of CQE-held IFQ would continue to be limited to 50,000 lbs. of halibut and 50,000 lbs. of sablefish IFQ, inclusive of any IFQ individually-held, per lessee.

Effects on CQEs

The proposed action implies that the rules addressing CQE purchases in the original CQE Program have, to-date, failed to achieve some of the Council's objectives with respect to preserving fishing opportunity in small communities. The purpose of the action is, therefore, to have distributional effects, to provide a regulatory environment that is more conducive to the CQE purchase of QS, such that more IFQ derived from that quota would be allowed to be fished from a single vessel. CQEs have testified that without such flexibility, they have less incentive to purchase QS, as the rules governing the use of QS by CQEs prohibit a potentially realistic opportunity for use of the IFQ by community residents.

Alternative 2 (Council preferred alternative) would likely create additional opportunities for vessels to use CQE quota, regardless of whether they are owned by residents of the CQE community. Thus, under Alternative 2, CQEs and residents leasing IFQ from the CQE may benefit due to the availability of vessels that may not otherwise be willing and able to use additional CQE quota onboard if they were subject to the lower overall vessel use cap under status quo. This would likely also result in additional opportunities to lease CQE quota, as the pool of potential resident applicants would increase if there is more flexibility (i.e., a larger pool of potential vessels) for residents who do not own vessels to fish the IFQ.

Because the limit on the amount of IFQ derived from CQE-held quota that can be fished on a single vessel is maintained under Alternative 2, this alternative would continue to compel a distribution of the potential benefits that one vessel or vessel owner could derive from the CQE Program. In effect, the same amount of benefit could be derived under Alternative 1 or Alternative 2, as the 50,000 lbs. cap does not change. The difference under Alternative 2 is that the likely availability and opportunity associated with bringing CQE quota onboard a vessel increases when the vessel is not subject to a total vessel use cap that is more stringent when any amount of CQE quota is used.

Under Alternative 3, vessels using CQE quota would be subject to the same overall vessel use caps for halibut and sablefish that are in place for vessels using only individually-held IFQ. Because all IFQ would be treated the same in terms of applying the same vessel use caps, Alternative 3 would create additional flexibility within the CQE Program compared to Alternative 2. Alternative 3 would remove the 50,000 lbs. vessel use cap entirely and, thus, remove one of the limits the Council established in 2004 to ensure the distribution of benefits among vessels. However, the limit on the amount of IFQ that each individual resident could lease from the CQE on an annual basis (50,000 lbs. per species) would remain.

Table E- 2 below shows the number of vessels that landed at least 50,000 lbs., at least some of which was Gulf IFQ, and thus would not be available to use additional IFQ onboard under the status quo: 222 halibut vessels and 130 sablefish vessels. Most vessels landed <50,000 lbs. of IFQ in 2010. The table also provides the total number of vessels that landed halibut and sablefish IFQ that met the existing vessel use caps in 2010, which are the overall caps that would apply under Alternatives 2 and 3. Very few vessels met the vessel use caps in the IFQ Program: 10 vessels met the use cap of 0.5% of all halibut IFQ and 8 vessels met the cap of 1% of all sablefish IFQ. The remainder of the fleet did not meet or exceed the vessel use caps and, thus, could theoretically use additional IFQ onboard, including IFQ leased from a CQE. In effect, using 2010 data, hundreds more vessels ($222 - 10 = 212$ halibut vessels and $130 - 1 = 129$

sablefish vessels) would be eligible to use additional IFQ derived from CQE quota under Alternative 2 and Alternative 3 compared to Alternative 1, without exceeding the applicable vessel use cap.

Table E- 2 Number of vessels that met vessel use caps and IFQ landed, 2010

| Vessel use cap 2010 | Vessel use cap level | Cap under Alternative 2 & 3 | | Cap under Alternative 1 | | Total # of vessels that fished | Total IFQ lbs landed |
|---------------------|-----------------------------|---|--|--|--|--------------------------------|----------------------|
| | | # of IFQ vessels that met vessel use caps in 2010 | Total IFQ lbs used by vessels that met cap | # of vessels that landed $\geq 50,000$ lbs of IFQ ¹ | Total IFQ lbs used by vessels that landed $\geq 50,000$ lbs ¹ | | |
| Halibut Area 2C | 1% of 2C halibut IFQ TAC | 1 | 44,050 | n/a | n/a | 574 | 4,349,771 |
| Halibut All Areas | 0.5% of all halibut IFQ TAC | 10 | 2,421,648 | 222 | 28,697,472 | 1,074 | 39,878,502 |
| Sablefish SE | 1% of SE sablefish IFQ TAC | 8 | 608,520 | n/a | n/a | 215 | 5,657,416 |
| Sablefish All Areas | 1% of all sablefish IFQ TAC | 1 | 248,845 | 130 | 16,697,498 | 368 | 21,952,388 |

Source: NMFS RAM Program, 5/4/11.

¹Data are from Table 24. Columns include vessels that landed $\geq 50,000$ IFQ lbs., with some portion from Gulf IFQ, in order to estimate more closely the number of vessels that may be available to use IFQ derived from quota held by Gulf CQEs under the status quo. Thus, the total number of vessels that landed $\geq 50,000$ IFQ lbs. would be slightly higher if BSAI IFQ were included.

In sum, it is a policy choice whether to remove the 50,000 lbs. vessel use cap under Alternative 3 and forego the certainty associated with the distribution of benefits among vessels, but increase the flexibility of the CQE and potentially its ability to maximize benefits for community residents. The regulatory provision that requires that each resident is limited to leasing 50,000 lbs. of halibut IFQ and 50,000 lbs. of sablefish IFQ would remain, which is likely more effective in ensuring that benefits are equitably distributed throughout the community. Alternative 3 would serve to increase the flexibility of the CQE and CQE community residents, compared to Alternatives 1 and 2, with little effect on the goal of distributing benefits fairly and broadly among community members.

The issue is theoretical at this point, as very little QS has been purchased by CQEs (less than 50,000 IFQ lbs.) to-date, but it has been cited as a barrier to participation in the program. Given the financially prohibitive factors for CQEs and any new entrant to finance a QS purchase, analysts cannot speculate as to whether the proposed action would have the intended effect. While not part of this action, in the future, actions effective in 2011 (i.e., fixed gear permits for Pacific cod in the Central and Western Gulf and community charter halibut permits in Area 2C and 3A, both issued to CQEs at no cost and non-transferable) could potentially provide seed money for CQEs to purchase halibut and sablefish QS, as CQEs lease licenses to individual residents. At least in the short-term, CQEs will likely continue to have difficulty in funding the purchase of QS and participating in the CQE Program; this action is intended to provide a better opportunity for communities to use IFQ, once QS is purchased.

Effects on IFQ fishery participants

No significant effect on individual participants in the IFQ fisheries, or residents of non-CQE communities, is anticipated under Alternative 2 (preferred alternative) or Alternative 3 compared to the status quo. One possible effect is the potential for individual participants to use IFQ derived from CQE-held QS on their vessels, with the community resident leasing the IFQ from the CQE working as a crewmember, without being subject to a more restrictive vessel use cap than the overall IFQ program affords. This may provide additional fishing opportunity for both community residents and individual vessel owners, if they desire to pursue this business relationship. This action does not directly regulate IFQ participants and would not affect IFQ participants' vessel use caps.

1.0 INTRODUCTION

The Pacific halibut fishery off Alaska is managed by the National Marine Fisheries Service (NMFS) under the authority of the Northern Pacific Halibut Act of 1982, and in coordination with annual fishery management measures adopted by the International Pacific Halibut Commission (IPHC) under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea. The IPHC promulgates regulations governing the Pacific halibut fishery under the Convention, and regulations that are not in conflict with approved IPHC regulations may be recommended by the North Pacific Fishery Management Council (Council). Council action must be approved and implemented by the Secretary of Commerce.

The groundfish fisheries, including the sablefish fishery, in the Exclusive Economic Zone (EEZ) off Alaska are managed by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Under the authority of the MSA, the Council developed Fishery Management Plans for the groundfish fisheries of the Gulf of Alaska management area (GOA) and Bering Sea and Aleutian Islands management area (BSAI).

This Regulatory Impact Review (RIR) was prepared to evaluate the economic and socioeconomic effects of Gulf of Alaska (GOA) Amendment 94 and associated regulatory amendments to change the vessel use caps applicable to halibut and sablefish quota share when it is held by CQEs, as required under Presidential Executive Order 12866. The existing CQE Program limits the amount of halibut QS that can be fished on a vessel to 50,000 lbs. of IFQ halibut, if that vessel is used to harvest any amount of IFQ halibut derived from QS held by a CQE. Similarly, it limits the amount of sablefish QS that can be fished on a vessel to 50,000 lbs. of IFQ sablefish, if that vessel is used to harvest any amount of IFQ sablefish derived from QS held by a CQE. This limitation was established in the regulations of the original CQE Program, in tandem with a limit on the annual amount of IFQ that an individual could lease from a CQE, in order to ensure a broad distribution of QS, and thus benefits, among qualified residents.

The proposed action would amend the GOA FMP and Federal regulations at 50 CFR 679.42(h)(1)(ii) and (h)(2)(ii) to make the vessel use caps applicable to CQEs similar to those applicable to individuals in the IFQ Program. This was cited as an issue at a 2009 CQE workshop,² and was also submitted as an IFQ proposal, for consideration by the Council in February 2010.³ Testimony was also provided in support of evaluating this potential action at the December 2010 Council meeting.⁴ This analysis was initiated by the Council in December 2010, and initial review and final action were taken in October 2011.

The analysis examines three alternatives, one of which is the no action alternative. Both Alternative 2 and 3 would revise Federal regulations at 50 CFR 679.42(h)(1)(ii) and (h)(2)(ii) to make vessels using IFQ derived from CQE-held QS subject to the same vessel use caps in the general IFQ Program. The difference between the two action alternatives is that Alternative 2 (Council preferred alternative) would revise current regulations such that the 50,000 lbs. vessel use cap would still apply for each species for IFQ derived from CQE-held QS, but it would not be inclusive of any halibut or sablefish IFQ that is individually-held.

Presidential Executive Order 12866 mandates that certain issues be examined before a final decision is made. The RIR associated with the proposed action is contained in Chapter 2.0. Chapter 3.0 examines the consistency of the proposed action with the National Standards and Fishery Impact Statement

²*Community Quota Entities: Workshop Proceedings*, February 17 – 18, 2009, Alaska Sea Grant, Anchorage.

³*IFQ proposal to eliminate the CQE vessel use caps*, submitted by Gulf Coastal Communities Coalition, May 27, 2009.

⁴Resolution from Gulf of Alaska Coastal Communities Coalition, December 12, 2010; and letter from the Native Village of Nanwalek, signed by Tim Greene, November 30, 2010.

requirements in the Magnuson-Stevens Act. References and a list of preparers are in Sections 4.0 and 5.0, respectively.

2.0 REGULATORY IMPACT REVIEW

An RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735; October 4, 1993). 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 nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.”

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:

- 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, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

2.1 Purpose and need

The Council approved a problem statement for this action in October 2011 as follows:

CQE communities were approved by the Council in 2002 to provide Gulf of Alaska communities with an opportunity to mitigate the migration of halibut and sablefish quota shares from their communities. The Council sought a distribution of benefits among community residents from CQE activities by imposing CQE individual and vessel use caps. The CQE Program currently limits fishing CQE quota to vessels that fish less than 50,000 lbs. of quota – both CQE quota and non-CQE quota. The CQE vessel limitation eliminates the opportunity for community residents awarded CQE quota from fishing on a vessel that has or will fish more than 50,000 lbs. of quota, even if it is the only vessel available in a community. In addition, the rule restricts the option for several residents awarded CQE quota from combining their quota on a vessel if the cumulative quota, both CQE and non-CQE, exceeds 50,000 lbs. These restrictions limit CQE use opportunities and may inhibit some CQE purchases. Changing the CQE vessel use cap will ease vessel use restrictions and thereby provide additional opportunities for CQE use and purchase.

The program was originally premised on the need to provide continued, long-term access to the commercial halibut and sablefish fisheries by small, rural communities in the Gulf of Alaska. To that end, the Council established the program to allow a specified set of communities to purchase catcher vessel halibut and sablefish quota share, for lease to community residents. One of the factors considered during the development of the program was how to ensure that the potential benefits of the program (i.e., leased

IFQ) would be distributed among a broad group of residents. This translated into two provisions: 1) a cap on the amount of IFQ that could be leased to any one resident on an annual basis; and 2) a cap on the amount of IFQ that could be used on any one vessel on an annual basis, including any individually-held IFQ used on the vessel. This action is proposed to address the latter provision.

In the original Council motion establishing the CQE Program, the deliberations centered on the idea that limiting a vessel to 50,000 lbs. of CQE quota would be enough value for one vessel to derive from CQE-held quota and that CQE poundage in excess of this amount should be fished on a second vessel. In other words, if four individuals each leased 20,000 lbs. of IFQ from the CQE, two people could fish their full CQE quota on one vessel, and the other two would have to use a second or third vessel. The focus of the discussion was on limiting the amount of CQE-held quota used on an individual vessel, as opposed to the total amount fished on one vessel (e.g., CQE plus any individually-held quota used on the vessel). This provision was intended to affect the participation of communities and their efforts to spread the benefits from the QS among the community, by limiting both the amount of CQE quota that could be leased to an individual resident, and limiting the amount of CQE quota that one vessel could use. Thus, there is reason to interpret that the Council's original motion did not intend for the vessel itself to be limited in total to 50,000 lbs. of IFQ if any CQE-held quota was onboard, but that the Council intended that the amount of IFQ derived from CQE-held quota would be limited to 50,000 lbs. per resident lessee and per vessel.

Several years after the program was established, testimony has indicated that the vessel use cap is an inhibiting factor in the program, with no apparent benefit to CQE communities or residents. As many of the eligible residents may be entry-level fishermen, or fishermen with no vessels or very small vessels, the ability to use CQE leased IFQ on vessels owned by other residents is important to the success of the program. As communities develop financial and fishing plans for potential purchases of QS, they have referenced the need for flexibility to be able to lease IFQ to community residents that do not own vessels, in order to allow them to work their way into the fishery. Vessels that might otherwise be available to employ a resident crewmember may be limited in that ability due to the existing 50,000 lbs. vessel use cap, which includes any individually-held IFQ also used on the vessel.

Upon hearing public testimony and reviewing the CQE Program review in 2010, the Council recognized that there has been very little participation in the CQE Program to date. Only two CQEs have purchased (halibut) quota share, in Area 3B and Area 3A. Community residents testified in December 2010 that revising the vessel use caps may serve to improve participation in the program, while recognizing that it is the inability to find financing and purchase QS that is the primary obstacle in the program. The Council initiated an FMP and regulatory amendment in December 2010, which was subsequently scheduled for review at the October 2011 Council meeting, to evaluate this issue.

2.2 Proposed alternatives

The Council approved three primary alternatives in December 2010. The alternatives for consideration include:

Alternative 1. Status quo:

- No vessel may be used, during any fishing year, to harvest more than 50,000 lbs. of IFQ halibut from any halibut QS source, if that vessel is used to harvest IFQ halibut derived from halibut QS held by a CQE.
- No vessel may be used, during any fishing year, to harvest more than 50,000 lbs. of IFQ sablefish from any sablefish QS source, if that vessel is used to harvest IFQ sablefish derived from sablefish QS held by a CQE.

Alternative 2. (Council preferred alternative) Revise current regulations such that:

- No vessel may be used, during any fishing year, to harvest more than 50,000 lbs. of IFQ halibut derived from quota share held by a CQE; and no vessel may be used, during any fishing year, to harvest more than 50,000 lbs. of IFQ sablefish derived from quota share held by a CQE.
- The vessel would also be subject to the same vessel use caps applicable in the overall IFQ Program.⁵

Alternative 3. Revise current regulations such that:

- Vessels harvesting halibut or sablefish IFQ derived from quota share held by a CQE are subject to the same vessel use caps applicable in the overall IFQ Program.

Alternative 1 would retain the current vessel use caps applicable to IFQ derived from CQE-held QS as 50,000 lbs. of halibut IFQ, inclusive of any individually-held halibut IFQ; and 50,000 lbs. of sablefish IFQ, inclusive of any individually-held sablefish IFQ. Note that under the status quo, CQEs are not exempt from the vessel use caps that apply to individual holders under the current regulations. The existing vessel use caps for the IFQ Program that would be applicable under all of the alternatives are: 1% of Area 2C halibut IFQ TAC (23,300 lbs. in 2011) and 0.5% of all halibut IFQ TAC combined (151,910 lbs. in 2011). For sablefish, the vessel use caps are 1% of Southeast sablefish IFQ TAC (64,815 lbs. in 2011) and 1% of all sablefish IFQ TAC (267,947 lbs. in 2011). Thus, in the case that the individual vessel use caps are more restrictive than the CQE vessel use caps, due to TAC fluctuations, the individual vessel use caps would apply. The existing regulations pertinent to this issue are provided as **Appendix 1**.

Alternative 2, the Council's preferred alternative, would revise current regulations such that the 50,000 lbs. vessel use cap would still apply for both species, but it would not be inclusive of any halibut or sablefish IFQ that is individually-held and used on the vessel. In effect, a vessel could not use more than 50,000 lbs. of halibut IFQ derived from QS held by a CQE during the fishing year, but it could also use individually-held IFQ over and above the 50,000 lbs., up to the vessel use cap applicable in the overall program (e.g., 151,910 lbs. of halibut IFQ in 2011). Overall, vessels using CQE quota or individually-held quota would continue to be subject to the vessel use caps applicable in the general program, as described above. Like Alternative 1, due to TAC fluctuations, there is the possibility that the individual vessel use caps can be more restrictive than the CQE vessel use caps (e.g., the 2011 vessel use cap for Area 2C halibut IFQ is 23,300 lbs.).

Alternative 3 would eliminate the 50,000 lbs. vessel use caps for CQE-held quota. Vessels using IFQ derived from CQE quota would continue to be subject to the same vessel use caps for halibut and sablefish that are applicable in the general IFQ Program.

Note that the 50,000 lbs. cap on the amount of CQE-held quota that can be leased to an individual community resident, per species, would continue to apply under all of the alternatives.

2.3 Statutory authority for this action

The International Pacific Halibut Commission and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Halibut Act. The IPHC promulgates regulations governing the Pacific halibut fishery under the Convention between the United States and Canada for the

⁵ The existing vessel use caps for the IFQ Program currently applicable under Alternatives 2 and 3 are: 1% of Area 2C halibut IFQ TAC and 0.5% of the entire halibut IFQ TAC; 1% of Southeast sablefish IFQ TAC and 1% of the entire sablefish IFQ TAC. Note that the overall vessel use caps for the IFQ Program under both Alternative 2 and 3 would represent the upper limit of all IFQ that could be used on a single vessel, inclusive of IFQ derived from CQE-held QS and non-CQE held QS.

Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea, signed in Ottawa, Ontario, Canada, on March 2, 1953, as amended by a Protocol Amending the Convention, signed at Washington, D.C., on March 29, 1979.

Regulations that are not in conflict with approved IPHC regulations may be recommended by the Council, and Council action must be approved and implemented by the Secretary of Commerce. Regulations implementing the Halibut Act in waters in and off Alaska appear at 50 CFR part 300.60 - 300.66.

Federal regulations at 50 CFR part 679, established under the authority of the Magnuson-Stevens Fishery Conservation and Management Act of 1976, implement the IFQ Program for the halibut and sablefish fisheries. The Council has the authority under the MSA to recommend revisions to these regulations to the Secretary of Commerce.

2.4 Background

The Council recommended a limited access system for the fixed gear halibut and sablefish fisheries off Alaska in 1992. NMFS, on behalf of the Secretary of Commerce, approved the halibut and sablefish IFQ Program in January 1993 and implemented the program on November 9, 1993 (58 FR 59375). Fishing under the IFQ Program began on March 15, 1995. The Council and NMFS developed the IFQ Program to resolve the conservation and management problems commonly associated with open access fisheries. The preamble to the proposed rule, published on December 3, 1992 (57 FR 57130), describes the issues leading to the Council's recommendation for the IFQ Program to the Secretary.

The IFQ Program limits access to the halibut and sablefish fisheries to those persons holding quota share in specific management areas. The Council and NMFS designed the IFQ Program to provide economic stability to the commercial halibut and sablefish fixed gear fisheries. Quota shares equate to individual harvesting privileges, given effect on an annual basis through the issuance of IFQ permits. An annual IFQ permit authorizes the permit holder to harvest a specified amount of an IFQ species in a regulatory area. The specific amount (in pounds) is determined by the number of QS units held for that species, the total number of QS units issued for that species in a specific regulatory area, and the total amount of the species allocated for IFQ fisheries in a particular year. If the abundance of halibut or sablefish decreases over time, the total allowable catch (TAC) for that species will decrease and, subsequently, the number of pounds on a person's annual IFQ permit also will decrease. By ensuring access to a certain amount of the TAC at the beginning of the season and by extending the season over a longer period, QS holders may determine where and when to fish, how much gear to deploy, and how much overall investment to make in harvesting.

The Council and NMFS also intended the IFQ Program to improve the long-term productivity of the halibut and sablefish fisheries by further promoting the conservation and management objectives of the Magnuson-Stevens Act and the Halibut Act, while retaining the character and distribution of the fishing fleets as much as possible. During the development of the IFQ Program, the Council 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% of the combined Area 2C, 3A, and 3B QS pool for halibut); 2) establishment of vessel size categories; 3) restrictions on who could purchase catcher vessel 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).

This program changed the management structure of the fixed gear halibut and sablefish program by issuing QS to qualified applicants who owned or leased a vessel that made fixed gear landings of halibut during 1988 through 1990.⁶ Halibut quota share is specific to one of eight halibut management areas throughout the BSAI and GOA, and four vessel categories: freezer (catcher processor) category (A share); greater than 60' LOA (B share); 36' to 60' (C share); and 35' or less (D share). Sablefish quota share is specific to one of six sablefish management areas throughout the BSAI and GOA, and three vessel categories: freezer (catcher processor) category (A share); greater than 60' LOA (B share); and 60' or less (C share). The quota share issued was permanently transferable, with several restrictions on leasing. As stated above, the Council developed leasing and other restrictions in order to achieve some benefits associated with IFQ management, but also retain the owner-operator nature of the fisheries and limit consolidation of quota share. To that end, the Council only allowed persons who were originally issued catcher vessel quota share (B, C, and D category) or who qualify as IFQ crew members⁷ to hold or purchase catcher vessel quota share. Thus, only individuals and initial recipients could hold catcher vessel quota share, and with few exceptions, they were required to be on the vessel and fish the QS.

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, and thousands of fishermen, many residing in small coastal communities in Alaska and the Pacific Northwest (Pautzke and Oliver 1997). In addition, 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 considers the impacts of all its management measures on fishery-dependent communities.

Although the IFQ Program has resulted in significant benefits for many fishermen, many quota holders in Alaska's smaller coastal communities have chosen to transfer their quota to others, for various reasons, or have moved out of these communities. Local conditions, location, and market forces were likely factors in the sale of QS originally held by residents of small communities. These conditions include: the cost of access to markets is greater to fishermen landing fish in remote communities; fishermen based in remote communities tend to fish smaller amounts of quota using smaller, less efficient vessels, which result in lower profit margins than larger operations; and fishing infrastructure in remote communities tends to be less complete.⁸

In addition, NMFS RAM Program data show that a small amount of QS (relative to the number of initial recipients) was initially issued to residents of most of the CQE communities, which in part may explain the transfer of QS from residents of those communities. Evidence suggests that many residents that were initially issued relatively small allocations, such as a few thousand pounds, often sold their quota share in the first few years of the program. Many reasons for this are available anecdotally. Many residents of these communities fish multiple fisheries opportunistically, so most residents may not have qualified for a relatively large share of halibut or sablefish QS under a short (five year) qualifying period. Very small

⁶Regular QS units were equal to a person's qualifying pounds for an area. Qualifying halibut pounds for an area were the sum of pounds landed from the person's best 5 years of landings over a 7-year period (1984 – 1990). Qualifying sablefish pounds for an area were the sum of pounds landed from the person's best 5 years of landings over a 6-year period (1985 – 1990).

⁷IFQ crew member means any individual who has at least 150 days experience working as part of the harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS (50 CFR 679.2).

⁸*Community Quota Entity Financial Analysis*, prepared for Southeast Alaska Inter-tribal Fish and Wildlife Commission, by McDowell Group. October 28, 2005.

amounts of QS were not economically viable to fish, and individuals could not afford to purchase additional QS to support a viable business plan. In contrast, fishermen who received larger initial allocations were more 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 fishermen live in a rural or urban community. However, RAM Program and CFEC data⁹ confirm that: 1) the rate of decline of the amount of QS held by residents of the smaller Gulf 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 the smaller, CQE communities. Various data sources have illustrated the early out-migration of halibut and sablefish fishing effort from the smaller communities of the Gulf of Alaska, and the subsequent impact on the diversified fishing portfolios of community residents.^{10,11} Refer to recent research for a more detailed evaluation of halibut quota transfer patterns out of small, rural communities.¹²

As a result of quota transfers, the total amount of quota held by residents of small, coastal communities and the number of IFQ holders, declined since the inception of the IFQ Program (see Table 1). Overall, residents of the 42 eligible communities held about 9.1% of the total Gulf halibut QS (Areas 2C, 3A, and 3B combined), and about 5.3% of the total Gulf sablefish QS (Southeast, West Yakutat, Central Gulf, and Western Gulf combined), at initial issuance. By mid-2011, residents of these communities held 5.7% of the total Gulf halibut QS, and about 2.1% of the total Gulf sablefish QS. Refer to Table 1 for the percent change by species and Gulf management area.

The Gulf of Alaska Coastal Communities Coalition submitted a proposal to the Council, citing the disproportionate amount of QS transfers out of smaller, rural communities and noting that this trend may have a severe effect on unemployment and related social and economic impacts. The lack of sustained participation in the smallest, rural Gulf communities was identified by the Council as a concern, and the Council approved an action in 2002 to allow a specified set of small communities to purchase commercial halibut and sablefish catcher vessel QS to attempt to alleviate this issue. Under GOA Amendment 66, the Council revised the IFQ program to allow a distinct set of 42 remote coastal communities with few economic alternatives *to purchase and hold catcher vessel QS in Areas 2C, 3A, and 3B*, in order to help ensure access to and sustain participation in the commercial halibut and sablefish fisheries. (The list of eligible communities is provided in Section 2.4.3, Table 14.) Eligible communities can form non-profit corporations called CQEs to purchase catcher vessel QS, and the annual IFQ resulting from the QS can only be leased to community residents.

⁹“Holdings of Limited Entry Permits, Sablefish Quota Shares, and Halibut Quota Shares Through 1998 and Data on Fisheries Gross Earnings,” CFEC. 1999.

¹⁰ “Smaller Gulf of Alaska Communities: Alaska Peninsula Subgroup: Holdings of Limited Entry Permits, Sablefish Quota Shares, and Halibut Quota Shares Through 1997 and Data On Fishery Gross Earnings, CFEC Report 98-SPAKPEN-N Alaska Commercial Fisheries Entry Commission Juneau, Alaska 99801.

¹¹ “Access Restrictions in Alaska’s Commercial Fisheries: Trends and Considerations.” Prepared by DORY Associates for Alaska Marine Conservation Council and Gulf of Alaska Coastal Communities Coalition, January 2009, Kodiak, AK.

¹²Carothers, C. D. Lew and J. Sepez. (In review). Fishing rights and small communities: Alaska halibut quota transfer patterns. Ocean and Coastal Management. Carothers, C. 2007.

Table 1 Percent of QS held by residents of CQE communities, at initial issuance (1995) and 2011

| Halibut | 2C, 3A, & 3B total | 2C | 3A | 3B | |
|------------------|--------------------|-------|------|-------|------|
| initial issuance | 9.1% | 19.4% | 4.9% | 12.1% | |
| 2011 | 5.7% | 10.4% | 3.4% | 8.5% | |
| Sablefish | GOA total | SE | CG | WG | WY |
| initial issuance | 5.3% | 12.5% | 2.9% | 4.4% | 1.9% |
| 2011 | 2.1% | 5.3% | 1.6% | 0.2% | 0.3% |

Source: NOAA Fisheries, AKR, RAM. Data as of 5/6/11.

Note: The 2011 data include Area 3B halibut QS held by one CQE. Excluding the CQE-held QS would reduce the halibut Area 3B holdings in 2009 to 8.2% of the total.

In effect, the CQE remains the holder of the QS, creating a permanent asset for the community to use to benefit the community and its residents. The QS can only be sold in order to improve the community's position in the program, or to meet legal requirements, thus, the QS must remain with the community entity.¹³ The CQE Program was also intended as a way to promote ownership by individual residents, as individuals can lease annual IFQ from the CQE and gradually be in a position to purchase their own quota shares in the marketplace. During the development of the program, it was noted that both community and individually-held quota were important in terms of fishing access and economic health. This amendment was approved by the Secretary of Commerce and became effective in June 2004.

The CQE Program includes several elements which make CQEs subject to either more, the same, or fewer constraints than individual quota share holders. In some cases, the CQE is subject to the same latitude and limitations as individual users, as if the CQE is another category of eligible person. For example, an individual CQE is held to the same quota share cap as an individual holder. In other cases, the CQE is subject to less restrictive measures than individual holders. For example, the vessel size categories do not apply to QS when held by CQEs. In yet other cases, the CQE is subject to more restrictive measures than individuals, in part to protect existing holders and preserve entry-level opportunities for fishermen residing in other (non-eligible) fishery-dependent communities.

CQEs are currently limited by a different vessel use cap than individual holders: no more than 50,000 lbs. of halibut IFQ and 50,000 lbs. of sablefish IFQ can be used on an individual vessel annually if any amount of the IFQ is derived from quota share held by a CQE. Originally, this was intended as a more restrictive vessel cap than the one to which individual holders are subject; however, it is possible for the CQE vessel use cap to be less restrictive in some cases (e.g., vessel caps specific to Area 2C), due to TAC fluctuations. Because all vessels are also subject to the overall vessel use caps in the IFQ Program, the most restrictive use cap applies to the CQE on an annual basis. In addition, CQEs also cannot lease more than 50,000 lbs. of halibut and 50,000 lbs. of sablefish IFQ to an individual resident on an annual basis. Both limits are inclusive of any individual IFQ held. There are also caps on the amount of QS that all CQEs combined can purchase, and that each individual CQE can purchase. Please refer to the April 2002 Council motion for the comprehensive suite of elements that comprise the CQE program (**Appendix 2**). One may also refer to the final rule authorizing the program (69 FR 23681; April 30, 2004).

Seven years after implementation, participation in the CQE Program has been relatively limited with respect to the purpose of allowing communities to purchase halibut and sablefish quota share in the Gulf and retaining that QS for use by resident fishermen. Only two CQEs have purchased quota share to-date,

¹³If the CQE sells its QS for any other reason, NMFS will withhold annual IFQ permits on any remaining QS held, and will disqualify the CQE from holding QS on behalf of that community for 3 years. It also requires that the CQE divest itself of any remaining QS on behalf of that community.

and the program has not come close to reaching its regulatory limits on the amount of QS that may be purchased (these limits are described in Section 2.4.3, Table 15 and Table 16). While only two CQEs have purchased QS, 26 of the 42 eligible communities have completed the process to form a CQE and have it approved by NMFS. Thus, more than half of the eligible communities have invested substantial time and resources in preparing to participate in the program, and several additional communities have made efforts to evaluate whether forming a CQE is of interest and benefit to the community at this time. Regardless of the interest conveyed and effort put forth to participate in the program, very little quota share has been purchased. Several entities have evaluated the reasons for the lack of participation in the CQE program to-date, and they can primarily be categorized as financial barriers and program barriers. The brief section below outlines financial barriers. The proposed action addresses a program-related barrier.

Financial barriers to purchasing QS

Availability of QS and funding the purchase of community-held QS has been the primary obstacle cited to participating in the program. The number and rate of QS transfers have declined since the inception of the IFQ Program, and sales have become a smaller portion of all transfers (as opposed to gifting). The price of both halibut and sablefish QS has increased since the IFQ Program was implemented fifteen years ago. NMFS RAM Program provides regular IFQ reports that document information on QS transfers and prices (any transaction resulting in a permanent change of ownership is considered a transfer). Two of the most recent reports documenting QS transfers and prices are “Changes under Alaska’s Halibut IFQ Program, 1995 – 2006” and “Changes under Alaska’s Sablefish IFQ Program, 1995 – 2006”, published in January 2009. The RAM Program has provided the information from these tables, updated through 2009, for the purposes of this analysis. Table 2 provides the estimated annual prices for halibut QS sold with the associated current year IFQ, by area and year. In the first year of IFQ Program implementation (1995), the average halibut prices in dollars per IFQ pound were \$7.58 in Area 2C, \$7.37 in Area 3A, and \$6.53 in Area 3B. These prices tended to increase each year slightly, drop in 1998, increase again starting in 2001, and increase substantially in 2004.

In 2004, the year in which the CQE Program was effective, the average halibut prices in dollars per IFQ pound were \$13.70 in Area 2C, \$13.88 in Area 3A, and \$11.16 in Area 3B. By 2009, the last year of data available, average halibut prices in dollars per IFQ pound had increased to \$20.14 in Area 2C, \$25.52 in Area 3A, and \$18.07 in Area 3B. Thus, between the year of program implementation and 2009, halibut IFQ prices have increased by almost 3 times in Area 2C and 3B, and 3.5 times in Area 3A. At these prices, for example, 50,000 lbs. of Area 3A halibut QS would cost about \$1.28 million in 2009. Using an ex-vessel price of \$4/lbs., this would equate to about \$200,000 in gross revenues, annually, all else equal.

Table 2 Annual prices for halibut QS with IFQ transfers by area and year

| Area | Year | Mean Price \$/IFQ | Stan Dev Price \$/IFQ | Total IFQs Transferred Used for Pricing | Mean Price \$/QS | Stan Dev Price \$/QS | Total QS Transferred Used for Pricing | Number of Transactions Used for Pricing |
|------|------|-------------------|-----------------------|---|------------------|----------------------|---------------------------------------|---|
| 2C | 1995 | 7.58 | 1.21 | 996,874 | 1.14 | 0.18 | 6,629,554 | 315 |
| | 1996 | 9.13 | 2.71 | 681,056 | 1.37 | 0.41 | 4,539,813 | 289 |
| | 1997 | 11.37 | 2.53 | 517,715 | 1.92 | 0.43 | 3,057,477 | 211 |
| | 1998 | 10.14 | 2.11 | 220,894 | 1.79 | 0.37 | 1,253,771 | 106 |
| | 1999 | NA | NA | NA | NA | NA | NA | NA |
| | 2000 | 8.20 | 1.88 | 423,347 | 1.15 | 0.26 | 3,006,920 | 95 |
| | 2001 | 9.22 | 1.97 | 412,990 | 1.36 | 0.29 | 2,806,238 | 100 |
| | 2002 | 8.97 | 1.94 | 363,474 | 1.28 | 0.28 | 2,550,052 | 84 |
| | 2003 | 9.76 | 1.97 | 274,537 | 1.39 | 0.28 | 1,926,434 | 93 |
| | 2004 | 13.70 | 3.48 | 365,513 | 2.41 | 0.61 | 2,073,407 | 93 |
| | 2005 | 18.06 | 5.01 | 311,907 | 3.31 | 0.92 | 1,699,765 | 72 |
| | 2006 | 18.43 | 3.57 | 246,540 | 3.29 | 0.64 | 1,380,274 | 77 |
| | 2007 | 19.62 | 4.95 | 183,297 | 2.8 | 0.71 | 1,282,693 | 76 |
| | 2008 | 25.90 | 10.47 | 206,440 | 2.7 | 1.09 | 1,979,395 | 96 |
| | 2009 | 20.14 | 4.94 | 75,636 | 1.7 | 0.42 | 897,261 | 30 |
| 3A | 1995 | 7.37 | 1.44 | 1,792,912 | 0.79 | 0.15 | 16,658,196 | 355 |
| | 1996 | 8.40 | 4.07 | 1,582,609 | 0.90 | 0.44 | 14,724,748 | 352 |
| | 1997 | 9.78 | 2.45 | 1,276,525 | 1.32 | 0.33 | 9,443,198 | 294 |
| | 1998 | 8.55 | 3.04 | 666,649 | 1.20 | 0.43 | 4,743,875 | 157 |
| | 1999 | NA | NA | NA | NA | NA | NA | NA |
| | 2000 | 7.94 | 1.64 | 614,960 | 0.79 | 0.17 | 6,212,009 | 120 |
| | 2001 | 8.63 | 2.79 | 771,815 | 1.02 | 0.33 | 6,519,428 | 145 |
| | 2002 | 8.35 | 1.94 | 711,255 | 1.02 | 0.24 | 5,810,732 | 124 |
| | 2003 | 9.81 | 2.56 | 565,653 | 1.20 | 0.31 | 4,629,364 | 126 |
| | 2004 | 13.88 | 4.22 | 875,829 | 1.88 | 0.57 | 6,463,336 | 157 |
| | 2005 | 18.07 | 4.83 | 385,893 | 2.49 | 0.66 | 2,803,054 | 96 |
| | 2006 | 18.09 | 3.14 | 586,035 | 2.46 | 0.43 | 4,301,567 | 116 |
| | 2007 | 20.53 | 6.72 | 814,949 | 2.91 | 0.95 | 5,750,520 | 169 |
| | 2008 | 26.83 | 8.06 | 498,864 | 3.51 | 1.06 | 3,808,709 | 126 |
| | 2009 | 25.52 | 8.34 | 183,766 | 3 | 0.98 | 1,565,934 | 71 |
| 3B | 1995 | 6.53 | 1.40 | 225,912 | 0.44 | 0.10 | 3,323,670 | 88 |
| | 1996 | 7.88 | 2.30 | 323,160 | 0.53 | 0.16 | 4,760,536 | 165 |
| | 1997 | 8.58 | 2.53 | 605,744 | 1.43 | 0.42 | 3,634,335 | 157 |
| | 1998 | 7.92 | 1.78 | 169,833 | 1.62 | 0.36 | 832,225 | 49 |
| | 1999 | NA | NA | NA | NA | NA | NA | NA |
| | 2000 | 7.84 | 1.55 | 464,711 | 2.19 | 0.43 | 1,666,773 | 44 |
| | 2001 | 8.74 | 1.32 | 739,936 | 2.68 | 0.41 | 2,413,081 | 49 |
| | 2002 | 7.09 | 1.66 | 663,248 | 2.25 | 0.53 | 2,087,216 | 42 |
| | 2003 | 8.01 | 1.58 | 769,927 | 2.53 | 0.5 | 2,436,231 | 46 |
| | 2004 | 11.16 | 1.87 | 498,167 | 3.21 | 0.54 | 1,730,918 | 42 |
| | 2005 | 13.53 | 1.95 | 415,646 | 3.27 | 0.47 | 1,718,360 | 27 |
| | 2006 | 14.83 | 2.3 | 428,693 | 2.96 | 0.45 | 2,147,624 | 42 |
| | 2007 | 16.9 | 4.97 | 239,317 | 2.87 | 0.84 | 1,406,901 | 29 |
| | 2008 | 25.84 | 8.82 | 137,505 | 5.19 | 1.76 | 685,144 | 27 |
| | 2009 | 18.07 | 5.23 | 67,663 | 3.63 | 1.05 | 336,484 | 11 |

Source: Transfer Report Summary: Changes under Alaska's Halibut IFQ Program, 1995 - 2006, Table 3-3. Updated by RAM Program through year-end 2009, August 2010.

Similar trends are evident in the transfers of sablefish QS and IFQ. In the first year of IFQ Program implementation (1995), the average sablefish prices in dollars per IFQ pound were \$6.73 in SE, \$5.93 in WY, \$6.02 in CG, and \$6.16 in WG. Generally, these prices increased each year slightly, with a few exceptions. In 2004, the first year in which CQEs could purchase QS, the average sablefish prices in dollars per IFQ pound were \$11.69 in SE, \$12.21 in WY, \$11.50 in CG, and \$8.19 in WG.

By 2009, the last year of data available, average sablefish prices in dollars per IFQ pound were estimated as \$18.22 in SE, \$17.18 in WY, \$16.75 in CG, and \$12.11 in WG. Thus, between the year of program implementation and 2009, sablefish IFQ prices have increased by approximately 2.75 to 3 times in each

area, with the exception of the Western Gulf, which increased by 2 times. More detailed information on transfer rates, consolidation of QS, and prices are provided in Section 2.6.1.

One analysis of the financial viability of the CQE Program concluded that it did not appear feasible to purchase quota share at current prices, particularly with the added overhead necessary to establish and support the CQE organization, unless the cost of capital is very low.¹⁴ The administrative cost necessary to both establish a non-profit corporation and manage assets can be significant in a small village. Because the CQE Program represents community-held quota for annual lease to local residents, but not owned by residents, there is a layer of both administrative cost and fiduciary responsibility that has proven difficult in using currently available funding sources. The administrative overhead for a CQE, which must arrange and maintain financing for the QS, negotiate purchases of QS, develop and administer the criteria for distributing IFQ among potential lessees, and submit annual reports to NMFS detailing its activities, is potentially one barrier to participation. A more significant problem may be that the profit margin for shares is very low. The price of QS is such that CQEs cannot afford the administrative costs, lease the shares at a reasonable rate, and have remaining funds for debt repayment.¹⁵

In addition to the current price and availability of QS, one of the biggest challenges facing CQEs appears to be the financing terms associated with currently available funding. Specifically, the lack of low interest, long-term loans, and high down payment requirements, are cited as primary obstacles. The lack of credit history and the fact that they are non-profit organizations likely also increases the perceived risk to lenders. Thus, a loan guarantee program has been discussed as necessary, in which larger, more established corporations, or the Federal government, could guarantee CQE loans.¹⁶ Both Langdon (2008) and several workshops on the CQE Program have cited the need for more favorable loan terms for CQEs, both in a private lending environment, through the State of Alaska's Commercial Fishing Revolving Loan Fund, or through the North Pacific Loan Program (NPLP) in the Magnuson-Stevens Act. The NPLP is currently limited by statute to financing the purchase of IFQ by individuals, either those who fish from small vessels or first-time purchases by new entrants. The State of Alaska program was recently modified to reduce the down payment required from 35% of the loan amount to 20%. Refer to the *Review of the CQE Program under the Halibut/Sablefish IFQ Program* (NPFMC 2010)¹⁷ for more detail on the funding obstacles cited.

A few recent developments could help overcome the financial barriers to implementation. One possible alternative to conventional financing is through the North Pacific Fisheries Trust (Trust), a non-profit subsidiary formed through Ecotrust in 2006. The Trust was formed to provide financing with more flexible terms for CQEs and other entities that have community economic development goals, and one of the primary components of the Trust's strategy is to pursue long-term funding relationships with qualified CQEs. In order to finance a purchase of quota, the Trust can take down payments as low as 5% of the purchase price, depending on the risk of the deal. One of the limitations of the Trust is that the maximum duration of the loan is 5 years; however, the Trust is working on finding longer-term funding sources.¹⁸

¹⁴ *Community Quota Entity Financial Analysis*, McDowell Group. Prepared for the Southeast Alaska Inter-tribal Fish and Wildlife Commission. October 28, 2005.

¹⁵ Partnering with local organizations, when possible, may help fulfill some of the administrative and accounting duties, in order to lower the cost of operating a CQE. In addition, establishing regional CQEs, or having a CQE represent more than one community would consolidate the administrative functions of the CQE and potentially increase efficiencies and lower costs. Only two communities have used this approach (King Cove and Sand Point are represented by one CQE). However, using an 'umbrella' CQE may make it less appealing to a community that wants to play an integral part in a comprehensive economic development strategy that includes participation in the halibut and sablefish fisheries. Such are the 'trade-offs' made necessary to participate in a program of this particular kind.

¹⁶ Discussion at *Technical Support Workshop and Development Summit for CQEs*, February 17 – 18, 2009, Anchorage, AK.

¹⁷ http://www.fakr.noaa.gov/npfmc/current_issues/halibut_issues/CQEREport210.pdf.

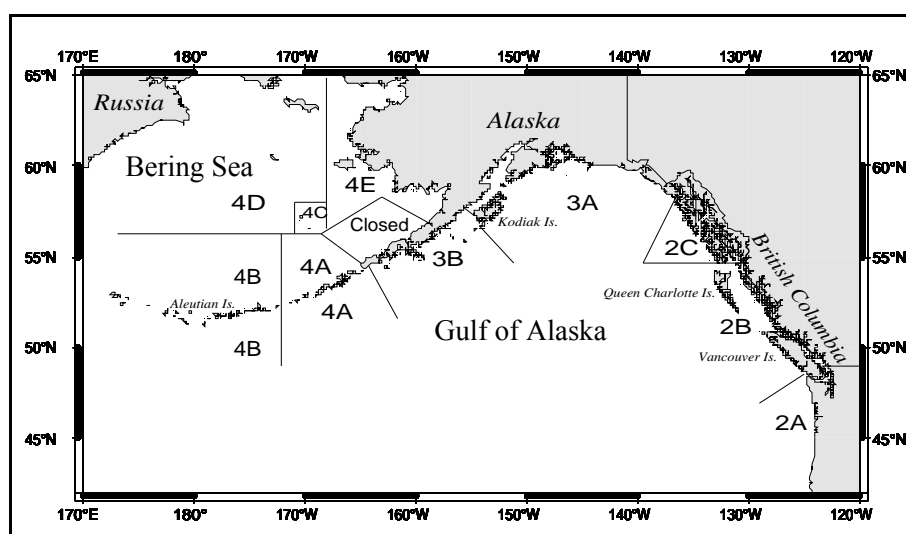
¹⁸ Personal communication with Jeff Batton, February 16, 2010.

In addition, a bill was introduced in the Alaska State legislature in early 2011 that would create a separate CQE revolving loan fund, for use by CQEs to purchase quota share equal to up to 50,000 lbs. each. This bill was not approved in the last legislative session.

Finally, program development associated with other fisheries (i.e., fixed gear permits for Pacific cod in the Western and Central Gulf, charter halibut permits in Areas 2C and 3A) may help to further the opportunities provided under the original CQE Program. These programs are discussed in Section 2.4.3.3. The expansion of the base of community holdings beyond that of halibut and sablefish QS may help further the CQE Program, and may provide a small revenue stream for CQEs such that purchases of halibut and sablefish QS become more financially feasible.

2.4.1 Affected resource and areas

The action considered in the analysis pertains to halibut and sablefish QS held by CQEs in IPHC regulatory Area 3B, Area 3A, and Area 2C (see Figure 1). The proposed alternatives would be in place for the entire fishing season.



Source: IPHC.

Figure 1 IPHC regulatory areas for the commercial halibut fishery

2.4.2 Commercial halibut and sablefish IFQ fishery

The groundfish fishery management plans for the Bering Sea/Aleutian Islands and Gulf of Alaska designate Pacific halibut as a prohibited species to any new commercial development due to its historical usage by the longline (or setline) fishery. The commercial halibut and sablefish fishing fleet is diverse, using various types of longline gear and strategies. The impetus and design of the IFQ Program, implemented in 1995 (50 CFR 300.60 through 300.65), is discussed in Section 2.4. In 2011, the IFQ program enables an eligible vessel to fish any time between March 12 and November 18.

Total halibut setline constant exploitable yield (CEY) (at a harvest rate of 20 percent for Areas 2C and 3A, and 15% for Area 3B) in and off Alaska was estimated to be over 42 Mlbs. in 2010, down 7% from the previous year (IPHC 2010). In the past nine years, the halibut CEY has ranged from 4.4 Mlbs. to 10.93 Mlbs. in Area 2C; from 19.99 Mlbs. to 26.2 Mlbs. in Area 3A; and from 9.9 Mlbs. to 17.13 Mlbs. in Area 3B (see Table 3). The TACs for Areas 2C and 3A have generally been declining, each year, since

2005. The 2010 Area 2C and Area 3A TACs were 60% and 22% lower compared to 2005, respectively. Area 3B TACs have fluctuated between 10 Mlbs. and 11 Mlbs. for the past five years.

The IPHC reports that decreased halibut catch limits reflect stock biomass declines as the exceptionally strong 1987 and 1988 year classes pass out of the fishery. Recruitment from the 1999 and 2000 year classes are estimated to be above average, but the lower growth rates of fish in recent years means that these year classes are recruiting to the exploitable stock very slowly (IPHC 2010). The 2011 IPHC catch limits for halibut are as follows: 2.33 Mlbs. in Area 2C, 14.36 Mlbs. in Area 3A, and 7.51 Mlbs. in Area 3B. Compared to 2010, these recommended catch limits are 47% lower for Area 2C, 28% lower for Area 3A, and 24% lower for Area 3B.

Currently, the catch limit for the commercial halibut longline fishery is set once all other removals are deducted from the available yield. In effect, any increase in non-commercial (sport, personal use) removals results in a reduction of the commercial sector harvest over an extended period of time. Of the non-commercial removals accounted for by the IPHC, the guided sport harvest has increased at a rapid rate, whereas other removals have remained relatively constant. The relationship between the guided sport and commercial sectors has resulted in consideration of numerous actions to control charter halibut removals, including a limited entry permit program for charter halibut fishing operations in Areas 3A and 2C, which was recommended by the Council in April 2007 and effective in 2011. A subsequent Council action created a catch sharing plan that establishes a clear allocation, with sector accountability, between charter and commercial halibut sectors in Areas 2C and 3A. This plan has not yet been implemented.

Table 3 Commercial halibut catch limits in the Gulf of Alaska, 2002 – 2011 (in millions of pounds)

| Regulatory Area | 2011 | 2010 | 2009 | 2008 | 2007 | 2006 | 2005 | 2004 | 2003 | 2002 |
|-----------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Area 2C | 2.33 | 4.4 | 5.02 | 6.21 | 8.51 | 10.63 | 10.93 | 10.5 | 8.5 | 8.5 |
| Area 3A | 14.36 | 19.99 | 21.7 | 24.22 | 26.2 | 25.2 | 25.47 | 25.06 | 22.63 | 22.63 |
| Area 3B | 7.51 | 9.9 | 10.9 | 10.9 | 9.22 | 10.86 | 13.15 | 15.6 | 17.13 | 17.13 |
| Total | 24.20 | 34.29 | 37.62 | 41.33 | 43.93 | 46.69 | 49.55 | 51.16 | 48.26 | 48.26 |

Source: NMFS RAM Program.

Table 4 Halibut IFQ allocations and landings, 2009 - 2010

| Regulatory Area | Vessel landings | | Total catch (M lbs) | | Allocation (M lbs) | | Percent landed | |
|-----------------|-----------------|-------|---------------------|-------|--------------------|-------|----------------|------|
| | 2009 | 2010 | 2009 | 2010 | 2009 | 2010 | 2009 | 2010 |
| Area 2C | 1,689 | 1,784 | 4.83 | 4.35 | 5.02 | 4.40 | 96% | 99% |
| Area 3A | 2,289 | 2,240 | 21.36 | 20.1 | 21.70 | 19.99 | 98% | 101% |
| Area 3B | 786 | 859 | 10.67 | 9.97 | 10.90 | 9.90 | 98% | 101% |
| Total | 4,764 | 4,883 | 36.85 | 34.41 | 37.62 | 34.29 | 98% | 100% |

Source: NMFS RAM Program, www.fakr.noaa.gov/ram/09ifqland.htm and www.fakr.noaa.gov/ram/daily/ifqland.htm

Note: This report summarizes fixed gear IFQ landings reported by Registered Buyers. At-sea discards are excluded, confiscations included. Halibut weights are reported in net (headed and gutted) pounds. Vessel landings include the number of landings by participating vessels reported by IFQ regulatory area; each landing may include harvest from more than one permit holder.

The commercial halibut catch limits in each regulatory area of the Gulf are almost fully harvested each year. In 2009, about 98% of the Gulf allocation was harvested, with a total of 4,764 vessel landings; in 2010, 100% of the Gulf allocation was harvested, with 4,883 vessel landings (Table 4). Harvest from the commercial fishery is monitored by NMFS using a catch accounting system that deducts harvest from an IFQ holder's account. This information is also used to enforce the total annual quota, as well as individual IFQ accounts. Thus, since the IFQ program, annual harvest limits have not been exceeded by a significant

margin. The IFQ program also has an overage/underage provision that balances an IFQ holder's account, year to year. This regulation results in a long-term balance of harvest at the catch limit and allows IFQ holders to move small amounts of halibut between years.

The commercial IFQ TAC for Gulf of Alaska sablefish is about 21.54 Mlbs. in 2011. In the past ten years, the sablefish IFQ TAC has ranged from 7.95 Mlbs. to 12.87 Mlbs. in the Central Gulf; 5.69 Mlbs. to 8.31 Mlbs. in Southeast; 2.83 Mlbs. to 5.17 Mlbs. in the Western Gulf; and 3.12 Mlbs. to 5.01 Mlbs. in West Yakutat (see Table 5). The TACs for the Gulf have generally been declining since 2004, with some fluctuation. Overall, the 2011 Gulf sablefish IFQ TAC is about 31% lower than the highest year reported (2004). However, the 2011 TACs are higher than 2010 for all areas, except for the Western Gulf.

Table 5 Commercial sablefish IFQ TACs in the Gulf of Alaska, 2002 – 2011 (in millions of pounds)

| Regulatory Area | 2011 | 2010 | 2009 | 2008 | 2007 | 2006 | 2005 | 2004 | 2003 | 2002 |
|-----------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| CG | 8.36 | 7.95 | 8.74 | 9.70 | 10.92 | 11.23 | 12.79 | 12.87 | 11.36 | 9.58 |
| SE | 6.48 | 5.69 | 6.07 | 7.10 | 7.43 | 7.76 | 7.88 | 8.31 | 7.85 | 7.08 |
| WG | 2.86 | 2.93 | 2.83 | 3.33 | 4.36 | 4.71 | 4.48 | 5.17 | 4.53 | 3.95 |
| WY | 3.84 | 3.12 | 3.41 | 4.09 | 4.40 | 4.39 | 5.01 | 4.93 | 4.47 | 3.71 |
| Total | 21.54 | 19.69 | 21.05 | 24.22 | 27.11 | 28.09 | 30.16 | 31.28 | 28.21 | 24.32 |

Source: NMFS RAM Program.

The sablefish TACs in each regulatory area of the Gulf are almost fully harvested each year. In 2009, almost 100% of the Gulf allocation was harvested, with a total of 1,455 vessel landings; in 2010, 99% of the Gulf allocation was harvested, with 1,564 vessel landings (Table 6). Like halibut, harvest from the commercial sablefish fishery is monitored by NMFS using a catch accounting system that deducts harvest from an IFQ holder's account. This information is also used to enforce the total annual quota as well as individual IFQ accounts.

Table 6 Sablefish IFQ allocations and landings, 2009 - 2010

| Regulatory Area | Vessel landings | | Total catch (M lbs) | | Allocation (M lbs) | | Percent landed | |
|-----------------|-----------------|-------|---------------------|-------|--------------------|-------|----------------|------|
| | 2009 | 2010 | 2009 | 2010 | 2009 | 2010 | 2009 | 2010 |
| Central Gulf | 568 | 625 | 8.74 | 7.93 | 8.80 | 7.95 | 99% | 100% |
| Southeast | 538 | 546 | 6.10 | 5.66 | 6.05 | 5.69 | 100% | 99% |
| Western Gulf | 145 | 181 | 2.83 | 2.77 | 2.89 | 2.93 | 98% | 95% |
| Western Yakutat | 204 | 212 | 3.41 | 3.10 | 3.43 | 3.10 | 99% | 100% |
| Total | 1,455 | 1,564 | 21.08 | 19.46 | 21.17 | 19.67 | 100% | 99% |

Source: NMFS RAM Program, www.fakr.noaa.gov/ram/09ifqland.htm and www.fakr.noaa.gov/ram/daily/ifqland.htm

Note: This report summarizes fixed gear IFQ landings reported by Registered Buyers. At-sea discards are excluded, confiscations included. Vessel landings include the number of landings by participating vessels reported by IFQ regulatory area; each landing may include harvest from more than one permit holder.

Individual holders in the IFQ Program are also subject to quota share use caps (a limit on the amount of QS each individual can hold) and vessel use caps (a limit on the amount of IFQ that can be used on one vessel in a given year), in order to limit the amount of consolidation in the program. Vessel use caps are based on a percentage of the annual IFQ TACs. The 2011 vessel use caps are provided below in Table 7.

Table 7 2011 vessel use caps

| | Vessel use cap % | Annual IFQ TAC | Vessel use cap |
|------------------|-----------------------------|--------------------|-----------------|
| Halibut | 1% of 2C halibut IFQ TAC | 2,330,000 net lbs | 23,300 net lbs |
| | 0.5% of all halibut IFQ TAC | 30,382,000 net lbs | 151,910 net lbs |
| Sablefish | 1% of SE sablefish IFQ TAC | 6,481,524 net lbs | 64,815 net lbs |
| | 1% of all sablefish IFQ TAC | 26,794,708 net lbs | 267,947 net lbs |

Source: NMFS RAM Program, February 2011.

The number of vessels, registered buyers, and quota share holders for both the halibut IFQ and sablefish IFQ fisheries, in all areas, from 2006 through 2010, are provided in Table 8. In 2010, a total of 1,108 unique vessels fished IFQ species (excluding CDQ), with 1,074 vessels fishing halibut and 368 vessels fishing sablefish.

Table 8 Number of vessels, buyers, and QS holders in the IFQ fisheries, 2006 - 2010

| Year | Halibut Vessels | Sablefish Vessels | Registered Buyers | QS holders |
|------|-----------------|-------------------|-------------------|------------|
| 2006 | 1,255 | 372 | 179 | 3,467 |
| 2007 | 1,211 | 373 | 173 | 3,303 |
| 2008 | 1,156 | 362 | 123 | 3,136 |
| 2009 | 1,090 | 363 | 107 | 3,070 |
| 2010 | 1,074 | 368 | 123 | 2,998 |

Source: 2006 – 2009 data are from report, “The Pacific Halibut and Sablefish Report Fishing Year 2009.” RAM Program, NMFS. October 2010. 2010 data are considered preliminary.

The 2010 IFQ report to the fleet provides information on the top ports where IFQ landings were made in 2005 through 2009 (RAM October 2010). Preliminary 2010 data are provided by the NMFS RAM Program. The data indicate that 54 percent of the 2010 halibut IFQ was landed in the Central Gulf communities of Homer, Kodiak, and Seward (Table 9). These top three ports held the same rank every year, 2005 through 2010. The ports of Sitka, Juneau, and Petersburg all had halibut landings of about 1.5 Mlbs. to 2.0 Mlbs. Data for other top ports are confidential.

Table 9 Top 10 IFQ halibut ports, 2005 - 2010 fishing years

| Port ^a | 2010 Net pounds | 2010 Percent total Landed ^{c,d} | 2010 Rank | 2009 Rank | 2008 Rank | 2007 Rank | 2006 Rank | 2005 Rank |
|-------------------|-------------------|--|-----------|-----------|-----------|-----------|-----------|-----------|
| Homer | 10,644,083 | 26.69 | 1 | 1 | 1 | 1 | 1 | 1 |
| Kodiak | 6,274,179 | 15.73 | 2 | 2 | 2 | 2 | 2 | 2 |
| Seward | 4,760,392 | 11.93 | 3 | 3 | 3 | 3 | 3 | 3 |
| Dutch/Unalaska | * | * | 4 | 4 | 4 | 5 | 5 | 4 |
| Sitka | 1,986,021 | 4.98 | 5 | 5 | 6 | 4 | 4 | 5 |
| Juneau | 1,752,249 | 4.39 | 6 | 6 | 8 | 7 | 6 | 6 |
| Sand Point | * | * | 7 | 10 | 5 | 8 | 8 | 8 |
| Petersburg | 1,530,031 | 3.83 | 8 | 7 | 7 | 6 | 7 | 7 |
| Yakutat | * | * | 9 | 9 | 12 | 9 | 9 | 11 |
| Akutan | * | * | 10 | 8 | 9 | 11 | 14 | 13 |
| All ports | 39,878,733 | 100 | NA | | | | | |

Source: The Pacific Halibut and Sablefish Report Fishing Year 2009. RAM Program, NMFS. October 2010. Data for 2010 are considered preliminary.

Table 10 shows the statewide halibut IFQ and sablefish IFQ TACs, amount of landed pounds, ex-vessel prices, weighted average price per QS unit, and the percent change in weighted average price per QS unit compared to the prior year. The price received at the point of landing for the catch is the ex-vessel price. Halibut QS prices increased substantially in 2004 (27%) and 2005 (31%) from the previous year, and in 2003 (14%) and 2004 (17%) for sablefish. In 2004 and 2005, the halibut CEY was slowly declining, and the ex-vessel price continued to increase. In 2004, the sablefish TAC was at a 10-year high, with the lowest ex-vessel price during the time period, as well as the largest percentage increase in IFQ transfer price from the previous year. Note that 2009 exhibited the largest percentage decrease in transfer price for both halibut and sablefish QS.

Table 10 Statewide halibut CEY and sablefish TACs, ex-vessel prices, IFQ landed pounds, and QS prices, 2000 - 2009

| Species | Year | IFQ "TAC" | IFQ Landed pounds | CFEC Statewide Exvessel Price | Count Priced QS Transfers | Weighted Avg \$/QS Unit | Pct Change in Weighted Average Price/QS Unit From Prior Year |
|-----------|------|------------|-------------------|-------------------------------|---------------------------|-------------------------|--|
| Halibut | 2000 | 53,074,000 | 51,796,153 | \$2.52 | 317 | \$1.34 | n/a |
| Halibut | 2001 | 58,534,000 | 55,758,769 | \$1.99 | 320 | \$1.62 | 20.9% |
| Halibut | 2002 | 59,010,000 | 58,122,339 | \$2.19 | 280 | \$1.41 | -13.0% |
| Halibut | 2003 | 59,010,000 | 57,411,780 | \$2.84 | 313 | \$1.70 | 20.6% |
| Halibut | 2004 | 58,942,000 | 57,264,375 | \$2.97 | 283 | \$2.15 | 26.5% |
| Halibut | 2005 | 56,976,000 | *** | \$3.00 | 245 | \$2.81 | 30.7% |
| Halibut | 2006 | 53,308,000 | *** | \$3.75 | 246 | \$2.60 | -7.5% |
| Halibut | 2007 | 50,211,800 | *** | \$4.33 | 233 | \$3.19 | 22.7% |
| Halibut | 2008 | 48,040,800 | 47,321,739 | \$4.27 | 207 | \$3.27 | 2.5% |
| Halibut | 2009 | 43,548,800 | 42,274,397 | unk | 129 | \$2.38 | -27.2% |
| Sablefish | 2000 | 29,926,122 | 27,624,505 | \$3.53 | 108 | \$0.85 | n/a |
| Sablefish | 2001 | 29,120,561 | 26,355,159 | \$3.04 | 95 | \$0.77 | -9.4% |
| Sablefish | 2002 | 29,388,199 | 27,091,941 | \$3.06 | 88 | \$0.78 | 1.3% |
| Sablefish | 2003 | 34,863,545 | 30,838,900 | \$3.46 | 151 | \$0.89 | 14.1% |
| Sablefish | 2004 | 37,936,756 | 33,695,316 | \$2.95 | 86 | \$1.04 | 16.9% |
| Sablefish | 2005 | 35,765,226 | 32,877,746 | \$3.14 | 106 | \$1.03 | -1.0% |
| Sablefish | 2006 | 34,546,083 | 30,849,437 | \$3.33 | 88 | \$1.05 | 1.9% |
| Sablefish | 2007 | 33,450,396 | 30,080,328 | \$3.10 | 92 | \$1.05 | 0.0% |
| Sablefish | 2008 | 29,967,127 | 26,872,648 | \$3.45 | 87 | \$1.08 | 2.9% |
| Sablefish | 2009 | 26,488,269 | 24,103,772 | unk | 57 | \$0.70 | -35.2% |

*** confidential data

2009 landings data are through 7 a.m. 12/24/09.

Halibut data are in net wt lbs; sablefish data are in round lbs.

\$/QS is an unweighted average computed for all categories, areas for a species: (total transaction price - broker fees)/(number QS units transferred).

A paper by Langdon (2008)¹⁹ discusses the upward trend in the price of halibut in particular, noting that the rise in price has occurred even when the amount of halibut harvested has increased. The paper notes that it may be due to a combination of factors, which may include changing dietary preferences of consumers (and increasing wealth). In addition, the cost of fuel may also factor into the rising price of halibut. The paper notes that another possibility may be the longer length of the halibut season and, thus, a longer market for fresh fish. Langdon cites an econometric analysis and simulation of ex-vessel price changes in halibut from 1995 to 2002, which suggests that the IFQ Program itself accounts for an increase

¹⁹Langdon, Steve J. 2008. The Community Quota Program in the Gulf of Alaska: A Vehicle for Alaska Native Village Sustainability? American Fisheries Society Symposium 68:155-194.

of \$0.21 in the ex-vessel price from a 1995 base of \$2.00/lbs. (Herrmann and Criddle, 2006).²⁰ The Langdon paper states: “This research suggests that while the program may have increased the ex-vessel value of Pacific halibut to fishermen by approximately 10% through 2002, neither the IFQ Program nor other factors noted above can account for the much more substantial increase in quota share price that occurred between 2003 and 2006” (p. 187). Two potential factors to consider may include: 1) a change in QS price may have lagged behind the change in the ex-vessel price of halibut; and 2) there may be a higher willingness to pay by people who wish to maintain a fishing lifestyle.

Estimates of annual ex-vessel prices also vary by management area. CFEC estimates of halibut ex-vessel prices were highest during 2007 and 2008 for all three areas (years reported were 1992 through 2008). Overall, halibut and sablefish ex-vessel prices fluctuated but generally increased in each area over this time period. A range of estimated ex-vessel prices are shown below, by management area and species (Table 11 and Table 12).

Table 11 Halibut estimated ex-vessel prices by management area and year

| Year | 2C | 3A | 3B | Statewide |
|------|--------|--------|--------|-----------|
| 1992 | \$1.01 | \$0.96 | \$0.93 | \$0.96 |
| 1993 | \$1.27 | \$1.21 | \$1.21 | \$1.23 |
| 1994 | \$2.01 | \$1.91 | \$1.90 | \$1.93 |
| 1995 | \$2.04 | \$1.99 | \$1.95 | \$1.97 |
| 1996 | \$2.26 | \$2.24 | \$2.16 | \$2.19 |
| 1997 | \$2.24 | \$2.16 | \$2.08 | \$2.13 |
| 1998 | \$1.39 | \$1.36 | \$1.27 | \$1.29 |
| 1999 | \$1.99 | \$2.09 | \$2.06 | \$2.00 |
| 2000 | \$2.62 | \$2.60 | \$2.55 | \$2.52 |
| 2001 | \$2.11 | \$2.03 | \$2.00 | \$1.99 |
| 2002 | \$2.22 | \$2.23 | \$2.20 | \$2.19 |
| 2003 | \$2.95 | \$2.89 | \$2.87 | \$2.84 |
| 2004 | \$3.04 | \$3.04 | \$2.96 | \$2.97 |
| 2005 | \$3.08 | \$3.07 | \$3.01 | \$3.00 |
| 2006 | \$3.75 | \$3.78 | \$3.78 | \$3.75 |
| 2007 | \$4.41 | \$4.40 | \$4.30 | \$4.33 |
| 2008 | \$4.33 | \$4.40 | \$4.33 | \$4.27 |

Source: CFEC, 11/13/09.

Notes: Estimated prices reflect weighted average ex-vessel prices reported for all fixed gear types (longline, troll, jig, and handline) and all delivery/condition types.

Estimates reflect deliveries by catcher vessels to shoreside processors.

Estimates are for commercial catch only. They exclude harvest from test fishing, confiscated catch, personal use, discards, and other harvests taken by not sold.

Statewide prices are weighted averages estimated from earnings and harvest over all IFQ areas.

²⁰Herrmann, M., and K. Criddle. 2006. An econometric market model for the Pacific halibut fishery. *Marine Resource Economics* 21:129-158.

Table 12 Sablefish estimated ex-vessel prices by management area and year

| Year | CG | SE | WG | WY | Statewide |
|-------------|-----------|-----------|-----------|-----------|------------------|
| 1992 | \$1.85 | \$1.93 | \$1.90 | \$1.87 | \$1.89 |
| 1993 | \$1.63 | \$1.68 | \$1.65 | \$1.65 | \$1.67 |
| 1994 | \$2.21 | \$2.46 | \$2.00 | \$2.24 | \$2.36 |
| 1995 | \$3.30 | \$3.18 | \$3.21 | \$3.31 | \$3.23 |
| 1996 | \$3.23 | \$3.42 | \$3.13 | \$3.27 | \$3.30 |
| 1997 | \$3.74 | \$3.78 | \$3.65 | \$3.76 | \$3.53 |
| 1998 | \$2.63 | \$2.49 | \$2.41 | \$2.64 | \$2.34 |
| 1999 | \$3.00 | \$3.03 | \$2.92 | \$2.98 | \$2.83 |
| 2000 | \$3.67 | \$3.23 | \$3.65 | \$3.73 | \$3.53 |
| 2001 | \$3.16 | \$3.23 | \$3.14 | \$3.20 | \$3.04 |
| 2002 | \$3.17 | \$3.25 | \$3.25 | \$3.24 | \$3.06 |
| 2003 | \$3.63 | \$3.68 | \$3.65 | \$3.67 | \$3.46 |
| 2004 | \$3.09 | \$3.26 | \$2.99 | \$3.22 | \$2.95 |
| 2005 | \$3.17 | \$3.50 | \$3.31 | \$3.24 | \$3.14 |
| 2006 | \$3.51 | \$3.11 | \$3.89 | \$3.53 | \$3.33 |
| 2007 | \$3.30 | \$2.63 | \$3.84 | \$3.47 | \$3.10 |
| 2008 | \$3.66 | \$2.96 | \$4.46 | \$3.47 | \$3.45 |
| 2009 | \$3.95 | \$3.17 | \$4.66 | \$3.78 | \$3.71 |

Source: CFEC, 11/28/10.

Notes: Estimated prices reflect weighted average ex-vessel prices reported for all fixed gear types (longline, troll, jig, and handline) and all delivery/condition types.

Estimates reflect deliveries by catcher vessels to shoreside processors.

Estimates are for commercial catch only. They exclude harvest from test fishing, confiscated catch, personal use, discards, and other harvests taken by not sold.

Statewide prices are weighted averages estimated from earnings and harvest over all IFQ areas.

RAM estimates the ex-vessel value of the halibut IFQ fishery using registered buyer reports. Those reports indicate that the total ex-vessel value of the halibut IFQ fishery ranged from \$133 million to \$208 million dollars from 2005 through 2009 (Table 13). The value in 2009 was about 75 percent of the mean value over that period. The total ex-vessel halibut value trended downward from 2006 through 2009, as TACs also decreased. Total IFQ ex-vessel revenue was estimated to be between \$289 million and \$210 million annually over that time period.

Table 13 Estimated ex-vessel value of the IFQ fisheries, 2005 - 2010

| Year | Halibut | Total IFQ (halibut and sablefish) |
|-------------|----------------|--|
| 2005 | \$191 | \$271 |
| 2006 | \$208 | \$289 |
| 2007 | \$181 | \$247 |
| 2008 | \$175 | \$245 |
| 2009 | \$133 | \$210 |
| 2010 | \$193 | \$276 |

Source: RAM Program, NMFS. 2005 – 2010 data from IFQ buyer reports. 2010 data are preliminary.

2.4.3 CQE Program

2.4.3.1 Eligible CQE communities and CQE holdings to-date

There are currently 42 eligible communities in the CQE Program, the same number since its inception: 21 are located in Southeast Alaska (Area 2C) and 21 are located in Southcentral Alaska (14 in Area 3A and 7 in Area 3B). The list of communities is part of the Council's final motion and shown below in Table 14. A map of all 42 eligible communities is provided as **Appendix 3**. To be determined eligible, each community must have met the following criteria: fewer than 1,500 people;²¹ documented historical participation (at least one commercial landing) of halibut or sablefish;²² direct access to saltwater on the GOA coast; no road access to a larger community; and listed in Federal regulation. Communities that were not identified at final action as meeting these criteria must apply to the Council to be approved for participation in the program. In order to add a community to the list in Federal regulations, a regulatory amendment must be developed and approved, and communities applying for eligibility would be evaluated using the original criteria above. Note that the Council took action to add three new communities (2 in Area 2C and 1 in Area 3B) to the CQE Program in December 2010. The proposed rule for this action has not yet been published; thus, the Council's recommendation has not yet been approved by the Secretary of Commerce.²³

Table 14 Eligible CQE communities, as of November 2011

| Area 2C communities | | Area 3A communities | | Area 3B communities | |
|---------------------|-------|---------------------|-------|---------------------|-------|
| Angoon* | 572 | Akhiok* | 80 | Chignik | 79 |
| Coffman Cove* | 199 | Chenega Bay* | 86 | Chignik | 103 |
| Craig* | 1,397 | Halibut Cove | 35 | Chignik Lake | 145 |
| Edna Bay* | 49 | Karluk | 27 | Ivanof Bay | 22 |
| Elfin Cove* | 32 | Larsen Bay* | 115 | King Cove* | 792 |
| Gustavus | 429 | Nanwalek* | 177 | Perryville* | 107 |
| Hollis | 139 | Old Harbor* | 237 | Sand Point* | 952 |
| Hoonah* | 860 | Ouzinkie* | 225 | | |
| Hydaburg* | 382 | Port Graham* | 171 | 7 communities | 2,200 |
| Kake | 710 | Port Lions | 256 | | |
| Kasaan* | 39 | Seldovia* | 286 | | |
| Klawock* | 854 | Tatitlek | 107 | | |
| Metlakatla | 1,375 | Tyonek | 193 | | |
| Meyers Chuck | 21 | Yakutat* | 680 | | |
| Pelican* | 163 | | | | |
| Point Baker* | 35 | 14 communities | 2,711 | | |
| Port Alexander* | 81 | | | | |
| Port Protection* | 63 | | | | |
| Tenakee Springs | 104 | | | | |
| Thorne Bay* | 557 | | | | |
| Whale Pass | 58 | | | | |
| 21 communities | 8,119 | | | | |

Source: Table 21 to 50 CFR 679.

Note: Population is based on 2000 U.S. census data, as required by the eligible criteria.

*Eligible communities that have approved Community Quota Entities, as of November 1, 2011.

Note: The communities of Naukati Bay (Area 2C), Game Creek (Area 2C, and Cold Bay (Area 3B) were approved for inclusion by the Council in December 2010. The Secretary of Commerce has not yet approved this action.

²¹As documented by the 2000 U.S. Census (i.e., a community must be recognized by the U.S. Census as an incorporated city or census designated place in order to be included in the census.)

²²As documented by the Alaska Commercial Fisheries Entry Commission.

²³The three communities that met the eligibility criteria and the Council approved for inclusion in the CQE Program are: Naukati Bay (Area 2C), Game Creek (Area 2C), and Cold Bay (Area 3B).

Under the program, an eligible community must form a nonprofit corporation to act on its behalf (i.e., the CQE). The CQE permitted to purchase and hold the quota share for eligible communities must be: 1) a new non-profit entity incorporated under the State of Alaska; or 2) a new non-profit entity formed by an aggregation of several eligible communities. The non-profit corporation must apply to NMFS for recognition as a CQE, must have the written approval of the community, and upon approval by NMFS, may buy, sell, and hold halibut and sablefish QS for the community.

As discussed previously, there are caps on the amount of quota that can be used on an individual vessel, if the vessel is carrying any IFQ derived from CQE-held quota share. There are also caps on the amount of QS that can be held by each individual community, and caps on the amount of QS that can be held cumulatively by all communities in a specified area (e.g., Area 2C, 3A, 3B for halibut; SE, WY, CG, or WG for sablefish). The program limits each CQE to the same use caps as individual holders (Table 15).

Table 15 2011 quota share use caps for CQEs and individuals

| Use Cap | 2011 QS use cap | Equivalent 2011 IFQ lbs |
|--------------------|--------------------|--|
| Halibut | | |
| 1% of 2C quota | 599,799 QS units | 23,467 IFQ lbs |
| 0.5% of 2C, 3A, 3B | 1,502,823 QS units | 58,799 lbs if all 2C quota ¹ ; 116,708 lbs if all 3A quota; 208,219 lbs if all 3B quota |
| Sablefish | | |
| 1% of SE quota | 688,485 QS units | 67,489 IFQ lbs |
| 1% of all quota | 3,229,721 QS units | 241,747 lbs if all CG; 316,596 lbs if all SE ² ; 256,118 lbs if all WG; 233,124 lbs if all WY quota |

Source: RAM Program, NMFS, 2011.

¹Note that the Area 2C halibut use cap (23,467 lbs.) is also in place, so 58,799 lbs. is only a theoretical example.

²Note that the SE sablefish use cap (67,489 lbs.) is also in place, so 316,596 lbs. is only a theoretical example.

The program also limits all CQEs to holding 3% of the QS in each area in each of the first seven years of the program, culminating in a limit of 21% in each area by 2010 (Table 16).²⁴ Table 16 shows the limits in both QS units and 2011 IFQ pounds. The same limits shown for 2011, in terms of QS units, are applicable in all future years. The limits, in terms of pounds, fluctuate annually with the IFQ TAC. Note that these limits are exclusive of any QS held by individual residents of the CQE community. Refer to Appendix 2 for the rules governing CQE transfers, limits, and reporting requirements.

Table 16 Cumulative CQE quota share use caps¹

| Use Cap | QS Use Cap and equivalent annual IFQ lbs | | | |
|------------------|--|---------------------|---------------------|---------------------|
| Halibut | | Area 2C | Area 3A | Area 3B |
| 2011 | | 12,505,928 QS units | 38,831,376 QS units | 11,382,667 QS units |
| 21% of each area | | 489,300 lbs | 3,015,608 lbs | 1,577,093 lbs |
| Sablefish | | Southeast | Central Gulf | Western Gulf |
| 2011 | | 13,885,330 QS units | 23,454,193 QS units | 7,566,212 QS units |
| 21% of each area | | 1,361,120 lbs | 1,755,566 lbs | 600,003 lbs |
| | | | | West Yakutat |
| | | | | 11,185,950 QS units |
| | | | | 807,411 lbs |

Source: RAM Program, NMFS, 2011.

¹The cumulative use caps apply to the amount of QS that can be held and used by all CQEs combined.

Thus far, 25 CQEs have been formed, representing 26 communities (the list of current CQEs is provided as **Appendix 4**). Fourteen of those CQEs are in southeast Alaska, and twelve are in southcentral Alaska. Each of these CQEs completed the process of forming a non-profit corporation under laws of the State of Alaska, which requires time and resources of the community. In addition to the incorporation process, in

²⁴See 50 CFR 679.42(e)(6).

order to be approved by NMFS as a CQE representing an eligible community, the CQE must also submit an application to NMFS.²⁵ A complete application to become a CQE consists of: (i) the articles of incorporation; (ii) a statement indicating the eligible community, or communities, represented by the CQE for purposes of holding QS; (iii) management organization information, including: (A) the bylaws; (B) a list of key personnel of the managing organization including, but not limited to, the board of directors, officers, representatives, and any managers; (C) a description of how the CQE is qualified to manage QS on behalf of the eligible community, or communities, it is designated to represent, and a demonstration that the CQE has the management, technical expertise, and ability to manage QS and IFQ; and (D) the name of the non-profit organization, taxpayer ID number, permanent business mailing addresses, name of contact persons and contact information of the managing personnel, resumes of management personnel, name of community represented by the CQE, and the point of contact for the governing body of each community represented.

The application also requires a statement describing the procedures that will be used to determine the distribution of IFQ to residents of the community, including: (A) procedures used to solicit requests from residents to lease IFQ; and (B) criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria. Finally, the application must include a statement of support from the governing body of the eligible community. The statement of support is: (A) a resolution from the City Council or other official governing body for those eligible communities incorporated as first or second class cities; (B) a resolution from the tribal government authority recognized by the Bureau of Indian Affairs for those eligible communities that are not incorporated as first or second class cities; but are represented by a tribal government authority; or (C) a resolution from a non-profit community association, homeowner association, community council, or other non-profit entity for those eligible communities that are not incorporated as first or second class cities or represented by a tribal government.

Thus, while the application process is relatively straightforward, it requires submittal of several documents, including a letter of approval from the eligible community or communities and a description of the criteria the CQE will use to determine which residents may lease IFQ derived from CQE-held QS on an annual basis. Note that the Council included three performance standards in its final motion developing the program, and although these are not regulatory requirements, they outline the intent regarding the distribution and use of community-held QS. The performance standards are:

- equitable distribution of IFQ leases within a community
- the use of IFQ by local crew members
- the percentage of IFQ resulting from community-held QS that is fished on an annual basis

Many communities have developed specific and comprehensive criteria to distribute IFQ among community residents, based on the goals and objectives set out by the community. The city of Craig was the first CQE formed in late 2004, and it was very proactive in developing the first set of organizational governance and distribution criteria for quota share. NMFS only requires that criteria are developed, not that each community follow specified criteria. For example, some communities may emphasize providing IFQ to new entrants versus long-term participants (or vice-versa), while others may focus on ensuring that the resident IFQ holder's crew is comprised of residents of the CQE community. Some communities have employed a 'point system', while others have developed other types of rating criteria. For example, one CQE reports that it leases quota share to community residents on an equitable basis, and that preference is given to residents that have experience, equipment, investment, and commit to the employment of community residents. The point system developed by the CQE reflects these preferences.

²⁵This application is also submitted to the State of Alaska (DCCED) for a 30-day review and comment period.

Each CQE must report to NMFS annually on IFQ activities, including nonprofit governance, QS holdings, IFQ recipient selection, landings, and other relevant information. If a CQE fails to submit a timely and complete annual report, NMFS would initiate an administrative action to suspend the ability of that CQE to transfer QS and IFQ, and to receive additional QS by transfer. The annual report is also required to be provided to the governing body of each community represented by the CQE. This is intended to assist the governing body and residents of that community in reviewing the activities of the CQE relative to that community.

To date, two CQEs, representing Old Harbor and Ouzinkie, have purchased halibut quota share. No CQEs have purchased sablefish quota share. Old Harbor has been participating in the program using halibut quota share since 2006, with quota share originally obtained through a private financing arrangement. As of 2011, the CQE representing Old Harbor held 151,234 halibut QS units in Area 3B, which equates to 20,954 lbs in 2011. The QS is in 4 blocks: 3 blocks of C category QS and 1 block of B category; the majority of the QS is C category. The CQE representing Ouzinkie purchased 106,488 QS units of Area 3A QS in 2011, which equates to 8,270 lbs. in 2011. The QS is C category and blocked.

In total, CQE holdings represent about 0.09% of the combined Area 2C, 3A and 3B QS pool, 0.28% of the total Area 3B QS pool, and 0.06% of the total Area 3A QS pool. Recall that the program allowed all CQEs combined to purchase up to 3% of the QS in each area in each of the first seven years of the program, culminating in a limit of 21% in each area starting in 2010. Thus, the program has not come close to reaching its regulatory limits.

The majority of CQEs have not submitted annual reports, as they have not purchased quota share to-date. Several CQEs have submitted reports, even if no quota share had been purchased, in order to report changes in the Board of Directors, etc. The CQE representing Old Harbor has submitted the required annual report each year it held QS, starting in 2006. This report indicates that no less than 20% of its total IFQ is leased to 'entry level resident fishermen' as specified by the CQE, and the remainder is leased to a 'general pool.' In sum, this CQE has leased QS at equal or below market rates to 5 residents using 3 vessels in 2006;²⁶ 8 residents using 5 vessels in 2007; 10 residents using 5 vessels in 2008; 9 residents using 5 vessels in 2009; and 5 residents using 5 vessels in 2010. The number of crew used increased over time, and all were residents of Old Harbor, with few exceptions (residents of Kodiak or Port Lions). In 2010, 15 crewmembers were used, and all were residents of Old Harbor. Starting in 2008, the CQE also formally developed a 'clean-up' fishery, in that the IFQ contracts with individual fishermen include a provision that allows the CQE to lease the IFQ to another resident fisherman if the IFQ is not fished by August 1 of the fishing year.

2.4.3.2 Individual community resident QS holdings

The NMFS RAM Program produces reports on the changes in holdings of quota share by residents of Gulf of Alaska fishing communities since the implementation of the halibut and sablefish IFQ program in 1995. The most recent published report is through 2008 (NMFS, July 2009).²⁷ Note that the QS holdings in this report are by individual residents of the CQE eligible communities, not CQEs, with the exception of the QS holdings by the CQE representing Old Harbor. The information in the remainder of this section is similar to what is provided in this report, updated by NMFS through May 2011.

²⁶In 2006, the IFQ was purchased and leased in late September, allowing only a couple months to fish; 2006 was the only year in which all of the CQE QS was not fished.

²⁷*Report on Holdings of IFQ by Residents of Selected Gulf of Alaska Fishing Communities, 1995 – 2008*. NOAA (NMFS), Alaska Region, RAM Program, Juneau, AK. July 2009. <http://www.fakr.noaa.gov/ram/reports/ifqholdings0709.pdf>

Holdings attributed to residents of all 42 CQE communities

One impetus for establishing the CQE Program was the transfer of initially-issued quota share out of the smallest, remote coastal Alaska communities and the change in the geographic distribution of QS holdings. The CQE Program was intended as a mechanism for quota share to be held at a community level, and thus a long-term asset available for use by community residents. Overall, residents of the 42 eligible communities held about 9.1% of the total Gulf halibut QS (Areas 2C, 3A, and 3B combined), and about 5.3% of the total Gulf sablefish QS (Southeast, West Yakutat, Central Gulf, and Western Gulf combined), at initial issuance. By mid-2011, residents of these communities held 5.7% of the total Gulf halibut QS, and about 2.1% of the total Gulf sablefish QS (refer back to Table 1).

In effect, by May 2011, NMFS RAM Program data indicate that residents of the 42 CQE communities held 37% fewer halibut QS in Area 2C, 3A, and 3B combined, compared to initial issuance. Reductions in Area 2C, 3A, and 3B halibut QS held by community residents were 46%, 30%, and 30%, respectively. Gulf sablefish QS holdings were reduced by 61%, from initial issuance to 2011. Reductions in sablefish QS held in SE, CG, WG, and WY were 58%, 46%, 96%, and 84%, respectively. The number of holders of Gulf halibut and sablefish QS were also reduced by 60% and 67%, respectively. Refer to Table 17 and Table 18 below.

Table 17 Amount of Gulf QS held by residents of CQE communities, at initial issuance (1995) and 2011

| Halibut | 2C, 3A, & 3B total | 2C | 3A | 3B | |
|-------------------|-------------------------------|------------|-----------|-----------|-----------|
| 1995 QS units | 27,210,745 | 11,530,577 | 9,068,978 | 6,611,190 | |
| 1995 # QS holders | | 514 | 271 | 161 | |
| 2011 QS units | 17,170,718 | 6,195,825 | 6,356,227 | 4,618,666 | |
| 2011 # QS holders | | 174 | 99 | 72 | |
| Sablefish | GOA total | SE | CG | WG | WY |
| 1995 QS units | 14,188,193 | 8,354,910 | 3,206,265 | 1,596,130 | 1,030,888 |
| 1995 # QS holders | | 100 | 39 | 24 | 34 |
| 2011 QS units | 5,483,099 | 3,513,533 | 1,745,132 | 63,376 | 161,058 |
| 2011 # QS holders | | 30 | 10 | 4 | 4 |

Source: NOAA Fisheries, AKR, RAM. Data as of 5/4/11.

Note: The 2011 data include Area 3B halibut QS (151,234 QS units) held by one CQE.

Table 18 Reduction in Gulf QS holdings by residents of CQE communities, from initial issuance (1995) to 2011

| Halibut | 2C, 3A, & 3B total | 2C | 3A | 3B | |
|------------------------------|-------------------------------|-----------|-----------|-----------|-----------|
| reduction in QS units held | 37% | 46% | 30% | 30% | |
| reduction in # of QS holders | 60% | 66% | 63% | 55% | |
| Sablefish | GOA total | SE | CG | WG | WY |
| reduction in QS units held | 61% | 58% | 46% | 96% | 84% |
| reduction in # of QS holders | 67% | 70% | 74% | 83% | 88% |

Source: NOAA Fisheries, AKR, RAM. Data as of 5/4/11.

Note: The 2011 data include Area 3B and 3A halibut QS held by two CQEs. Excluding the CQE-held QS does not change the percent reduction in halibut Area 3B or Area 3A holdings by residents since initial issuance.

Holdings attributed to residents of the 21 CQE communities in Area 3A and Area 3B

A brief summary of the QS holdings and number of QS holders for the fourteen Area 3A and seven Area 3B communities is provided below. Table 19 and Table 20 compare the amount of halibut and sablefish QS holdings, respectively, held by individual Area 3A and Area 3B CQE community residents at initial issuance (1995) compared to May 2011. Each table also shows the percent change in QS holdings and number of IFQ holders from initial issuance to 2011.

Table 19 shows all but one Area 3A CQE community has either reduced the amount of halibut QS held by residents since initial issuance or has net zero holdings. The one community that has increased halibut QS holdings is Halibut Cove. The three communities in Area 3A with the largest amount of QS holdings (Halibut Cove, Yakutat, and Seldovia) comprise 82% of the total halibut QS holdings among all Area 3A CQE communities. This table also shows that all 7 Area 3B CQE communities have reduced the amount of halibut QS held by residents since initial issuance or have net zero holdings. The two communities in Area 3B with the largest amount of QS holdings (King Cove and Sand Point) comprise 86% of the total halibut QS holdings among all Area 3B CQE communities. These two communities comprise about 36% of the total QS holdings by all Area 3A and 3B communities combined.

Table 19 shows that across all 21 Area 3A and 3B CQE communities, the net reduction in halibut QS and number of QS holders is 26% and 53%, respectively, since initial issuance.

Table 19 Halibut QS holdings and holders that are residents of Area 3A and 3B CQE communities, and percent change since initial issuance

| CQE COMMUNITY | 1995 QS units held | 1995 # QS holders | 2011 QS units held | 2011 # QS holders | % change QS units | % change # QS holders |
|----------------------|---------------------------|--------------------------|---------------------------|--------------------------|--------------------------|------------------------------|
| AKHIOK | 42,671 | 1 | 0 | 0 | -100% | -100% |
| CHENEGA BAY | 16,286 | 3 | 628 | 1 | -96% | -67% |
| CHIGNIK | 621,738 | 9 | 128,220 | 2 | -79% | -78% |
| CHIGNIK LAGOON | 407,246 | 8 | 387,433 | 5 | -5% | -38% |
| CHIGNIK LAKE | 1,866 | 1 | 1,866 | 1 | 0% | 0% |
| HALIBUT COVE | 262,736 | 6 | 818,552 | 5 | 212% | -17% |
| IVANOF BAY | 19,590 | 2 | 0 | 0 | -100% | -100% |
| KARLUK | 0 | 0 | 0 | 0 | 0% | 0% |
| KING COVE | 1,864,458 | 41 | 956,543 | 16 | -49% | -61% |
| LARSEN BAY | 124,344 | 8 | 0 | 0 | -100% | -100% |
| NANWALEK | 0 | 0 | 0 | 0 | 0% | 0% |
| OLD HARBOR | 758,425 | 16 | 162,578 | 6 | -79% | -63% |
| OUZINKIE | 813,542 | 23 | 587,329 | 12 | -28% | -48% |
| PERRYVILLE | 51,743 | 2 | 37,903 | 2 | -27% | 0% |
| PORT GRAHAM | 176,480 | 9 | 91,204 | 3 | -48% | -67% |
| PORT LIONS | 425,710 | 24 | 155,973 | 10 | -63% | -58% |
| SAND POINT | 2,978,269 | 58 | 2,465,946 | 36 | -17% | -38% |
| SELDOVIA | 2,814,924 | 32 | 2,565,663 | 13 | -9% | -59% |
| TATITLEK | 18,660 | 1 | 0 | 0 | -100% | -100% |
| TYONEK | 0 | 0 | 0 | 0 | 0% | 0% |
| YAKUTAT | 1,509,041 | 51 | 1,241,181 | 28 | -18% | -45% |
| TOTAL | 12,907,729 | 295 | 9,601,019 | 140 | -26% | -53% |

Source: NMFS RAM Program, 5/4/11. Note: this table includes the 151,234 QS units in Area 3B held by the CQE representing Old Harbor, and the 106,488 QS units in Area 3A held by the CQE representing Ouzinkie. Note: Includes QS from any area.

Table 20 Sablefish QS holdings and holders that are residents of Area 3A and 3B CQE communities, and percent change since initial issuance

| CQE COMMUNITY | 1995 QS units held | 1995 # QS holders | 2011 QS units held | 2011 # QS holders | % change QS units | % change # QS holders |
|---------------|--------------------|-------------------|--------------------|-------------------|-------------------|-----------------------|
| AKHIOK | 0 | 0 | 0 | 0 | 0% | 0% |
| CHENEGA BAY | 0 | 0 | 0 | 0 | 0% | 0% |
| CHIGNIK | 0 | 0 | 0 | 0 | 0% | 0% |
| CHIGNIK | 0 | 0 | 0 | 0 | | |
| LAGOON | | | | | 0% | 0% |
| CHIGNIK LAKE | 0 | 0 | 0 | 0 | 0% | 0% |
| HALIBUT COVE | 16,836 | 1 | 707 | 1 | -96% | 0% |
| IVANOF BAY | 0 | 0 | 0 | 0 | 0% | 0% |
| KARLUK | 0 | 0 | 0 | 0 | 0% | 0% |
| KING COVE | 930,494 | 11 | 456 | 1 | -100% | -91% |
| LARSEN BAY | 0 | 0 | 0 | 0 | 0% | 0% |
| NANWALEK | 0 | 0 | 0 | 0 | 0% | 0% |
| OLD HARBOR | 36,822 | 2 | 0 | 0 | -100% | -100% |
| OUZINKIE | 91,457 | 1 | 0 | 0 | -100% | -100% |
| PERRYVILLE | 0 | 0 | 0 | 0 | 0% | 0% |
| PORT GRAHAM | 380 | 1 | 380 | 1 | 0% | 0% |
| PORT LIONS | 1,121 | 1 | 0 | 0 | -100% | -100% |
| SAND POINT | 996,049 | 6 | 300 | 1 | -100% | -83% |
| SELDOVIA | 2,166,188 | 10 | 1,201,865 | 6 | -45% | -40% |
| TATITLEK | | | | | | |
| TYONEK | 0 | 0 | 0 | 0 | 0% | 0% |
| YAKUTAT | 321,275 | 6 | 1,082 | 1 | -100% | -83% |
| TOTAL | 4,560,622 | 39 | 1,204,790 | 11 | -74% | -72% |

Source: NMFS RAM Program, 5/4/11. Note: Includes QS from any area.

Table 20 shows that residents of nine of the twenty-one Area 3A and 3B CQE communities were initially issued sablefish QS, and all but one of those communities have realized a net loss over time. One community (Port Graham) has maintained the same, small amount of QS since initial issuance (a total of 380 QS units), held by one person. Only Seldovia residents have a sizeable number of holdings relative to other communities in 2011, with 1.2 million QS units held by six persons. The Seldovia residents' holdings comprise over 99% of the total sablefish QS holdings by Area 3A and 3B CQE communities. Overall, Table 20 shows that the net reduction in sablefish QS and number of QS holders is 74% and 72%, respectively, since initial issuance.

Table 19 and Table 20 also show that a small amount of QS (relative to the number of initial recipients) was initially issued to the majority of these Area 3A and 3B CQE communities, which in part may explain the transfer of QS from residents of those communities. While the communities that received relatively larger shares have also realized a reduction in the amount of QS held by residents and the number of QS holders, these communities are typically larger, and either a processing plant is located in the community or they are in close proximity to markets. Note that Table 19 includes the 151,234 halibut QS units by the CQE representing Old Harbor in 2011, which represents 20,954 IFQ lbs. and almost all of the halibut holdings in Old Harbor. It also includes the 106,488 QS units of Area 3A QS purchased by the Ouzinkie CQE in 2011, which equates to 8,270 lbs.

Holdings attributed to residents of the 21 CQE communities in Area 2C

A brief summary of the QS holdings and number of QS holders for the twenty-one Area 2C communities is provided below. Table 21 and Table 22 compare the amount of halibut and sablefish QS holdings, respectively, held by individual Area 2C CQE community residents at initial issuance (1995) compared to

May 2011. Each table also shows the percent change in QS holdings and number of IFQ holders from initial issuance to 2011.

Table 21 shows all but three Area 2C CQE communities have either reduced the amount of halibut QS held by residents since initial issuance or have maintained net zero holdings. The three communities that have increased halibut QS holdings are Coffman Cove, Elfin Cove, and Gustavus. While Elfin Cove has doubled the amount of QS held by residents, the total equates to about 42,000 lbs. in 2011. Gustavus holds about the same amount in terms of pounds, and Coffman Cove holds significantly less. The community with the largest holdings is Craig, which equates to about 70,400 lbs. in 2011. The four communities in Area 2C with the largest amount of QS holdings (Craig, Elfin Cove, Hoonah, Pelican) comprise 58% of the total halibut QS holdings among all Area 2C CQE communities, and the combined QS units of these four communities equates to about 205,000 lbs.

In addition, all Area 2C CQE communities have realized a reduction in the number of QS holders, or maintained zero holders in the community. Table 21 shows that across all 21 Area 2C CQE communities, the net reduction in halibut QS and number of QS holders is 49% and 64%, respectively, since initial issuance.

Table 21 Halibut QS holdings and holders that are residents of Area 2C CQE communities, and percent change since initial issuance

| CQE COMMUNITY | 1995 QS units held | 1995 # QS holders | 2011 QS units held | 2011 # QS holders | % change QS units | % change # QS holders |
|----------------------|---------------------------|--------------------------|---------------------------|--------------------------|--------------------------|------------------------------|
| ANGOON | 798,142 | 52 | 254,576 | 12 | -68% | -77% |
| COFFMAN COVE | 20,721 | 3 | 187,329 | 1 | 804% | -67% |
| CRAIG | 1,978,617 | 77 | 1,799,527 | 49 | -9% | -36% |
| EDNA BAY | 526,658 | 18 | 248,631 | 5 | -53% | -72% |
| ELFIN COVE | 407,021 | 20 | 826,624 | 12 | 103% | -40% |
| GUSTAVUS | 610,720 | 27 | 636,636 | 13 | 4% | -52% |
| HOLLIS | 0 | 0 | 0 | 0 | 0% | 0% |
| HOONAH | 2,825,177 | 73 | 988,235 | 24 | -65% | -67% |
| HYDABURG | 405,285 | 28 | 78,458 | 7 | -81% | -75% |
| KAKE | 1,768,742 | 53 | 735,757 | 15 | -58% | -72% |
| KASSAN | 0 | 0 | 0 | 0 | 0% | 0% |
| KLAWOCK | 376,475 | 20 | 144,469 | 7 | -62% | -65% |
| METLAKATLA | 761,059 | 32 | 279,731 | 7 | -63% | -78% |
| MEYERS CHUCK | 153,644 | 5 | 91,584 | 1 | -40% | -80% |
| PELICAN | 2,475,167 | 36 | 873,137 | 9 | -65% | -75% |
| POINT BAKER | 545,188 | 22 | 139,506 | 6 | -74% | -73% |
| PORT ALEXANDER | 828,942 | 18 | 111,050 | 6 | -87% | -67% |
| PORT PROTECTION | 38,031 | 1 | 0 | 0 | -100% | -100% |
| TENAKEE SPRINGS | 321,783 | 9 | 175,961 | 3 | -45% | -67% |
| THORNE BAY | 214,168 | 11 | 143,735 | 5 | -33% | -55% |
| WHALE PASS | 9,511 | 3 | 0 | 0 | -100% | -100% |
| TOTAL | 15,065,051 | 508 | 7,714,946 | 182 | -49% | -64% |

Source: NMFS RAM Program, 5/4/11. Note: Includes QS from any area.

Table 22 Sablefish QS holdings and holders that are residents of Area 2C CQE communities, and percent change since initial issuance

| CQE COMMUNITY | 1995 QS units held | 1995 # QS holders | 2011 QS units held | 2011 # QS holders | % change QS units | % change # QS holders |
|----------------------|---------------------------|--------------------------|---------------------------|--------------------------|--------------------------|------------------------------|
| ANGOON | 1,237,242 | 2 | 0 | 0 | -100% | -100% |
| COFFMAN COVE | 0 | 0 | 0 | 0 | 0% | 0% |
| CRAIG | 990,426 | 17 | 748,766 | 11 | -24% | -35% |
| EDNA BAY | 244,077 | 3 | 0 | 0 | -100% | -100% |
| ELFIN COVE | 155,967 | 4 | 533,480 | 2 | 242% | -50% |
| GUSTAVUS | 477,964 | 4 | 499,356 | 3 | 4% | -25% |
| HOLLIS | 0 | 0 | 0 | 0 | 0% | 0% |
| HOONAH | 1,917,103 | 16 | 780,829 | 3 | -59% | -81% |
| HYDABURG | 223,941 | 4 | 9,011 | 1 | -96% | -75% |
| KAKE | 323,699 | 2 | 309,797 | 1 | -4% | -50% |
| KASSAN | 0 | 0 | 0 | 0 | 0% | 0% |
| KLAWOCK | 141,370 | 3 | 573,464 | 2 | 306% | -33% |
| METLAKATLA | 118,259 | 3 | 26 | 1 | -100% | -67% |
| MEYERS CHUCK | 109,129 | 2 | 110,055 | 1 | 1% | -50% |
| PELICAN | 3,150,327 | 14 | 924,259 | 3 | -71% | -79% |
| POINT BAKER | 364 | 1 | 364 | 1 | 0% | 0% |
| PORT ALEXANDER | 734,129 | 8 | 152 | 1 | -100% | -88% |
| PORT PROTECTION | 0 | 0 | 0 | 0 | 0% | 0% |
| TENAKEE SPRINGS | 175,968 | 2 | 0 | 0 | -100% | -100% |
| THORNE BAY | 86,505 | 2 | 0 | 0 | -100% | -100% |
| WHALE PASS | 0 | 0 | 0 | 0 | 0% | 0% |
| TOTAL | 10,086,470 | 87 | 4,489,559 | 30 | -55% | -66% |

Source: NMFS RAM Program, 5/4/11. Note: Includes QS from any area.

Table 22 shows that residents of four of the twenty-one Area 2C CQE communities have realized an increase in the amount of sablefish QS holdings since initial issuance; the remaining 17 communities either realized a net loss or maintained zero holdings. Of the four communities that have realized an increase, only Elfin Cove and Klawock have realized a significant increase, the total holdings of which are attributable to two holders in each community. The same three communities with the largest amount of halibut QS holdings also have the highest sablefish holdings (Craig, Hoonah, Pelican), comprising 55% of the total sablefish QS holdings among all Area 2C CQE communities. The combined QS units of these three communities equates to about 233,000 lbs.

In addition, all but one of the Area 2C CQE communities has realized a reduction in the number of QS holders, or maintained zero holders in the community. One community (Point Baker) has no net change; it has maintained one sablefish QS holder in both time periods. Table 22 shows that across all 21 Area 2C CQE communities, the net reduction in sablefish QS and number of QS holders is 55% and 66%, respectively, since initial issuance.

2.4.3.3 Other Council actions that include a CQE component

Two subsequent actions approved by the Council, that are not related to the commercial halibut and sablefish IFQ Program, have included explicit provisions for CQEs that represent new fishing opportunities. Both programs have been approved by the Secretary of Commerce and were first implemented in 2011.

The first action is the proposed charter halibut limited entry action that the Secretary of Commerce approved in January 2010. This action establishes a limited entry program for charter halibut businesses in Area 2C and Area 3A, and will issue permits to qualified charter business owners. As part of this action, the Council approved issuing a limited number of permits to each CQE representing a community in Area 2C and Area 3A, upon request and at no cost, if the community meets specific criteria denoting underdeveloped charter halibut ports. The Council intent was to balance the identified need to limit new entry in the charter halibut fishery in the context of exceeded GHs in recent years, with a second stated need to maintain access to the charter halibut fishery in specified rural communities by creating additional permits. More recently, IPHC, NMFS, and the Council have taken several management actions (e.g., one-fish bag and threshold retention size limits on halibut; reductions in charter halibut operator permits issued) that can be expected to reduce the size of the existing Area 2C charter fleet, significantly reduce the charter sector's catch of halibut in Area 2C, and reduce demand for charter halibut trips very substantially in the management area. While constraints on halibut charter operators and clients in Area 3A are currently less stringent, they, too, have undergone recent regulatory changes to reduce removals to the GH.

The CQE criteria target communities within which 10 or fewer active charter businesses were operating during the initial qualifying years for the overall program.²⁸ Each CQE located in Area 2C and Area 3A that meets the criteria can request up to 4 and 7 permits, respectively. Eighteen of the 21 eligible CQE communities in Area 2C^{29,30} qualify to receive charter permits, and all 14 eligible CQE communities in Area 3A qualify. Recall, however, that not all of the eligible CQE communities have formed a CQE, which is necessary to participate. There are several provisions established to guide the use of CQE requested charter halibut permits, including that the permit must be used in the community represented by the CQE (i.e., all charter trips must originate or terminate in the CQE community). The Council also recommended an overall limit on the number of charter halibut permits that each CQE can hold and use (inclusive of both purchased permits and permits requested and issued at no cost). The use cap for each CQE in Area 2C is 8 permits; the use cap for each CQE in Area 3A is 14 permits. The use cap applies to all CQEs formed in Area 2C and Area 3A, regardless of whether the community meets the qualification criteria to receive permits at no cost.

The charter halibut limited entry program was approved by the Secretary on January 5, 2010,³¹ and the application period and issuance of individual business permits was during 2010. NMFS announced and provided an application for CQEs to request community charter halibut permits in December 2010.³² The application for these permits will remain open; there is no deadline for CQEs to request their specified number of permits. The first year a permit is required on a charter halibut vessel in Area 2C and Area 3A is 2011. As of July 2011, eight of the eligible CQEs in Area 2C had requested the maximum of 4 permits each, and seven of the eligible CQEs in Area 3A had requested the maximum of 7 permits each, for a total of 81 community charter halibut permits.³³

²⁸“Active” is defined as at least 5 bottomfish trips in a year, and the qualifying years specified are 2004 or 2005. “Bottomfish” is used in the criteria, because during the qualifying years, ‘halibut’ effort was not specified to be reported in an ADF&G logbook. At the time, “bottomfish” effort was required to be reported; thus, this was used as an acknowledged “imprecise” proxy for halibut effort in the charter sector in the halibut charter limited entry program action.

²⁹The three Area 2C CQE communities that are not estimated to qualify for CQE charter halibut permits are Craig, Elfin Cove, and Gustavus. These communities are estimated to have had more than 10 active charter businesses in 2004 or 2005.

³⁰In December 2010, the Council approved two new Area 2C communities into the CQE Program, and explicitly allowed them to receive community charter halibut permits, if they meet the same criteria as other CQE communities. This recommendation has not yet been forwarded to the Secretary. If approved, it could add a maximum of 8 new community charter halibut permits.

³¹[75 FR 554, January 5, 2010.](#)

³²http://www.fakr.noaa.gov/ram/charter/military_permitapp.pdf

³³As of July 19, 2011, charter permits had been provided to 15 CQEs representing the communities of Old Harbor, Chenega, Seldovia, Coffman Cove, Edna Bay, Hoonah, Larsen Bay, Nanwalek, Ouzinkie, Pelican, Point Baker, Port Alexander, Port Graham, Port Protection, and Thorne Bay.

The second action is the proposed GOA fixed gear recency action that the Council approved in April 2009 (GOA Am. 86). This action adds non-severable, gear-specific Pacific cod endorsements to fixed gear licenses that qualify under the landings thresholds, effectively limiting entry into the directed Pacific cod fisheries in Federal waters in the Western and Central GOA. Similar to the charter halibut limited entry program, the Council balanced the intent of preventing future entry of latent fixed gear groundfish licenses into the Pacific cod fisheries with retaining opportunities for CQE communities dependent on access to a range of fishery resources. The purpose was to promote community protections at a level that imposes minimal impact on historical catch shares of recent participants.

The CQE component of the action allows each of the 21 communities eligible under the CQE Program in the Western and Central GOA to request a number of fixed gear and Pacific cod-endorsed licenses equal to the number currently held by residents of the community estimated to be removed under the fixed gear recency action under a 10 mt landing threshold, or two licenses, whichever is greater.³⁴ These licenses are non-transferable and have a specified MLOA of <60'. CQEs would only be issued licenses for the area of the community they represent (Western GOA or Central GOA). In addition, licenses issued to CQEs located in the Western GOA are endorsed only for pot gear. CQEs representing communities in the Central GOA have the option of selecting what proportion of their LLP licenses would have a pot endorsement or a hook-and-line endorsement, provided the CQE notifies NMFS of their choice within six months of the effective date of a final rule. Selection of gear type would be a one-time permanent choice.³⁵ Only residents of the CQE community can use the license.

The final rule for this action was published March 22, 2011 (76 FR 15826), and the rule was effective on April 21, 2011. The number of LLPs available by request to each specific CQE was published in the final rule as Table 50 to Part 679, and is provided in **Appendix 5**. Under the above criteria, a total of 27 LLPs endorsed for the Western GOA could be requested by four CQEs located in the Western GOA, and a total of 58 LLPs endorsed for the Central GOA could be requested by seventeen CQEs located in the Central GOA.³⁶ This action allows eligible CQE communities access to a limited number of permits for the fixed gear Pacific cod fisheries in the Western and Central Gulf at no cost, for lease to community residents. As of August 9, 2011, no CQEs had requested Pacific cod licenses, but several had expressed intent to do so.³⁷ The first annual reports required to describe the use of these licenses (if requested and used in 2011) are due January 31, 2012.

2.5 Related documents and actions

The documents listed below include detailed information on the halibut fishery, groundfish fisheries with halibut PSC, and on the natural resources, economic and social activities, and communities affected by those fisheries:

- Groundfish Programmatic Supplemental Environmental Impact Statement (PSEIS) (NMFS 2004)
- Essential Fish Habitat Environmental Impact Statement (EIS) (NMFS 2005b)
- The Harvest Specifications Environmental Impact Statement (EIS)(NMFS 2007)

³⁴Note that while the CQE provisions were included in the overall motion on fixed gear recency approved in April 2009, the Council amended the motion with respect to CQE licenses in December 2009. This action was taken in order to remedy an inconsistency with the Council's original stated intent of providing the same number of licenses to CQEs that residents of those communities were estimated to lose under the recency action.

³⁵If a CQE did not notify NMFS within this timeframe, NMFS would issue any LLP licenses that are requested by a CQE so that half the LLP licenses issued to the CQE would be endorsed for pot gear and half would be endorsed for hook-and-line gear.

³⁶In December 2010, the Council approved one new Area 3B community into the CQE Program, and explicitly allowed it to receive pot-endorsed Pacific cod licenses in the Western GOA if it meets the same criteria as other CQE communities. This recommendation has not yet been forwarded to the Secretary. If approved, it could add a maximum of 2 new cod pot gear licenses to this estimate for the Western GOA.

³⁷RAM weekly report, July 8, 2011.

- Guideline Harvest Level Environmental Assessment (EA, Council 2003)
- Draft EA for measures to reduce charter harvest in Area 2C to the GH (Council 2007b)
- EA regulatory amendment to define subsistence halibut fishing in Convention Waters (Council 2003b)
- EA/RIR/IRFA to allow eligible Gulf of Alaska communities to hold commercial halibut and sablefish quota share for lease to community residents (GOA FMP Am. 66) (NPFMC 2002)
- EA/RIR/FRFA for a Regulatory Amendment to Limit Entry in the Halibut Charter Fisheries in IPHC Regulatory Areas 2C and 3A (NPFMC 2009)
- Review of the Community Quota Entity Program under the Halibut/Sablefish IFQ Program (NPFMC 2010)

2.6 Effects of the alternatives

2.6.1 Alternative 1

Alternative 1 is the no action alternative, and thus would not change the vessel use caps that pertain to the CQE Program within the halibut and sablefish IFQ Program. Alternative 1 would retain the current vessel use caps of 50,000 lbs. of halibut IFQ and 50,000 lbs. of sablefish IFQ, inclusive of any individually-held IFQ being used on the vessel. In effect, if one pound of halibut IFQ derived from CQE quota is used on a vessel, that vessel cannot be used to harvest more than 50,000 lbs. of halibut IFQ during the fishing year.

It is expected that the status quo would not change with respect to the general use of quota under Alternative 1. Because only two CQEs have purchased quota share, each of an annual amount equivalent to less than 50,000 lbs. since the time of purchase, the existing vessel use caps have not yet been prohibitive in a practical sense. In addition, the one community that has been participating for several years (Old Harbor) has several qualifying residents that own vessels, and as such has developed a strategy in which QS is used on several available boats. In 2010, quota from Old Harbor was leased to five residents and used on five vessels, with a total of fifteen captain and crew.³⁸

Effects on non-CQE participants

Many of the provisions of the IFQ Program were intended to limit the level of consolidation, a recognized objective in designing the program. The vessel use cap is one of these provisions. The NMFS RAM Program reports that the greatest consolidation has occurred, in both a numeric and percent basis, in Areas 2C, 3A, 3B, and 4A.³⁹ Under Alternative 1, one could expect that the general trends relevant to quota share and vessel use would continue. The status quo is summarized in section 2.4.2, including the number of IFQ holders and the number of individual vessels used in recent years (refer to Table 8). If no action is taken, non-CQE participants in the halibut and sablefish fisheries would continue to be subject to the same vessel use caps in the existing program (Table 23 below). By contrast, if an individual chose to use onboard any IFQ derived from CQE-held quota, that vessel would be subject to vessel use caps of 50,000 lbs. of halibut and 50,000 lbs. of sablefish per vessel per fishing year.

³⁸Cape Barnabas, Inc., Quota Entity for the Community of Old Harbor, 2010 Annual Report, p. 5-6.

³⁹ Changes under Alaska's Halibut IFQ Program, 1995 – 2006. NOAA, NMFS AKR, RAM Program, January 2009. pp. 13 – 14. Note these are also the management areas in which persons received CDQ compensation QS at initial issuance. Many of the persons who were issued CDQ compensation only received small amounts of QS in areas in which they had no prior history of fishing. A considerable amount of CDQ compensation QS was transferred and contributed to the decrease in the number of QS holders in the areas.

Table 23 2011 vessel use caps applicable to individually-held IFQ and CQE-derived IFQ

| | Vessel use cap % | Annual IFQ TAC | Vessel use cap |
|----------------------|-----------------------------|-----------------------|-----------------------|
| Halibut IFQ | 1% of 2C halibut IFQ TAC | 2,330,000 net lbs. | 23,300 net lbs. |
| | 0.5% of all halibut IFQ TAC | 30,382,000 net lbs. | 151,910 net lbs. |
| CQE | n/a | n/a | 50,000 net lbs. |
| Sablefish IFQ | 1% of SE sablefish IFQ TAC | 6,481,524 net lbs. | 64,815 net lbs. |
| | 1% of all sablefish IFQ TAC | 26,794,708 net lbs. | 267,947 net lbs. |
| CQE | n/a | n/a | 50,000 net lbs. |

There is limited quantitative information that would assist in evaluating this action, in part because of the limited quota share purchased by CQEs to-date. However, under Alternative 1, individuals that are not leasing QS from the CQE, whether a CQE community resident or not, may be deterred from a potential opportunity to use additional CQE quota onboard their vessel if the 50,000 lbs. cap would be limiting to their operation in contrast to the regular vessel IFQ caps. Vessel owners with relatively small IFQ holdings may not be affected, as adding CQE quota onboard would not risk reaching the cap. However, those individuals would also have to weigh whether other opportunities to use individually-held IFQ onboard may be possible later in year, as the addition of CQE quota onboard makes that vessel subject to the 50,000 lbs. cap for the entire fishing year. Individuals that already carry near or at least 50,000 lbs. of individually-held quota in a given year would not be able to benefit from using CQE-held quota on their vessel.

In 2011, the individual vessel use cap in the IFQ Program of 151,910 lbs. of halibut IFQ is more than three times greater than the CQE cap of 50,000 lbs. For sablefish, the individual vessel use cap of 267,947 lbs. is more than five times greater than the CQE cap of 50,000 lbs. Thus, there must be significant incentive to use CQE-held quota onboard a vessel that also uses individually-held quota, in order to justify the decision to be subject to the more restrictive use cap.

In the case of Area 2C, however, the individual and CQE vessel use caps are more aligned in recent years, due to a reduction in the Area 2C IFQ TAC. While the CQE vessel use caps were originally established to be more restrictive than those in place for individual holders, over time, this trend has reversed. Because the CQE vessel use cap is a fixed amount of pounds, it does not fluctuate with the TAC the way the vessel use cap does in the overall program. The individual vessel use cap for Area 2C halibut was 105,000 lbs. in 2004, more than double that established for the CQE Program the first year the program was implemented. In 2011, the individual vessel use cap for Area 2C halibut is 23,300 lbs., less than half of the CQE vessel use cap. Because no vessels are exempt from the overall individual vessel use caps, vessels using CQE quota are still limited by the vessel use cap in the overall program in any year in which it is lower than 50,000 lbs. Thus, in years in which the individual vessel use cap for Area 2C is equal to or more restrictive than the 50,000 lbs. cap in effect for CQE quota, the status quo CQE vessel use cap is not limiting to vessel operations and should not affect a vessel's decision to use CQE quota onboard.

The following table (Table 24) provides information on how many individual vessels used less than 50,000 lbs. of Gulf halibut and sablefish IFQ in 2010. These data include vessels that used any amount of halibut IFQ from Area 2C, 3A, or 3B, even though they may have also used halibut IFQ from other areas. This provides a general indication of the potential number of individual vessels that may be available to carry IFQ derived from CQE-held quota under the status quo, without exceeding the 50,000 lbs. cap, recognizing that multiple holders often fish their IFQ on a single vessel, and every year varies.

In effect, Table 24 shows that in 2010, 222 of the 1,036 vessels that landed halibut QS in the Gulf used 50,000 lbs. or more on a single vessel. For sablefish, 130 of the 338 vessels that landed Gulf sablefish used 50,000 lbs. or more on a single vessel. This means 21% and 38% of the vessels landing Gulf halibut

and sablefish, respectively, already met or exceeded 50,000 lbs. in a single year, and thus could not have taken any IFQ derived from CQE-held QS onboard under the status quo.

Table 24 Number of vessels with <50,000 lbs of IFQ onboard in the GOA, 2010

| Pound category | Species | 2010 IFQ LBS | # of vessels in 2010 |
|-------------------------------|----------------|---------------------|-----------------------------|
| <50,000 IFQ lbs landed | Halibut | 9,388,322 | 814 |
| 50,000 IFQ lbs or more landed | Halibut | 28,697,472 | 222 |
| <50,000 IFQ lbs landed | Sablefish | 3,457,189 | 208 |
| 50,000 IFQ lbs or more landed | Sablefish | 16,697,498 | 130 |

Source: NMFS RAM Program, 5/4/11.

Note: Because the 50,000 lbs. CQE vessel use cap is not area-specific, these data include vessels that landed *some amount* of Area 2C, 3A, or 3B halibut, but they may have also used QS from other areas. Thus, the total 2010 IFQ lbs. landed includes all QS landed by these vessels, regardless of area. The same approach is applied to sablefish: these data only include vessels that landed some amount of Gulf sablefish, but they may also have used QS from other areas.

Effects on CQEs and CQE community residents

Under Alternative 1, the current vessel use caps applicable to CQE-derived quota would not change. Vessels using any IFQ derived from CQE-held quota onboard would be subject to vessel use caps of 50,000 lbs. of halibut IFQ and 50,000 lbs. of sablefish IFQ, inclusive of any individually-held IFQ being used on the vessel. In effect, in 2011, vessels using CQE quota would be subject to vessel use caps for halibut that are three times lower than the cap in place for vessels using only individually-held halibut IFQ. Vessels using CQE quota would be subject to vessel use caps for sablefish that are five times lower than the cap in place for vessels using only individually-held sablefish IFQ.

There is no measurable impact of the more restrictive vessel use caps to-date, as only two CQEs have purchased quota share and vessel availability has not appeared to be an issue. One CQE has been participating in the program for several years; the other first purchased QS in 2011. Both CQEs hold quota of an amount equivalent to less than 50,000 halibut IFQ lbs. in every year since the time of purchase. In the case of the CQE with several years' participation, its quota has been fished on five or more vessels each year; however, it could have chosen to lease its entire IFQ holdings to one resident using one vessel under the current regulations. As stated previously, the community represented by this CQE (Old Harbor) has several qualifying residents with vessels, so additional purchases would not appear to make this a practical concern in the near future for this community. However, if vessel owners in the community started to get close to the 50,000 lbs. cap with their own holdings, or had an opportunity to take additional IFQ onboard that would result in exceeding 50,000 lbs., the situation may differ.

To-date, the issue is more theoretical than practical. CQEs with limited vessel ownership in their communities are developing business and fishing plans to purchase QS and are concerned that the more restrictive vessel use cap will effectively prohibit the CQE from leasing quota share to residents that do not own vessels. The Council specifically did not require vessel ownership to participate in the CQE Program, and many communities envision leasing quota to individuals that can employ themselves as crewmembers on someone else's vessel, which may allow them to work in the fishery and potentially purchase a vessel in the future. Community members and CQEs have noted that vessels that might otherwise be available and willing to help the CQE and community residents get started would be limited by the 50,000 lbs. cap and, thus, unavailable. The more restrictive vessel use cap may prevent a CQE

from leasing QS to residents, specifically young people trying to establish themselves in the fishery, that do not own vessels.

While the vessel use cap was originally intended as a mechanism to ensure that the benefits of CQE quota are distributed broadly among community members, the provision that limits the amount of CQE quota that can be leased to an individual resident appears to better meet this intent. In terms of potential benefits, the CQE would likely rather have a resident lease IFQ and use it on a vessel that is owned by a resident of the community, or homeported in the community. If a potential resident vessel is limited by the 50,000 lbs. cap, the person leasing the CQE quota may only be able to use the IFQ on a vessel that is not part of the local fleet, which is counter to the Council's intent of maximizing the benefit from the use of CQE quota for community residents.

Table 25 shows the amount of halibut QS held by individual residents in the CQE communities, in terms of 2011 IFQ pounds, and the number of QS holders. Residents of 31 of the 42 CQE communities hold halibut QS in 2011. The data are broken out by IFQ holdings that are less than 50,000 lbs. and greater than 50,000 lbs. The data include holdings from all IFQ areas, as the CQE vessel use cap is not area-specific. This provides a general indication of the potential number of individuals that may be able to use IFQ derived from CQE-held quota on a single vessel, without exceeding the 50,000 lbs. cap, under the status quo. These data do not account for the fact that multiple holders often fish their IFQ on a single vessel, many of these holders may already bring other IFQ holders on board as crew, and many of these holders may fish their IFQ off a vessel that they do not own. It also does not provide the upper bounds of the number of vessels that may be used to harvest IFQ derived from CQE-held QS, as the vessel is not required to be owned by a resident (refer to Table 24 for that information). However, it does provide a general indication of the relative holdings in the CQE communities to-date, and the potential for using additional IFQ that is derived from CQE-held quota share. Because the cap is based on pounds, the number of holders that have less than or exceed 50,000 lbs. of halibut IFQ will vary each year with the TAC.

Table 25 shows that all QS holders in CQE communities have holdings of less than 50,000 lbs., as of May 2011, with the exception of 2 holders in Seldovia. Those two persons hold halibut IFQ in excess of 50,000 lbs. in 2011, and thus would not be allowed to use any additional IFQ derived from CQE-held QS, due to the limit on the amount that any individual resident can lease, which is inclusive of any IFQ individually-held. Those persons could not lease any IFQ from the CQE, and, if they fish all of their IFQ on one vessel, nor could IFQ derived from CQE-held QS be fished off their vessel in combination with their own IFQ. The remaining 318 QS holders in CQE communities hold less than 50,000 lbs. of halibut IFQ in 2011, although the exact amounts held by each individual resident are not reported.

Table 26 provides similar information for the 2011 sablefish fishery. Residents of 18 of the 42 CQE communities hold sablefish QS in 2011. The total sablefish holdings and number of holders is much lower than halibut; in 2011, 41 CQE community residents hold 514,500 sablefish lbs. compared to 320 residents holding 1.4 million halibut lbs. The average holdings of sablefish are greater than that of halibut, however.

All QS holders in CQE communities have holdings of less than 50,000 lbs. of sablefish as of May 2011, with the exception of one holder in Pelican and one holder in Seldovia. Those two persons hold sablefish IFQ in excess of 50,000 lbs. in 2011, and thus would not be allowed to lease any additional IFQ derived from CQE-held QS. Those persons could not lease any IFQ from the CQE, and, if they fish all of their IFQ on one vessel, nor could IFQ derived from CQE-held QS be fished off their vessel in combination with their own IFQ. The remaining 39 QS holders in CQE communities hold less than 50,000 lbs. of sablefish IFQ in 2011, although the exact amounts held by each individual resident are not reported.

Table 25 Number of halibut QS holders in CQE communities that hold less than or greater than 50,000 IFQ lbs. in 2011

| IFQ POUND CATEGORY | CQE COMMUNITY | Total Halibut IFQ 2011 | Total number of QS holders |
|---------------------------|----------------------|-------------------------------|-----------------------------------|
| <50000 lbs hal | ANGOON | 9,961 | 12 |
| <50000 lbs hal | CHENEGA BAY | 49 | 1 |
| <50000 lbs hal | CHIGNIK | 17,765 | 2 |
| <50000 lbs hal | CHIGNIK LAGOON | 53,660 | 5 |
| <50000 lbs hal | CHIGNIK LAKE | 259 | 1 |
| <50000 lbs hal | COFFMAN COVE | 14,548 | 1 |
| <50000 lbs hal | CRAIG | 70,409 | 49 |
| <50000 lbs hal | EDNA BAY | 9,728 | 5 |
| <50000 lbs hal | ELFIN COVE | 42,084 | 12 |
| <50000 lbs hal | GUSTAVUS | 44,288 | 13 |
| <50000 lbs hal | HALIBUT COVE | 68,287 | 5 |
| <50000 lbs hal | HOONAH | 50,778 | 24 |
| <50000 lbs hal | HYDABURG | 3,070 | 7 |
| <50000 lbs hal | KAKE | 28,787 | 15 |
| <50000 lbs hal | KING COVE | 131,993 | 15 |
| <50000 lbs hal | KLAWOCK | 10,077 | 6 |
| <50000 lbs hal | METLAKATLA | 10,943 | 7 |
| <50000 lbs hal | MEYERS CHUCK | 3,583 | 1 |
| <50000 lbs hal | OLD HARBOR | 13,432 | 6 |
| <50000 lbs hal | OUZINKIE | 46,693 | 12 |
| <50000 lbs hal | PELICAN | 42,466 | 9 |
| <50000 lbs hal | PERRYVILLE | 5,251 | 2 |
| <50000 lbs hal | POINT BAKER | 5,458 | 6 |
| <50000 lbs hal | PORT ALEXANDER | 4,349 | 6 |
| <50000 lbs hal | PORT GRAHAM | 7,083 | 3 |
| <50000 lbs hal | PORT LIONS | 16,745 | 10 |
| <50000 lbs hal | SAND POINT | 340,852 | 36 |
| <50000 lbs hal | SELDOVIA | 94,604 | 11 |
| >50000 lbs hal | SELDOVIA | 137,436 | 2 |
| <50000 lbs hal | TENAKEE SPRINGS | 13,647 | 3 |
| <50000 lbs hal | THORNE BAY | 5,624 | 5 |
| <50000 lbs hal | YAKUTAT | 96,345 | 28 |
| | Total | 1,400,254 | 320 |

Source: NMFS RAM Program, 5/4/11.

Note: Includes halibut IFQ from any area. The shaded cells identify the only community (Seldovia) that has QS holders (2) that hold 2011 halibut IFQ in excess of 50,000 lbs. each.

Table 26 Number of sablefish QS holders in CQE communities that hold less than or greater than 50,000 IFQ lbs. in 2011

| IFQ POUND CATEGORY | CQE COMMUNITY | Total Sablefish IFQ 2011 | Total number of QS holders |
|--------------------|----------------|--------------------------|----------------------------|
| <50000 lbs sab | CRAIG | 73,398 | 11 |
| <50000 lbs sab | ELFIN COVE | 52,294 | 2 |
| <50000 lbs sab | GUSTAVUS | 48,469 | 3 |
| <50000 lbs sab | HALIBUT COVE | 53 | 1 |
| <50000 lbs sab | HOONAH | 75,540 | 3 |
| <50000 lbs sab | HYDABURG | 883 | 1 |
| <50000 lbs sab | KAKE | 30,368 | 1 |
| <50000 lbs sab | KING COVE | 36 | 1 |
| <50000 lbs sab | KLAWOCK | 45,395 | 2 |
| <50000 lbs sab | METLAKATLA | 3 | 1 |
| <50000 lbs sab | MEYERS CHUCK | 10,788 | 1 |
| <50000 lbs sab | PELICAN | 11,847 | 2 |
| >50000 lbs sab | PELICAN | 72,637 | 1 |
| <50000 lbs sab | POINT BAKER | 36 | 1 |
| <50000 lbs sab | PORT ALEXANDER | 15 | 1 |
| <50000 lbs sab | PORT GRAHAM | 28 | 1 |
| <50000 lbs sab | SAND POINT | 29 | 1 |
| <50000 lbs sab | SELDOVIA | 28,520 | 5 |
| >50000 lbs sab | SELDOVIA | 64,080 | 1 |
| <50000 lbs sab | YAKUTAT | 81 | 1 |
| | Total | 514,500 | 41 |

Source: NMFS RAM Program, 5/4/11.

Note: Includes sablefish IFQ from any area. The shaded cells identify the two communities (Pelican and Seldovia) that have QS holders (2) that hold 2011 sablefish IFQ in excess of 50,000 lbs.

The tables above show QS holdings by CQE community, to see whether individual resident holders meet or exceed 50,000 lbs., and thus may be potentially available to take CQE QS onboard, if they use their own vessel. It may also be useful to review the number of vessels homeported in CQE communities, and evaluate how many vessels used <50,000 lbs. or ≥50,000 lbs., in order to provide a general assessment of whether there may be vessels available that have not exceeded 50,000 lbs. in the recent past.

Table 27 shows the number of vessels homeported in CQE communities that landed less than 50,000 lbs or at least 50,000 lbs. of halibut and sablefish IFQ in 2010. These data are in 2010 lbs., in order to compile a full year of vessel landings data, compared to the 2011 data used previously to evaluate QS holdings.

Table 27 provides a general indication of the potential number of vessels that may be able to use IFQ derived from CQE-held quota, without exceeding the 50,000 lbs. cap, under the status quo. These data do not provide the bounds of the number of vessels that may be used to harvest IFQ derived from CQE-held QS, as the vessel is not required to be owned by a resident (refer to Table 24 for that information). It also does not take into account where these vessels are used; they may be ‘homeported’ in one community but used in a different area in any given year. However, it does provide a general indication of the relative number of vessels in CQE communities in 2010, and the potential for bringing IFQ onboard resident vessels that is derived from CQE-held quota share. Because the cap is based on pounds, the number of vessels that landed 50,000 lbs. of IFQ can vary each year with the fluctuating TAC.

Table 27 shows that 114 vessels were registered as homeported in CQE communities in 2010, and of those, 105 had halibut IFQ landings of less than 50,000 lbs. (Note that the 9 vessels with halibut landings

of 50,000 lbs. or greater accounted for 41% of the total 2010 halibut landings attributed to vessels homeported in CQE communities.) Thus, while vessel availability varies significantly by community, the vast majority of vessels homeported in CQE communities reported halibut landings totals in 2010 that were less than the CQE vessel use caps. Note, however, that almost half of the CQE communities do not have any vessels homeported in their communities, and resident vessel ownership is not a condition of leasing CQE quota. Thus, this table provides limited information as to the level of potential vessel opportunity available to CQE residents leasing quota from the CQE.

Table 27 Number of vessels homeported in CQE communities that used <50,000 lbs or ≥50,000 lbs of halibut IFQ and/or sablefish IFQ, 2010

| Home Port | HALIBUT IFQ lbs landed 2010 | # IFQ vessels 2010 | Home Port | SABLEFISH IFQ lbs landed 2010 | # IFQ vessels 2010 |
|---|-----------------------------------|--------------------------|---|-------------------------------------|--------------------------|
| <50,000 halibut IFQ pounds landed | | | <50,000 sablefish IFQ pounds landed | | |
| CHIGNIK LAGOON | 40,435 | 2 | CRAIG | 74,273 | 9 |
| COFFMAN COVE | 1,082 | 1 | ELFIN COVE | 32,609 | 2 |
| CRAIG | 146,249 | 16 | GUSTAVUS | 7,158 | 1 |
| EDNA BAY | 613 | 1 | HOONAH | 68,113 | 3 |
| ELFIN COVE | 46,194 | 3 | PELICAN | 9,511 | 2 |
| GUSTAVUS | 22,916 | 3 | PORT ALEXANDER | 81,362 | 5 |
| HOLLIS | 1,476 | 1 | SAND POINT | 3,943 | 1 |
| HOONAH | 42,967 | 6 | SELDOVIA | 9,692 | 2 |
| IVANOF BAY | 2,806 | 1 | TOTAL | 286,661 | 25 |
| KAKE | 16,524 | 2 | ≥50,000 sablefish IFQ pounds landed | | |
| KING COVE | 97,623 | 7 | PELICAN | 222,376 | 3 |
| METLAKATLA | 8,207 | 2 | PORT ALEXANDER | 148,475 | 1 |
| MEYERS CHUCK | 78 | 1 | SELDOVIA | 68,618 | 1 |
| OLD HARBOR | 45,270 | 5 | TOTAL | 439,469 | 5 |
| OUZINKIE | 62,853 | 6 | | | |
| PELICAN | 48,639 | 4 | | | |
| PERRYVILLE | 4,765 | 1 | | | |
| PORT ALEXANDER | 46,293 | 7 | | | |
| PORT LIONS | 1,605 | 1 | | | |
| PORT PROTECTION | 241 | 1 | | | |
| SAND POINT | 325,037 | 20 | | | |
| SELDOVIA | 85,308 | 3 | | | |
| THORNE BAY | 8,536 | 1 | | | |
| YAKUTAT | 107,847 | 10 | | | |
| TOTAL | 1,163,564 | 105 | | | |
| ≥50,000 halibut IFQ pounds landed | | | | | |
| HALIBUT COVE | 168,651 | 2 | | | |
| KING COVE | 82,985 | 1 | | | |
| PELICAN | 189,847 | 1 | | | |
| PORT ALEXANDER | 57,285 | 1 | | | |
| SAND POINT | 113,925 | 2 | | | |
| SELDOVIA | 186,105 | 2 | | | |
| TOTAL | 798,798 | 9 | | | |

Source: NMFS RAM Program, 5/4/11.

Table 27 indicates a similar situation for sablefish, although relatively few CQE communities (8) have vessels homeported in the community that landed sablefish in 2010. Of the 30 vessels homeported in CQE communities that landed sablefish in 2010, 25 of those landed less than 50,000 lbs. (Note that the remaining 5 vessels accounted for 61% of the total 2010 sablefish landings attributed to vessels homeported in CQE communities.) Again, while vessel availability varies significantly by community, the majority of vessels homeported in CQE communities reported sablefish landings totals in 2010 that

were less than the vessel use caps. Note, however, that the vast majority of CQE communities do not have any vessels registered as homeported in their communities that landed sablefish in 2010.

If no action is taken, vessels using IFQ derived from CQE-held quota would continue to be subject to the 50,000 lbs. cap by species, which is more restrictive than the vessel use caps to which vessels using individual IFQ are subject. The only exception to this is the Area 2C halibut vessel use cap, which is currently less than 50,000 lbs. (23,300 lbs. in 2011). Because no vessels are exempt from the overall individual vessel use caps, vessels using CQE quota are still limited by the vessel use cap in the overall program in any year in which they are lower than the 50,000 lbs. cap. Thus, in years in which the individual vessel use cap for Area 2C is equal to or more restrictive than the 50,000 lbs. cap in effect for CQE quota, the 50,000 lbs. CQE vessel use cap is not limiting to vessel operations compared to the status quo and should not, in and of itself, affect the availability of vessels to use CQE quota onboard.

Overall, however, the vessel use caps applicable to vessels using CQE quota are more restrictive than those in place for vessels not using CQE quota. This serves to limit the flexibility of the CQE, without significant advantage toward the goal of distributing benefits fairly and broadly among community residents. The issue is theoretical at this point, but has been cited as a barrier to participation in the program at several technical workshops focused on implementing the program. The difficulty in accessing capital and funding the purchase of QS continues to be the primary barrier to participation in the CQE Program and access to the commercial halibut and sablefish fisheries.

2.6.2 Alternative 2 (Council preferred alternative)

The Council selected Alternative 2 as its preferred alternative in October 2011. Alternative 2 would revise current regulations such that:

- No vessel may be used, during any fishing year, to harvest more than 50,000 lbs. of IFQ halibut derived from quota share held by a CQE; and no vessel may be used, during any fishing year, to harvest more than 50,000 lbs. of IFQ sablefish derived from quota share held by a CQE.
- The vessel would also be subject to the same vessel use caps applicable in the overall IFQ Program.

Alternative 2 would change the existing vessel use caps applicable to CQE quota such that individually-held halibut and sablefish IFQ would not count toward the 50,000 lbs. caps. Vessels would be restricted to 50,000 lbs. of IFQ derived from CQE-held quota (per species), but could use individually-held IFQ over and above the 50,000 lbs., up to the regular vessel use caps. Because no vessels are currently exempt (whether using CQE quota or not) from the vessel use caps in the overall IFQ Program, the regulatory changes under Alternative 2 only result from the first bullet above. No alternatives under consideration would allow more IFQ to be fished off a single vessel than the overall vessel use caps currently allow.

Effects on non-CQE participants

Alternative 2 does not directly regulate participants in the IFQ Program that do not use IFQ derived from CQE-held QS, and would not affect the general trends relevant to quota share and vessel use under the status quo (Section 2.4.2), including the number of IFQ holders and the number of individual vessels used in recent years (Table 8). Under Alternative 2, non-CQE participants in the halibut and sablefish fisheries would continue to be subject to the same vessel use caps in the existing program (refer to Table 23). If an individual chose to use onboard any IFQ derived from CQE-held quota, that vessel would be limited to 50,000 lbs. of halibut IFQ and 50,000 lbs. of sablefish IFQ derived from CQE-held quota per fishing year. However, in total, the vessel would be subject to the overall vessel use caps applicable in the general program, which allows for the use of IFQ over and above the 50,000 lbs., as long as it is not derived from quota held by the CQE.

Under Alternative 2, it would continue to be a choice for a vessel owner to use IFQ derived from CQE-held quota share onboard. While the impacts of Alternative 2 are somewhat speculative, in part due to the limited quota share purchased by CQEs to-date, Alternative 2 may create additional opportunities to fish CQE quota, on vessels either owned by residents of the CQE community or not. Thus, under Alternative 2, vessel operators participating in the IFQ fisheries may bring a community resident, leasing CQE quota, onboard their vessel as crew, because it does not affect their overall vessel use cap. Vessel owners that hold their own quota may be interested in helping other community members start their own businesses by allowing them to fish the IFQ they leased from the CQE on their vessel. This opportunity is more likely to be available to both vessel owners and residents leasing CQE quota if the total vessel use cap does not change when CQE quota is used onboard. Refer to Table 24 for information on the total number of vessels in 2010 that fished some amount of Gulf halibut and sablefish IFQ, and whose total amount of IFQ landed was <50,000 lbs. versus ≥50,000 lbs. An estimated 21% and 38% of the vessels landing Gulf halibut and sablefish, respectively, already met or exceeded 50,000 lbs. in a single year and, thus, could not have fished any IFQ derived from CQE-held QS onboard under the status quo.

Under Alternative 2, the addition of CQE quota onboard would not change the overall vessel use cap, it only serves to limit the amount of CQE-held quota that each vessel can use. Vessels owned by non-CQE participants and CQE participants alike would be subject to the same 50,000 lbs. limit of halibut IFQ and 50,000 lbs. limit of sablefish IFQ derived from CQE quota. In effect, a vessel would no longer be ‘penalized’ for using CQE quota onboard.

For reference, Table 28, below, shows the total number of vessels that landed halibut IFQ and sablefish IFQ that met the existing vessel use caps in 2010; only one vessel for Area 2C halibut and one vessel for Southeast sablefish. In addition, 10 vessels met the use cap of 0.5% of all halibut IFQ and 8 vessels met the cap of 1% of all sablefish IFQ. The remaining fleet (1,064 distinct vessels that fished halibut and 367 distinct vessels fishing sablefish) did not meet or exceed the vessel use caps, and thus could theoretically use additional IFQ onboard. This table also provides the data from Table 24 for comparison, which shows the number of vessels that landed at least 50,000 lbs. with some Gulf IFQ and thus would not be available to use additional IFQ onboard under the status quo. In effect, theoretically, hundreds more vessels (222 – 10 = 212 halibut vessels and 130 – 1 = 129 sablefish vessels) would be eligible to use more IFQ onboard under Alternative 2 (and Alternative 3) compared to Alternative 1, without exceeding the applicable vessel use cap.

Table 28 Number of vessels that met vessel use caps and IFQ landed, 2010

| Vessel use cap 2010 | Vessel use cap level | Cap under Alternative 1 | | Cap under Alternative 2 & 3 | | Total # of vessels that fished | Total IFQ lbs landed |
|---------------------|-----------------------------|--|--|---|--|--------------------------------|----------------------|
| | | # of vessels that landed ≥50,000 lbs of IFQ ¹ | Total IFQ lbs used by vessels that landed ≥50,000 lbs ¹ | # of IFQ vessels that met vessel use caps in 2010 | Total IFQ lbs used by vessels that met cap | | |
| Halibut Area 2C | 1% of 2C halibut IFQ TAC | n/a | n/a | 1 | 44,050 | 574 | 4,349,771 |
| Halibut All Areas | 0.5% of all halibut IFQ TAC | 222 | 28,697,472 | 10 | 2,421,648 | 1,074 | 39,878,502 |
| Sablefish SE | 1% of SE sablefish IFQ TAC | n/a | n/a | 8 | 608,520 | 215 | 5,657,416 |
| Sablefish All Areas | 1% of all sablefish IFQ TAC | 130 | 16,697,498 | 1 | 248,845 | 368 | 21,952,388 |

Source: NMFS RAM Program, 5/4/11.

¹Data from Table 24. These columns include vessels that landed ≥50,000 IFQ lbs., with at least some portion from Gulf IFQ, in order to estimate more closely the number of vessels that may be available to use IFQ derived from quota held by Gulf CQEs under the status quo. Thus, the total number of vessels that landed ≥50,000 IFQ lbs. would be slightly higher if BSAI IFQ were included.

Table 28 is intended to provide a retrospective estimate of the number of potential vessels that could fish IFQ derived from CQE-held QS; however, vessels that have not previously been active in the IFQ fisheries could also be used to fish the IFQ.

Effects on CQEs and CQE community residents

Alternative 2 would likely create additional opportunities for vessels to use CQE quota, whether they are owned by residents of the CQE community or not. Thus, under Alternative 2, CQEs and residents leasing IFQ from the CQE may benefit due to the availability of vessels that may not otherwise be willing or able to use additional CQE quota onboard, if they were subject to a lower vessel use cap. This would likely also result in additional opportunities to lease CQE quota, as the pool of potential resident applicants would increase if there is more flexibility (i.e., a larger pool of potential vessels) for residents who do not own vessels to fish the IFQ.

Because the limit on the amount of IFQ derived from CQE-held quota that can be fished on a single vessel is maintained under Alternative 2, this alternative would continue to compel a distribution of the potential benefits that one vessel or vessel owner could derive from the CQE Program. In effect, the same amount of benefit could be derived under Alternative 1 or Alternative 2, as the 50,000 lbs. cap does not change. The difference under Alternative 2 is that the likely availability and opportunity associated with bringing CQE quota onboard a vessel increases when the vessel is not subject to a total vessel use cap that is more stringent when any amount of CQE quota is used. The comparison of vessel use caps among Alternatives 1 through 3 is as follows:

Table 29 Comparison of annual vessel use caps under Alternatives 1 through 3

| Alternatives | Limit on amount of CQE quota that can be used on a single vessel | Limit on amount of total IFQ that can be used on a single vessel, if ANY CQE quota is used onboard |
|---------------------|--|--|
| Alternative 1 | 50,000 lbs. halibut; 50,000 lbs. sablefish | 50,000 lbs. halibut; 50,000 lbs. sablefish ¹ |
| Alternative 2 | 50,000 lbs. halibut; 50,000 lbs. sablefish | 1% of Area 2C halibut IFQ TAC and 0.5% of the entire halibut IFQ TAC; 1% of Southeast sablefish IFQ TAC and 1% of the entire sablefish IFQ TAC |
| Alternative 3 | 1% of Area 2C halibut IFQ TAC and 0.5% of the entire halibut IFQ TAC; 1% of Southeast sablefish IFQ TAC and 1% of the entire sablefish IFQ TAC | 1% of Area 2C halibut IFQ TAC and 0.5% of the entire halibut IFQ TAC; 1% of Southeast sablefish IFQ TAC and 1% of the entire sablefish IFQ TAC |

¹If the vessel use caps in the regular IFQ Program are lower than 50,000 lbs. in a given year, the lower cap applies.

Under Alternative 2, if a CQE purchased QS in excess of 50,000 lbs., it would need to be fished on a minimum of two vessels (and be leased to a minimum of two residents). The Council discussion on this issue during the development of GOA Amendment 66 was that fishing 50,000 lbs. was sufficient value for a vessel to derive from CQE quota, and that CQE poundage in excess of this amount should be fished on a second vessel. The intent was to distribute potential benefits of the program among both vessels and individual residents, with some level of flexibility, meaning that within this limit a CQE could lease quota to: one holder who uses it on their own vessel; several holders to be fished on several vessels; or several holders who fish the quota on one vessel. Regardless, each individual resident and each vessel would be limited in how much benefit they could obtain from the program. Under Alternative 2, both the 50,000 lbs. limit on the amount of CQE quota that each vessel can use and the 50,000 lbs. limit on the amount that one individual resident can lease from the CQE, are maintained.

Table 25 in the previous section shows the amount of halibut QS held by individual residents in the CQE communities, in terms of QS units and 2011 IFQ pounds. Table 26 provides similar information for the 2010 sablefish fishery. The data include holdings from all IFQ areas, as the CQE vessel use cap is not area-specific. Table 27 shows the number of vessels homeported in CQE communities that landed 50,000 lbs. or more in 2010. These tables provide a general indication of the potential number of individual residents that may be able to use IFQ derived from CQE-held quota on a vessel, without exceeding the 50,000 lbs. cap, under the status quo. These data do not account for the fact that multiple holders often fish their IFQ on a single vessel, and many of these holders may already bring other IFQ holders on board as crew. It also does not provide the bounds of the number of vessels that may be used to harvest IFQ derived from CQE-held QS, as the vessel is not required to be owned by a resident (refer to Table 28).

While it is relatively speculative to estimate the practical impact of Alternative 2, Table 25 and Table 26 provide a general indication of the relative holdings in the CQE communities to-date, and the potential for using CQE quota onboard resident vessels. The tables show that about 1% and 5% of the residents that currently hold quota share, hold amounts that exceed 50,000 IFQ halibut lbs. and 50,000 IFQ sablefish lbs., respectively, in 2011. Thus, if these holders use their own vessels, and even if they do not take any other individually-held IFQ onboard, they would be unable to use CQE quota without exceeding the cap under status quo. By comparison, under Alternative 2, 100% of the current holders in CQE communities would theoretically be able to take CQE quota on their vessels, if they chose to do so, as none of holders residing in CQE communities have IFQ holdings equal to the overall program vessel use caps in 2011.⁴⁰

Table 30, below, summarizes the number of vessels homeported in CQE communities that would have been limited by the caps under Alternatives 1, 2, and 3 in 2010, had these vessels used IFQ derived from CQE-held quota onboard. Note that homeport does not indicate vessel ownership; thus, even though a vessel is homeported in a CQE community, it does not necessarily mean the vessel is owned by a resident of a CQE community. Vessel ownership information was not used for this purpose, due to the incomplete nature of the data. This table is intended to provide a general indication of the number of vessels homeported in the CQE communities, and whether they would be able to use CQE quota onboard if the vessel use cap was 50,000 lbs. (under Alternative 1) or 0.5% of the entire halibut IFQ TAC or 1% of the entire sablefish IFQ TAC (under Alternatives 2 or 3). Note that the information in Table 30 is not meant to indicate the *total* number of vessels that could be used to fish CQE quota, because CQE quota is not required to be used on vessels homeported in CQE communities or owned by CQE community residents.

Table 30 Number of vessels homeported in CQE eligible communities that met the vessel use caps applicable under Alternatives 1 – 3, in 2010

| Species | Number of vessels homeported in CQE communities limited by 50,000 lbs. cap under Alt 1 | Number of vessels homeported in CQE communities limited by overall use caps under Alt 2 & 3 | Total number of vessels homeported in CQE communities that had landings in 2010 |
|-----------|---|--|---|
| Halibut | 9 | 0 | 114 |
| Sablefish | 5 | 1* | 30 |

Source: NMFS RAM Program, 5/4/11.

*This vessel met the SE sablefish vessel use cap in 2010.

In addition to potential additional opportunities to use CQE quota on vessels owned by residents of the CQE community, there may also be a potential safety benefit. The flexibility to use IFQ on a larger vessel, if necessary for safety concerns, would increase under Alternative 2, as more vessels would likely be available to employ a resident leasing CQE quota as crew if it did not trigger an overall cap of 50,000

⁴⁰NMFS RAM Program data, 5/4/11.

lbs. The length of the IFQ season and the inherent program flexibility in determining when and where to fish may make this a secondary factor for consideration.

In sum, Alternative 2, the Council's preferred alternative, would serve to increase the flexibility of the CQE and CQE community residents compared to Alternative 1, without undermining the goal of distributing benefits fairly and broadly among community residents and vessel owners. This is because, under Alternative 2, the limit on the amount of IFQ each resident could lease from the CQE would be maintained at 50,000 lbs. per species. In addition, the limit on the amount of IFQ derived from CQE-held QS that could be used on a single vessel would be maintained at 50,000 lbs. per species. Alternative 2 appears to directly meet the Council's problem statement. While the difficulty in accessing capital and funding the purchase of QS continues to be the primary barrier to participation in the CQE Program, the current vessel use caps appear to inhibit the flexibility possibly needed for some smaller communities to use IFQ, should it be purchased. CQEs want to ensure this flexibility is available, prior to purchasing quota share.

2.6.3 Alternative 3

Alternative 3 would revise current regulations such that:

- Vessels harvesting halibut or sablefish IFQ derived from quota share held by a CQE are subject to the same vessel use caps applicable in the overall IFQ Program.

Alternative 3 would eliminate the existing 50,000 lbs. vessel use caps applicable when using CQE quota onboard. Vessels would not be restricted to 50,000 lbs. of IFQ derived from CQE-held quota (per species), but would continue to be subject to the regular vessel use caps. Theoretically, a vessel could use CQE quota onboard up to the regular vessel use caps. Recall that each CQE is also limited by the QS use caps in the IFQ Program, which, depending upon the area the QS is purchased, could be less than the vessel use caps in a given year (refer to Table 15). In effect, however, a vessel could use IFQ derived from quota held by more than one CQE, up to the regular vessel use caps.

Alternative 3 would treat IFQ derived from CQE-held QS the same way as catcher vessel QS held by other persons, and make vessels fishing these IFQ subject to the same vessel use caps. The Council received an IFQ proposal in the 2009 proposal cycle to eliminate the 50,000 lbs. vessel use caps for CQE quota, as well as testimony at its December 2010 meeting.⁴¹

Effects on non-CQE participants

Alternative 3 does not directly regulate participants in the IFQ Program that do not use IFQ derived from CQE-held QS, and would not affect the general trends relevant to quota share and vessel use under the status quo (Section 2.4.2), including the number of IFQ holders and the number of individual vessels used in recent years (Table 8). Under Alternative 3, non-CQE participants in the halibut and sablefish fisheries would continue to be subject to the same vessel use caps in the existing program (refer to Table 23). If an individual chose to use onboard any IFQ derived from CQE-held quota, that vessel would continue to be limited by the overall vessel use caps applicable in the general program.

Under Alternative 3, it would continue to be a choice for a vessel owner to use IFQ derived from CQE-held quota share onboard. While the practical impacts of Alternative 3 are somewhat speculative, as very

⁴¹IFQ Proposal to Eliminate Vessel Limitations for CQEs, submitted by Gulf of Alaska Coastal Communities Coalition, May 27, 2009. Written testimony provided by Gulf of Alaska Coastal Communities Coalition (12/12/10) and the Native Village of Nanwalek (11/30/10).

little quota share has been purchased by CQEs to-date, Alternative 3 may create additional opportunities for vessels to use CQE quota, compared to Alternative 2. Similar to Alternative 2, participants in the IFQ fisheries that are not leasing QS from a CQE, may see a potential opportunity to use additional CQE quota onboard their vessel, because it does not affect their overall vessel use cap. Vessel owners that hold their own quota may be interested in helping other community members start their own businesses by allowing them to fish the IFQ they leased from the CQE on their vessel. The difference is that Alternative 3 allows more CQE quota to be used onboard a single vessel compared to Alternative 2.

Refer to the discussion under Alternative 2, as similar impacts are expected on non-CQE participants under Alternatives 2 and 3. Table 28 provides information on the number of vessels in 2010 that fished some amount of quota, less than the overall vessel use caps. Very few vessels met the existing vessel use caps: only one vessel for Area 2C halibut and one vessel for Southeast sablefish. In addition, 10 vessels met the use cap of 0.5% of all halibut IFQ and 8 vessels met the cap of 1% of all sablefish IFQ. The remaining fleet did not meet or exceed the vessel use caps, and thus could theoretically use additional IFQ onboard. In effect, vessels owned by non-CQE participants could have increased opportunity to use additional (CQE quota) on their vessels, without penalty. Under Alternative 2, this opportunity is limited to 50,000 lbs. of each species, per vessel. By comparison, under Alternative 3, this opportunity is limited by the (less restrictive) overall vessel use caps in the IFQ Program.

Effects on CQEs and CQE community residents

Under Alternative 3, vessels using CQE quota would be subject to the same overall vessel use caps for halibut and sablefish that are in place for vessels using only individually-held halibut IFQ. Because all IFQ would be treated the same in terms of applying the same vessel use caps, Alternative 3 would create additional flexibility within the CQE Program compared to Alternative 2.

For example, a CQE could lease 60,000 lbs. of halibut IFQ in Area 3A to three different residents, and they could choose to fish all of the IFQ on one vessel owned by one of the lessees (all three lessees must be onboard). The community benefits of the IFQ are then derived by the CQE, which receives revenue from the initial lease, the resident vessel owner, and the residents leasing the IFQ. Alternatively, if there were no resident vessels available at the time, a vessel in a nearby community could choose to take all three residents on as crew, and fish the 60,000 lbs. from a single vessel, not owned by a CQE community member. This may be a viable situation in communities with relatively few longline vessels available. The CQE community benefits of the IFQ are then derived from the initial lease and the fishing revenue earned by the residents, with some portion of the revenue going to the vessel owner from the non-CQE community. By comparison, Alternative 2 would require that the same amount of IFQ be fished on a minimum of two vessels.

Refer to Table 25 and Table 26 in Section 2.6.1, which provides a general indication of the relative holdings in the CQE communities to-date. The tables show that about 1% and 5% of the residents that currently hold quota share hold amounts that exceed 50,000 IFQ halibut lbs. and 50,000 IFQ sablefish lbs., respectively, in 2011. Thus, if these holders use their own vessels, and even if they do not take any other individually-held IFQ onboard, they would be unable to use CQE quota without exceeding the cap under status quo. By comparison, under Alternative 3 (and Alternative 2), 100% of the current holders in CQE communities would theoretically be able to take CQE quota on their vessels, if they chose to do so, as none of holders residing in CQE communities have IFQ holdings equal to the overall program vessel use caps in 2011.

Refer to Table 28 for the total number of vessels that landed halibut and sablefish IFQ that met the existing vessel use caps in 2010. Very few vessels met the existing vessel use caps: 10 vessels met the halibut vessel use cap and 8 vessels met the sablefish vessel use cap. The remaining fleet (1,064 distinct

vessels that fished halibut and 367 distinct vessels fishing sablefish) did not meet or exceed the vessel use caps, and thus could theoretically use additional IFQ onboard. This table also shows the number of vessels that landed at least 50,000 lbs. with some Gulf IFQ and thus would not be available to use additional IFQ onboard under the status quo. In effect, theoretically, hundreds more vessels ($222 - 10 = 212$ halibut vessels and $130 - 1 = 129$ sablefish vessels) would be eligible to use more IFQ onboard under Alternative 3 (and Alternative 2) compared to Alternative 1, without exceeding the applicable vessel use cap. Under Alternative 3, the additional IFQ on a single vessel could be derived solely from CQE-held quota, up to the overall vessel use cap. By comparison, under Alternative 2, the additional IFQ used on a single vessel could be derived from CQE-held quota, up to 50,000 lbs. per species.

Recall that three performance standards associated with the program were included in the Council's final motion on Amendment 66. These were not proposed to be in regulation, due to the intractability of enforcement. Instead, the performance standards were established as goals of the program, with voluntary compliance monitored through the annual report, to be used in future evaluations of the program. These include:

1. Maximize benefit from use of community IFQ for crew members that are community residents.
2. Insure that benefits are equitably distributed throughout the community.
3. Insure that QS/IFQ allocated to an eligible CQE would not be held and unfished.

The intent of the program is clearly to maximize the use of the IFQ for community residents, including an equitable distribution of potential opportunity. The existing CQE vessel use caps attempt to meet the objective of fairly and equitably distributing benefits by requiring that IFQ in an amount greater than 50,000 lbs. is fished on more than one vessel. However, depending upon the fishing plan adopted by the CQE, the number and type of lease applicants, and vessel availability in a given year, the attempt to control the distribution of community benefits through the vessel use cap may run counter to the other objectives. In particular, there may be a vessel owned by a resident of the CQE community that wishes to bring other community members onboard to fish their CQE quota (e.g., 60,000 lbs.). If this vessel is limited by the 50,000 lbs. vessel use cap on CQE quota under Alternative 2, one of the community members may have to fish their quota on a vessel owned outside of their community. Thus, the total benefit to the community and community residents is likely diminished in this scenario, compared to Alternative 3.

A second scenario is that the CQE may want to support young fishermen starting a business, who do not yet own vessels. Several CQEs, including the one CQE currently leasing QS, have adopted lease criteria that sets aside a specific percentage of quota for new, less experienced small boat fishermen. Removing the 50,000 lbs. vessel use cap may make it more feasible for residents who do not own vessels to lease IFQ from the CQE and find a situation in which a vessel is willing to take them on as crew. Another goal of the program is to ensure that the IFQ is fished. Increasing the flexibility in the program and increasing the pool of vessels that would be available to potentially take IFQ derived from CQE-held QS onboard serves to help meet this objective.

In sum, it is a policy choice whether to remove the 50,000 lbs. vessel use cap under Alternative 3 and forego the certainty associated with the distribution of benefits among vessels, but increase the flexibility of the CQE and potentially its ability to maximize benefits for community residents. The regulatory provision that requires that each resident is limited to leasing 50,000 lbs. of halibut IFQ and 50,000 lbs. of sablefish IFQ would remain, which is likely more effective in ensuring that benefits are equitably distributed throughout the community. Alternative 3 would serve to increase the flexibility of the CQE and CQE community residents compared to Alternatives 1 and 2, with little effect on the goal of distributing benefits fairly and broadly among community members. The issue is theoretical at this point,

as very little QS has been purchased by CQEs, but has been cited as a barrier to participation in the program.

2.6.4 Net benefit impacts

The proposed action would not have a significant effect on net benefits to the Nation. The intent of the action is to increase flexibility in the program such that it may be more feasible for some CQE communities to participate in the program and thus, make efforts to purchase quota share. If CQEs purchase QS, it would necessarily redistribute some QS from individuals to CQEs. If CQEs represent a higher cost harvester than individuals, particularly when considering the administrative costs associated with operating a CQE, net benefits could decrease. However, if the action makes it more attractive to CQEs to enter the market and purchase QS, it may introduce a mechanism into the market for capturing some social value of QS, which may be greater than the benefit realized by an individual fisherman. Under this broader consideration, which includes social value, the net benefits of the action are indeterminate. Because larger, non-CQE communities could realize a loss of social benefits (if their residents sell QS to CQEs), it is not possible to determine whether the potential losses could outweigh the potential benefits. Thus, whether an overall increase in net benefits would result from the purchases cannot be determined. Regardless, this action in and of itself is not estimated to have an effect on a community's ability to purchase QS and participate in the program. It only serves to increase the flexibility of the CQE to use the QS, similar to individually-held QS, once it has been purchased. It is possible that net benefits could increase, if the action allows IFQ derived from CQE-held QS to be used on a vessel, when it otherwise could not be fished due to the fixed vessel use cap of 50,000 lbs.

2.7 Proposed FMP and regulatory changes

2.7.1 Proposed regulatory changes

The Council's preferred alternative (Alternative 2) would change regulations in Subpart D of 50 CFR 679, which establishes the halibut and sablefish individual fishing quota management measures. The following *type* of revisions would be necessary to 50 CFR 679.42(h)(1)(ii) and (2)(ii), which provides the vessel use restrictions for QS and IFQ.

Under Alternative 2, the proposed changes are as follows (deletions are stricken):

(h)(1)(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 lbs. (22.7 mt) of IFQ halibut ~~from any halibut QS source if that vessel is used to harvest IFQ halibut derived from halibut QS held by a CQE.~~

(h)(2)(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 lbs. (22.7 mt) of IFQ sablefish ~~from any sablefish QS source if that vessel is used to harvest IFQ sablefish derived from sablefish QS held by a CQE.~~

2.7.2 Proposed FMP changes

Alternative 2 would also require changes to Section 3.7.1.8.4 of the GOA FMP (Amendment 94). Alternative 2 would require the revisions outlined below (deletions are stricken).

3.7.1.8.4 Transfer Provisions

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

2. *Any eligible community owning catcher vessel quota shares may lease, but may not exceed, 50,000 pounds of sablefish IFQs per lessee annually. The 50,000 pound limit is inclusive of any quota owned by the individual (lessee).*
3. *No more than 50,000 pounds of any IFQs leased by an eligible community may be taken on any one vessel, annually, ~~inclusive of any IFQ owned by the individual leasing the IFQs.~~*
4. *Eligible communities owning catcher vessel quota shares may sell those quota shares to any other eligible community or any person meeting the provisions outlined in Section 3.7.1.4.*
5. *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 its 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.

3.0 CONSISTENCY WITH APPLICABLE LAW AND POLICY

This section examines the consistency of the proposed action to revise or remove the 50,000 lbs. vessel use caps that are applicable when IFQ derived from CQE-held QS is being used on a vessel, with the National Standards and Fishery Impact Statement requirements in the Magnuson-Stevens Act and E.O. 12866. This section applies to sablefish in particular, as halibut management is authorized under the Halibut Act.

Under Alternative 2, the Council's preferred alternative, the action would maintain the 50,000 lbs. vessel use cap applicable to IFQ derived from CQE-held QS for both halibut and sablefish, but it would no longer be inclusive of any individually-held IFQ being used on the vessel. In effect, a vessel would continue to be subject to the general vessel use caps in the overall program, but would have a specific limit on the amount of IFQ derived from CQE quota that could be used in a fishing year. Under Alternative 3, there would be no specified limit on the amount of CQE quota that could be used on a single vessel in a fishing year; vessels would be subject to the general vessel use caps in the overall program regardless of whether IFQ from a CQE or other source is being used.

3.1 National Standards

Below are the ten National Standards as contained in the Magnuson-Stevens Act, and a brief discussion of the consistency of the proposed alternatives with each of those National Standards, as applicable.

National Standard 1

Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

None of the alternatives considered in this action would affect overfishing of sablefish in the GOA, nor would they affect, on a continuing basis, the ability to achieve the optimum yield from the GOA sablefish fishery. The alternatives would modify the vessel use caps applicable to vessels when using IFQ derived from CQE quota, but would not affect the amount of sablefish that could be harvested, nor the ability of the fleet to harvest the TAC.

National Standard 2

Conservation and management measures shall be based upon the best scientific information available.

The analysis for this amendment is based upon the most recent and 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.

The proposed action is consistent with the management of individual stocks as a unit or interrelated stocks as a unit or in close coordination.

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 action to modify vessel use caps does not discriminate between residents of different states. National Standard 4 may be construed as not applicable in this case, as the action does not allocate or assign ‘fishing privileges.’ The action is restricted to modifying the amount of IFQ derived from quota held by a CQE that could be used on a single vessel in a fishing year. However, vessel ownership, or the residency of the vessel owner, is not at issue. Neither action alternative discriminates between vessel owners that are 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.

The proposed action may promote efficient utilization of fishery resources in that it would allow vessels that are already fishing IFQ to bring a limited amount of IFQ derived from CQE quota onboard, without being subject to a much more restrictive *overall* vessel use cap of 50,000 lbs. Should quota be purchased by CQEs in the future, this action may allow fewer vessels to fish the resulting IFQ than would be allowed under Alternative 1. Under the proposed action, the general vessel use caps applicable in the IFQ Program would apply.

The Council may wish to also consider the management approach stated in the GOA FMP and the management objectives of the Programmatic Supplemental Environmental Impact Statement (PSEIS) that are related to potential societal benefits, such as ‘providing socially and economically viable fisheries for the well-being of fishing communities’ and ‘balancing many competing uses of marine resources and different social and economic goals for sustainable fishery management, including protection of the long-term health of the resource and the optimization of yield.’ The proposed action is intended to increase the flexibility for using quota share purchased by small, remote communities located in the Gulf of Alaska.

National Standard 6

Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

The proposed action is not expected to affect the availability of and variability in the GOA IFQ fisheries resource in future years. The harvest would be managed to and limited by the TAC, regardless of the proposed action considered in this amendment.

National Standard 7

Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

The proposed action does not duplicate any other management action.

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.

The proposed action is intended to resolve what may have been an unintended interpretation of the Council’s original motion on GOA Amendment 66. Regardless of the original intent, the action is intended to increase the flexibility within the CQE Program with regard to vessel use caps, such that it is

more aligned with the IFQ Program in general. Under the action alternatives, vessels using IFQ derived from CQE quota would be held to the same vessel use caps as in the general IFQ Program, as opposed to the 50,000 lbs. of halibut IFQ and 50,000 lbs. of sablefish IFQ that is the total limit under the status quo, inclusive of any individually-held IFQ. Under Alternative 2, each vessel would continue to be limited to 50,000 lbs. of halibut or sablefish IFQ derived from CQE quota, but the overall vessel use cap would still be the same as the general IFQ Program. This would make vessels, whether owned by residents of CQE communities or other communities, more likely and available to bring a resident leasing CQE quota onboard as crew. It would also allow resident fishermen of CQE communities who own small amounts of their own quota to lease quota from the CQE to make a viable business, without being subject to a much lower vessel use cap than is applicable when only non-CQE quota is being used. The intent of the action is to meet the objectives of National Standard 8 by facilitating participation in the CQE Program, which was intended to sustain access to the halibut and sablefish fisheries by small, remote, coastal communities. The mechanism proposed to help facilitate participation, by both community members that own vessels and those that do not, is to align the vessel use caps applicable to CQE quota with those applicable to quota held by other persons or companies.

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.

The proposed amendment is not expected to have an effect on bycatch in the IFQ fisheries (halibut and sablefish) in the GOA.

National Standard 10

Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

The proposed action should have no significant effect on safety at sea. To the extent individual community residents leasing IFQ from the CQE will have more flexibility and opportunity to use the IFQ on larger vessels if necessary, due to weather, there could be some positive effect on safety at sea. Without the proposed action, a larger vessel may be limited by the existing CQE vessel use cap of 50,000 lbs., which is inclusive of any individually-held IFQ used on the vessel, and choose not to take a community member on as crew. The proposed action would remove that vessel use cap and vessels would continue to be subject to the overall vessel use caps in the regular IFQ Program. However, due to the length of the IFQ season, and the inherent flexibility in the program to fish when and where it is safe and effective, the effect on safety at sea is likely very small.

3.2 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 on participants in the IFQ fisheries have been discussed in previous sections of this document (Section 2.6). The proposed action is not anticipated to have significant effects on participants in other fisheries.

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5.0 LIST OF PREPARERS AND CONTRIBUTORS

Nicole Kimball, NPFMC

Jessica Gharrett, NMFS AKR RAM

Alexander Kotlarov, NMFS AKR RAM

Lewis Queirolo, Ph.D., NMFS AKR Office of Regional Administrator