

The environmental impacts associated with the Pacific whiting harvest levels being adopted by this action were considered in the final environmental impact statement for the 2004 specification and management measures. Copies of the FEIS and the ROD are available from the Council (*see ADDRESSES*) Because the impacts of this action were already considered in the FEIS, it is categorically excluded under NAO 216-6 and NEPA from both further analysis and the requirements to prepare additional environmental documents.

The Council prepared an Initial Regulatory Flexibility Analysis and NMFS prepared a FRFA for the 2004 harvest specifications and management measures which included the impacts of this action. A summary of the FRFA analysis was published in the final rule on March 9, 2004 (69 FR 11064). A copy of the FRFA is available from NMFS Northwest Region (*see ADDRESSES*)

Pursuant to Executive Order 13175, this final rule was developed after meaningful consultation with tribal officials during the Council process. This final rule has been determined to be not significant for purposes of Executive Order 12866.

Dated: April 27, 2004.

**Rebecca Lent,**

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

[FR Doc. 04-9844 Filed 4-27-04; 4:54 pm]

BILLING CODE 3510-22-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 030922237-4111-02; I.D. 082503D]

RIN 0648-AQ98

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

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to implement Amendment 66 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), and an amendment to the Pacific halibut (halibut) commercial fishery regulations for waters in and off of Alaska.

Amendment 66 to the FMP and the regulatory amendment modify the Individual Fishing Quota (IFQ) Program by revising the eligibility criteria to receive halibut and sablefish IFQ and quota share (QS) by transfer to allow eligible communities in the Gulf of Alaska (GOA) to establish non-profit entities to purchase and hold QS for lease to, and use by, community residents as defined by specific elements of the proposed action. This action improves the effectiveness of the IFQ Program by providing additional opportunities for residents of fishery dependent communities and is necessary to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Northern Pacific Halibut Act of 1982 (Halibut Act) with respect to the IFQ fisheries.

**DATES:** Effective June 1, 2004, except for §§ 679.5(l)(8), 679.41(d)(1), (l)(3), and (l)(4), which will be effective after approval of the collection-of-information request submitted to Office of Management and Budget (OMB) under OMB approval number 0648-0272 and notification of the effective date is published in the **Federal Register**.

**ADDRESSES:** Copies of Amendment 66 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for the proposed rule and final Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for the final rule may be obtained from the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Durall, (907) 586-7247.

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

**SUPPLEMENTARY INFORMATION:**

**Background**

The groundfish fisheries in the Exclusive Economic Zone of the GOA are managed under the FMP. The FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act (Pub. L. 94-265, 16 U.S.C. 1801). The FMP was approved by the Secretary of Commerce and became effective in 1978. Fishing for halibut (*Hippoglossus stenolepis*) is managed by the International Pacific Halibut Commission (IPHC) and the Council under the Halibut Act. The IFQ Program, a limited access management system for the fixed gear halibut and

sablefish (*Anoplopoma fimbria*) fisheries off Alaska, was recommended by the Council in 1992 and approved by NMFS in January 1993. Initial implementing rules were published on November 9, 1993 (58 FR 59375). Fishing under the IFQ Program began on March 15, 1995. The IFQ Program limits access to the halibut and sablefish fisheries to those persons holding QS in specific management areas. The IFQ Program for the sablefish fishery is implemented by the FMP and Federal regulations at 50 CFR part 679 under authority of the Magnuson-Stevens Act. The IFQ Program for the halibut fishery is implemented by Federal regulations at 50 CFR part 679 under the authority of the Halibut Act.

The IFQ Program originally was designed to resolve conservation and management problems that are endemic to open access fisheries. The background issues leading to the Council's initial action recommending the adoption of IFQs are described in the preamble to the proposed rule establishing the IFQ Program published December 3, 1992 (57 FR 57130).

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

This final rule revises the existing IFQ Program regulations and policy to explicitly allow a new group of non-profit entities to hold QS on behalf of residents of specific rural communities located adjacent to the coast of the GOA. This change would allow a non-profit corporate entity that meets specific criteria to receive transferred halibut or sablefish QS on behalf of an eligible community and to lease the resulting IFQ to fishermen who are residents of

the eligible community. This change is intended to provide additional opportunities to these fishermen, and may indirectly address concerns about the economic viability of those communities. The objectives for this action are described in detail in the proposed rule, which was published on October 16, 2003 (68 FR 59564), and are summarized here.

Since initial issuance of QS, and as a result of voluntary transfers of QS, the amount of QS and the number of resident QS holders has declined substantially in most of the GOA communities affected by this action. This trend may have had an effect on employment and may have reduced the diversity of fisheries to which fishermen in rural communities have access. The ability of fishermen in small rural communities to purchase QS or maintain existing QS may be limited by a variety of factors unique to those communities. Although the specific causes for decreasing QS holdings in rural communities may vary, the net effect is overall lower participation by residents of these communities in the halibut and sablefish IFQ fisheries.

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

A Notice of Availability of the FMP amendment was published on September 2, 2003 (68 FR 52173) inviting comments on the FMP amendment through November 3, 2003. One written comment was received that specifically addressed the FMP amendment. This comment is addressed in the Response to Comment section of this rule. A proposed rule to implement the Council's recommendation was published on October 16, 2003 (68 FR 59564) inviting comments on the proposed rule through December 1, 2003. Twenty-two written comments

were received addressing the proposed rule (see Response to Comments). The Secretary of Commerce approved the FMP amendment on December 3, 2003.

This action addresses these concerns by modifying the IFQ Program to allow non-profit entities that represent small rural communities in the GOA with a historic participation in the halibut and sablefish fisheries to hold QS. The Council's recommendations also reflect the most recent amendments to the Magnuson-Stevens Act, and IFQ policy recommendations by the National Research Council.

The Council considered the range of comments from the public, NMFS, and the State of Alaska (State), and incorporated various suggestions in developing the policy implemented by this rule. The basic provisions of this rule are described in the preamble to the proposed rule published October 16, 2003 (68 FR 59564). Key provisions are summarized here.

## Community QS Provisions

### 1. Community Quota Entities

Community quota entities (CQEs) are non-profit entities incorporated under the laws of the State, or tribal regulations in the case of one of the communities, to represent eligible communities. The CQEs obtain QS by transfer and hold the QS and lease the resulting annual IFQ to individual community residents. Unless otherwise specified, the restrictions that apply to any current QS holder apply to a CQE. CQEs, however, are subject to additional regulatory requirements beyond those applying to existing QS holders.

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

To be considered eligible to hold QS on behalf of a community, a CQE must have been incorporated after April 10, 2002, the date of final Council action. The Council stated that the purpose of designating a new non-profit entity to hold QS is that existing administrative structures such as municipal governments, tribal councils, or other community organizations may be focused on other priorities.

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

demonstrate its support for a CQE is described in the Administrative Oversight section of this preamble.

Once an application to become a CQE has been approved, then that CQE is eligible to hold and receive QS, and lease IFQ to eligible community residents under the mechanisms established by this rule. If a CQE does not remain in compliance with the regulations applying to CQEs or IFQ holders generally, then NMFS can initiate administrative proceedings to deny the transfer of QS or IFQ to or from the CQE. As with other administrative determinations under the IFQ Program, any such determination could be appealed under the procedures set forth in regulations (50 CFR 679.43). The Council recommended regulatory measures, described below, as a means to monitor the ability of the non-profit entities to meet the goals of distributing IFQ among residents in these GOA communities.

### 2. Eligible Communities

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

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

#### (a) Population of Less Than 1,500 Persons

The 2000 United States Census was chosen as the standard for measuring total population because it is considered to be a more accurate measure of population than annual estimates conducted by the State. Additionally, at the time that the Council took final action to modify the IFQ Program to accommodate communities, the 2000 Census was the best available demographic data.

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

(b) Have Direct Saltwater Access

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

(c) Lack of Direct Road Access

The Council recommended limiting eligibility to communities without direct surface road access to communities larger than 1,500 persons

because such communities may lack access to markets for fishery products and could be disadvantaged relative to other communities with better transportation infrastructure.

Communities that are served by the Alaska Marine Highway System are not considered to have surface road access and would be considered to lack surface road access for purposes of this action.

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

*Historic participation* is defined as communities for which a resident has recorded a commercial landing of either halibut or sablefish between 1980–2000 according to Commercial Fisheries Entry Commission (CFEC) data for permit and fishing activity. The year 1980 was chosen because it represents the first year of widely collected and reliable data from the CFEC, and the year 2000 was chosen because it was the

last year of data available prior to the Council's decision to recommend this program.

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

The Council adopted a specific list of eligible communities to limit the entry of new communities into the Community QS Program (see Table 21 to part 679). Any change to the list of eligible communities requires Council action to recommend such a change and Secretarial approval of the change.

3. Use Caps for Individual Communities

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

No more than: 599,799 units of halibut QS .....	in IFQ regulatory area 2C.
No more than: 1,502,823 units of halibut QS combined .....	in IFQ regulatory areas 2C, 3A, and 3B.
No more than: 688,485 sablefish QS units .....	in the IFQ regulatory Area East of 140° W. long. (Southeast Outside District).
No more than 3,229,721 sablefish QS units combined .....	in the Southeast Outside District West Yakutat, Central Gulf Regulatory Area, and Western Gulf Regulatory Area.

A CQE representing an eligible community located within Areas 3A or 3B is prohibited from purchasing QS in Area 2C (Southeast Alaska) on behalf of that community. The Council noted that 21 of the 42 communities eligible to participate in this program are located in Area 2C. Allowing CQEs in Areas 3A and 3B to purchase QS in Area 2C would increase the competition of QS and could adversely affect the price and availability of QS among Area 2C communities.

Likewise, a CQE representing an eligible community within Area 2C is prohibited from purchasing and using QS in Area 3B (Western GOA) on behalf of that community. This limitation applies because residents from communities located in Area 2C traditionally did not fish in Area 3B.

Although the use of halibut QS is limited to those areas that are adjacent to the eligible communities, a similar provision does not apply to sablefish. The sablefish fishery occurs in deeper waters than much of the halibut fishery

and typically requires larger vessels that can travel longer distances for harvesting fish.

This limit provides an adequate opportunity for communities to purchase and hold sufficient QS for leasing the resulting IFQ among community residents. This level is not to be so restrictive as to discourage communities from purchasing and holding quota.

4. Cumulative Use Caps for All Communities

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

5. Transfer and Use Restrictions

(a) Block Limits

The purchase of blocked QS by CQEs would be restricted. The number of blocks that can be held by a person is limited under the IFQ Program. These limits were established to prevent the consolidation of blocked QS and to ensure that smaller aggregate units would be available on the market. Blocked QS typically is less expensive and more attractive to new-entrants.

This rule modifies the consolidation limits for blocked QS for communities represented by CQEs. Each community represented by a CQE is limited to holding, at any point in time, a maximum of 10 blocks of halibut QS and 5 blocks of sablefish QS in each IFQ regulatory area for halibut and sablefish. The CQE could not subdivide blocked QS.

To accommodate the interests of prospective individual new entrants, this rule prohibits CQEs from purchasing:

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

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

CQEs are not eligible to purchase or hold these smaller "sweep-up" blocks because these smaller QS blocks typically are purchased by individuals entering the IFQ fisheries. This measure minimizes a potentially unfair competition in the QS market between CQEs and individuals for these small QS blocks. Similar restrictions on QS in the halibut fishery for Area 3B do not exist because fewer "sweep-up" blocks exist in Area 3B and few new entrants in Area 3B have sought these "sweep-up" blocks.

#### (b) Transfer and IFQ Leasing

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

This provision prohibits CQEs from holding QS assigned to vessel category D (less than or equal to 35 feet (10.7 m) length overall) in Areas 2C and 3A.

This rule does not prohibit CQEs from holding D category halibut QS in Area 3B. A relatively small amount of D category QS exists in Area 3B, and traditionally few prospective buyers exist for this category of QS. Existing D category QS holders in Area 3B indicated that allowing CQEs to purchase D category QS in Area 3B would increase the marketability of their QS.

This rule does not establish catcher vessel category restrictions for CQEs holding sablefish QS. Only B and C vessel categories exist for sablefish QS and sablefish are typically harvested from larger vessels.

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

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

This limitation ensures a broad distribution of IFQ among community residents and limits the amount of IFQ that may be leased to those residents who already hold QS or lease IFQ from another source.

Similarly, during any fishing year, no vessel on which IFQ leased from the community QS program is fished can harvest an amount of IFQ greater than 50,000 lb (22.7 mt) of halibut and greater than 50,000 lb (22.7 mt) of sablefish, inclusive of all IFQ fished aboard that vessel. This limitation on the amount of IFQ that can be fished on any one vessel using IFQ from community-held QS encourages the use of a broad distribution of community-held IFQ on vessels that may otherwise have limited or no participation in the IFQ Program.

Only permanent residents of the community represented by the CQE are eligible to lease IFQ derived from community-held QS. This provision explicitly ties the potential benefits of QS held by a CQE on behalf of a community to the residents of that community. A resident who wishes to lease IFQ is required to affirm that he or she maintains a permanent domicile in that specific community and is qualified to receive QS and IFQ by transfer under the existing regulations (i.e., that he or she holds a Transfer Eligibility Certificate issued by NMFS).

For purposes of this program, an eligible resident is an individual that affirms that he or she has maintained a domicile in the community from which the IFQ is leased for 12 consecutive months immediately preceding the time when the assertion of residence is made, and has not claimed residency in another community, state, territory, or country for that period.

An individual who receives IFQ derived from QS held by a CQE may not designate a skipper to fish the community IFQ.

Individuals who hold leases of IFQ from communities are considered to be IFQ permit holders and are subject to the regulations that govern other permit holders unless specified otherwise in this rule. This includes the payment of annual fees as required under 50 CFR 679.45.

#### (c) Sale Restrictions

To avoid certain restrictions, a CQE may not sell its QS unless that sale will generate revenues to improve, sustain, or expand the opportunities for community residents to participate in the IFQ halibut and sablefish fisheries. NMFS will approve the transfer of QS held by a CQE on behalf of a community only if the community for which the CQE holds the QS authorizes that transfer. This authorization must be in the form of a signature on the Approval of Transfer form by an authorized representative of the governing body of the community. The purpose of this authorization is to ensure that the community is fully aware of the transfer because certain restrictions apply to future transfers if the transfer of QS is for a reason other than to sustain, improve, or expand the program (i.e., the CQE would be prohibited from holding QS on behalf of that community for a period of three years and the CQE must divest itself of all QS held on behalf of that community).

This rule allows a CQE to transfer QS to dissolve the CQE; or as a result of a court order, operation of law, or as part of a security agreement. These provisions account for those cases in which a CQE is no longer capable of representing an eligible community and seeks either: (1) to divest itself of QS holdings voluntarily in order to provide an opportunity for another non-profit to form and seek approval as a CQE for a community or (2) to meet the legal requirements requiring divestiture of QS. These forms of transfers are authorized under the existing IFQ Program.

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

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

procedures for appeal are provided at 50 CFR 679.43.

The 3-year restriction is intended to discourage speculating in the QS market or using potential assets to fund other unrelated projects, and encourage the long-term participation of fishery dependent communities in the IFQ Program.

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

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

#### 7. Administrative Oversight

Implementing this proposal requires that NMFS: (1) review applications of eligibility for non-profit entities seeking to be qualified as a CQE for a particular community and certify eligible CQEs and (2) review an annual report detailing the use of QS and IFQ by the CQE and community residents. If a CQE fails to provide a completed annual report to NMFS for each community that it represents, then that CQE will be deemed ineligible to use the IFQ resulting from that QS on behalf of that community until a complete annual report is received. Before becoming a Final Agency Action, any such determination by NMFS may be appealed through the administrative appeals process described under the IFQ Program (50 CFR 679.43).

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

1. Its articles of incorporation as a non-profit entity under the laws of the State;
2. A statement designating the community, or communities, represented by that CQE;
3. Management organization;
4. A detailed statement describing the procedures that will be used to determine the distribution of IFQ to residents of each community represented by that CQE; and
5. A statement of support and accountability of the non-profit entity to that community(ies) from a governing body representing each community represented by the CQE.

NMFS will provide the State with a copy of the applications. After receiving the copies, the State will have a period of 30 days to provide comments to

NMFS. NMFS will consider these comments before certifying a non-profit entity as a CQE. NMFS will review all applications for completeness. Incomplete applications will be returned to the applicant for revision. This rule does not establish a limit on the amount of time that a non-profit would have to correct deficiencies in an application.

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

Establishing a requirement that a specific governing body within a community provide a recommendation supporting a CQE creates a clear link between the governing body that represents that community and the CQE. Allowing multiple non-profits to apply as CQEs for a single community requires additional review by NMFS to ensure accountability. The linkage to specific recognized governing bodies within a community minimizes the need for additional administrative oversight to ensure accountability to a community and provides a clear nexus between the CQE and the community members it is intended to represent by holding QS on behalf of that community.

The specific governing body that provides the recommendation is based on the principle that those communities that choose to incorporate as cities have established a cohesive central government structure in which all community residents can participate, and is therefore most representative of the largest number of individuals. In cases where a community is not incorporated, and a tribal government is present, the tribal government is relied on to provide representation, with an understanding that non-tribal members may have more limited representation in such communities. However, many of these communities are populated by a relatively large percentage of tribal members and the tribal government is likely to represent the overall interests of the communities. In communities lacking either of these governance structures, but with an association that has a recognized relationship with the State for purposes of governmental functions, that association is deemed best suited to serve as a representative of that community's interests.

Establishing this priority eliminates the need to require multiple governance structures within a community to come to a consensus to recommend a CQE. This method would effectively provide a veto power to a smaller and likely less representative governance structure within the community.

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

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

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

*Communities without governing bodies.* Those communities that are not incorporated as a municipality, or are not represented by a tribal government recognized by the Secretary of the Interior, and do not have a community non-profit association recognized by the State for purposes of governmental functions, are not eligible to recommend a non-profit entity to hold QS on its behalf until a representative governing entity is formed (e.g., incorporation as a municipality, representation by a tribal government recognized by the Bureau of Indian Affairs, or formation of a community non-profit association recognized by the Alaska Department of Community and Economic Development). NMFS will consult with the State to determine whether a community non-profit association has been formed, and whether it adequately represents the interests of the community before that community non-profit association can recommend a CQE to hold QS on behalf of that community.

This requirement ensures that communities that do not have a governmental structure form such a structure prior to being allowed to recommend a specific non-profit entity as a CQE. This requirement is expected to affect only two of the 42 eligible communities: Halibut Cove and Meyers

Chuck. Neither of these communities possess any of the governmental bodies described above.

#### 8. Annual Report

Each CQE must submit an annual report by January 31 to NMFS and to the governing body for each community represented by the CQE, detailing the use of QS and IFQ by the CQE and community residents during the previous year's fishing season. That annual report must contain the following information for the preceding fishing season:

1. Identification of the eligible community, or communities, represented by the CQE;
2. Total amount of halibut QS and sablefish QS held by the CQE at the start of the calendar year and at the end of the calendar year;
3. Total amount of halibut and sablefish IFQ leased from the CQE;
4. Names, business addresses, and amount of halibut and sablefish IFQ received by each individual to whom the CQE leased IFQ;
5. The name, ADF&G vessel registration number, USCG documentation number, length overall, and home port of each vessel from which the IFQ leased from the CQE was fished;
6. The names, and business addresses of those individuals employed as crew members when fishing the IFQ derived from the QS held by the CQE.
7. A detailed description of the criteria used by the CQE to distribute IFQ leases among eligible community residents;
8. A description of efforts made to employ crew members who are residents of the eligible community;
9. A description of the process used to solicit lease applications from residents of the eligible community on whose behalf the CQE is holding QS;
10. The names and business addresses and amount of IFQ requested by each individual applying to receive IFQ from the CQE;
11. Any changes in the bylaws of the CQE, board of directors, or other key management personnel;
12. Copies of minutes and other relevant decision making documents from CQE board meetings; and
13. The number of vessels on which IFQ derived from QS held by a CQE is fished.

The purpose of the annual report is to assist NMFS and the Council to assess the performance of the CQEs in meeting the objectives of providing for community-held QS. The Council expressed its intent to review the use of community QS 5 years after the effective date of implementing the regulations.

Submitting the annual report by January 31 provides NMFS adequate time to review the annual report for deficiencies that may exist and provides the CQE with time to make corrections before issuing annual IFQ to the CQE at the beginning of the IFQ fishing season.

NMFS routinely collects specific information on the transfer of QS as part of transfer applications. Specifically, NMFS can provide items 1 through 4 and item 13, as described above, to the CQEs so that they can include such information in their annual reports. The CQEs do not have to collect this information separately.

If a CQE fails to submit a timely and complete annual report, then NMFS would initiate an administrative action to suspend the ability of that CQE to transfer QS and IFQ, and to receive additional QS by transfer. This action would be implemented consistent with the administrative review procedures provided at 50 CFR 679.43. Also, a CQE would be subject to enforcement actions for violating regulations.

#### Changes from the Proposed Rule

This final rule implements the regulations established in the proposed rule with two minor changes. First, this action clarifies that residents of the Village of Seldovia would be considered eligible to receive IFQ by transfer from the CQE established to represent the City of Seldovia. Second, this action clarifies that the CQE which is designated to represent the Indian Village of Metlakatla could be incorporated under tribal authority due to its status as an Indian Reservation, which is incorporated under Federal law. These changes respond to concerns raised in public comment. A description of the need for this change is provided in the "Response to Comments" section.

#### Response to Comments

The proposed rule was published in the **Federal Register** on October 16, 2003 (68 FR 59564), and invited public comments until December 1, 2003. NMFS received 22 public comment letters containing a total of 20 unique comments. Thirteen of the comments received were letters supporting the proposed rule and requesting Secretarial approval of Amendment 66 to the FMP.

During the public comment period, the Council convened a committee to review the proposed rule. This committee was charged with reviewing the proposed rule, but was not specifically tasked with providing formal comments to NMFS. This forum provided an opportunity for affected coastal communities and other members of the public to review the proposed

rule and could serve as a basis for additional comments from individual committee members. Although no formal comments were submitted, several members of the committee did submit written comments independently.

*Comment 1:* This rule will have an adverse effect on the marine environment, and more specifically halibut and sablefish fishery stocks.

*Response:* This rule is not expected to adversely affect the marine environment. NMFS prepared an EA/RIR/FRFA for this action that examined its potential effects on the marine environment and found that no significant impact on the human environment would result from this action. Specifically in reference to halibut and sablefish fishery stocks, this rule does not increase the overall amount of halibut or sablefish that can be harvested. The total amount of halibut and sablefish that can be harvested is determined by a scientific review of the stock status on an annual basis. Neither the halibut nor the sablefish stocks are considered overfished, nor is there any indication that these stocks are subject to overfishing. Nothing in this rule diminishes the ability of the IPHC or NMFS to set conservative catch limits for these stocks based on the best available scientific information to ensure their biological conservation.

*Comment 2:* Existing regulations at 50 CFR 679.41, which require that an individual must have a minimum of 150 days of experience working onboard a vessel as a member of a harvesting crew in any U.S. commercial fishery in order to receive IFQ by transfer, could prevent individuals participating in the salmon setnet fisheries, who typically operate from a skiff, from qualifying as an "IFQ crew member."

*Response:* Regulations at 50 CFR 679.2 define an "IFQ crew member" as "any individual who has at least 150 days experience working as part of a harvesting crew in any U.S. commercial fishery." In order to receive QS or IFQ by transfer, one of the qualifications is that an individual must be an IFQ crew member. Harvesting is defined as "work that is related to the catching and retaining of fish" for the purposes of this definition. If the salmon set net fishery is a U.S. commercial fishery, then nothing within the existing regulations would disqualify a member of a harvesting crew in that fishery from using the time that they have accrued in that work toward the 150-day requirement to receive IFQ by transfer from a CQE.

*Comment 3:* For individuals to receive IFQ from the CQE, they must affirm that they have maintained a domicile in the community on whose behalf the CQE is holding QS from which the IFQ is leased for at least 12 consecutive months. Individuals living outside the city limits of Seldovia, one of the communities qualified to have a CQE hold QS on its behalf, would be ineligible to receive IFQ under this program. Residents of Seldovia Village, which is adjacent to the City of Seldovia, however, have historically participated in commercial fisheries operating out of Seldovia.

*Response:* This rule establishes the City of Seldovia as a community on whose behalf a CQE may hold QS. The Council did not specify whether the residency requirement would allow individuals living outside of the established boundaries of a community to participate. The City of Seldovia has distinct boundaries from the Village of Seldovia and a strict interpretation of this rule would exclude residents outside the City of Seldovia from participating in this program. Based on information provided by the commenter and additional information from State records, however, a historic linkage between the City of Seldovia and the Village of Seldovia is apparent in terms of participation in commercial fisheries.

In light of the historic linkage between the City of Seldovia and the Village of Seldovia, NMFS is clarifying the rule so that residents of the Village of Seldovia could participate as potential recipients of any IFQ derived from QS held on behalf of the City of Seldovia. The final rule has been modified accordingly at 50 CFR 679.2.

*Comment 4:* The Village of Seldovia should be designated as a community eligible to designate a CQE to hold QS on its behalf.

*Response:* The Village of Seldovia may meet many of the requirements necessary to qualify as an eligible community under the criteria established by the proposed rule except that it was not specifically designated by the Council. As is noted in the preamble of the proposed rule, the Council adopted a specific list of eligible communities to limit the entry of new communities into the Community QS Program (see Table 21 to part 679). The Council expressed a desire to review the addition of any communities not listed. This review reduces potential disruption in administration of the Community QS Program due to a sudden and unanticipated increase in competition for QS among eligible communities. This Council review also would provide

an additional public review process before modifying the Community QS Program.

Public input into the Council process did not indicate that the Village of Seldovia sought inclusion into this program and the Council did not recommend its inclusion into the list of initially eligible communities. However, nothing in this final rule prevents the Village of Seldovia from petitioning the Council to be included into the list of eligible communities through a possible amendment to the FMP at some point in the future. However, residents of the Village of Seldovia may participate in the program as explained in the response to Comment 3.

*Comment 5:* Establishing a program which limits the individual use cap of halibut and sablefish that each CQE may hold on behalf of a community is not responsive to the needs of individual communities with larger populations relative to many of the rural communities eligible to recommend a CQE. Larger communities should have a larger use cap in proportion to their population.

*Response:* In the development of its policy, the Council considered an individual use cap for the communities as an equitable basis for establishing the distribution of shares. Alternative mechanisms for limiting QS among communities were not further developed. The commenter indicates that the potential amount of IFQ available for each individual fisher is lower in larger communities. The potential amount is the same (same limits) but the competition for that IFQ would be greater. However, the impetus for this program is not to supplement ownership by individuals within communities, but to provide an opportunity for improving the likelihood of community residents to receive IFQ leases. The proposed rule noted that residents of larger communities typically have improved access to financial markets and alternative fishery and non-fishery employment opportunities. Establishing the same individual use cap for all communities may result in less IFQ available per qualified resident in larger communities, but an alternative use cap mechanism based on the population of the community would create an advantage for larger communities relative to smaller communities. Applying an equal individual use cap among the communities was considered to be an equitable measure for limiting the holdings of an individual community without providing an allocative advantage to larger communities.

*Comment 6:* The Commenter believes that the 50,000 lb (22.7 mt) limit on the amount of halibut or sablefish IFQ that can be leased and fished on board an individual vessel is not sufficient to meet the needs of the offshore fishery, particularly for sablefish, which typically require larger vessels and more harvests to be profitable. The 50,000 lb (22.7 mt) IFQ vessel lease cap may not provide adequate halibut and sablefish product to support the operations of newer vessels.

*Response:* The 50,000 lb (22.7 mt) limit on halibut and 50,000 lb (22.7 mt) limit on sablefish was established as a measure to ensure a broader distribution of IFQ among potentially qualified residents. Although a larger upper limit on the amount of IFQ that can be used aboard an individual vessel would provide an opportunity for larger vessels to participate in IFQ fisheries using IFQ derived from QS held by CQEs, the 50,000 lb (22.7 mt) limit was established to limit consolidation and to accommodate smaller QS holder and new entrants that may benefit from an IFQ lease. The 50,000 lb (22.7 mt) limit was developed through the Council's deliberative process and is responsive to public concerns raised during the development of the program.

*Comment 7:* The commenter raises concerns that the proceeds that may be generated by this program could be used to fund general community projects.

*Response:* The final rule restricts the use of funds derived from the sale of QS to projects that are intended to sustain, expand, or improve the ability of community residents to participate in the IFQ fisheries. These restrictions are detailed in the preamble to the proposed rule. As the QS holding entity, the CQE would maintain the authority to administer funds within the guidelines established by this rule. This rule does not establish restrictions on the use of funds generated from revenues obtained by the lease of IFQ to community residents. The specific use of any funds generated by leasing IFQ could be used at the discretion of the CQE.

*Comment 8:* The State of Alaska should be allowed to provide the recommendation necessary for the approval of a CQE for a particular community in those communities where internal issues may prohibit a legitimate CQE from obtaining support from the governing body, as established by this rule.

*Response:* The mechanism for establishing support for a CQE was intended to provide a linkage between the community and the governing body of that community. Although an alternative mechanism for providing

support to a CQE is possible through a State approval mechanism, establishing such a mechanism at this time would require establishing criteria for establishing when a community is not capable of meeting the requirements for recommending a CQE to hold QS on its behalf, and an appeal mechanism for those governing bodies that wish to challenge an adverse finding. The commenter states that certain governing bodies may not be well-suited or capable of providing the support required to recommend a CQE. However, at this time it is not clear which governing bodies are not capable of providing the type of support that this program would require. Establishing a separate mechanism at this time could address a potential future concern about the ability of governing bodies to recommend a CQE, but it is unclear that the need for a separate approval mechanism is required at this time. If after the implementation of this program it becomes apparent that certain community governing structures are not capable of providing the support and oversight required then the Council could recommend additional regulatory changes to address these concerns with a more detailed understanding of the issues. The regulations could be modified at that time to accommodate any changes that may be necessary for specific communities.

*Comment 9:* NMFS should review the cumulative impacts of the restrictions on QS purchase by CQEs and provide additional analysis on the amount of QS that is available for purchase in each IFQ regulatory management area.

*Response:* The EA/RIR/IRFA prepared for this action reviews of the cumulative impacts of limits and restrictions on QS purchase. NMFS does not maintain a database listing all QS available for purchase since QS transfer is governed by private contractual agreements and the amount of QS available on the market is dependent on the choices of individual QS holders. NMFS maintains a list of all QS holders, but the status of those shares is unknown.

*Comment 10:* The CQE should be required to verify an IFQ lessee's residency.

*Response:* The CQE will be one party to the IFQ transfer form that is required for each vessel lease. The IFQ lessee will have to affirm his or her residency on this form. Presumably, the CQE can verify the prospective lessee's residency independently of any regulatory requirement. Requiring that the CQE verify the prospective lessee's residency and requiring the lessee to affirm his or her residency on the QS/IFQ transfer

application is redundant and not required to meet the intent of this program.

*Comment 11:* The CQE should be defined to include multipurpose operational functions such as buying and selling seafood products.

*Response:* Nothing in this final rule limits the ability of the CQE to participate in other business operations. NMFS requires that a CQE meet the criteria established in this rule for its formation, but does not limit the ability of the CQE to engage in other activities.

*Comment 12:* The regulations should require that primary processing occur within the community on whose behalf the CQE holds QS.

*Response:* The Council did not recommend and this rule does not implement specific processing requirements based on public testimony concerning the lack of processing capacity in many of the smaller communities that would be eligible to participate in this program. The intent of the program is not to limit delivery requirements to specific communities, but to provide an additional opportunity to the fishermen of eligible communities to access halibut and sablefish IFQ fisheries. Limiting processing to specific communities does not meet the intent of this program and would limit the ability of an IFQ lessee to effectively seek the best ex-vessel value.

*Comment 13:* The proof of support for a CQE from the governing body of an eligible community should be a standardized form.

*Response:* The regulations established by this rule require that a resolution recommending a CQE be provided by the appropriate governing body at § 679.41(l)(v). The same procedure is required for all governing bodies. A standardized form is not required for the governing body to pass a resolution to indicate its support for a CQE.

*Comment 14:* Tribal governments in Southeast Alaska should be provided with the authority to participate as community governing bodies that recommend the CQE.

*Response:* As noted in the preamble to the proposed rule (68 FR 59564) and the preamble to this final rule, the Council recommended this program, and the Secretary of Commerce approved the FMP amendment, as a measure to provide additional opportunities for rural residents in remote communities throughout the Gulf of Alaska. This rule implements measures that provide an opportunity for all rural residents to participate in this program and is not intended to limit participation only to tribal members or require the approval

of tribal governments to recommend a CQE in all communities.

The commenter suggests that "Southeast Tribes" participate in the process of recommending a CQE in addition to the governing body of the community. As noted in the preamble, this rule is designed so that only one governing body would provide the recommendation for a CQE. This is intended to reduce potential conflicts that could exist with multiple governing bodies providing differing recommendations. The rule is structured to accommodate the governing bodies of the communities and is based on the principle that those communities that have chosen to incorporate as cities have established a cohesive central government structure in which all community residents can participate, and is therefore the most representative of the largest number of individuals. In cases where a community is not incorporated, and a tribal government is present, the tribal government is relied on to provide representation. Many of these communities are populated by a relatively large percentage of tribal members and the tribal government is likely to represent the overall interests of the communities.

If tribal governments were required to approve the recommendation for a CQE in all circumstances, than they effectively would control the recommendation process by the ability to refuse to approve a CQE recommended by a city government that did not receive a recommendation from the tribe. This would limit the roll of the municipality and its ability to represent the broad range of constituents that a municipality is supposed to represent.

*Comment 15:* The Articles of Incorporation and bylaws for a CQE should be consistent among the non-profit entities seeking recognition as a CQE.

*Response:* The specific articles of incorporation and bylaws may differ from community to community depending on the specific needs of the CQE, requests of the governing body of that community, and specific financial considerations that may exist on a case-by-case basis. This rule does not establish specific requirements because the conditions that may be necessary for a CQE in one community may differ from other communities. All prospective CQEs are required to be incorporated through the State of Alaska (except in the case of Metlakatla), but no specific requirements exist on the specific form of non-profit incorporation to provide greater flexibility to those

communities. Uniform requirements would reduce that flexibility.

*Comment 16:* The fishing seasons for the halibut and sablefish IFQ Programs should be 12 months.

*Response:* This rule is not intended to modify the existing IFQ fishing seasons, but is intended to expand the ability of non-profit entities to hold QS on behalf of specific communities. Modifying the IFQ fishing seasons would require a separate regulatory action not intended under this rule.

*Comment 17:* There is no discussion of the use of holding pens as a means of preserving live product in this rule.

*Response:* This rule is not intended to modify fish handling practices. Nothing in this rule would limit the use of holding pens or other methods to hold fish for use in processing and marketing to the extent those techniques are allowed under other State and Federal regulations.

*Comment 18:* Local governments, specifically borough governments, should be allowed to be eligible as CQEs. Additional measures to develop a separate non-profit entity are not necessary to meet the objectives of this program.

*Response:* Although a number of municipalities may be well-suited to holding QS on behalf of specific communities, the FMP amendment that this final rule would implement states that a separate non-profit entity should be formed for the express purpose of holding QS on behalf of a community. The commenter correctly notes that municipalities may have an established financial capacity that would enable them to access capital markets. However, nothing in this rule would limit the ability of municipalities to participate in the formation of the non-profit entities, assist them in securing capital, or assist communities within a borough to incorporate a CQE. While it is possible that some of the functions of a CQE would duplicate functions of a borough government, the Council was explicit in their recommendations that a new non-profit entity would be best suited to serve as a CQE rather than relying on existing governing structures. During public deliberations the Council considered alternative mechanisms for establishing a CQE. At that time, the Council considered the potential advantages to establishing a separate body to hold QS on behalf of the community. The Council recommended that newly established CQEs be formed so that all communities would have a uniform application process, and so that all communities would be on an equal footing.

*Comment 19:* The CQE established to represent Metlakatla should be allowed to incorporate under the laws of the Metlakatla Indian Community.

*Response:* The Council recommended incorporation under the laws of the State of Alaska to provide consistency in the certification of non-profit entities. Incorporating a non-profit entity is typically performed through the State although specific provisions for incorporating through tribal governments is possible. The community of Metlakatla is unique among the other communities in that it is incorporated under Federal law as an Indian Reservation and is not subject to incorporation as a municipality under regulations of the State of Alaska. Given the unique status of Metlakatla under Federal law, this rule is modified to allow the non-profit entity which will represent the community of Metlakatla as a CQE to incorporate as a non-profit entity under Federal law. Any non-profit entity incorporated under Federal law would still need to meet the other requirements established in this rule under 50 CFR 679.41(l) to be authorized to serve as the CQE for the community of Metlakatla.

*Comment 20:* The commenter requests assurance that this program may be modified in the future based on continuing formal consultation.

*Response:* This program can be modified in the future based on recommendations made by the Council or NMFS. The annual report provides a periodic opportunity to review the progress of the CQEs in meeting the goals and objectives of this program. The Council stated its intent to review this program five years after its implementation.

#### Classification

Included with this final rule is the Final Regulatory Flexibility Analysis (FRFA) that contains the items specified in 5 U.S.C. 604(a). The FRFA consists of the IRFA, the comments and responses to the proposed rule, and the analyses completed in support of this action. A copy of the IRFA is available from the Council (see ADDRESSES). The preamble to the proposed rule contained a detailed summary of the analyses conducted in the IRFA, and that discussion is not repeated in its entirety here.

#### Summary of the FRFA

The proposed rule was published in the **Federal Register** on October 16, 2003 (68 FR 59564). An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed rule, and described in the classifications section

of the preamble to the rule. No comments were received on the IRFA.

The implementation of Amendment 66 and the associated regulations for halibut would potentially affect all individuals, corporations or partnerships, or other collective entities holding QS. At the end of the 2001 IFQ season, 3,485 persons (individuals, corporations, and other entities) held halibut QS; 872 persons held sablefish QS (NMFS/RAM 2002). An examination of limits on quota share holdings indicates that the halibut and sablefish fishing operations are small. Additionally, 42 communities are to designate Community Quota Entities (CQEs) to hold QS on behalf of these communities. All of these communities would be considered to be small entities.

This regulation imposes new recordkeeping or reporting requirements on the regulated small entities. Specifically, this rule requires that CQEs provide an application, an annual report, information concerning the use of funds derived from the sale of QS, and submit a QS/IFQ transfer form. The governing body of an eligible community is required to provide a resolution supporting a CQE to represent that community and to provide an authorization for the sale of any QS by the CQE. This collection-of-information requirement was submitted to OMB for approval on July 29, 2003, under the OMB approval number 0648-0272. This request is currently under review. Those sections of the regulation that will be effective after OMB approval are noted in the **DATES** section of this rule.

This rule incorporates revisions to the existing IFQ Program regulations and policy to explicitly allow a new group of non-profit entities to hold QS on behalf of residents of specific rural communities located adjacent to the coast of the GOA. This change allows a non-profit corporate entity that meets specific criteria to receive transferred halibut or sablefish QS on behalf of an eligible community and to lease the resulting IFQ to fishermen who are residents of the eligible community. This change is intended to provide additional opportunities to these fishermen, and may indirectly address concerns about the economic viability of those communities. The objectives for this action are described in detail in the proposed rule which was published on October 16, 2003 (68 FR 59564).

The status quo was considered as an alternative, but was rejected. That alternative would have resulted in no action to address the concerns that since the initial issuance of QS the amount of

QS and the number of resident QS holders has substantially declined in most of the GOA communities affected by this action. This trend may have had an effect on employment and may have reduced the diversity of fisheries to which fishermen in rural communities have access. The ability of fishermen in small rural communities to purchase QS or maintain existing QS may be limited by a variety of factors unique to those communities. Although the specific causes for decreasing QS holdings in rural communities may vary, the net effect is overall lower participation by residents of these communities in the halibut and sablefish IFQ fisheries.

Within the preferred alternative, numerous elements and options were analyzed that considered a range of measures for establishing eligibility, use caps, transfer provisions, and other aspects of this program. Combinations of elements and options were analyzed as part of the preferred alternative to provide an adequate contrast and range of alternative approaches to status quo management.

The preferred alternative modified the IFQ Program to allow non-profit entities that represent small rural communities in the GOA with a historic participation in the halibut and sablefish fisheries to hold QS. The Council's recommendations also reflect the most recent amendments to the Magnuson-Stevens Act, and IFQ policy recommendations by the National Research Council (NRC). The status quo alternative would not have addressed these concerns or the recommendations of the NRC.

#### Statement and Objective and Need

A description of the reasons why this action is being considered and the objectives of and legal basis for this action are contained in the preamble to the proposed rule and are not repeated here.

#### Steps Taken to Minimize Economic Impacts on Small Entities

This rule revises the eligibility criteria to receive QS and IFQ by transfer to allow eligible communities in the GOA to establish non-profit entities to purchase and hold halibut and sablefish QS for lease to, and use by, community residents as defined by specific elements of the rule. This action is intended to improve the effectiveness of the IFQ Program and is necessary to promote the objectives of the Magnuson-Stevens Act and the Halibut Act with respect to the IFQ fisheries. The potential economic impacts of these measures are described in detail in the FRFA.

Analysis of this rule indicates no adverse impact on small entities from this action. This action may have an economic benefit for small entities, to the extent that this action provides additional fishing opportunities to rural fishermen. The benefit is largely due to the redistribution of fishing opportunities, and is primarily a social benefit, not a strictly economic benefit. However, the potential economic benefits of this possibility can not now be measured or estimated.

Net benefits cannot be quantified because of the importance of non-market social costs and benefits in the proposed action. However, qualitatively, the sale of QS to the CQEs will increase the revenues of some community members who may wish to exit the fishery, or redirect capital into other industries within the larger communities incurring a net loss of QS. To the extent that residents within larger communities currently hold proportionally more quota shares, these residents, and presumably the communities where they live, will benefit from the compensation received by the sale of quota shares; otherwise, they would not voluntarily choose to sell.

No measures were taken to reduce impacts on small entities beyond those already taken with the development of alternatives in the IRFA. The IRFA considered an alternative that would have maintained the status quo in addition to this alternative.

NMFS is not aware of any alternatives in addition to those considered in this action that would accomplish the objectives of the Magnuson-Stevens Act and other applicable statutes while further minimizing the economic impact of the rule on small entities. The impact on small entities under this action is not more adverse than the status quo for the small entities in the halibut and sablefish IFQ fisheries. This action could provide additional benefits to a number of small entities that would not occur under the status quo option.

#### Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. NMFS will publish a small entity compliance guide during

the implementation phase of this program to assist the governing bodies of the eligible communities identified in this rule by posting it on the NMFS Alaska Region website at: <http://www.fakr.noaa.gov/>. Copies of this final rule are available from NMFS (see ADDRESSES) and at the website above.

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

This final rule complies with the Halibut Act and the Council's authority to implement allocation measures for the management of the halibut fishery.

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

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: April 26, 2004.

**Rebecca Lent,**

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

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

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

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

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

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

#### § 679.2 Definitions.

\* \* \* \* \*

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

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

\* \* \* \* \*

*Eligible community means:*

- (1) For purposes of the CDQ program, a community that is listed in Table 7 to this part or that meets all of the following requirements:
  - (i) The community is located within 50 nm from the baseline from which the breadth of the territorial sea is measured

along the Bering Sea coast from the Bering Strait to the most western of the Aleutian Islands, or on an island within the Bering Sea. A community is not eligible if it is located on the GOA coast of the North Pacific Ocean, even if it is within 50 nm of the baseline of the Bering Sea;

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

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

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

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

(i) Is a municipality or census designated place, as defined in the 2000 United States Census, located on the GOA coast of the North Pacific Ocean;

(ii) Has a population of not less than 20 and not more than 1,500 persons based on the 2000 United States Census;

(iii) Has had a resident of that community with at least one commercial landing of halibut or sablefish made during the period from 1980 through 2000, as documented by the State of Alaska Commercial Fisheries Entry Commission; and

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

\* \* \* \* \*

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

- (1) Is a citizen of the United States;
- (2) Has maintained a domicile in a rural community listed in Table 21 to this part for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another community, state, territory, or country, except that residents of the Village of Seldovia shall be considered to be eligible community residents of the City of Seldovia for the purposes of eligibility to lease IFQ from a CQE; and
- (3) Is an IFQ crew member.

\* \* \* \* \*

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

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

\* \* \* \* \*

(l) \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* \* \* \* \*

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

**§ 679.7 Prohibitions.**

\* \* \* \* \*

(f) \* \* \*

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

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

\* \* \* \* \*

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

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

\* \* \* \* \*

(c) \* \* \*

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

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

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

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

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

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

(d) \* \* \*

(1) *Application for Eligibility.* All persons applying to receive QS or IFQ must submit an Application for Eligibility to Receive QS/IFQ (Application for Eligibility) containing accurate information to the Regional Administrator, except that an Application for Eligibility to Receive QS/IFQ (Application for Eligibility) is not required for a CQE if a complete application to become a CQE, as described in paragraph (l)(3) of this

section, has been approved by the Regional Administrator on behalf of an eligible community. The Regional Administrator will not approve a transfer of IFQ or QS to a person until the Application for Eligibility for that person is approved by the Regional Administrator. The Regional Administrator shall provide an Application for Eligibility form to any person on request.

\* \* \* \* \*

(e) \* \* \*

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

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

\* \* \* \* \*

(g) \* \* \*

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

\* \* \* \* \*

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

(6) IFQ derived from QS held by a CQE on behalf of an eligible community may be used only by an eligible community resident of that eligible community.

(7) A CQE may transfer QS:

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

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

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

(iv) To dissolve the CQE; or

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

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

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

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

\* \* \* \* \*

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

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

(3) Prior to initially receiving QS by transfer on behalf of a specific eligible community, a non-profit entity that intends to represent that eligible community as a CQE must have approval from the Regional Administrator. To receive that approval, the non-profit entity seeking to become a CQE must submit a complete application to become a CQE to the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802. The Regional Administrator will provide a copy of the complete application to the Alaska Department of Community and Economic Development, Commissioner, P.O. Box 110809, Juneau, AK 99811-0809. NMFS will consider comments received from the Alaska Department of Community and Economic Development when reviewing applications for a non-profit entity to become a CQE. The Alaska Department of Community and Economic Development must submit comments on an application to the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802, within 30 days of receipt of the application in order for those comments to be considered by the Regional Administrator during the approval process. If an application is disapproved, then that determination may be appealed under the provisions established at 50 CFR 679.43. A complete application to become a CQE consists of:

(i) The articles of incorporation under the laws of the State of Alaska for that non-profit entity, except that a non-profit entity that is representing the Metlakatla Indian Village may provide articles of incorporation under Federal Law;

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

(iii) Management organization information, including:

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

(B) A list of key personnel of the managing organization including, but not limited to, the board of directors, officers, representatives, and any managers;

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

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

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

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

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

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

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

(B) A resolution from the tribal government authority recognized by the Bureau of Indian Affairs for those eligible communities that are not incorporated as first or second class cities in the State of Alaska; but are represented by a tribal government authority recognized by the Secretary of the Interior; 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 in the State of Alaska, and is not represented by a tribal government authority recognized by the Bureau of Indian Affairs. The non-profit entity that provides a statement of support must:

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

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

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

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

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

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

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

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

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

(3) If the Regional Administrator determines that this statement of support is not adequate, than that determination may be appealed under

the provisions established at 50 CFR 679.43.

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

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

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

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

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

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

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

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

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

\* \* \* \* \*

(e) \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) \* \* \*

(1) *Number of blocks per species.*

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

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

(ii) A CQE may hold no more than ten blocks of halibut QS in any IFQ regulatory area and no more than five blocks of sablefish QS in any IFQ regulatory area on behalf of any eligible community.

\* \* \* \* \*

(h) \* \* \*

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

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

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

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

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

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

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

\* \* \* \* \*

(i) \* \* \*

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

\* \* \* \* \*

■ 7. Table 21 to part 679 is added to read as follows:

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

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

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

Eligible GOA Community	Community Governing Body that recommends the CQE
May use halibut QS only in halibut IFQ regulatory areas 3A, 3B	
Chignik Lake	Chignik Lake Traditional Council.
Halibut Cove	N/A.
Ivanof Bay ...	Ivanof Bay Village Council.
Karluk .....	Native Village of Karluk.
King Cove ...	City of King Cove.
Larsen Bay	City of Larsen Bay.
Nanwalek ....	Nanwalek IRA Council.
Old Harbor ..	City of Old Harbor.
Ouzinkie .....	City of Ouzinkie.
Perryville ....	Native Village of Perryville.
Port Graham	Port Graham Village Council.
Port Lyons ..	City of Port Lyons.
Sand Point ..	City of Sand Point.
Seldovia .....	City of Seldovia.
Tatitlek .....	Native Village of Tatitlek.
Tyonek .....	Native Village of Tyonek.
Yakutat .....	City of Yakutat.

[FR Doc. 04-9855 Filed 4-29-04; 8:45 am]

BILLING CODE 3510-22-S

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 040115020-4124-02; I.D. 010204B]

**RIN 0648-AR07**

**Fisheries of the Exclusive Economic Zone (EEZ) Off the Coast of Alaska; Recordkeeping and Reporting**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to revise port codes (Tables 14a and 14b) used in data collection for the Federal groundfish fisheries in the EEZ off the coast of Alaska and the Pacific halibut Individual Fishing Quota (IFQ) Program. This action removes unnecessary or potentially conflicting regulations. This action is necessary to facilitate enforcement activities and standardize the collection of port-of-landing information, and is intended to meet the conservation and management requirements of the Northern Pacific