

Public Review Draft

Regulatory Impact Review
for Proposed **Amendment 102** to the Fishery Management Plan
for Groundfish of the Bering Sea and Aleutian Islands

Establishing a Community Quota Entity Program in Area 4B

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Executive Summary

This Regulatory Impact Review (RIR) was prepared, as required under Presidential Executive Order 12866, to evaluate the economic and socioeconomic effects of Bering Sea and Aleutian Islands (BSAI) Amendment 102 and associated regulatory amendments to establish a Community Quota Entity (CQE) Program in Area 4B. The proposed program would allow eligible communities located in Area 4B of the Aleutian Islands to purchase catcher vessel quota share (QS) under the existing halibut and sablefish Individual Fishing Quota (IFQ) Program. Community purchases would be limited to Area 4B halibut QS and Aleutian Islands sablefish QS.

The proposed program is modeled after the Gulf of Alaska (GOA) CQE Program, which was approved by the North Pacific Fishery Management Council (Council) in 2002 and implemented by NMFS in 2004, under Amendment 66 to the GOA Fishery Management Plan. Prior to this program, only initial recipients of QS and IFQ crew members were eligible to purchase and use catcher vessel QS. The existing CQE Program was intended to provide small, remote communities with long-term access to the halibut and sablefish fisheries through the ability to form a non-profit entity to purchase GOA catcher vessel QS and lease it to community residents. This program is currently limited to eligible communities in the Gulf of Alaska. The proposed action would establish a similar program for eligible communities in Area 4B; Adak is the only community in Area 4B that meets the proposed eligibility criteria.

The Adak Community Development Corporation (ACDC) submitted the original proposal to the Council; ACDC is the entity in Adak authorized to receive a community allocation of 10% of the Western AI golden king crab total allowable catch (TAC).¹ ACDC would like to represent Adak for the purposes of a CQE Program in Area 4B, and use crab royalties to purchase Area 4B halibut and AI sablefish quota share for use by local fishermen and delivery within the region. Unlike other communities adjacent to the Bering Sea, Adak is not an eligible community under the Community Development Quota (CDQ) Program.

The problem statement, approved by the Council in December 2010 and revised in October 2011, is as follows:

As a small coastal community in the Aleutian Islands, Adak is struggling to remain economically viable. The halibut and sablefish IFQ program, as with other limited entry programs, increases the cost of entry into or expansion in the commercial halibut and sablefish fisheries. Adak is not a beneficiary of the CDQ Program for halibut and sablefish. Allowing this non-CDQ community to purchase Area 4B halibut and sablefish quota share for lease to eligible fishermen will help minimize adverse economic impacts on this small, remote, coastal community in the Aleutians, and help provide for the sustained participation in the halibut and sablefish IFQ fisheries. The Council seeks to provide for this sustained participation without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities.

The analysis examines two primary alternatives, one of which is the no action alternative. The action alternative is structured such that all of the components of the original Gulf CQE Program are included, with some differences specified by the Council under the appropriate component. Many components are comprised only of provisions describing the program rules; other components include options from which the Council would select as part of its final preferred alternative. The alternatives for consideration are outlined below. **In October 2011, the Council selected Alternative 2 as its preliminary preferred**

¹ACDC is a nonprofit corporation organized exclusively for charitable, scientific, and/or educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

alternative (PPA). The Council’s PPA includes all of the components of Alternative 2 listed below; where there are options within a component, the Council’s preferred option is identified.

Alternative 1. Status quo. Only persons who were originally issued catcher vessel QS or who qualify as IFQ crew members are eligible to purchase and hold catcher vessel QS in Area 4B, per 50 CFR 679.2.

Alternative 2. (Council PPA) Establish a CQE Program in Area 4B. Allow a non-profit entity representing an eligible community in Area 4B to purchase and hold Area 4B halibut quota share and Aleutian Islands sablefish quota share, with similar qualifying criteria and operational limits as the existing GOA CQE communities (see specific provisions below).

Components of Alternative 2 include:

1. Eligible communities

Non-CDQ communities located in Area 4B with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut or sablefish fisheries are eligible to own and use commercial catcher vessel halibut and sablefish quota share. In addition to meeting these criteria at final action, eligible communities must be listed as a defined set of eligible communities in Federal regulation. Communities not meeting the qualifying criteria and not on the list adopted by the Council are not eligible to participate. Other Area 4B communities could petition the Council for inclusion after the implementation of this program.

Qualifying Area 4B communities would be restricted to purchasing Area 4B halibut and Aleutian Islands sablefish quota share.

2. Ownership Entity

A non-profit entity, approved by NMFS as the holder of the Adak Community Allocation of Western Aleutian Islands golden king crab will be recognized as the CQE entity for the community of Adak. The governing body in Adak (currently City of Adak) must approve the CQE to operate on behalf of the community.

3. Use Caps for Individual Communities

Each eligible community in Area 4B is limited to purchasing and using either:

- Option 1. An amount of QS equal to the individual use cap for Area 4 halibut QS (i.e., 1.5% of Area 4 QS pool; or*
- Option 2. 5%, 10%, or 15% (PPA) of the Area 4B halibut QS pool*

And either:

- Option 3. An amount of QS equal to the individual use cap for sablefish (i.e., 1% of all sablefish QS pool; or*
- Option 4. 5%, 10%, or 15% (PPA) of the Aleutian Islands sablefish QS pool*

4. Cumulative Community Use Caps

All eligible communities combined are limiting to purchasing and using either:

- Option 1. *An amount of QS equal to the individual use cap for Area 4 halibut QS (i.e., 1.5% of Area 4 QS pool); or*
- Option 2. *5%, 10%, or 15% (PPA) of the Area 4B halibut QS pool*

And either:

- Option 3. *An amount of QS equal to the individual use cap for sablefish (i.e., 1% of all sablefish QS pool); or*
- Option 4. *5%, 10%, or 15% (PPA) of the Aleutian Islands sablefish QS pool*

5. Purchase, Use and Sale Provisions

Original block and vessel size designations apply if the community transfers the QS to any person other than another eligible community.

Block Restrictions

- *Communities may buy blocked and unblocked quota share.*
- *Individual eligible communities are limited to holding 10 blocks of Area 4B halibut QS and 5 blocks of AI sablefish QS. Individuals receiving IFQ leased from an eligible community entity would be subject to the existing individual use caps in regulation.*

Vessel Size Restrictions

- *Quota share held by communities under this program would be exempt from vessel size (share class) restrictions, while the QS is owned and leased by the community.*
- *Transferability of halibut QS in Area 4B from commercial to qualified community entities is restricted to B and C category quota share. Should existing Area 3A CQEs be allowed to purchase 'D' category QS, Area 4B CQEs may purchase and fish Area 4B 'D' category halibut QS under the same rules.*

Sale Restrictions

- *Eligible communities owning catcher vessel quota shares may sell those quota shares to any other eligible community or any person meeting the provisions outlined in the existing IFQ Program.*
- *Eligible communities may only sell their quota share for one of the following purposes:*
 - (a) generating revenues to sustain, improve, or expand the program*
 - (b) liquidating the entity's quota share assets for reasons outside the program*

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

Use Restrictions

- Option 1. *The CQE must lease QS to residents of the community it represents.*
- Option 2. *The CQE may lease to non-residents for a limited period of five years after the effective date of implementation of the program. After that time, the CQE must lease QS to residents of the community it represents. (PPA)*
- Suboption: *The individual leasing IFQ from the CQE is not subject to the 150 sea days requirement. (PPA)*

Additional provisions include:

- *No vessel may be used, during any fishing year, to harvest more than 50,000 pounds of IFQ halibut and 50,000 pounds of IFQ sablefish derived from QS held by a CQE in Area 4. The vessel would also be subject to the same vessel use caps applicable in the overall IFQ Program.²*
- *A CQE may lease up to 50,000 pounds of halibut IFQs and 50,000 pounds of sablefish IFQs per lessee annually. The 50,000 pound limit is inclusive of any quota owned by the individual (lessee).*

6. Performance Standards

The following are goals of the program with voluntary compliance monitored through the annual reporting mechanism and evaluated upon review of the program. Community entities applying for qualification in the program must describe how their use of QS will comply with the following program guidelines:

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

7. Administrative Oversight

The Council recommends a provision to require submission of a detailed statement of eligibility to NMFS prior to being considered for eligibility as a community QS recipient. The statement would be similar to what is required under the GOA CQE Program. This includes, but is not limited to:

- (a) Certificate of incorporation*
- (b) Verification of qualified entity as approved under “Ownership Entity”*
- (c) Documentation demonstrating accountability to the community*
- (d) Explanation of how the community entity intends to implement the performance standards*

The Council also recommends a provision to require submission of an annual report detailing accomplishments. The annual report would be similar to what is required under the GOA CQE Program. This includes, but is not limited to:

- (a) A summary of business, employment, and fishing activities under the program*
- (b) A discussion of any corporate changes that alter the representational structure of the entity*
- (c) Specific steps taken to meet the performance standards*

The proposed action would amend the BSAI FMP and Federal regulations primarily at 50 CFR 679.2, 679.5, 679.41, and 679.42, to establish the authority for a CQE in Adak to purchase a limited amount of catcher vessel Area 4B halibut QS and AI sablefish QS (see Section 2.7 for proposed revisions).

Alternative 1 is the no action alternative, and thus would not change the eligibility criteria for holding catcher vessel QS for Area 4B halibut and AI sablefish. Alternative 1 would retain the current regulations requiring that only persons who were originally issued catcher vessel QS or who qualify as IFQ crew members would be eligible to purchase and hold catcher vessel QS in these areas. It is expected that the general use of quota would not change under Alternative 1. General trends related to QS purchase and use discussed in Section 2.4.3 would be expected to continue. The analysis summarizes, for Area 4B halibut and AI sablefish QS: 1) QS holdings, including the type of holder; 2) vessel landings; 3) block status; and 4) transfer rates over time, including the type of transfer.

²The vessel use caps applicable in the IFQ Program are 0.5% of all halibut IFQ TAC and 1% of all sablefish IFQ TAC.

Alternative 2 would allow a non-profit entity representing an eligible community (Adak) in Area 4B to purchase and hold Area 4B halibut quota share and Aleutian Islands sablefish quota share, with similar qualifying criteria and operational limits as the existing GOA CQE communities. In the long-run, the CQE could only lease the resulting IFQ to residents of Adak, although the Council has selected an option as part of its preliminary preferred alternative that would allow the CQE to lease IFQ to non-residents for a period of up to five years after implementation. The CQE would also be limited in the amount of halibut QS it could purchase: either an amount equal to the existing use caps for individual holders (1.5% of the Area 4 halibut QS pool) or 5%, 10%, or 15% of the Area 4B halibut QS pool. Similar limits are under consideration for sablefish: either an amount equal to the existing use caps for individual holders (1% of the sablefish QS pool) or 5%, 10%, or 15% of the AI sablefish QS pool. The Council selected use caps of 15% as part of its preliminary preferred alternative in October 2011. Several provisions under Alternative 2 govern the operations of the CQE, including the number of blocks of QS that can be purchased, the category of QS that can be purchased (B, C, or D category), and the allowable reasons for a permanent transfer of QS without penalty. Additional restrictions include a limit on the amount of IFQ derived from CQE quota that each vessel can use (50,000 lbs per species), and a limit on the amount of IFQ that each individual eligible resident can lease from the CQE (50,000 lbs per species). Performance standards and an annual report are required to provide guidelines and information to determine whether the program is operating as intended.

Effects on Adak and the potential CQE

The proposed action (Alternative 2) would make Adak an eligible CQE community for the purpose of purchasing Area 4B halibut QS and AI sablefish QS. The practical effect of the proposed action depends on the willingness and ability of a CQE in Adak to purchase Area 4B halibut and AI sablefish QS. If that occurs, Alternative 2 could lower the cost of entry into the IFQ fisheries by individual Adak residents, and help maintain access to and participation in the IFQ fisheries. Residents of Adak were not issued any halibut or sablefish QS at the start of the IFQ Program in 1995, meaning no residents met the qualifying criteria and received an initial allocation. As of May 2011, two Adak residents held the equivalent of about 2.5% of the Area 4B halibut QS pool, and about 1.0% of the AI sablefish QS pool. This represents about 43,000 halibut IFQ lbs, and almost 29,000 sablefish IFQ lbs.

The maximum number of halibut QS units that could be purchased by an Adak CQE under the proposed range of use caps is 464,000 to 1.39 million QS units, or 87,200 lbs to 261,600 lbs, in 2011. The CQE would also be limited to purchasing a maximum of 10 blocks of halibut QS in Area 4B.

The maximum number of sablefish QS units under the proposed range of use caps is 1.6 million to 4.8 million QS units, or 136,900 lbs to 410,700 lbs, in 2011. The CQE would be limited to a maximum of 5 blocks of AI sablefish QS. At recent ex-vessel prices, if the CQE purchased and used QS up to the proposed use caps, it could generate an estimated \$300,000 to \$1 million in halibut ex-vessel revenues, and \$650,000 to \$2 million in annual sablefish ex-vessel revenues (Table 8), depending upon the use cap selected.³ This assumes that the CQE purchases the maximum amount of QS allowed under the use cap for each species. The CQE share of such revenue would depend upon the lease rate agreed upon with eligible fishermen, the success in fishing the IFQ, catch quality, market availability, and price.

In addition, the proposed action recognizes that the CQE would likely want to purchase the least costly type of QS (D category), and that, on average, the majority (70%) of D category halibut IFQ in Area 4B is unfished (Table 29, average 2000 through 2010). Alternative 2 would allow the Adak CQE to purchase B, C, and D category QS, as opposed to only B and C category. Provisions also allow IFQ derived from QS held by a CQE to be used on a vessel of any length, with the exception of D category QS, which must

³These estimates are based on the range of use caps evaluated in Table 32 and the most recent CFEC price data from Table 8.

be used on a D category vessel.⁴ Alternative 2 may serve to increase transfers of D category QS from individuals to the CQE, as the CQE would represent a new buyer in the market for the least expensive category of QS.

The potential benefits to those participating in either the IFQ fisheries and/or the Pacific cod fisheries may entice Adak resident fishermen to lease IFQ from the CQE, and potentially deliver those fish to the processor in Adak. Thus, the potential benefits to the community are not limited to the CQE and the lessees. Increased fishing activity by small boat resident fishermen should also serve to benefit the shoreside processor in Adak, and support businesses, recognizing that landings derived from CQE-held QS would not be required to be delivered to Adak under Alternative 2. However, the CQE could make delivery to Adak (or another in-region processor)⁵ a condition of the lease of IFQ, under private contract.

Effects on IFQ fishery participants

The proposed action under Alternative 2 does not directly regulate participants in the IFQ Program that do not use IFQ derived from CQE-held QS, and would not affect the general trends relevant to quota share and vessel use under the status quo (Section 2.6.1), including the number of IFQ holders and the number of individual vessels used in recent years (Table 16 and Table 40, respectively). Under Alternative 2, non-CQE participants in the halibut and sablefish fisheries would continue to be subject to the same rules in the existing IFQ Program without change. However, Alternative 2 may create additional opportunities for vessel owners to use IFQ (derived from CQE-held QS), whether or not the vessels are owned by residents of the CQE community. This is because residents of Adak that do not own vessels could lease annual IFQ from the CQE and bring it onboard any eligible vessel.

If an individual chose to use onboard any IFQ derived from CQE-held quota, that vessel would be limited to 50,000 lbs of Area 4B halibut IFQ and 50,000 lbs of AI sablefish IFQ derived from CQE-held quota per fishing year. However, in total, the vessel would be subject to the overall vessel use caps applicable in the general program, which allows for the use of IFQ over and above the 50,000 lbs, as long as it is not derived from quota held by the CQE. One possible scenario is that hook-and-line catcher vessels fishing in the AI State water Pacific cod fishery that deliver to Adak could employ an Adak resident leasing halibut IFQ from the CQE as a crewmember, and use that IFQ onboard during the Pacific cod fishery. Absent IFQ onboard, participants are required to discard halibut caught incidentally in this fishery.

No significant effect on individual participants in the IFQ fisheries, or residents of non-CQE communities, is anticipated under Alternative 2 compared to the status quo. The primary effect on existing participants would be the potential for greater competition in the market for purchasing Area 4B halibut QS and AI sablefish QS, which could result in a higher price. However, a significant portion of each of the relevant QS pools remains unused each year; in addition, anecdotal evidence suggests that there is little demand for the smallest category (D category) of halibut QS in Area 4B. If Adak is provided the opportunity to purchase shares for use by local residents, the benefits of these QS will be a new addition to the economy. If the current demand for QS in these areas is relatively low, including a CQE in the market for QS may serve to benefit private sellers.

While several factors limit the impact of the proposed action, the most important are the number of eligible communities, the cumulative limit on the amount of QS an Area 4B CQE would be allowed to purchase, and the limit on number of blocks the CQE can hold. The CQE representing Adak would be limited to purchasing 1.5% of the Area 4 halibut QS pool, or 5%, 10% or 15% of the Area 4B halibut QS pool. The Council's preliminary preferred alternative would allow the CQE to purchase up to 15% of the Area 4B halibut QS pool. On average (2000 through 2010), 10% of the Area 4B halibut catcher vessel

⁴ Halibut QS vessel categories are: freezer = A; greater than 60' = B; 36' to 60' = C; and less than 35' = D category.

⁵The only other shoreside processor in the region is located in Atka.

QS pool is not fished annually (Table 29). Halibut are migratory, so these fish could enter IFQ fisheries in other regulatory areas, unless they incur natural mortality or loss as PSC in the groundfish fisheries.

The CQE would also be limited to purchasing a maximum of 10 blocks of halibut QS in Area 4B in total. If Adak was able to purchase the maximum of 10 blocks of Area 4B halibut QS, it would represent 10% of the total number of blocks of Area 4B catcher vessel halibut QS (refer to Table 34).

A CQE under this program would also be limited to purchasing 1% of the sablefish QS pool, or 5%, 10%, or 15% of the AI sablefish QS pool. The Council's preliminary preferred alternative would allow the CQE to purchase up to 15% of the AI sablefish QS pool. On average, 50% of the AI sablefish catcher vessel QS pool is not fished annually (Table 30). (Note that because less than half of the AI sablefish QS pool is *catcher vessel* QS, for example, a use cap (number of QS units) equal to 10% of the AI sablefish QS pool is equal to about 23% of the AI sablefish *catcher vessel* QS pool.)

The CQE would also be limited to purchasing a maximum of 5 blocks of sablefish QS in the AI in total. If Adak was able to purchase the maximum of 5 blocks of AI sablefish QS, it would represent 8% of the total number of blocks of AI catcher vessel sablefish QS (refer to Table 34). The practical effect of the proposed action depends on how much QS Adak is willing and able to purchase, up to the regulated limits.

In sum, non-CQE participants are not directly regulated by the proposed action. Due primarily to the cumulative program use cap and block limit, it is likely that non-CQE participants could be negatively affected by the proposed action, although the size of this potential impact cannot be estimated. Under the preliminary preferred alternative, only non-CQE participants would continue to have access to 85% of the catcher vessel halibut QS in Area 4B, and the majority of the catcher vessel sablefish QS in the AI, without potential competition from CQEs. This action would not affect IFQ participants' access to QS in areas other than Area 4B.

1.0 INTRODUCTION

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

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

This Regulatory Impact Review (RIR) was prepared to evaluate the economic and socioeconomic effects of BSAI Amendment 102 and associated regulatory amendments to establish a Community Quota Entity (CQE) Program in Area 4B, in order to allow a non-profit entity representing eligible communities in Area 4B to purchase, hold, and use Area 4B halibut quota share (QS) and Aleutian Islands sablefish QS. The existing CQE Program, implemented in 2004, was intended to provide small, remote communities with long-term access to the halibut and sablefish fisheries through the ability to purchase catcher vessel QS and lease it to community residents. This program is currently limited to eligible communities in the Gulf of Alaska. The proposed action would establish a similar program for eligible communities in Area 4B; Adak is the only community in Area 4B that meets the proposed eligibility criteria at present.

The proposed action was originally submitted as an IFQ proposal during the 2009 - 2010 call for IFQ proposals, for consideration by the Council in February 2010.⁶ A discussion paper based on the proposal was initiated by the Council in February 2010, for review in December 2010. Upon review of the discussion paper, the Council initiated a formal analysis of the action. The Council completed initial review in October 2011, selected a preliminary preferred alternative (Alternative 2), and scheduled final action for its December 2011 meeting.

The analysis examines two primary alternatives, one of which is the no action alternative. Alternative 2, the preliminary preferred alternative, would amend the BSAI FMP and revise Federal regulations to establish a CQE Program in Area 4B. Alternative 2 has several associated components and options that comprise the structure and provisions of the program.

Presidential Executive Order 12866 mandates that certain issues be examined before a final decision is made. The RIR is contained in Chapter 2.0. Chapter 3.0 includes a description of how the proposed action is consistent with the Magnuson-Stevens Act and other applicable law. References and lists of preparers and persons consulted are provided in Chapters 4.0 and 5.0, respectively.

⁶*Proposal for halibut and sablefish community quota share purchase amendment*, submitted by Adak Community Development Corporation, January 8, 2010.

2.0 REGULATORY IMPACT REVIEW

An RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735; October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

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

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

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

2.1 Purpose and need

The Council approved a problem statement for this action in December 2010, and made a minor revision in October 2011, noting that the purpose of the proposed amendment is to provide an opportunity for the community of Adak to participate in the commercial halibut and sablefish fisheries in Area 4B. Under the existing IFQ Program, only persons who were originally issued catcher vessel (CV) QS or who qualify as IFQ crew members⁷ are eligible to purchase and hold catcher vessel QS. Thus, only individuals and initial recipients can hold catcher vessel QS. A regulatory amendment is necessary in order to allow a community entity that was not an initial recipient to purchase and hold QS for the benefit of and use by community residents. The Council recommended such amendments to establish the CQE Program in the Gulf of Alaska in 2002, and this program was approved by the Secretary of Commerce in 2004. The existing CQE Program only applies to eligible Gulf of Alaska communities in IPHC regulatory Area 2C, 3A, and 3B, however, and does not apply to BSAI communities.

The Adak Community Development Corporation (ACDC) submitted the original proposal to the Council; ACDC is the entity in Adak authorized to receive a community allocation of 10% of the Western AI golden king crab total allowable catch (TAC).⁸ ACDC would like to represent Adak for the purposes of a

⁷IFQ crew member means any individual who has at least 150 days of experience working as part of a harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS (50 CFR 679.2). ‘Individual’ means a natural person who is not a corporation, partnership, association, or other such entity.

⁸ACDC is a nonprofit corporation organized exclusively for charitable, scientific, and/or educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

CQE Program in Area 4B, and use crab royalties to purchase Area 4B halibut and AI sablefish quota share for use by local fishermen and delivery within the region. The problem statement is as follows:

As a small coastal community in the Aleutian Islands, Adak is struggling to remain economically viable. The halibut and sablefish IFQ program, as with other limited entry programs, increases the cost of entry into or expansion in the commercial halibut and sablefish fisheries. Adak is not a beneficiary of the CDQ Program for halibut and sablefish. Allowing this non-CDQ community to purchase Area 4B halibut and sablefish quota share for lease to eligible fishermen will help minimize adverse economic impacts on this small, remote, coastal community in the Aleutians, and help provide for the sustained participation in the halibut and sablefish IFQ fisheries. The Council seeks to provide for this sustained participation without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities.

Unlike other communities adjacent to the Bering Sea, Adak is not an eligible community under the Community Development Quota (CDQ) Program, as it was not recognized as an Alaska Native village⁹ certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act (Pub. L. 92-203). This was one of the original criteria to be determined eligible under the CDQ Program, and was eventually mandated in the Magnuson-Stevens Act.¹⁰ At the time of the Native village certification, Adak was still a military base, and it did not return to a civilian community until the late 1990s. Thus, Adak was not determined eligible under the CDQ Program at the time the program was established in 1992. The CDQ Program provides direct allocations of groundfish, crab, and PSC species to six groups representing 65 western Alaska communities in Area 4.

Since the military station closed on Adak, both the Aleut Corporation and the Adak Community Development Corporation have invested significant effort into developing Adak as a commercial center and civilian community with a private sector economy focused heavily on commercial fishing. As part of that strategy, Adak has been pursuing a broad range of fisheries for a resident fleet to be able to deliver to the shoreside processor located in Adak.

Upon hearing public testimony and reviewing the IFQ proposal in 2010, the Council recognized that there may be an opportunity for Adak to maintain and improve access to the commercial halibut and sablefish fisheries in Area 4B through a structure similar to the Gulf of Alaska CQE Program under the halibut and sablefish IFQ Program. The Council thus initiated an FMP and regulatory amendment in December 2010, with initial review of the draft analysis in October 2011, and final action scheduled for December 2011.

2.2 Proposed alternatives

The Council approved two primary alternatives in December 2010. Alternative 1 would not allow a community entity in Area 4B to purchase halibut and sablefish QS on behalf of the community. Only initial recipients and IFQ crew members would continue to be eligible to purchase and use catcher vessel QS in Area 4B. Alternative 2 would establish a CQE Program, similar to that in place in the Gulf of Alaska, for eligible communities in Area 4B. Note that the Council motion from December 2010 specifies

⁹“Native village” has a specific definition in ANCSA under 43 U.S.C. 1602(c):“Native village” means any tribe, band, clan, group, village, community, or association in Alaska listed in sections 1610 and 1615 of this title, or which meets the requirements of this chapter, and which the Secretary determines was, on the 1970 census enumeration date (as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance), composed of twenty-five or more Natives”.

¹⁰The Coast Guard and Maritime Transportation Act of 2006 removed the eligibility criteria for CDQ communities in the MSA and instead listed the 65 communities eligible to participate in the program and the CDQ group that represents each community. (Public Law 109-241, July 11, 2006.)

that the Area 4B CQE Program would have the same qualifying criteria and operational guidelines as the Gulf CQE Program, with specified differences (see **Appendix 1**). Thus, Alternative 2 is structured such that all of the components of the original Gulf CQE Program are included, with the differences specified by the Council included under the appropriate component. Many components are comprised only of provisions describing the program rules; other components include options from which the Council would select as part of its final preferred alternative.

The Council selected Alternative 2 as its preliminary preferred alternative in October 2011. There are several components that comprise Alternative 2. Where there are options within a component, the Council's preliminary preferred alternative is identified below. The alternatives for consideration include:

Alternative 1. Status quo. Only persons who were originally issued catcher vessel QS or who qualify as IFQ crew members are eligible to purchase and hold catcher vessel QS in Area 4B, per 50 CFR 679.2.

Alternative 2. (PPA) Establish a CQE Program in Area 4B. Allow a non-profit entity representing an eligible community in Area 4B to purchase and hold Area 4B halibut quota share and Aleutian Islands sablefish quota share, with similar qualifying criteria and operational limits as the existing GOA CQE communities (see specific provisions below).

Components of Alternative 2 include:

1. Eligible communities

Non-CDQ communities located in Area 4B with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut or sablefish fisheries are eligible to own and use commercial catcher vessel halibut and sablefish quota share. In addition to meeting these criteria at final action, eligible communities must be listed as a defined set of eligible communities in Federal regulation. Communities not meeting the qualifying criteria and not on the list adopted by the Council are not eligible to participate. Other Area 4B communities could petition the Council for inclusion after the implementation of this program.

Qualifying Area 4B communities would be restricted to purchasing Area 4B halibut and Aleutian Islands sablefish quota share.

2. Ownership Entity

A non-profit entity, approved by NMFS as the holder of the Adak Community Allocation of Western Aleutian Islands golden king crab will be recognized as the CQE entity for the community of Adak. The governing body in Adak (currently City of Adak) must approve the CQE to operate on behalf of the community.

3. Use Caps for Individual Communities

Each eligible community in Area 4B is limited to purchasing and using either:

- Option 1. An amount of QS equal to the individual use cap for Area 4 halibut QS (i.e., 1.5% of Area 4 QS pool; or*
- Option 2. 5%, 10%, or 15% (PPA) of the Area 4B halibut QS pool*

And either:

Option 3. An amount of QS equal to the individual use cap for sablefish (i.e., 1% of all sablefish QS pool); or

Option 4. 5%, 10%, or 15% (PPA) of the Aleutian Islands sablefish QS pool

4. Cumulative Community Use Caps

All eligible communities combined are limiting to purchasing and using either:

Option 1. An amount of QS equal to the individual use cap for Area 4 halibut QS (i.e., 1.5% of Area 4 QS pool); or

Option 2. 5%, 10%, or 15% (PPA) of the Area 4B halibut QS pool

And either:

Option 3. An amount of QS equal to the individual use cap for sablefish (i.e., 1% of all sablefish QS pool); or

Option 4. 5%, 10%, or 15% (PPA) of the Aleutian Islands sablefish QS pool

5. Purchase, Use and Sale Provisions

Original block and vessel size designations apply if the community transfers the QS to any person other than another eligible community.

Block Restrictions

- Communities may buy blocked and unblocked quota share.
- Individual eligible communities are limited to holding 10 blocks of Area 4B halibut QS and 5 blocks of AI sablefish QS. Individuals receiving IFQ leased from an eligible community entity would be subject to the existing individual use caps in regulation.

Vessel Size Restrictions

- Quota share held by communities under this program would be exempt from vessel size (share class) restrictions, while the QS is owned and leased by the community.
- Transferability of halibut QS in Area 4B from commercial to qualified community entities is restricted to B and C category quota share. Should existing Area 3A CQEs be allowed to purchase 'D' category QS, Area 4B CQEs may purchase and fish Area 4B 'D' category halibut QS under the same rules.

Sale Restrictions

- Eligible communities owning catcher vessel quota shares may sell those quota shares to any other eligible community or any person meeting the provisions outlined in the existing IFQ Program.
- Eligible communities may only sell their quota share for one of the following purposes:

(a) generating revenues to sustain, improve, or expand the program

(b) liquidating the entity's quota share assets for reasons outside the program

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

Use Restrictions

- Option 1. The CQE must lease QS to residents of the community it represents.*
- Option 2. The CQE may lease to non-residents for a limited period of five years after the effective date of implementation of the program. After that time, the CQE must lease QS to residents of the community it represents. (PPA)*
- Suboption: The individual leasing IFQ from the CQE is not subject to the 150 sea days requirement. (PPA)*

Additional provisions include:

- No vessel may be used, during any fishing year, to harvest more than 50,000 pounds of IFQ halibut and 50,000 pounds of IFQ sablefish derived from QS held by a CQE in Area 4. The vessel would also be subject to the same vessel use caps applicable in the overall IFQ Program.¹¹*
- A CQE may lease up to 50,000 pounds of halibut IFQs and 50,000 pounds of sablefish IFQs per lessee annually. The 50,000 pound limit is inclusive of any quota owned by the individual (lessee).*

6. Performance Standards

The following are goals of the program with voluntary compliance monitored through the annual reporting mechanism and evaluated upon review of the program. Community entities applying for qualification in the program must describe how their use of QS will comply with the following program guidelines:

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

7. Administrative Oversight

The Council recommends a provision to require submission of a detailed statement of eligibility to NMFS prior to being considered for eligibility as a community QS recipient. The statement would be similar to what is required under the GOA CQE Program. This includes, but is not limited to:

- (a) Certificate of incorporation*
- (b) Verification of qualified entity as approved under "Ownership Entity"*
- (c) Documentation demonstrating accountability to the community*
- (d) Explanation of how the community entity intends to implement the performance standards*

The Council also recommends a provision to require submission of an annual report detailing accomplishments. The annual report would be similar to what is required under the GOA CQE Program. This includes, but is not limited to:

- (a) A summary of business, employment, and fishing activities under the program*
- (b) A discussion of any corporate changes that alter the representational structure of the entity*
- (c) Specific steps taken to meet the performance standards*
- (d) Explanation of how the community entity intends to implement the performance standards*

¹¹The vessel use caps applicable in the IFQ Program are 0.5% of all halibut IFQ TAC and 1% of all sablefish IFQ TAC.

2.3 Statutory authority for this action

The International Pacific Halibut Commission and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Halibut Act. The IPHC promulgates regulations governing the Pacific halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea, signed in Ottawa, Ontario, Canada, on March 2, 1953, as amended by a Protocol Amending the Convention, signed at Washington, D.C., on March 29, 1979.

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

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

2.4 Background

2.4.1 Development of IFQ Program and GOA CQE Program

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

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

The Council and NMFS also intended the IFQ Program to improve the long-term productivity of the halibut and sablefish fisheries by further promoting the conservation and management objectives of the Magnuson-Stevens Act and the Halibut Act, while retaining the character and distribution of the fishing fleets as much as possible. During the development of the IFQ Program, the Council built in several provisions to address concerns regarding transferability and the goal of preserving an owner-operated fleet. Among other things, the Council was concerned about consolidation of ownership and divestiture of coastal Alaskans from the fisheries.

Ultimately, the Council provided a design which was intended to control transferability through: 1) limits on the amount of QS which could be owned or controlled by individuals and companies (1% of the total QS pool for sablefish and 0.5% of the combined Area 2C, 3A, and 3B QS pool for halibut); 2) establishment of vessel size categories; 3) restrictions on who could purchase catcher vessel QS; and 4) limitations on leasing certain categories of QS (Pautzke and Oliver 1997). A report on the development of the program from Pautzke and Oliver states, “The primary intent of the Council in adopting these provisions was to maintain a diverse, owner-operated fleet and prevent a ‘corporate,’ absentee ownership of the fisheries” (p. 14).

This program changed the management structure of the fixed gear halibut and sablefish program by issuing quota share QS to qualified applicants who owned or leased a vessel that made fixed gear landings of halibut during 1988 – 1990.¹² Halibut quota share is specific to one of eight halibut management areas throughout the BSAI and GOA, and four vessel categories: freezer (catcher processor) category (A share); greater than 60’ LOA (B share); 36’ to 60’ (C share); and 35’ or less (D share). Sablefish quota share is specific to one of six sablefish management areas throughout the BSAI and GOA, and three vessel categories: freezer (catcher processor) category (A share); greater than 60’ LOA (B share); and 60’ or less (C share). The quota share issued was permanently transferable, with several restrictions on leasing. As stated above, the Council developed leasing and other restrictions in order to achieve some benefits associated with IFQ management but also retain the owner-operator nature of the fisheries and limit consolidation of quota share. To that end, the Council only allowed persons who were originally issued catcher vessel quota share (B, C, and D category) or who qualify as IFQ crew members¹³ to hold or purchase catcher vessel quota share. Thus, only individuals and initial recipients could hold catcher vessel quota share, and with few exceptions, they are required to be on the vessel and fish the QS.

During the development of the IFQ Program, the Council noted that maintaining diversity in the halibut and sablefish fleets and minimizing adverse coastal community impacts were particularly important considerations since these fisheries had typically been characterized by small vessel participation by thousands of fishermen, many residing in small coastal communities in Alaska and the Pacific Northwest (Pautzke and Oliver 1997). In addition, the 1996 amendments to the Magnuson-Stevens Act require that management programs take into account the social context of the fisheries, especially the role of communities (Sec. 301[a][8], 303 [a][9]). Although halibut is managed under the authority of the Halibut Act (sablefish is managed under the MSA), the Council considers the impacts of all its management measures on fishery-dependent communities.

As a result of quota transfers, the total amount of quota held by residents of small, remote, Gulf coastal communities and the number of IFQ holders, substantially declined since the inception of the IFQ Program in 1995. Recognizing that this trend may have a severe effect on unemployment and related social and economic impacts in rural communities, the Council took action in 2002 to attempt to alleviate this issue. Under GOA FMP Amendment 66, the Council revised the IFQ Program to allow a distinct set of 42 remote Gulf coastal communities *to purchase and hold catcher vessel QS in Areas 2C, 3A, and 3B*, in order to help ensure access to and sustain participation in the commercial halibut and sablefish fisheries. Eligible communities must form non-profit corporations called CQEs to purchase catcher vessel QS, and under the existing program in the Gulf, the annual IFQ resulting from the QS can only be leased to community residents.

¹²Regular QS units were equal to a person’s qualifying pounds for an area. Qualifying halibut pounds for an area were the sum of pounds landed from the person’s best 5 years of landings over a 7-year period (1984 – 1990). Qualifying sablefish pounds for an area were the sum of pounds landed from the person’s best 5 years of landings over a 6-year period (1985 – 1990).

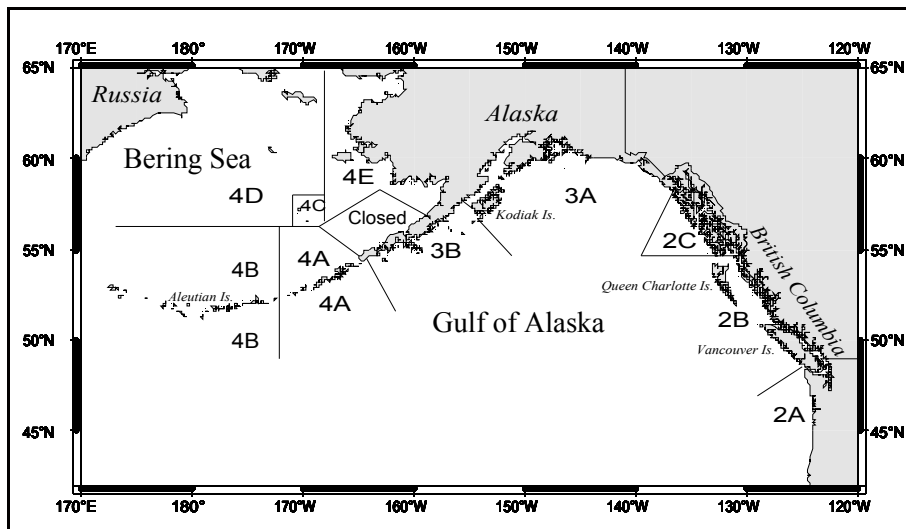
¹³IFQ crew member means any individual who has at least 150 days of experience working as part of the harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS (50 CFR 679.2).

Quota share held by a CQE can only be sold in order to improve the community's position in the program, or to meet legal requirements, thus, the CQE remains the holder of the QS.¹⁴ In effect, QS is a capital asset for the community to use to benefit the community and its residents. The CQE Program was also intended as a way to promote ownership by individual residents, as individuals can lease annual IFQ from the CQE and gradually be in a position to purchase their own quota share. It was noted that both community and individually-held quota were important in terms of fishing access and economic health. This amendment was approved by the Secretary of Commerce and effective in June 2004.

The CQE Program includes several elements which make CQEs subject to either more, the same, or fewer constraints than individual quota share holders. In some cases, the CQE is subject to the same latitude and limitations as individual users, as if the CQE is simply another category of eligible person. For example, an individual CQE is held to the same quota share cap as an individual holder. In other cases, the CQE is subject to less restrictive measures. For example, the vessel size classes do not apply to QS when held by CQEs. In yet other cases, the CQE is subject to more restrictive measures than individuals, in part to protect existing holders and preserve entry-level opportunities for fishermen residing in other (non-eligible) fishery-dependent communities. For example, CQEs are prohibited from purchasing small blocks of quota share in Area 2C and Area 3A.¹⁵ The Council motion outlining the rules of the GOA CQE Program, including the list of eligible communities, is provided as **Appendix 2**. One may also refer to the final rule authorizing the program (69 FR 23681; April 30, 2004).

2.4.2 Affected resource and area

The action considered in the analysis pertains to halibut QS in IPHC regulatory Area 4B, and sablefish QS in the Aleutian Islands management area (see Figure 1). The action alternative would be in place for the entire fishing season, if selected.



Source: IPHC.

Figure 1 IPHC regulatory areas for the commercial halibut fishery

¹⁴If the CQE sells its QS for any other reason, NMFS will withhold annual IFQ permits on any remaining QS held, and will disqualify the CQE from holding QS on behalf of that community for 3 years. It also requires that the CQE divest itself of any remaining QS on behalf of that community.

¹⁵The existing CQE Program prohibits CQEs from purchasing blocked halibut QS in Area 2C and 3A, which at the time of the implementation of the sweep-up provisions (1996), was $\leq 5,000$ IFQ lbs. The same restriction applies to blocks of sablefish QS in SE, WY, CG, and WG. See 50 CFR 679.41(e)(5).

2.4.3 Commercial halibut and sablefish IFQ fishery

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

Total halibut setline CEY for Alaska waters was estimated to be over 42 Mlbs in 2010, down 7% from the previous year (IPHC 2010), and over 30 Mlbs in 2011, down 28% from 2010 (IPHC 2011). The IPHC reports that decreased halibut catch limits in Alaska reflect stock biomass declines as the exceptionally strong 1987 and 1988 year classes pass out of the fishery. Recruitment from the 1999 and 2000 year classes is estimated to be above average but the lower growth rates of fish in recent years means that these year classes are recruiting to the exploitable stock very slowly (IPHC 2010).

Currently, the catch limit for the commercial halibut longline fishery is set once all other removals are deducted from the available yield. In effect, any increase in non-commercial (sport, personal use) removals results in a reduction of the commercial sector harvest over an extended period of time. The IPHC sets biologically-based catch limits for Areas 4A, 4B, and a combined Area 4CDE. The catch limits for Areas 4C, 4D, and 4E reflect the catch-sharing plan implemented by the Council. The catch-sharing plan allows Area 4D CDQ harvest to be taken in Area 4E and Area 4C IFQ and CDQ to be fished in Area 4D. In addition, the CDQ Program receives a percentage of the halibut catch limit for Areas 4B - 4E. These allocations come off of the overall IFQ TAC for each area and are as follows: Area 4B (20%); Area 4C (50%); Area 4D (30%); and Area 4E (100%). In 2011, the CDQ allocation in Areas 4B – 4E represented about 26% of the total Area 4 halibut allocation. The proposed action only affects the halibut and sablefish IFQ fishery, and does not affect the CDQ fisheries, thus, the following tables only reflect trends in halibut and sablefish IFQ TACs.

In the past nine years, the halibut catch limit has ranged from 1.15 Mlbs to 3.34 Mlbs in Area 4B; 5.93 Mlbs to 10.94 Mlbs in Area 4; and 30.38 Mlbs to 59.01 Mlbs in all areas (see Table 1). Overall, the TACs have decreased by more than 40% since 2002 for each of the areas reported in Table 1. The TACs for Area 4 have generally declined each year since 2002, with a slight increase in 2010 and 2011. Area 4B has generally followed a similar trend to Area 4 as a whole. The Area 4B halibut TACs increased by about 15% from 2009 to 2010, and by about 1% from 2010 to 2011. Note that the 2011 halibut and sablefish quota share pools and IFQ TACs for all areas are provided in **Appendix 3**.

Table 1 Commercial halibut IFQ TAC Area 4B, 2002 – 2011 (in millions of pounds)

Regulatory Area	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
Area 4B	1.74	1.73	1.50	1.49	1.15	1.34	1.81	2.25	3.34	3.34
Area 4 Total	6.18	6.01	5.93	6.71	6.28	6.62	7.43	7.78	10.75	10.84
Total AK	30.38	40.29	43.55	48.04	50.21	53.31	56.98	58.94	59.01	59.01

Source: NMFS RAM Program.

The commercial IFQ TAC for Aleutian Islands sablefish is about 2.74 Mlbs in 2011. In the past ten years, the AI sablefish IFQ TAC has ranged from 4.10 Mlbs to 2.74 Mlbs in the AI and from 24.88 Mlbs to 37.94 Mlbs for all areas off Alaska (see Table 2). The sablefish TACs have generally been declining since 2004, with some fluctuation, and at a slower rate than halibut. Overall, the 2011 AI sablefish IFQ TAC is

about 33% lower than the highest year reported (2004). However, the 2011 AI sablefish TAC is the same as 2010, and the overall 2011 sablefish TAC increased 8% compared to 2010.

Table 2 Commercial sablefish IFQ TACs in the Aleutian Islands, 2002 – 2011 (in millions of pounds)

Regulatory Area	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
AI	2.74	2.74	2.91	3.23	3.72	3.97	3.47	4.10	4.10	3.37
Total AK	26.79	24.88	26.49	29.97	33.45	34.55	35.77	37.94	34.86	29.39

Source: NMFS RAM Program.

Table 3 Area 4B halibut IFQ and AI sablefish IFQ allocations and landings, 2007 - 2010

Regulatory Area	Vessel landings		Total catch (M lbs)		Allocation (M lbs)		Percent landed	
	Area 4B halibut	AI sablefish	Area 4B halibut	AI sablefish	Area 4B halibut	AI sablefish	Area 4B halibut	AI sablefish
2010	112	94	1.39	1.42	1.73	2.74	81%	52%
2009	67	98	1.23	1.66	1.50	2.91	82%	57%
2008	97	94	1.36	1.42	1.49	3.23	91%	44%
2007	88	75	1.09	1.61	1.15	3.72	94%	43%

Source: NMFS RAM Program reports 2007 - 2010, <http://www.fakr.noaa.gov/ram/07ifqland.htm>

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

The halibut IFQ TAC in Area 4B is not typically fully harvested each year. From 2007 to 2010, the percent landed ranged from 81% (2010) to 94% (2007), with a range of 88 to 112 vessel landings annually (Table 3). Harvest from the commercial fishery is monitored by NMFS, using a catch accounting system that deducts harvest from an IFQ holder’s account. This information is also used to enforce the total annual quota, as well as individual IFQ accounts. Thus, since the IFQ program, annual harvest limits have not been exceeded by a significant margin. The IFQ program also has an overage/underage provision that balances an IFQ holder’s account, year to year. This regulation results in a long-term balance of harvest at the catch limit and allows IFQ holders to move small amounts of halibut between years.

About half of the sablefish TAC in the Aleutian Islands is harvested each year (Table 3). From 2007 to 2010, the percent landed ranged from 43% (2007) to 57% (2009), with a range of 75 to 98 vessel landings annually (Table 3). Like halibut, harvest from the commercial sablefish fishery is monitored by NMFS, using a catch accounting system that deducts harvest from an IFQ holder’s account. This information is also used to enforce the total annual quota, as well as individual IFQ accounts.

Individual holders in the IFQ Program are also subject to quota share use caps (a limit on the amount of QS each individual can hold) and vessel use caps (a limit on the amount of IFQ that can be used on one vessel in a given year), in order to limit the amount of consolidation in the program. Quota share use caps are based on the size of the relevant quota share pool, and vessel use caps are based on a percentage of the annual IFQ TACs. The 2011 quota share use caps and vessel use caps are provided below in Table 4.

Table 4 Halibut and sablefish quota share use caps and vessel use caps, 2011

Species	QS use cap %	QSP	QS use cap
Halibut	1% of halibut 2C QSP	59,979,977 QS units	599,799 QS units
	0.5% of halibut 2C, 3A, 3B QSP	300,564,647 QS units	1,502,823 QS units
	1.5% of all halibut Area 4 QSP	33,002,937 QS units	495,044 QS units
Sablefish	1% of all sablefish SE QSP	68,848,467 QS units	688,485 QS units
	1% of all sablefish QSP	322,972,132 QS units	3,229,721 QS units
Species	Vessel use cap %	Annual IFQ TAC	Vessel use cap
Halibut	1% of 2C halibut IFQ TAC	2,330,000 net lbs	23,300 net lbs
	0.5% of all halibut IFQ TAC	30,382,000 net lbs	151,910 net lbs
Sablefish	1% of SE sablefish IFQ TAC	6,481,524 net lbs	64,815 net lbs
	1% of all sablefish IFQ TAC	26,794,708 net lbs	267,947 net lbs

Source: NMFS RAM Program, February 2011.

The number of vessels, registered buyers, and quota share holders for both the halibut IFQ and sablefish IFQ fisheries, in all areas, from 2006 through 2010, is provided in Table 5. In 2010, a total of 1,108 unique vessels fished IFQ species (excluding CDQ), with 1,074 vessels fishing halibut and 368 vessels fishing sablefish.

Table 5 Number of vessels, buyers, and QS holders in the IFQ fisheries, 2006 - 2010

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

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

The 2010 IFQ report to the fleet provides information on the top ports where IFQ landings were made in 2005 through 2009 (RAM October 2010). Preliminary 2010 data are provided by the NMFS RAM Program. The data indicate that 54 percent of the 2010 halibut IFQ was landed in the Central Gulf communities of Homer, Kodiak, and Seward (Table 6). These top three ports held the same rank every year, 2005 through 2010. The ports of Sitka, Juneau, and Petersburg all had halibut landings of about 1.5 Mlbs to 2.0 Mlbs. Data for other top ports are confidential.

Table 6 Top 10 IFQ halibut ports, 2010

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

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

Table 7 shows the statewide halibut and sablefish IFQ TACs, amount of landed pounds, ex-vessel prices, weighted average price per QS unit, and the percent change in weighted average price per QS unit compared to the prior year. The price received at the point of landing for the catch is the ex-vessel price. Halibut QS prices increased substantially in 2004 (27%) and 2005 (31%) from the previous year, and in 2003 (14%) and 2004 (17%) for sablefish. In 2004 and 2005, the halibut TAC was slowly declining, and the ex-vessel price continued to increase. In 2004, the sablefish TAC was at a 10-year high, with the lowest ex-vessel price during the time period, as well as the largest percentage increase in transfer price from the previous year. Note that 2009 exhibited the largest percentage decrease in transfer price for both halibut and sablefish QS.

Table 7 Statewide halibut and sablefish TACs, ex-vessel prices, IFQ landed pounds, and QS prices, 2000 - 2009

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

*** confidential data

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

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

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

Source: The Pacific Halibut and Sablefish Report Fishing Year 2009. RAM Program, NMFS. October 2010.

Estimates of annual ex-vessel prices also vary by management area. CFEC estimates of Area 4B halibut and AI sablefish ex-vessel prices were highest in the most recent years reported (2007 and 2008 for halibut; 2008 and 2009 for sablefish). Overall, halibut and sablefish ex-vessel prices fluctuated, but generally increased in each area over this time period, and generally lagged slightly behind the statewide average prices. Recent years for sablefish are an exception, during which the AI price was consistently higher than the statewide price. A range of estimated ex-vessel prices are shown below (1992 through 2009), by management area and species (Table 8).

Table 8 Estimated ex-vessel prices for Area 4B halibut and AI sablefish, by year

Year	Area 4B halibut	Statewide halibut	AI sablefish	Statewide sablefish
1992	\$0.94	\$0.96	\$1.88	\$1.89
1993	\$1.28	\$1.23	\$1.67	\$1.67
1994	\$1.88	\$1.93	\$1.98	\$2.36
1995	\$1.85	\$1.97	\$2.99	\$3.23
1996	\$1.92	\$2.19	\$3.03	\$3.30
1997	\$1.94	\$2.13	\$3.60	\$3.53
1998	\$0.99	\$1.29	\$2.21	\$2.34
1999	\$1.66	\$2.00	\$2.75	\$2.83
2000	\$2.13	\$2.52	\$3.17	\$3.53
2001	\$1.73	\$1.99	\$2.93	\$3.04
2002	\$2.14	\$2.19	\$3.09	\$3.06
2003	\$2.53	\$2.84	\$3.46	\$3.46
2004	\$2.62	\$2.97	\$2.81	\$2.95
2005	\$2.61	\$3.00	\$2.87	\$3.14
2006	\$3.43	\$3.75	\$3.55	\$3.33
2007	\$3.90	\$4.33	\$3.53	\$3.10
2008	\$3.64	\$4.27	\$4.37	\$3.45
2009			\$4.78	\$3.71

Source: CFEC.

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

Estimates reflect deliveries by catcher vessels to shoreside processors.

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

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

Table 9 and Table 10 show the annual prices for Area 4 halibut QS and AI sablefish QS and IFQ transfers, respectively, from 1995 to 2009, from NMFS transfer reports. In Area 4B, the mean price per IFQ pound was \$6.14 at initial issuance in 1995, compared to \$10.39 in 2009. Prices varied substantially during 1995 through 2009, with 2009 reporting the highest mean price per IFQ pound. For AI sablefish, the mean price per IFQ pound was \$4.57 at initial issuance, compared to \$3.26 in 2009, also with notable fluctuations throughout the fifteen-year time period. Prices per IFQ pound in the Aleutians are substantially lower than those reported in the Gulf of Alaska; Area 4 halibut IFQ average prices are about two and half times lower than average IFQ prices in Area 3A or 2C.

Recent review of two permit and QS brokerage companies in Washington state showed Area 4B catcher vessel halibut QS on the market for \$10 to \$12 per pound in mid-2011, and AI sablefish catcher vessel QS for \$2.50 to \$4.50 per pound.¹⁶

¹⁶Listings from Permit Master (Anacortes, WA) and Dock Street Brokers (Seattle) were reviewed, July 12, 2011. There were six listings for Area 4B halibut QS, totaling about 30,000 lbs; and five listings for AI sablefish QS, totaling about 68,000 lbs.

Table 9 Annual Prices for Area 4 Halibut QS and IFQ Transfer, by Year

Area	Year	Mean Price \$/IFQ	Stan Dev Price \$/IFQ	Total IFQs Transferred Used for Pricing	Mean Price \$/QS	Stan Dev Price \$/QS	Total QS Transferred Used for Pricing	Number of Transactions Used for Pricing
4A	1995	5.64	2.07	114,616	0.74	0.27	873,519	56
	1996	6.68	1.50	160,899	0.87	0.20	1,230,691	65
	1997	6.67	2.79	383,112	1.35	0.56	1,889,914	90
	1998	6.39	1.98	71,280	1.54	0.48	295,358	29
	1999	NA	NA	NA	NA	NA	NA	NA
	2000	6.62	1.65	456,840	2.27	0.57	1,333,201	42
	2001	7.72	1.94	349,190	2.65	0.67	1,019,050	32
	2002	6.06	1.72	173,517	2.07	0.59	507,079	17
	2003	5.94	2.28	275,440	2.02	0.78	808,422	33
	2004	9.64	2.14	248,645	2.29	0.51	1,045,246	23
	2005	10.48	2.51	348,980	2.47	0.59	1,481,217	37
	2006	11.43	2.87	310,125	2.62	0.66	1,350,404	28
	2007	13.6	3.92	386,213	2.69	0.78	1,949,392	33
	2008	15.36	5.07	154,056	3.26	1.08	724,924	25
2009	11.81	3.41	18,998	2.07	0.6	108,676	6	
4B	1995	6.14	1.05	34,716	1.23	0.21	173,523	5
	1996	5.03	0.86	51,769	1.00	0.17	260,336	7
	1997	5.15	1.71	294,051	1.54	0.51	980,663	30
	1998	7.24	1.68	94,579	2.18	0.51	313,790	11
	1999	NA	NA	NA	NA	NA	NA	NA
	2000	4.80	1.12	367,338	2.03	0.47	868,276	23
	2001	5.72	1.04	464,187	2.42	0.44	1,097,211	20
	2002	4.64	1.05	65,507	1.67	0.38	181,883	6
	2003	4.55	3.22	163,662	1.64	1.16	454,412	13
	2004	8.10	1.65	238,591	1.96	0.40	985,437	12
	2005	7.49	1.18	63,139	1.46	0.23	324,243	8
	2006	C	C	7,850	C	C	54,558	2
	2007	8.45	2.51	37,045	1.05	0.31	298,569	9
	2008	9.99	2.35	131,987	1.6	0.38	823,570	18
2009	10.39	1.36	129,379	1.67	0.22	802,982	12	
4C	1997	6.29	0.50	48,681	0.91	0.07	336,313	8
	1998	5.67	1.09	33,902	1.14	0.22	169,265	7
	1999	NA	NA	NA	NA	NA	NA	NA
	2000	3.68	0.48	27,570	0.94	0.12	107,811	6
	2001	5.47	1.31	100,428	1.40	0.34	392,724	8
	2003	C	C	47,020	C	C	186,058	3
	2004	5.74	0.59	62,540	1.23	0.13	292,075	5
	2005	5.46	2.02	86,607	1.23	0.46	383,147	7
	2006	0	0	0	0	0	0	0
	2007	8.04	1.82	67,184	1.87	0.42	289,134	6
2008	8.65	1.47	61,260	1.9	0.32	278,173	7	
2009	11.41	1.56	67,133	2.23	0.31	343,693	6	
4D	1996	C	C	27,358	C	C	237,858	3
	1997	5.85	1.63	82,294	0.99	0.28	485,517	11
	1998	6.07	0.97	49,986	1.39	0.22	218,677	11
	1999	NA	NA	NA	NA	NA	NA	NA
	2000	4.31	0.72	37,604	1.26	0.21	128,852	5
	2001	6.44	1.14	107,734	1.87	0.33	370,961	7
	2002	5.56	1.01	115,755	1.62	0.29	396,655	8
	2003	6.86	1.59	120,944	1.96	0.45	422,009	8
	2004	C	C	79,669	C	C	328,087	3
	2005	9.09	1.31	19,557	2.33	0.34	76,317	4
	2006	0	0	0	0	0	0	0
	2007	8.77	2.18	114,370	2.31	0.57	434,031	9
	2008	C	C	3,526	C	C	14,118	1
2009	8.38	0.47	11,584	1.86	0.11	52,298	3	

Source: Transfer Report: Changes under Alaska's Halibut IFQ Program, 1995 – 2009.

a) C indicates confidential data.

b) NA indicates data are not available.

Table 10 Annual Prices for Aleutian Islands Sablefish QS and IFQ Transfers, by Year

Area	Year	Mean Price \$/IFQ	Stan Dev Price \$/IFQ	Total IFQs Transferred Used for Pricing	Mean Price \$/QS	Stan Dev Price \$/QS	Total QS Transferred Used for Pricing	Number of Transactions Used for Pricing
Aleutian Islands	1995	4.57	0.52	91,553	0.43	0.05	979,271	6
	1996	8.89	3.90	72,881	0.45	0.2	1,446,140	4
	1997	4.14	0.50	66,726	0.21	0.03	1,324,979	10
	1998	3.40	0.59	38,599	0.20	0.03	667,559	8
	1999	NA	NA	NA	NA	NA	NA	NA
	2000	2.01	0.59	72,398	0.20	0.06	719,028	14
	2001	2.34	0.83	97,540	0.24	0.08	941,871	5
	2002	C	C	32,061	C	C	303,445	2
	2003	3.37	1.14	502,187	0.43	0.15	3,910,721	9
	2004	2.60	0.00	35,621	0.33	0.00	277,399	4
	2005	2.66	2.16	286,999	0.29	0.23	2,644,413	9
	2006	2.71	1.22	435,971	0.34	0.15	3,508,222	6
	2007	2.69	0.41	159,707	0.31	0.05	1,372,043	8
	2008	2.96	0.77	241,854	0.3	0.08	2,392,855	8
2009	3.26	0.84	380,862	0.3	0.08	4,179,226	10	

Source: Transfer Report: Changes under Alaska's Sablefish IFQ Program, 1995 – 2009.

a) C indicates confidential data.

b) NA indicates data are not available.

RAM estimates the ex-vessel value of the halibut IFQ fishery using buyer reports. Those reports indicate that the total ex-vessel value of the halibut IFQ fishery ranged from \$133 million to \$208 million dollars from 2005 through 2010 (Table 11). The total ex-vessel halibut value trended downward from 2006 through 2009, but substantially increased in 2010. The halibut ex-vessel value in 2010 was about 7 percent higher than the mean value over that period. Total IFQ ex-vessel revenue was estimated to range between \$210 million and \$289 million, annually, over that time period. The total IFQ fishery ex-vessel value in 2010 was about 8 percent higher than the mean value over that period.

Table 11 Estimated ex-vessel value of the halibut and sablefish IFQ fisheries, 2005 - 2010

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

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

2.4.4 Gulf of Alaska CQE Program

2.4.4.1 Eligible CQE communities and CQE holdings to-date

There are currently 42 eligible communities in the Gulf CQE Program, the same number since its inception: 21 are located in Southeast Alaska (Area 2C) and 21 are located in Southcentral Alaska (14 in Area 3A and 7 in Area 3B). The list of communities is part of the Council's final motion (Appendix 2). To be determined eligible, each community must have met the following criteria: fewer than 1,500 people;¹⁷ documented historical participation (at least one commercial landing) of halibut or sablefish;¹⁸

¹⁷As documented by the 2000 U.S. Census (i.e., a community must be recognized by the U.S. Census as an incorporated city or census designated place in order to be included in the census.)

direct access to saltwater on the GOA coast; no road access to a larger community; and listed in Federal regulation. Communities that were not identified at final action as meeting these criteria must apply to the Council to be approved for participation in the program. In order to add a community to the list in Federal regulations, a regulatory amendment must be developed and approved, and communities applying for eligibility would be evaluated using the original criteria above. Note that the Council took action to add three new communities (2 in Area 2C and 1 in Area 3B) to the CQE Program in December 2010. This recommendation has not yet been approved by the Secretary of Commerce.¹⁹

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

In addition, there are caps on the amount of quota that can be used on an individual vessel, if the vessel is carrying any IFQ derived from CQE-held quota share. There are also caps on the amount of QS that can be held by each individual community, and caps on the amount of QS that can be held cumulatively by all communities in a specified area (e.g., Area 2C, 3A, 3B for halibut; SE, WY, CG, or WG for sablefish). The program limits each CQE to the same use caps as individual holders: 1% of Area 2C halibut QS and 0.5% of the combined Area 2C, 3A, and 3B halibut QS, and 1% of southeast sablefish QS and 1% of all combined sablefish QS (Table 12).

Table 12 2011 quota share use caps for CQEs and individuals

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

Source: RAM Program, NMFS, 2011.

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

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

The program also limited all CQEs combined to purchasing 3% of the QS in each area, in each of the first seven years of the program, culminating in a limit of 21% in each area by 2010 (Table 13).²⁰ Table 13 shows the limits in both QS units and 2011 IFQ pounds. The limits shown for 2011, in terms of QS units, are applicable in all future years. The 2011 limits, in terms of pounds, fluctuate annually with the IFQ TAC. Note that these limits are exclusive of any QS owned by individual residents of the CQE community.

¹⁸As documented by the Alaska Commercial Fisheries Entry Commission.

¹⁹The three communities that met the eligibility criteria and the Council approved for inclusion in the CQE Program are: Naukati Bay (Area 2C), Game Creek (Area 2C), and Cold Bay (Area 3B).

²⁰See 50 CFR 679.42(e)(6).

Table 13 Cumulative CQE quota share use caps¹

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

Source: RAM Program, NMFS, 2011.

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

Thus far, 25 CQEs have been formed, representing 26 of the 42 eligible communities. Fourteen of those CQEs are in southeast Alaska, and twelve are in southcentral Alaska. Each of these CQEs completed the process of forming a non-profit corporation under laws of the State of Alaska, which requires time and resources of the community. In addition to the incorporation process, in order to be approved by NMFS as a CQE representing an eligible community, the CQE must also submit an application to NMFS.²¹ A complete application to become a CQE consists of: (i) the articles of incorporation; (ii) a statement indicating the eligible community, or communities, represented by the CQE for purposes of holding QS; (iii) management organization information, including: (A) the bylaws; (B) a list of key personnel of the managing organization including, but not limited to, the board of directors, officers, representatives, and any managers; (C) a description of how the CQE is qualified to manage QS on behalf of the eligible community or communities it is designated to represent, and a demonstration that the CQE has the management, technical expertise, and ability to manage QS and IFQ; and (D) the name of the non-profit organization, taxpayer ID number, permanent business mailing addresses, name of contact persons and contact information of the managing personnel, resumes of management personnel, name of community represented by the CQE, and the point of contact for the governing body of each community represented.

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

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

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

²¹This application is also submitted to the State of Alaska (Department of Commerce, Community and Economic Development) for a 30-day review and comment period.

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

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

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

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

Two subsequent actions approved by the Council, that are not related to the commercial halibut and sablefish IFQ Program, have included explicit provisions for CQEs that represent new fishing opportunities. Both programs have been approved by the Secretary of Commerce and were first implemented in 2011. The first action is the charter halibut limited entry action, which establishes a limited entry program for charter halibut businesses in Area 2C and Area 3A, and issues permits to qualified charter business owners (75 FR 554, 1/5/10). As part of this action, the Council approved issuing a limited number of permits to each CQE representing a community in Area 2C and Area 3A, upon request and at no cost, if the community meets specific criteria denoting underdeveloped charter halibut ports.

The second action is the proposed GOA fixed gear recency action that the Council approved in April 2009 (GOA Am. 86). This action adds non-severable, gear-specific Pacific cod endorsements to fixed gear licenses that qualify under the landings thresholds, effectively limiting entry into the directed Pacific cod fisheries in Federal waters in the Western and Central GOA. The CQE component of the action allows each of the 21 communities eligible under the CQE Program in the Western and Central GOA to request a number of fixed gear and Pacific cod-endorsed licenses equal to the number currently held by residents of the community estimated to be removed under the fixed gear recency action under a 10 mt

landing threshold, or two licenses, whichever is greater. As of November 2011, two CQEs have requested a total of 14 Pacific cod licenses. **This information is provided for background on the existing CQE Program only; neither of these actions would be relevant to the proposed action to establish a CQE Program in Area 4B.**

2.4.5 Area 4B CQE proposal and Adak

As stated previously, the ACDC submitted testimony related to its proposal at the February 2010 Council meeting. The intent of the proposal is to provide an opportunity for the community of Adak to participate in the halibut and sablefish fisheries in Area 4B. Specifically, ACDC would like to use its crab royalties to purchase Area 4B halibut QS and AI sablefish QS for use by local fishermen and delivery within the region. The original proposal submitted to the Council is provided as **Appendix 4**.

The Aleut peoples have a long history on and around Adak and other communities in the Aleutian Islands prior to World War II. The once heavily-populated island was eventually abandoned in the early 1800s, as the Aleutian Island hunters followed the Russian fur trade eastward, and famine set in on the Andreanof Island group. However, the Aleut people continued to actively hunt and fish around the island over the years, until World War II. Adak had a significant role during World War II as a U.S. military operations base, and army installations on the island allowed U.S. forces to mount a successful offensive against the Japanese-held islands of Kiska and Attu.²² After World War II, Adak was developed as a Naval Air Station, playing an important role during the Cold War as a submarine surveillance center. The station officially closed on March 31, 1997, and the Aleut Corporation acquired a significant portion of Adak Island, along with the naval facilities, under the BRAC (base realignment and closure) and other Federal land transfer processes. This was a complicated and multi-step process that resulted ultimately in a land exchange between the Aleut Corporation and the USFWS. A significant portion of land on the southeastern edge of the former military-controlled land was retained as Federal land, due to its high wildlife value and location (connected to other USFWS-owned land).

As stated previously, Adak is not an eligible CDQ community, as it was not recognized as an Alaska Native village²³ certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act (Pub. L. 92-203). This was one of the original criteria to be determined eligible under the CDQ Program, and was eventually mandated in the Magnuson-Stevens Act.²⁴ At the time of the Native village certification, Adak was still a military base, and it did not return to a civilian community until the late 1990s.

Since the military station closed, both the Aleut Corporation and the Adak Community Development Corporation have invested significant effort into developing Adak as a commercial center and civilian community with a private sector economy focused heavily on commercial fishing. As part of that strategy, Adak has been pursuing a broad range of fisheries for a resident fleet to be able to deliver to the shoreside processor located in Adak. Through Congressional action, Adak currently receives an exclusive community allocation of 10% of the Western AI golden king crab TAC, which is allocated to ACDC. The Council motion on that issue related that the purpose was to “aid in the development of seafood

²²Alaska DCCED, Community Database Community Information Summaries, 2011.
<http://www.commerce.state.ak.us/dca/commdb/CIS.cfm>

²³ “Native village” has a specific definition in ANCSA under 43 U.S.C. 1602(c): “‘Native village’ means any tribe, band, clan, group, village, community, or association in Alaska listed in sections 1610 and 1615 of this title, or which meets the requirements of this chapter, and which the Secretary determines was, on the 1970 census enumeration date (as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance), composed of twenty-five or more Natives”.

²⁴The Coast Guard and Maritime Transportation Act of 2006 removed the eligibility criteria for CDQ communities in the MSA and instead listed the 65 communities eligible to participate in the program and the CDQ group that represents each community. (Public Law 109-241, July 11, 2006.) Thus, to add a community to the CDQ Program, one must now amend the MSA.

harvesting and processing activities within that community.” In addition, fifty percent of the class A IFQ (i.e., IFQ that must be delivered to a processor with matching IPQ) for the Western Aleutian Islands golden king crab fishery must be delivered to a shorebased or stationary floating crab processor west of 174 degrees west. Only two communities, Adak and Atka, are located within this geographic area. To address the lack of processing capacity that occurred because of the Adak plant circumstances (see next section below), an emergency action created an exemption to the regional landing requirement allowing landings from the 2009 - 2010 and 2010 - 2011 seasons to be landed outside of the western region. An amendment is intended to allow future exemptions to the regional landing requirement, but only with the consent of both of the communities of Adak and Atka.

Finally, since 2005, Adak has also received an allocation of the AI pollock fishery, which is allocated directly to the Aleut Corporation. To date, there has been very little opportunity to harvest, and thus process, the AI pollock allocation. Critical habitat issues severely constrain the fishery, and almost all pollock harvests have been under experimental fishery permits thus far.

Shoreside processor in Adak

Although the community of Adak receives crab and pollock allocations, the local shoreside processor has primarily been dependent on the Pacific cod fishery for the past ten years. The community has been trying to ensure that sufficient Pacific cod landings are made in Adak, in order to support the shoreside processor and help provide the year-round markets necessary for smaller vessels that participate in several fisheries. The only two communities in the Aleutian Islands management area that have shoreside processing plants are Atka (Atka Pride Seafoods) and Adak, and the plant in Atka does not currently have the capacity to process Pacific cod. The majority of cod harvested by catcher vessels in the AI has been delivered shoreside since the Adak plant opened in 1999/2000, and the vast majority of that has been delivered to Adak. For the past several years, the A season Pacific cod fishery has been the main source of income for the Adak plant, accounting for about 75 percent of plant revenue.²⁵ Landings processed in Adak cannot be provided due to confidentiality restrictions.

The shoreside processor in Adak has realized a number of ownership changes since its establishment in 1999 as Adak Seafoods. In mid-July 2000, Norquest became a predominant partner. In January 2002, Icicle Seafoods became a relatively equal partner in the operation, which operated as Adak Fisheries, LLC. Other ownership changes ensued, although until recently, the company still operated as Adak Fisheries, LLC, and one of the two individuals who originally started the plant was still active in its ownership and operation.

A significant drop in the Pacific cod markets in 2009 affected Adak Fisheries operations. It realized a substantial reduction in the price per ton paid for frozen head and gut cod product compared to 2008, a trend which is not limited to Adak Fisheries. As the market dropped, many customers backed out of their pre- and in-season offers. As a result, sales of product from Adak Fisheries were well below pre-season expectations, and much of the 2009 product is in cold storage. Adak Fisheries was unable to pay for all fish delivered in the Pacific cod State water A season and Federal B season in 2009. At the same time, Adak Fisheries did not pay its power bill in full, so power was shut off to the plant in the spring of 2009. Power is supplied by TDX, a power production and distribution company owned by an Alaska Native village corporation.²⁶ In effect, the plant has essentially been in hibernation mode, using generators to

²⁵*Comprehensive Baseline Commercial Fishing Profiles: Sand Point, Adak, St. Paul, and St. George, Alaska*, prepared for the NPRB and NPFMC by EDAW, June 2008.

²⁶Tanadgusix Corporation (TDX) is an Alaska Native village corporation created under the Alaska Native Claims Settlement Act of 1971, to provide economic well-being for the indigenous peoples that resided in the village of St. Paul, Alaska.

keep limited power to the building. Adak Fisheries essentially stopped processing after the 2009 Federal Pacific cod B season and the start of the State waters Pacific cod A season (mid-April).

In early August 2009, a different company assumed majority ownership of Adak Fisheries, and in early September, Adak Fisheries officially filed for Chapter 11 bankruptcy.²⁷ On November 10, 2009, the United States Bankruptcy Court approved the sale of the plant to a new company, Adak Seafood, LLC, with the original terms of the offer and including other provisions.²⁸ The sale included Adak Fisheries' fish processing equipment and other personal property housed in a building owned by Aleut Enterprises and leased to Adak Fisheries. The sale included provisions for Adak Seafood to pay specific debts and tax obligations, but aside from the primary creditor (Independence Bank), there are several other entities whose claims and liens did not attach to the sale. The order granting the sale notes that the only other offer or expression of interest in the plant was from Trident Seafoods Corporation.²⁹

Adak Seafood, LLC, was a newly-formed Delaware limited liability company affiliated with Drevik International. Kjetil Solberg, former owner of Adak Fisheries, was the majority (51%) owner of the company, and Drevik owned 49%.³⁰ Aleut Enterprises, LLC, had objected to the sale, in part on the grounds that the building's lease would expire on December 31, 2009 and that the deadline for extending the lease had passed.³¹ Under the order, the terms of the lease of the building, from Aleut Enterprises to the new owner, Adak Seafood, stayed the same, including the expiration on the lease. In sum, the lease expired on December 31, 2009, and complaints remained before the Court for most of 2010 with regard to the validity of the lease between Aleut Enterprises and Adak Seafood, with Aleut Enterprises suing to evict Adak Seafood. In October 2010, staff was made aware that the companies had settled the lawsuit and negotiated a new lease agreement; however, by November 2010, it was determined that the company did not have the necessary financing to operate the plant.³²

As mentioned previously, the plant stopped taking deliveries after mid-April in 2009. However, it did receive limited landings in 2010: four vessels made eleven landings of Pacific cod, all of which were in late February and March (the harvest data are confidential). No subsequent landings have been reported as of May 2011. In the interim, ACDC purchased a building in Adak from which individual catcher-sellers can store and pack halibut and sablefish for shipping by air to Anchorage. The intent is to allow local, small boat IFQ fishermen the ability to continue working out of Adak. The market opportunity, however, is limited by the capacity of the aircraft, which can ship about 10,000 lbs twice a week.³³

In early 2011, Aleut Fisheries LLC, a wholly owned subsidiary of Aleut Enterprise LLC, and Western Star Seafoods Inc., a wholly owned subsidiary of Icicle Seafoods Inc., finalized a long-term lease of the processing plant, and are scheduled to resume full operations in time for the 2012 Pacific cod A season. Icicle Seafoods Adak started operating in a limited capacity in July 2011, taking halibut, sablefish, and state water Pacific cod deliveries.³⁴

²⁷Source: Seafoodnews.com, September 17, 2009.

²⁸Order Granting Debtor's Application to Sell Adak Plant Free and Clear of Liens, Case No. 09-00623 DMD, U.S. Bankruptcy Court for the District of Alaska, November 10, 2009.

²⁹The Court noted that Trident Seafoods expressed an interest in purchasing certain assets, and after adjustment for differences between two offers (Adak Seafood and Trident Seafoods), Adak Seafood's offer was millions of dollars higher. Trident Seafoods offered \$2 million for the assets of Adak Fisheries, and its offer did not include assumption of the \$6.7 million of debt owed to Independence Bank. Memorandum Regarding Potential Acquisition, No. 09-00623 DMD, U.S. Bankruptcy Court for the District of Alaska, November 5, 2009.

³⁰Testimony by Drevik at November 10, 2009, hearing on Case No. 09-00623 DMD.

³¹Aleut Enterprises, LLC's Objection to Debtor's Motion to Sell Adak Fish Plant, Case No. 09-00623 HAR, U.S. Bankruptcy Court for the District of Alaska, November 5, 2009.

³²Fraser, D., personal communication, October 11, 2010.

³³Fraser, D., personal communication. August 4, 2010.

³⁴Milani, K., personal communication. July 5, 2011.

2010 Steller sea lion biological opinion

NMFS released a draft Steller sea lion Biological Opinion (BiOp) in August 2010 that will directly affect the groundfish fisheries in the Aleutian Islands, including the vessels and processors that operate there. The BiOp concludes that the status quo BSAI and GOA groundfish fisheries jeopardize the continued existence of the endangered western Distinct Population Segment of Steller sea lions and adversely modify its designated critical habitat. In the draft BiOp, NMFS outlined a reasonable and prudent alternative (RPA) that would modify management of the groundfish fisheries, intended to ensure that the fisheries do not result in jeopardy or adverse modification. The primary elements of the RPA significantly restrict the Pacific cod and Atka mackerel fisheries in the Aleutian Islands, with Area 543 (western AI) closed to both fisheries entirely. As a season (February - April) catcher vessel deliveries of AI Pacific cod have been a mainstay of the shoreside processor in Adak historically, staff expects that the RPA would have a substantial impact on the viability of the processor.

Note that NMFS proposed revisions to the draft RPA in October 2010, and presented the final RPA to the Council in December 2010. The EA/RIR supporting the BiOp provides estimates of the reduction in Pacific cod catch for catcher vessels delivering to motherships and shoreside processors in the AI. The estimated average reduction across the entire AI, based on 2003 through 2009 harvest data, is 36%. In Area 541 in particular, where the majority of the catcher vessel effort is focused (around Adak and Atka), the estimated average reduction is 27%.³⁵ Effort in Areas 542 and 543 is largely by catcher vessels delivering to motherships. The impact of the AI Pacific cod restrictions on industry, including the Adak processor, will depend on whether catcher vessel Pacific cod effort will shift to Area 541 or the Bering Sea. If the catcher vessel fleet is unable to fully harvest the CV Pacific cod allocations, it is expected that Pacific cod quota would be reallocated to the C season and likely harvested by fixed gear catcher processors.

The RIR for the BiOp also includes a qualitative discussion of the regional distribution of employment and income impacts, for communities estimated to be affected by the Steller sea lion action (Section 10.7.3, pp. 10 – 135-138). This section from the RIR is provided below, for the community of Adak only. The changes provided in an errata dated December 8, 2010, are also incorporated within the section below:

Regional distribution of employment and income impacts (from p. 10-135 to 10-136 of the EA/RIR for the November 2010 Steller sea lion Biological Opinion)

This discussion examines six possible ways the industry, in responding to the proposed action, could impact a community (crew transfers, other logistical support, processed product transfers, raw product deliveries, home port services, and induced impacts) for five groups of communities (Adak, Atka, Unalaska, other Alaskan communities, coastal Pacific Northwest). This section draws heavily on subsections 10.2.8, 10.2.9, and 10.7.2.

Adak

Adak is a small community. State of Alaska estimates indicate a 2009 population of 165. The economy remains relatively limited. Attempts to diversify into nearby fisheries and sources of deliveries for processing have had limited success to this point. Similarly, there has been limited success in developing other industries.

³⁵August 2010 Draft Biological Opinion: Effects of the Groundfish Fisheries off Alaska on ESA Listed Species Including the Western DPS of Steller Sea Lions, NOAA Fisheries. Table 10-33, p. 10-44.

As discussed in section 10.2.8 (of the original RIR), Adak has received Pacific cod for processing from the federal and state parallel fisheries and from the state GHL fishery. These fisheries take place at separate times. The GHL fishery is closed when the federal fishery is open. In 2006, the first year of the state fishery, the processing plant at Adak received 15 percent of its raw cod product from the GHL fishery and the remainder from the federal and parallel fishery. In 2007 and 2008, the plant received 23 percent from the GHL fishery, and the remainder from the federal and parallel fisheries. The Pacific cod from the federal and parallel fisheries comes predominately from Area 541. Over the period from 2002 to 2008, Adak received 88 percent of its raw cod product from Area 541, and the remainder from Area 542. Area 541 is the least affected by the proposed [Steller sea lion] management measures. An examination of Table 10-47 in section 10.3.4 shows that, if Alternative 4 had been in place in the years 2004 through 2009, estimated Area 541 production would have been from 58 percent to 86 percent of its actual levels, depending on the year.³⁶ Area 542 production would be reduced by larger proportions. Thus, in the area of Adak, production levels are likely to be reduced, but by significantly smaller amounts than in areas further to the west. Assuming the Adak plant is capable of processing Pacific cod at historical levels in the future, catcher vessels delivering to Adak may face increased competition, for the available Pacific cod, from vessels displaced from the fishery farther to the west. This may reduce potential deliveries to Adak. On the other hand, catcher/processors acting as motherships, and shoreside floating processing capacity, may no longer find it worthwhile to operate in the region, reducing market competition for available product.

Adak also serves as a home port for several small vessels, and these may be affected.

In addition to direct impacts in fishing and processing, the Atka mackerel and Pacific cod fisheries generate local indirect employment impacts as well. Catcher/processors use Adak to transfer product to tramp steamers, and for logistical support. The closure of the Atka mackerel and Pacific cod fisheries in Area 543, and the significant restrictions on fishing in Area 542, are likely to reduce the demand for these services. As noted in sub-section 10.2.8, these services include support for crew rotations, fuel supplies, and emergency medical services at the local clinic. The local fuel distributor has indicated that the large volume of fuel sold to fishing vessels allows the firm to sell fuel to residential and commercial customers in Adak at lower prices than it otherwise would be able to. This could increase living costs and the costs of doing business in the community (Tsukada 2010).

Because of Adak's small size, its residents must import a very large proportion of the goods they consume. Moreover, a large part of the processor work force are temporary workers who come to town for the season and who leave when it is over. They spend money in the town while they are there, but a significant part of their income would be spent elsewhere. Thus, the induced impacts of this action may be more limited in size than elsewhere. Other sources of personal income and induced impacts may be so limited, however, that induced impacts (sales at the local grocery store for home consumption, for example) may have importance. As discussed in sub-section 10.2.9, Adak shares in the state's fisheries business tax revenues and its fishery resource landing tax revenues. The loss of part of these municipal revenues would reduce municipal expenditures, and be an additional source of induced effects.

Of all the communities discussed here, Adak may have the most at risk from this [Steller sea lion] action. The fish processing plant in Adak entered bankruptcy in late 2009, and there is considerable uncertainty about its future. The action likely reduces the potential viability of future

³⁶This sentence has been amended from the original sentence in Section 10.7.3 of the EA/RIR to reflect the change provided in an errata sheet updated by NMFS on December 8, 2010.

processing activity. It also reduces the demand for support services. Both elements are relatively important, given the small size of the community and relatively limited alternative base industries.

2.4.5.1 Individual Adak QS holdings

Residents of Adak were not issued any halibut QS or sablefish QS at the start of the IFQ Program in 1995, meaning no residents met the qualifying criteria and received an initial allocation. Table 14 and Table 15 show the amount of halibut QS and sablefish QS in any area held by Adak residents, through May 13, 2011, respectively. These tables show that halibut holdings were first acquired in 2007, and sablefish holdings in 2008.

Data through mid-May 2011 indicate that residents of Adak held a total of 252,290 halibut QS units: 231,248 QS units in Area 4B, and 21,042 QS units in Area 4A. Combined, this represents 46,913 halibut IFQ pounds in 2011. All of the halibut QS held is B category. The Area 4B halibut QS is held by two individual residents.

Adak residents also held 335,025 sablefish QS units in the AI and 116,401 QS units in the Central Gulf, which equates to 37,440 sablefish IFQ pounds in 2011 (Table 15). The sablefish QS held is B and C category. The AI sablefish QS is held by one Adak resident. In total, one Adak resident holds both Area 4B halibut QS and AI sablefish QS, and one Adak resident holds Area 4B halibut QS, for a total of two unique holders.

Thus, as of May 2011, Adak residents held the equivalent of about 2.5% of the Area 4B halibut QS pool, and about 1.0% of the AI sablefish QS pool. The distribution of all Area 4B halibut QS and AI sablefish QS, by vessel category and the QS holder's community of residence, is provided in **Appendix 5**.

Table 14 Halibut QS holdings by Adak residents, by area, category, and block type, 1995 - 2011

Year	Area	QS category	Blocked or unblocked	Count of QS holders	QS units	IFQ 2011 Lb Equivalents
2007	4B	B	B	1	36,861	6,924
	4B	D	B	1	7,293	1,370
2007 total					44,154	8,294
2008	4A	B	B	1	21,042	3,476
	4A	C	B	1	36,204	5,981
	4B	B	B	2	98,938	18,584
	4B	C	B	1	62,885	11,812
	4B	D	B	1	7,293	1,370
2008 total					226,362	41,223
2009	4A	B	B	1	21,042	3,476
	4A	C	B	1	36,204	5,981
	4B	B	B	3	103,004	19,348
	4B	B	U	1	165,105	31,013
	4B	D	B	1	7,293	1,370
2009 total					332,648	61,188
2010	4A	B	B	1	21,042	3,476
	4A	C	B	1	36,204	5,981
	4B	B	B	2	66,143	12,424
	4B	B	U	1	165,105	31,013
2010 total					288,494	52,894
2011	4A	B	B	1	21,042	3,476
	4B	B	B	2	66,143	12,424
	4B	B	U	1	165,105	31,013
2011 total					252,290	46,913

Source: RAM Program, data as of May 2011.

Table 15 Sablefish QS holdings by Adak residents, by area, category, and block type, 1995 - 2011

Year	Area	QS category	Blocked or unblocked	Count of QS holders	QS units	IFQ 2011 Lb Equivalents
2008	AI	C	B	1	99,140	8,501
	CG	C	B	1	116,401	8,713
2008 total					215,541	17,214
2009	AI	C	B	1	99,140	8,501
	CG	C	B	1	116,401	8,713
2009 total					215,541	17,214
2010	AI	B	U	1	235,885	20,226
	AI	C	B	1	99,140	8,501
	CG	C	B	1	116,401	8,713
2010 total					451,426	37,440
2011	AI	B	U	1	235,885	20,226
	AI	C	B	1	99,140	8,501
	CG	C	B	1	116,401	8,713
2011 total					451,426	37,440

Source: RAM Program, data as of May 2011.

2.5 Related documents and actions

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

- Groundfish Programmatic Supplemental Environmental Impact Statement (PSEIS) (NMFS 2004)
- Essential Fish Habitat Environmental Impact Statement (EIS) (NMFS 2005b)
- The Harvest Specifications Environmental Impact Statement (EIS)(NMFS 2007)
- Guideline Harvest Level Environmental Assessment (EA, Council 2003)
- Draft EA for measures to reduce charter harvest in Area 2C to the GHF (Council 2007b)
- EA regulatory amendment to define subsistence halibut fishing in Convention Waters (Council 2003b)
- EA/RIR/IRFA to allow eligible Gulf of Alaska communities to hold commercial halibut and sablefish quota share for lease to community residents (GOA FMP Am. 66) (NPFMC 2002)
- EA/RIR/FRFA for a Regulatory Amendment to Limit Entry in the Halibut Charter Fisheries in IPHC Regulatory Areas 2C and 3A (NPFMC 2009)
- Review of the Community Quota Entity Program under the Halibut/Sablefish IFQ Program (NPFMC 2010)

2.6 Effects of the alternatives

2.6.1 Alternative 1

Alternative 1 is the no action alternative, and thus would not change the eligibility criteria for holding catcher vessel QS for Area 4B halibut and AI sablefish. Alternative 1 would retain the current regulations requiring that only persons who were originally issued catcher vessel QS or who qualify as IFQ crew members would be eligible to purchase and hold catcher vessel QS in these areas.

Alternative 1. Status quo. Only persons who were originally issued catcher vessel QS or who qualify as IFQ crew members are eligible to purchase and hold catcher vessel QS in Area 4B, per 50 CFR 679.2.

It is expected that the general use of quota would not change under Alternative 1. The following general trends discussed in Section 2.4.3 and the remainder of this section would be expected to continue. For Area 4B halibut and AI sablefish QS, the following sections summarize 1) QS holdings, including the type of holder; 2) vessel landings; 3) block status; and 4) transfer rates over time, including the type of transfer.

Quota share holdings

Table 16 shows the gradual decline in the number of QS holders of Area 4B halibut QS and AI sablefish QS over time. At initial issuance, there were 152 holders of Area 4B halibut QS; by 2011, there were 91. This represents a reduction of about 40%. Similarly for AI sablefish, there were 135 QS holders at initial issuance, and by 2011, there were 93. This represents a reduction of about 31%. Like in other areas, the consolidation of QS in Area 4B occurred fairly quickly in the first several years of the program, and the rate of consolidation has slowed substantially in the past decade.

Recall that Appendix 5 provides a breakdown of the 2011 holders of Area 4B QS and AI sablefish QS, by community of residence.

Table 16 Number of Area 4B halibut and AI sablefish QS holders, at initial issuance and 2000 - 2011

Year	Halibut IFQ area	# QS holders	Sum of QS units	Sum of IFQ lbs (2011 equivalent lbs)
initial issuance	4B	152	9,293,391	1,745,631
2000	4B	113	9,284,774	1,744,013
2001	4B	112	9,284,774	1,744,013
2002	4B	108	9,284,774	1,744,013
2003	4B	108	9,284,774	1,744,013
2004	4B	107	9,284,774	1,744,013
2005	4B	106	9,284,774	1,744,013
2006	4B	107	9,284,774	1,744,013
2007	4B	103	9,284,774	1,744,013
2008	4B	99	9,284,774	1,744,013
2009	4B	96	9,284,774	1,744,013
2010	4B	96	9,284,774	1,744,013
2011	4B	91	9,284,774	1,744,013
Year	Sablefish IFQ area	# QS holders	Sum of QS units	Sum of IFQ lbs (2011 equivalent lbs)
initial issuance	AI	135	31,518,176	2,702,593
2000	AI	104	31,932,492	2,738,119
2001	AI	97	31,932,492	2,738,119
2002	AI	98	31,932,492	2,738,119
2003	AI	95	31,932,492	2,738,119
2004	AI	98	31,932,492	2,738,119
2005	AI	100	31,932,492	2,738,119
2006	AI	99	31,932,492	2,738,119
2007	AI	94	31,932,492	2,738,119
2008	AI	92	31,932,492	2,738,119
2009	AI	94	31,932,492	2,738,119
2010	AI	93	31,932,492	2,738,119
2011	AI	93	31,932,492	2,738,119

Source: NMFS RAM Program, data as of May 13, 2011.

NMFS also reports on the type of ‘person’ that holds QS and changes over time. Under the IFQ Program, QS can be held by individuals (natural persons who were initial QS recipients), corporations, estates, partnerships, and crew (natural persons who were not initial recipients but who met the qualifications to

receive QS by transfer). Table 17 shows, by person-type, the amount and percentage of QS held and the number and percentage of QS holders, comparing year-end 2000 to year-end 2009. This information is provided for both Area 4B halibut and AI sablefish.

Table 17 shows that the percentage of the total Area 4B halibut QS held by individual initial recipients decreased from 37% of the total in 2000 to 30% by year-end 2009, and the percentage of total holders that were individual initial recipients increased slightly over that same time period. The amount of Area 4B halibut QS held by ‘crew’ increased from 18% of the total in 2000 to 33% by year-end 2009, and the percentage of total holders that were crew also increased slightly during this time period. At year-end 2009, 79% of the Area 4B halibut QS holders were either individuals that received QS at initial issuance, or crew (individuals that received QS through transfer after initial issuance), and they held 63% of the total Area 4B halibut QS. The remaining 21% of the holders were corporations, non-profits, or estates, which held about 37% of the Area 4B halibut QS.

For AI sablefish, about half of the total QS has historically been held by corporations. Table 17 shows that the percentage of the total AI sablefish QS held by individual initial recipients decreased from 18% of the total in 2000 to 16% by year-end 2009, and the percentage of total holders that were individual initial recipients decreased slightly over that same time period. The amount of AI sablefish QS held by ‘crew’ increased from 22% of the total in 2000 to 32% by year-end 2009, and the percentage of total holders that were crew also increased from 14% to 28% during this time period. At year-end 2009, 64% of the Area 4B halibut QS holders were either individuals that received QS at initial issuance, or crew (individuals that received QS through transfer after initial issuance), and they held 48% of the total Area 4B halibut QS. The remaining 36% of the holders were corporations, non-profits, partnerships, or estates, which held about 52% of the Area 4B halibut QS.

Table 17 Area 4B halibut and AI sablefish QS, by type of QS holder

Person Type	2000 QS holdings		2009 QS holdings		2000 QS holders		2009 QS holders	
AREA 4B HALIBUT								
Corp	3,732,168	40%	2,942,191	32%	26	23%	17	18%
Estates	62,077	1%	66,655	1%	1	1%	1	1%
Individual	3,413,398	37%	2,810,727	30%	54	48%	48	50%
Non-profit	370,314	4%	426,241	5%	1	1%	2	2%
Skipper/crew	1,706,817	18%	3,038,960	33%	31	27%	28	29%
Total	9,284,774	100%	9,284,774	100%	113	100%	96	100%
AI SABLEFISH								
Corp	17,881,030	56%	15,190,622	48%	41	39%	29	31%
Estates	331,821	1%	45,768	0%	1	1%	1	1%
Individual	5,740,799	18%	4,958,424	16%	42	40%	34	36%
Non-profit	679,248	2%	1,199,959	4%	1	1%	2	2%
Partnership	359,786	1%	162,537	1%	4	4%	2	2%
Skipper/crew	6,939,808	22%	10,375,182	32%	15	14%	26	28%
Total	31,932,492	100%	31,932,492	100%	104	100%	94	100%

Source: Data from Transfer Report summaries for halibut and sablefish, NMFS Dec 2010 (Table 9).

NMFS also provides data to allow an examination of the distribution of QS and QS holders by state of residence (Alaska, Washington, Oregon, and other). Table 18 below provides a broad overview of how these distributions have changed from initial issuance to year-end 2009, for Area 4B halibut and AI sablefish.

Table 18 Distribution of Area 4B halibut and AI sablefish QS and QS holders, by state of residence

State	Initial issuance QS	2009 QS	Initial issuance # holders	2009 # of holders	2009 average holdings
Area 4B HALIBUT					
AK	3,242,733	4,295,319	80	54	79,543
WA	5,365,129	3,798,203	52	29	130,973
OR	466,964	269,197	14	3	89,732
Other	218,565	922,055	7	10	92,206
Total	9,293,391	9,284,774	153	96	
AI SABLEFISH					
AK	7,112,625	6,470,047	50	37	174,866
WA	22,270,655	23,616,760	73	49	481,975
OR	628,152	1,663,894	5	3	554,631
Other	1,506,744	181,791	9	5	36,358
Total	31,518,176	31,932,492	137	94	

Source: Data from Transfer Report summaries for halibut and sablefish, NMFS Dec 2010 (Table 10).

Table 18 shows that by year-end 2009, about 56% of the total Area 4B halibut QS holders were Alaska residents, holding about 46% of the total Area 4B halibut QS. While data for all areas are not provided, the source report for these data shows that persons from Alaska held the majority of halibut QS at year-end 2009 for all areas except Areas 4C and 4D. Persons from Alaska showed an increase in halibut QS holdings in Areas 4A, 4B, and 4D from initial issuance to 2009, and slight decreases in halibut QS holdings in Areas 2C, 3A, 3B, 4B, 4C, and 4E. Persons from Washington held the majority of the QS in Areas 4C and 4D at year-end 2009, and the average QS holdings of persons from Washington were considerably higher than the average QS holdings of persons from Alaska in most areas, including Area 4B.³⁷

The distribution of sablefish QS holdings by state of residence is different from that of halibut. Table 18 shows that by year-end 2009, about 39% of the total AI sablefish QS holders were Alaska residents, holding about 20% of the total AI sablefish QS. At both initial issuance and year-end 2009, persons from Washington held the majority of the sablefish QS for all areas, except Southeast. By the end of 2009, Alaska residents had slightly increased their QS holdings in the SE and BS areas, and had slightly reduced their holdings in all other areas.³⁸ The average QS holdings of persons from Washington were considerably higher than the average QS holdings of persons from Alaska in all areas, including the Aleutian Islands.

Vessel landings

Table 19 below shows the number of unique vessels that landed Area 4B halibut IFQ and AI sablefish IFQ in 2010, and the amount of IFQ landed. In 2010, 41 individual vessels landed 1.4 million lbs of Area 4B halibut IFQ, with a total of 112 landings. Averaged across the fleet, the average vessel landing was about 34,000 lbs in 2010. For sablefish, 38 vessels landed 1.4 million lbs of AI sablefish IFQ, with a total of 94 landings. The average vessel landing of AI sablefish was about 37,000 lbs.

³⁷Transfer Report Summary: Changes under Alaska’s Halibut IFQ Program, 1995 – 2009. NMFS, December 2010, p. 11.

³⁸Transfer Report Summary: Changes under Alaska’s Sablefish IFQ Program, 1995 – 2009. NMFS, December 2010, p. 12.

Table 19 Number of vessels landing Area 4B halibut IFQ and AI sablefish IFQ, 2010

IFQ area and species	# of unique vessels	# of landings	Sum of 2010 IFQ pounds landed
Area 4B halibut	41	112	1,394,752
AI sablefish	38	94	1,409,426

Source: NMFS RAM Program, data as of May 13, 2011.

Table 20 and Table 21 show the ports of landing for Area 4B halibut and AI sablefish IFQ, respectively, from 2006 through mid-2011. The majority of the data by port is confidential, as there were typically fewer than three registered buyers per port. However, the tables indicate the number of IFQ holders and the number of registered buyers by port. For Area 4B halibut, more IFQ holders deliver to Dutch Harbor than any other individual port annually. In the years that can be reported below, Dutch Harbor received more of the total Area 4B halibut IFQ landings than any other port. Very little data can be provided for Adak and Atka, the only two ports with shoreside processing plants located in Area 4B. The number of IFQ holders of Area 4B halibut that deliver to Atka is much lower than that of Adak, however, even though the pounds are confidential.

Similarly with AI sablefish, more IFQ holders deliver to Dutch Harbor than any other individual port, with the exception of 2009 and through mid-2011, in which a greater number of holders delivered to Akutan. In the years that can be reported below, Dutch Harbor received more of the total AI sablefish IFQ landings than any other port annually, with the exception of 2010 (and thus far in 2011). With the exception of 2010, landings data cannot be provided for the port of Adak, due to confidentiality restrictions. Landings data for Atka cannot be provided in any year. Typically, one to two AI sablefish holders delivered to Atka, and several more holders delivered to Adak.

Table 20 Area 4B halibut landings by port, 2006 - 2011

Year	Port	Number of IFQ holders	Number of registered buyers	IFQ lbs	% by port
2006	ADAK	17	1	-	-
2006	AKUTAN	11	1	-	-
2006	ATKA	2	1	-	-
2006	DUTCH/UNALASKA	50	5	739,541	61%
2006	KING COVE	1	1	-	-
2006	SAND POINT	1	1	-	-
total				1,220,833	
2007	ADAK	28	1	-	-
2007	AKUTAN	16	1	-	-
2007	ATKA	7	1	-	-
2007	DUTCH/UNALASKA	36	4	542,873	50%
total				1,088,443	
2008	ADAK	26	1	-	-
2008	AKUTAN	19	1	-	-
2008	ATKA	1	1	-	-
2008	DUTCH/UNALASKA	36	4	567,125	42%
2008	KING COVE	1	1	-	-
2008	ST PAUL	2	1	-	-
total				1,357,128	
2009	AKUTAN	26	1	-	-
2009	DUTCH/UNALASKA	40	1	-	-
2009	HOMER	2	1	-	-
2009	KING COVE	1	1	-	-
2009	KODIAK	9	3	65,886	5%
2009	OTHER AK	1	1	-	-
total				1,232,219	
2010	ADAK	11	6	98,289	7%
2010	AKUTAN	22	1	-	-
2010	ATKA	4	1	-	-
2010	DUTCH/UNALASKA	40	2	-	-
2010	HOMER	1	1	-	-
2010	KING COVE	1	1	-	-
2010	KODIAK	2	2	-	-
2010	OTHER AK	1	1	-	-
2010	WHITTIER	1	1	-	-
total				1,394,752	
2011	ADAK	13	2	-	-
2011	AKUTAN	15	1	-	-
2011	ATKA	2	1	-	-
2011	DUTCH/UNALASKA	22	3	440,744	45%
2011	OTHER AK	1	1	-	-
2011	SAND POINT	1	1	-	-
(thru 7/25) total				980,970	

Source: NMFS RAM Division, data as of 7/25/11.

Note: (-) means data are confidential. "Other AK" port means it is an AK port that is not assigned a port code.

Table 21 AI sablefish landings by port, 2006 - 2011

Year	Port	Number of IFQ holders	Number of registered buyers	IFQ lbs	% by port
2006	ADAK	10	1	-	-
2006	AKUTAN	4	1	-	-
2006	ATKA	2	1	-	-
2006	DUTCH/UNALASKA	32	6	1,211,860	79%
2006	EVERETT	1	1	-	-
2006	SAND POINT	1	1	-	-
2006	SEATTLE	1	1	-	-
total				1,541,898	
2007	ADAK	13	1	-	-
2007	AKUTAN	8	1	-	-
2007	ATKA	1	1	-	-
2007	DUTCH/UNALASKA	22	7	1,415,508	88%
2007	KING COVE	1	1	-	-
2007	SAND POINT	1	1	-	-
2007	SEATTLE	1	1	-	-
total				1,608,434	
2008	ADAK	12	1	-	-
2008	AKUTAN	11	1	-	-
2008	ATKA	1	1	-	-
2008	DUTCH/UNALASKA	27	9	879,715	62%
2008	KING COVE	1	1	-	-
2008	SAND POINT	1	1	-	-
2008	SEATTLE	1	1	-	-
2008	ST PAUL	1	1	-	-
total				1,418,228	
2009	ADAK	1	1	-	-
2009	AKUTAN	22	1	-	-
2009	DUTCH/UNALASKA	20	5	639,543	39%
2009	HOMER	2	2	-	-
2009	KODIAK	2	2	-	-
2009	OTHER AK	7	4	436,802	26%
2009	SAND POINT	2	1	-	-
2009	SEATTLE	1	1	-	-
total				1,660,123	
2010	ADAK	4	4	6,132	0%
2010	AKUTAN	17	1	-	-
2010	ATKA	5	1	-	-
2010	DUTCH/UNALASKA	19	4	515,639	36%
2010	KODIAK	2	2	-	-
2010	OTHER AK	10	6	531,308	38%
2010	WHITTIER	1	1	-	-
total				1,415,751	
2011	ADAK	5	2	-	-
2011	AKUTAN	14	1	-	-
2011	ATKA	2	1	-	-
2011	DUTCH/UNALASKA	13	3	154,949	24%
2011	OTHER AK	9	6	319,382	49%
(thru 7/25) total				655,038	

Source: NMFS RAM Division, data as of 7/25/11.

Note: (-) means data are confidential. "Other AK" port means it is an AK port that is not assigned a port code.

Block status

Since the beginning of the IFQ Program, some portion of the QS has been issued in nonseverable ‘blocks’ in order to limit consolidation. The IFQ in Area 4B and the AI is either blocked or unblocked. Persons received their QS in a block at initial allocation if their QS would have resulted in less than 20,000 pounds of halibut IFQ. Thus, the majority of C and D category QS is blocked, as it corresponds to the smaller vessel size. Table 22 shows the amount of Area 4B halibut QS that is blocked versus unblocked, by category, in 2011. All of the D shares in Area 4B are blocked shares, and those blocks represent relatively small amounts of quota share. In general, the majority of the halibut QS in Area 4B is unblocked; only 36% of the total is blocked. In addition, the great majority of Area 4B halibut QS (77%) is B category.

Table 22 Total amount of Area 4B halibut QS, by category and block status, 2011

Area 4B halibut	QS category	Blocked status	Sum QS units	IFQ lbs 2011	# of blocks	% QS blocked	% QS by category
	A	B	183,431	34,455	6		
	A	U	370,058	69,510	N/A		
A total	A		553,489	103,965	6	33%	6%
	B	B	1,922,264	361,070	54		
	B	U	5,192,262	975,292	N/A		
B total	B		7,114,526	1,336,362	54	27%	77%
	C	B	958,098	179,965	32		
	C	U	389,665	73,193	N/A		
C total	C		1,347,763	253,158	32	71%	15%
D total	D	B	268,996	50,527	18	100%	3%
TOTAL			9,284,774	1,744,012	110	36%	100%

Source: NMFS RAM Program, data as of May 13, 2011.

Table 23 shows the amount of AI sablefish QS that is blocked versus unblocked, by category, in 2011. More than half of the AI sablefish QS is A share (catcher processor shares). Of the remaining 44% that is catcher vessel QS, the vast majority (81%) is B category, and relatively little (18%) of the total CV QS is blocked. The data show that of the catcher vessel QS, about 11% of the B category is blocked, and about 50% of the C category QS is blocked.

Table 23 Total amount of AI sablefish QS, by category and block status, 2011

AI sablefish	QS category	Blocked status	Sum QS units	IFQ lbs 2011	# of blocks	% blocked	% QS by category
	A	B	461,058	39,534	9		
	A	U	17,491,225	1,499,822	N/A		
A total	A		17,952,283	1,539,356	9	3%	56%
	B	B	1,226,924	105,205	32		
	B	U	10,092,709	865,421	N/A		
B total	B		11,319,633	970,626	32	11%	35%
	C	B	1,320,778	113,253	27		
	C	U	1,339,798	114,884	N/A		
C total	C		2,660,576	228,137	27	50%	8%
TOTAL			31,932,492	2,738,119	68	9%	100%

Source: NMFS RAM Program, data as of May 13, 2011.

Transfer rates and nature of transfers

Also relevant to this action is the transfer rate of Area 4B halibut QS and AI sablefish QS. Table 24 displays data on QS transfer rates and on QS holder transfer rates by management area for each year from 1995 through 2009, and for all 15 years combined. The table contains information on the QS holdings at the end of each year, the total QS permanently transferred, the QS transfer rate, the total number of QS holders at the end of the year, the total number of QS holders who transferred QS (transferors), and the rate at which QS holders transferred QS. The QS transfer rates are the ratios of QS transferred to total QS held at the end of the year, expressed as a percentage. The QS holder transfer rate is the ratio of QS transferors to total QS holders at the end of the year, expressed as a percentage. These data reflect total units transferred even if a particular QS unit is transferred more than once. “All Year” data reflect sums of annual QS and QS holders and QS transferors, not numbers of unique QS units or persons.

Table 24 shows a substantial volume of permanent QS transfers in Area 4 (Area 4E is not included as all of the TAC is allocated to the CDQ Program). For Area 4B, over all 15 years combined, the QS transfer rates range from a low of 4.5% in the first year (1994) to a high of 20.6% in 2000. In the past few years reported, the transfer rate has been about 13%. The QS transfer rate in recent years (and the average across all years) does not vary substantially from other management areas in the BSAI; however, it is higher than the QS transfer rates for GOA management areas, recent years for which have ranged from about 3% to 7% for Areas 2C and 3A.

Table 25 provides similar information only for Area 4B, and breaks out the transfer rate by QS category (freezer = A; greater than 60' = B; 36' to 60' = C; and less than 35' = D category). The transfer rate by category varies widely on an annual basis for all QS categories, but the average across all years is very similar for each catcher vessel category. During 1995 through 2009, the transfer rate for Category B QS was 11%, and the rates for C and D shares were each 12%.

This table also provides information on the number of QS holders and the number of people who transferred QS. Recall from Table 16 that there were 96 individual holders of Area 4B halibut QS at year-end 2009, and Table 25 shows there were 7 holders of A category, 63 holders of B category, 28 holders of C category, and 12 holders of D category (a person can hold more than one category of QS). Thus, there are relatively few holders of D category QS in Area 4B. In 2009, there were no transfers of Area 4B D category QS, while in the previous year, the transfer rate was 23% (with a reduction in the number of QS holders from 15 to 12 by year-end 2008).

Table 24 Halibut QS transfer rates, in Area 4, by year

Area	Year	Year-end Total QS	QS Transferred	QS Transfer Rate %	Year-end Total QS Holders	QS Transferors	QS Holder Transfer Rate %
4A	1995	14,276,912	1,757,035	12.3	478	91	19.0
	1996	14,421,900	2,069,893	14.4	433	89	20.6
	1997	14,502,965	3,444,152	23.7	382	134	35.1
	1998	14,503,009	905,843	6.2	359	49	13.6
	1999	14,503,996	1,265,249	8.7	337	73	21.7
	2000	14,503,996	2,865,572	19.8	315	47	15.9
	2001	14,503,996	1,613,476	11.1	295	37	12.8
	2002	14,503,996	1,785,424	12.3	290	40	14.2
	2003	14,587,099	1,497,414	10.3	282	42	15.0
	2004	14,587,099	2,187,984	15.0	280	48	17.1
	2005	14,587,099	2,710,554	18.6	271	53	19.6
	2006	14,587,099	1,877,975	12.9	264	34	12.9
	2007	14,587,099	3,611,517	24.8	248	57	23.0
	2008	14,587,099	1,823,276	12.5	239	32	13.4
	2009	14,587,099	531,789	3.6	235	13	5.5
All Yrs		217,830,463	29,947,153	13.7	4,708	855	18.2
4B	1995	9,022,264	408,998	4.5	145	13	9.0
	1996	9,281,377	432,444	4.7	141	12	8.5
	1997	9,284,774	1,799,544	19.4	132	32	24.2
	1998	9,284,774	579,841	6.2	124	15	12.1
	1999	9,284,774	1,111,136	12.0	117	30	25.6
	2000	9,284,774	1,914,907	20.6	113	39	34.5
	2001	9,284,774	1,344,646	14.5	112	24	21.4
	2002	9,284,774	673,761	7.3	108	14	13.0
	2003	9,284,774	1,388,207	15.0	108	23	21.3
	2004	9,284,774	1,286,251	13.9	107	11	10.3
	2005	9,284,774	750,014	8.1	106	11	10.4
	2006	9,284,774	547,715	5.9	107	8	7.5
	2007	9,284,774	1,178,518	12.7	103	17	16.5
	2008	9,284,774	1,156,951	12.5	99	20	20.2
	2009	9,284,774	1,220,059	13.1	96	16	16.7
All Yrs		139,005,703	15,792,992	11.4	1,718	285	16.6
4C	1995	3,969,186	105,330	2.7	80	3	3.8
	1996	3,969,186	614,446	15.5	80	5	6.3
	1997	3,969,186	380,063	9.6	77	9	11.7
	1998	3,969,186	213,635	5.4	72	7	9.7
	1999	3,969,186	219,964	5.5	71	3	4.2
	2000	3,969,186	222,741	5.6	69	9	13.0
	2001	3,969,186	720,578	18.2	62	12	19.4
	2002	3,969,186	0	0.0	61	0	0.0
	2003	4,016,352	463,048	11.5	63	4	6.3
	2004	4,016,352	379,272	9.4	63	5	7.9
	2005	4,016,352	423,476	10.5	63	8	12.7
	2006	4,016,352	32,196	0.8	62	1	1.6
	2007	4,016,352	403,839	10.1	55	10	18.2
	2008	4,016,352	477,733	11.9	56	8	14.3
	2009	4,016,352	579,500	14.4	53	7	13.2
All Yrs		59,867,952	5,235,821	8.7	987	91	9.2
4D	1995	4,685,996	109,563	2.3	67	2	3.0
	1996	4,790,491	438,168	9.1	68	5	7.4
	1997	4,790,491	1,150,444	24.0	61	21	34.4
	1998	4,746,318	323,172	6.8	56	11	19.6
	1999	4,825,103	371,428	10.9	53	8	15.1
	2000	4,869,276	739,320	15.2	52	15	28.8
	2001	4,869,276	837,814	17.2	50	11	22.0
	2002	4,869,276	952,345	19.6	48	12	25.0
	2003	4,958,250	603,474	12.2	49	9	18.4
	2004	4,958,250	328,087	6.6	49	3	6.1
	2005	4,958,250	105,158	2.1	47	3	6.4
	2006	4,958,250	0	0.0	47	0	0.0
	2007	4,958,250	475,193	9.6	48	9	18.8
	2008	4,958,250	59,427	1.2	47	3	6.4
	2009	4,958,250	52,298	1.1	46	2	4.3
All Yrs		73,153,977	6,545,891	8.9	789	114	14.4

Source: Transfer Report - Changes Under Alaska's Halibut IFQ Program, 1995 Through 2009. NMFS RAM Program. December 2010.

Table 25 Halibut QS transfer rates, in Area 4B, by year and category

Year	Vessel Class	Year-end Total QS	QS Transferred	QS Transfer Rate %	Year-end Total QS Holders	QS Transferors	QS holder Transfer Rate %
1995	Freezer	322,852	0	0.0	7	0	0.0
	GT 60 ft	7,100,366	259,872	3.7	78	8	10.3
	36-60 ft	1,333,447	149,126	11.2	34	5	14.7
	LE 35 ft	265,599	0	0.0	27	0	0.0
1996	Freezer	553,489	0	0.0	8	0	0.0
	GT 60 ft	7,114,526	317,384	4.5	77	7	9.1
	36-60 ft	1,347,763	98,981	7.3	33	2	6.1
	LE 35 ft	265,599	16,079	6.1	26	3	11.5
1997	Freezer	553,489	312,602	56.5	7	3	42.9
	GT 60 ft	7,114,526	1,216,374	17.1	72	19	26.4
	36-60 ft	1,347,763	260,065	19.3	29	9	31.0
	LE 35 ft	268,996	10,503	3.9	26	2	7.7
1998	Freezer	553,489	105,248	19.0	7	1	14.3
	GT 60 ft	7,114,526	350,032	4.9	70	7	10.0
	36-60 ft	1,347,763	112,451	8.3	28	6	21.4
	LE 35 ft	268,996	12,110	4.5	25	1	4.0
1999	Freezer	553,489	0	0.0	7	1	14.3
	GT 60 ft	7,114,526	627,384	0	70	7	10.0
	36-60 ft	1,347,763	145,873	0	28	6	21.4
	LE 35 ft	268,996	83,277	0	25	1	4.0
2000	Freezer	553,489	105,831	19.1	7	3	42.9
	GT 60 ft	7,054,632	1,362,569	19.3	67	22	32.8
	36-60 ft	1,347,763	336,885	25.0	28	12	42.9
	LE 35 ft	268,656	109,622	40.8	18	6	33.3
2001	Freezer	553,489	0	0.0	7	0	0.0
	GT 60 ft	7,114,526	926,376	13.0	71	11	15.5
	36-60 ft	1,347,763	238,235	17.7	31	6	19.4
	LE 35 ft	268,996	180,035	66.9	17	8	47.1
2002	Freezer	553,489	105,248	19.0	7	1	14.3
	GT 60 ft	7,114,526	350,032	4.9	70	7	10.0
	36-60 ft	1,347,763	112,451	8.3	28	6	21.4
	LE 35 ft	268,996	12,110	4.5	25	1	4.0
2003	Freezer	553,489	105,248	19.0	7	1	14.3
	GT 60 ft	7,114,526	350,032	4.9	70	7	10.0
	36-60 ft	1,347,763	112,451	8.3	28	6	21.4
	LE 35 ft	268,996	12,110	4.5	25	1	4.0
2004	Freezer	553,489	0	0.0	7	0	0.0
	GT 60 ft	7,114,526	1,194,758	16.8	68	10	14.7
	36-60 ft	1,347,763	91,493	6.8	32	3	9.4
	LE 35 ft	268,996	0	0.0	16	0	0.0
2005	Freezer	553,489	0	0.0	7	0	0.0
	GT 60 ft	7,114,526	635,373	8.9	66	8	12.1
	36-60 ft	1,347,763	114,641	8.5	32	3	9.4
	LE 35 ft	268,996	0	0.0	16	0	0.0
2006	Freezer	553,489	0	0.0	7	0	0.0
	GT 60 ft	7,114,526	440,034	6.2	67	5	7.5
	36-60 ft	1,347,763	107,681	8.0	32	4	12.5
	LE 35 ft	268,996	32,196	12.0	16	1	6.3
2007	Freezer	553,489	31,563	5.7	7	1	14.3
	GT 60 ft	7,114,526	939,675	13.2	66	9	13.6
	36-60 ft	1,347,763	196,164	14.6	31	6	19.4
	LE 35 ft	268,996	11,116	4.1	15	2	13.3
2008	Freezer	553,489	31,563	5.7	7	1	14.3
	GT 60 ft	7,114,526	924,101	13.0	64	11	17.2
	36-60 ft	1,347,763	139,293	10.3	30	6	20.0
	LE 35 ft	268,996	61,994	23.0	12	6	50.0
2009	Freezer	553,489	0	0.0	7	0	0.0
	GT 60 ft	7,114,526	762,922	10.7	63	6	9.5
	36-60 ft	1,347,763	390,186	29.0	28	10	35.7
	LE 35 ft	268,996	0	0.0	12	0	0.0
All Years	Freezer	8,137,212	651,380	8.0	106	11	10.4
	GT 60 ft	108,121,087	11,811,449	10.9	1,035	161	15.6
	36-60 ft	23,141,856	2,732,472	11.8	460	87	18.9
	LE 35 ft	4,823,783	567,936	11.8	279	39	14.0

Source: Transfer Report - Changes Under Alaska's Halibut IFQ Program, 1995 Through 2009. NMFS RAM Program. December 2010.

Table 26 Aleutian Islands sablefish QS transfer rates, by year

Year	Year-end Total QS	QS Transferred	QS Transfer Rate (%)	Year-end Total QS Holders	QS Transferors	QS holder Transfer Rate (%)
1995	29,863,329	2,143,624	7.2	125	14	11.2
1996	31,103,860	2,062,710	6.6	130	9	6.9
1997	31,518,176	4,917,176	15.6	124	17	13.7
1998	31,518,176	2,526,775	8.0	119	17	14.3
1999	31,932,492	5,222,044	16.4	112	14	12.5
2000	31,932,492	2,375,500	7.4	103	19	18.4
2001	31,932,492	3,487,485	10.9	96	15	15.6
2002	31,932,492	4,077,120	12.8	97	9	9.3
2003	32,932,492	4,024,747	12.2	97	10	10.3
2004	31,932,492	1,376,465	4.3	97	5	5.2
2005	31,932,492	6,102,631	19.1	99	11	11.1
2006	31,932,492	4,116,387	12.9	98	10	10.2
2007	31,932,492	5,580,476	17.5	94	13	13.8
2008	31,932,492	2,741,800	8.6	92	10	10.9
2009	31,932,492	5,399,917	16.9	94	11	11.7
All Yrs	476,260,953	56,154,857	11.8	1581	184	11.6

Source: Transfer Report - Changes Under Alaska's Sablefish IFQ Program, 1995 Through 2009. NMFS RAM Program. December 2010.

Table 26 and Table 27 show similar information related to transfers of AI sablefish QS. Table 26 shows that the number of QS holders of AI sablefish quota has decreased from 125 to 94 over the past fifteen years (1995 through 2009). Like halibut, the QS transfer rate has varied substantially over this time period, ranging from a low of 4.3% (2004) to a high of 19.1% (2005). On average, the transfer rate is almost 12%, which is about the same rate realized for Area 4B halibut QS.

Table 27 breaks down these data by vessel category (freezer = A; greater than 60' = B; less than 60' = C). Similar to halibut, the AI sablefish QS transfer rate by category varies widely on an annual basis for all QS categories, but the average across all years is similar for each catcher vessel category. During 1995 through 2009, the transfer rate for Category B QS was 14%, and the rate for C shares was 15%.

This table also provides information on the number of QS holders and the number of people who transferred QS. Recall from Table 16 that there were 94 individual holders of AI sablefish QS at year-end 2009, and Table 27 shows there were 28 holders of A category, 43 holders of B category, and 32 holders of C category (a person can hold more than one category of QS). The transfer rate for B and C category QS was over 11% in each category. In 2009, five persons transferred B category QS, and 2 persons transferred C category. This resulted in a reduction in QS holders of B category QS from 44 to 43 persons, and an increase in holders of C category from 30 to 32. In general, in recent years, there are relatively few permanent transfers of AI sablefish catcher vessel QS on an annual basis.

Table 27 Sablefish QS transfer rates, Aleutian Islands, by year and category

Year	Vessel Class	Year-end Total QS	QS Transferred	QS Transfer Rate %	Year-end Total QS holders	QS Transferors	QS Holder Transfer Rate %
1995	Freezer	16,374,036	695,809	4.2	28	3	10.7
	GT 60 ft.	11,086,468	550,180	5.0	58	6	10.3
	LE 60 ft.	2,402,825	897,635	37.4	41	5	12.2
1996	Freezer	17,123,651	1,213,703	7.1	30	3	10.0
	GT 60 ft.	11,319,633	352,931	3.1	60	3	5.0
	LE 60 ft.	2,660,576	496,076	18.6	42	3	7.1
1997	Freezer	17,537,967	3,560,809	20.3	29	6	20.7
	GT 60 ft.	11,319,633	743,433	6.6	59	5	8.5
	LE 60 ft.	2,660,576	612,934	23.0	41	6	14.6
1998	Freezer	17,537,967	633,790	3.6	29	3	10.3
	GT 60 ft.	11,319,633	1,501,959	13.3	56	9	16.1
	LE 60 ft.	2,660,576	391,026	14.7	40	5	12.5
1999	Freezer	17,952,283	790,836	4.4	28	2	7.1
	GT 60 ft.	11,319,633	3,937,790	34.8	51	9	17.6
	LE 60 ft.	2,660,576	79,102	3.0	32	2	6.3
2000	Freezer	17,952,283	1,108,521	6.2	27	2	7.1
	GT 60 ft.	11,319,633	988,765	8.7	50	9	15.7
	LE 60 ft.	2,660,576	278,214	10.5	30	10	32.3
2001	Freezer	17,952,283	1,639,258	9.1	28	5	14.8
	GT 60 ft.	11,319,633	1,617,966	14.3	50	7	12.0
	LE 60 ft.	2,660,576	230,261	8.7	29	5	17.2
2002	Freezer	17,952,283	2,760,605	15.4	27	4	7.1
	GT 60 ft.	11,319,633	698,573	6.2	49	5	8.0
	LE 60 ft.	2,660,576	617,942	23.4	29	5	14.3
2003	Freezer	17,952,283	282,769	1.6	28	1	3.7
	GT 60 ft.	11,319,633	3,219,850	28.4	49	8	14.3
	LE 60 ft.	2,660,576	522,128	19.8	31	2	7.1
2004	Freezer	17,952,283	311,496	1.7	28	2	7.1
	GT 60 ft.	11,319,633	792,700	7.0	48	3	6.1
	LE 60 ft.	2,660,576	272,269	10.3	31	3	3.3
2005	Freezer	17,952,283	2,900,646	16.2	29	2	7.1
	GT 60 ft.	11,319,633	2,989,377	26.4	47	10	16.7
	LE 60 ft.	2,660,576	212,608	8.1	31	2	6.7
2006	Freezer	17,952,283	1,793,830	10.0	28	3	10.7
	GT 60 ft.	11,319,633	2,085,637	18.4	46	4	8.7
	LE 60 ft.	2,660,576	236,920	9.0	30	3	10.0
2007	Freezer	17,952,283	3,673,934	20.5	28	3	10.7%
	GT 60 ft.	11,319,633	1,198,450	10.6	46	5	10.9%
	LE 60 ft.	2,660,576	708,092	26.6	30	5	16.7%
2008	Freezer	17,952,283	969,880	5.4	28	2	7.1%
	GT 60 ft.	11,319,633	1,563,403	13.8	44	5	11.4%
	LE 60 ft.	2,660,576	208,517	7.8	30	3	10.0%
2009	Freezer	17,952,283	3,795,638	21.1	28	4	14.3%
	GT 60 ft.	11,319,633	1,289,891	11.4	43	5	11.6%
	LE 60 ft.	2,660,576	314,388	11.8	32	2	6.3%
All Yrs	Freezer	266,048,734	26,131,524	9.8	423	42	9.9%
	GT 60 ft.	169,561,330	23,530,905	13.9	756	87	11.5%
	LE 60 ft.	39,650,889	6,078,112	15.3	499	58	11.6%

Source: Transfer Report - Changes Under Alaska's Sablefish IFQ Program, 1995 Through 2009. NMFS RAM Program. December 2010.

Note that the nature of transfers has also been reported over time. A transfer application form requires information on the type of transfer (sale, gift, trades, or other), the relationship between the person transferring and the recipient of the QS, and the type of financing. Through 2009, 'priced sales' (whereby price information is reported) were the predominant transfer type in all areas, including Area 4B halibut and AI sablefish, with 'personal resources' cited as the primary source of financing for priced sale transfer ('banks' and 'sellers' are other finance source categories). Brokers were also used in a high

percentage of halibut QS transfers; NMFS reports 51% of all transactions used brokers in 2006. For both halibut and sablefish, the great majority of QS (almost 70%) was transferred between parties who indicated ‘no relationship’, with lesser amounts transferred between family and friends.

Table 28 Nature of QS transfers and relationship between parties, by percent, 1995 - 2009

Area/Species	Priced sales	Other sales	Trades	Gifts	Unknown
Area 4B					
halibut	78.1	1.0	1.0	16.6	3.4
AI sablefish	76.3	1.4	2.2	7.2	13.0
	Family	Friends	Partners	No relation	Missing
Area 4B					
halibut	13.5	11.9	2.0	68.9	3.7
AI sablefish	6.6	17.4	2.2	69.9	4.5

Source: Transfer Reports - Changes Under Alaska’s Halibut and Sablefish IFQ Program, 1995 Through 2009. NMFS RAM Program. December 2010, Table 6.

Note: 1999 is not used in the above calculations due to changes in the NMFS database.

2.6.1.1 Effects on non-CQE participants

There is limited quantitative information that would assist in evaluating this action, beyond the background information and trend data characterizing the IFQ fisheries to-date provided in the previous section. Under Alternative 1, initial recipients of QS and IFQ crewmembers (natural persons who qualify to receive QS by transfer) would continue to be the only eligible persons to purchase Area 4B halibut QS and AI sablefish QS. The percent of the annual Area 4B halibut catch limit landed would likely remain about 80 to 90%, and the sablefish landings a little over 50%, given the most recent harvest trends, and the transfer rates would be expected to remain relatively low and stable, barring other unforeseen factors.

Table 29 shows that on average 2000 to 2010, 10% of the total Area 4B halibut *catcher vessel* IFQ remained unfished. During this same time period, an average of 70% of the D category halibut IFQ was not landed, compared to much lower percentages in the other categories (Table 29). Of the total amount of unlanded IFQ (2000 through 2010), 22% is D category. As the majority of the D category halibut QS in Area 4B is unfished, this type of quota may be less desirable to fish in this area. Recall that only 3% of the total Area 4B halibut QS is D category, currently held by 12 persons. In 2009, none of the 12 permit holders fished their Area 4B D category IFQ; in 2010, three permit holders fished; and in 2011, four permit holders fished. There are a myriad of reasons why quota would remain unfished. Due to the relatively long-term trend realized, particularly for D shares, one would expect this to continue under Alternative 1.

Table 29 Amount of Area 4B halibut IFQ unfished, by category, 2000 - 2010

Category	Total IFQ lbs	% of total IFQ by category	IFQ lbs not landed	% unlanded lbs by category	% of total unlanded lbs, by category
A	1,538,012	6%	67,115	4%	3%
B	19,769,549	77%	1,316,607	7%	55%
C	3,745,107	15%	473,319	13%	20%
D	747,475	3%	521,430	70%	22%
Total	25,800,143	100%	2,378,471	n/a	100%

Source: NMFS RAM Division, data 6/22/11.

Note also, that in October 2011, the Council reviewed whether to pursue an action that would allow halibut vessel category D quota shares in Area 4B to be fished on category C vessels (i.e., ‘fish up’ provision). Fishery participants in Area 4B have asserted that the restrictions governing the use of IFQ derived from Category D QS present a safety issue that contributes to their inability to harvest their allocations. The analysis for that action reports that, due to weather conditions, a 35’ LOA vessel can only safely fish between May 15 and September 15. Additionally, fishing during the safest part of the summer window may not be possible for small vessels, as processors may not be accepting halibut during the peak of the salmon fisheries. Category D vessels may, thus, be limited to a substantially shortened season, and/or forced to fish under less safe conditions in order to harvest their IFQ. As a result of these adverse conditions, category D vessel owners have reported that they prefer to increase their QS holding by purchasing category B and C QS. They prefer those categories to category D QS so that they may harvest their QS on a larger vessel in the future. Consequently, there is very little market demand for the Category D QS, according to industry members. Please see the analysis of this action for details.³⁹ In October, however, the Council decided not to pursue this action (‘fish up provision’ in Area 4B) at this time.

Table 30 shows that half of the AI sablefish allocation has been unfished, on average, during 2000 through 2010, with relatively little variability across years. Unlike Area 4B halibut, the percentage of unfished AI sablefish IFQ does not vary substantially by category – about half of each QS category was unfished during this time period. One would expect this trend would also continue under Alternative 1.

Table 30 Amount of AI sablefish IFQ unfished, by category, 2000 - 2010

Category	Total IFQ lbs	% of total IFQ by category	IFQ lbs not landed	% unlanded lbs by category	% of total unlanded lbs, by category
A	21,448,296	56%	10,198,674	48%	53%
B	13,524,008	35%	7,010,889	52%	37%
C	3,178,693	8%	1,931,640	61%	10%
Total	38,150,997	100%	19,141,203	n/a	100%

Source: NMFS RAM Division, data 6/22/11.

Under Alternative 1, one would also expect the trends relative to the type of QS holder would continue; a slight majority of holders of Area 4B halibut QS are Alaska residents. In addition, very little Area 4B halibut QS is held by non-profit corporations (about 5%), with about one-third held by corporations. The majority (63%) is held by individuals (natural persons who were initial QS recipients) or crew (natural persons who were not initial recipients but who met the qualifications to receive QS by transfer). As the Council has included provisions within the IFQ Program which should encourage QS to move gradually to individual owner-operators, one would expect the distribution to individuals and crew to gradually increase, compared to other entities.

For AI sablefish QS, the majority of the QS (56%) is A category (freezer shares), compared to only 6% of the Area 4B halibut QS. In addition, a little over a third of the holders of AI sablefish QS are Alaska residents. About half of the total AI sablefish QS is held by corporations, with very little held by non-profits. About 48% is held by initial recipients or crew. One would not expect significant changes to non-CQE participants under Alternative 1.

³⁹RIR/IRFA for an Amendment to Regulations that Implement the Halibut IFQ Program to Allow IFQ Derived from Category D QS to be Fished on Category C Vessels in Area 4B, Public review draft. NPFMC, November 5, 2010.

2.6.1.2 Effects on Adak

Under Alternative 1, a CQE Program would not be established in Area 4B, and thus, the non-profit representing the community of Adak would not be eligible to purchase Area 4B halibut catcher vessel QS or AI sablefish QS. Alternative 1 would not affect the current halibut and sablefish QS holdings by individual Adak residents, which equate to about 47,000 lbs of halibut IFQ and 37,000 lbs of sablefish IFQ in 2011 (refer to Table 14 and Table 15). Only two Adak residents hold Area 4B halibut QS, and only one resident holds AI sablefish QS (a total of 2 unique residents). Like other non-CQE quota, QS is not required to be delivered to a processing plant located in Adak, and it can be sold to another individual or company outside of Adak.

In the past, the shoreside processing plant in Adak was dependent primarily on Pacific cod deliveries from both the Federal and State water fisheries, but also processed halibut, sablefish, and various flatfish species. In 2010, in the absence of an operational shoreside plant, ACDC made significant efforts to facilitate direct sales of halibut by Adak residents by providing a building in which fishermen could store and package fish prior to shipping (refer to Section 2.6.2.2). While it is uncertain how the new owner, Icicle Seafoods, will operate, one can speculate that Pacific cod would continue to be the dominant species processed. Icicle started purchasing halibut, sablefish, and AI State fishery Pacific cod in early July 2011, and intends to be fully operational for the 2012 Federal Pacific cod A season.⁴⁰ Under Alternative 1, it is assumed that the new plant operations, and the efforts of ACDC to further local seafood harvesting and processing development, would continue.

There is no direct measurable impact of Alternative 1 on Adak or the non-profit potentially representing Adak (ACDC) for the purposes of this action.

2.6.2 Alternative 2

The language approved for Alternative 2, the Council's preliminary preferred alternative, is as follows:

Alternative 2. Establish a CQE Program in Area 4B. Allow a non-profit entity representing an eligible community in Area 4B to purchase and hold Area 4B halibut quota share and Aleutian Islands sablefish quota share, with similar qualifying criteria and operational limits as the existing GOA CQE communities (see specific provisions below).

Alternative 2 includes several components describing the program and its restrictions. Each component is analyzed separately below, with a summary of impacts at the end of this section. The Council has identified all of the components as part of its preliminary preferred alternative, and has selected an option under each component where applicable.

2.6.2.1 Eligible communities

Non-CDQ communities located in Area 4B with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut or sablefish fisheries are eligible to own and use commercial catcher vessel halibut and sablefish quota share. In addition to meeting these criteria at final action, eligible communities must be listed as a defined set of eligible communities in Federal regulation. Communities not meeting the qualifying criteria and not on the list adopted by the Council are not eligible to participate. Other Area 4B communities could petition the Council for inclusion after the implementation of this program. Qualifying Area 4B

⁴⁰Personal communication, Krista Milani, NMFS AKR, 7/5/11.

communities would be restricted to purchasing Area 4B halibut and Aleutian Islands sablefish quota share.

The proposed criteria to be an eligible community in Area 4B mirror those of the existing CQE Program in the Gulf of Alaska, with the exception of the location. The proposed program is intended for communities located in IPHC management Area 4B; the criteria are also explicit about applying to non-CDQ communities. It is assumed that CDQ communities in the BSAI would not need such a program, as they receive direct allocations of halibut and sablefish catcher vessel quota share through their representative CDQ groups.

Staff has interpreted ‘documented historic participation in the halibut and sablefish fisheries’ the same as was implemented under the original GOA CQE Program; the Council should specify if a different interpretation is desired. Federal regulations implementing the GOA program specify that residents of the community must have at least one commercial landing of halibut and/or sablefish, as documented by the Commercial Fisheries Entry Commission (CFEC) during 1980 through 2000.⁴¹ The Council should also specify whether the population criterion would exactly mirror the existing CQE Program. The Gulf program requires that communities must have had a population of no fewer than 20 and no more than 1,500, according to the 2000 U.S. Census. This means that the community must be recognized by the 2000 U.S. Census, as either an incorporated place (city) or a census designated place. At the time of the original CQE Program, the 2000 U.S. Census was the best available demographic data. Depending upon the timing of final action, the Council may want to consider whether to use the 2010 U.S. Census. This specification would be direction for the proposed and final rulemaking; Adak would meet the population criteria under either census.

In brief, there are only three communities recognized by the 2000 (and 2010) U. S. Census in Area 4B: Atka, Adak, and Attu Station (Figure 1). Atka is a CDQ community, so would not be eligible under the proposed program. Attu Station is a Coast Guard station on the northeast coast of Attu Island, on the far western end of the Aleutian Chain. The Alaska Community Information Summaries report that Coast Guard personnel live in a group quarters facility, and that there are no families stationed at Attu. The 2010 U.S. Census reports a population of 21. While Attu may meet the population criteria, it does not meet the halibut or sablefish landings criteria according to CFEC.

Thus, the only potentially eligible community in Area 4B under the proposed action is Adak. Adak is not a CDQ community; has a 2010 U.S. Census population of 326 (and a 2000 U.S. Census population of 316); does not have road access to a larger community over 1,500 persons; has direct access to saltwater; and has a documented historical participation in the commercial halibut or sablefish fisheries. A preliminary evaluation of halibut and sablefish permit activity, per CFEC records, indicates that several halibut permit holders identified Adak as their city of residence during the 1980 through 2000 timeframe. More recently than 2000, there are halibut and sablefish permit holders reported, with the requisite commercial landings (refer to Table 14 and Table 15).

⁴¹See the final rule for GOA Am. 66: <http://www.fakr.noaa.gov/frules/fr23681.pdf>.

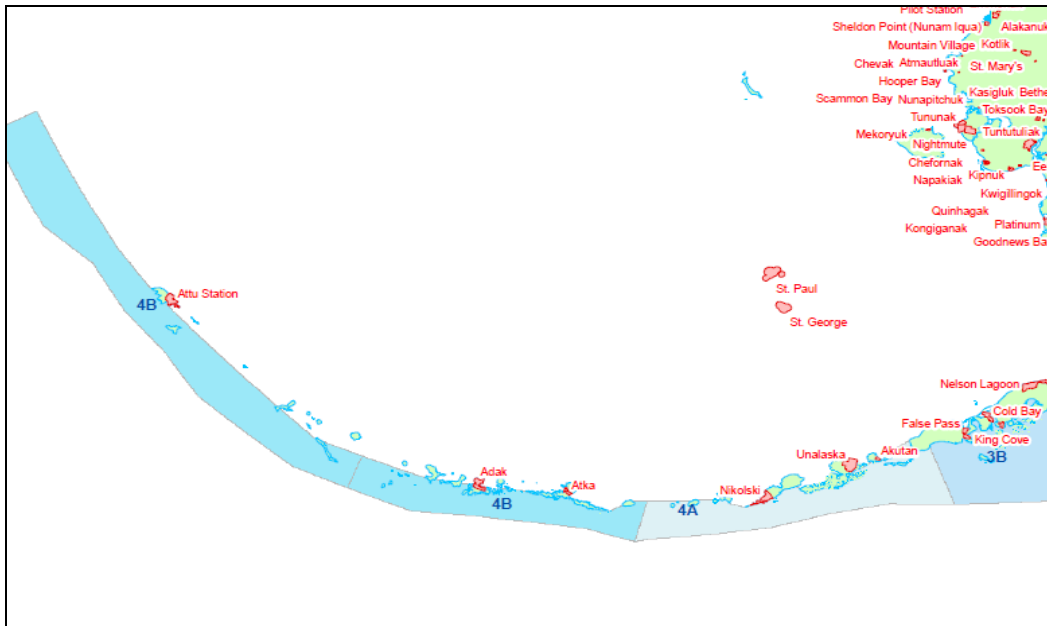


Figure 2 Communities located in IPHC Area 4B

2.6.2.2 Ownership Entity

A non-profit entity, approved by NMFS as the holder of the Adak Community Allocation of Western Aleutian Islands golden king crab will be recognized as the CQE entity for the community of Adak. The governing body in Adak (currently City of Adak) must approve the CQE to operate on behalf of the community.

The Gulf CQE Program is premised on the ability of a non-profit entity to purchase and hold halibut and sablefish catcher vessel QS on behalf of a community, for lease to and use by community residents. The intent is to provide a long-term asset to use for individual and community benefit, which cannot be sold unless it better the community's position in the CQE Program. Individual QS holders can leave the community, sell their quota share, or otherwise act in their best interest. This program is intended to ensure that some level of access remains for community residents in the long-term. The proposed program in Area 4B is designed after the same concept in the Gulf program.

This provision dictates the entity eligible to purchase and hold halibut and sablefish on behalf of the community. As discussed in Section 2.6.2.1, Adak would be the only eligible community, thus, the provision identifying the administrative entity is specific to Adak. The proposal specifies that the non-profit corporation formed for the purpose of holding the crab allocation made to Adak would also be eligible to purchase and hold QS on behalf of Adak. At this time, that non-profit is the Adak Community Development Corporation (ACDC). The Gulf CQE Program requires that communities form a 'new' non-profit entity (as of 2004) for the purpose of holding QS. The requirement to form a 'new' entity was based on the idea that a corporation should be formed whose primary interest is fisheries development, as opposed to using an existing organization which may have several, differing purposes (e.g., the municipality).

The bylaws of ACDC state that the corporation is a nonprofit corporation organized exclusively for purposes within the meaning of Section 501(c)(4)⁴² of the Internal Revenue Code, and all funds of the corporation shall be “dedicated to the promotion and development of fisheries related resources, infrastructure and assets for the benefit of the community of Adak, Alaska.” ACDC has a five-person, elected Board of Directors. ACDC’s income, primarily derived from royalties from its Western AI golden king crab allocation, has varied substantially over the past several years.⁴³

In 2010, ACDC also formed a for-profit subsidiary (Adak Community Seafoods, or ACS), which was established to own property to further the purposes of local seafood harvesting and processing development. ACS has been capitalized with funds from ACDC. Its primary focus has been to operate a building in Adak that small boat fishermen could use to pack their own fish for shipment to outside markets. ACS purchased an ice machine and an old McDonald’s building in 2010 for this purpose, which included a forklift and flatbed trailer to move totes of fish. In 2011, ACS purchased a small building located at the small boat harbor to be used instead of the McDonald’s building, which will also be available as a gear storage facility for fishermen. ACS also made back payments to NMFS to get the 2010/2011 Western Aleutians golden king crab IPQ from the Adak Fisheries bankruptcy estate, and had the crab custom processed in Dutch Harbor. In the summer of 2011, ACS is remodeling and re-equipping the old McDonald’s building as a restaurant/galley, in hopes it can support processing workers at the newly reopened processing plant (Icicle Seafoods). ACS does not have any employees as of yet, so it is uncertain what type of management structure will be established for the restaurant operation.⁴⁴

ACDC was formed to develop a fisheries plan for the community, and submitted an IFQ proposal to the Council to serve that purpose. Because the original proposal was premised on the idea that ACDC would use its crab royalties to purchase Area 4B halibut QS and AI sablefish QS, and because ACDC was formed for a purpose consistent with that envisioned under the CQE Program, it seems appropriate to consider allowing ACDC to be the non-profit entity designated to purchase and hold halibut and sablefish QS on behalf of Adak. However, should ACDC dissolve for some reason and no longer hold Adak’s allocation of Western AI golden king crab, the language proposed above allows for a different entity holding that allocation to represent the community for the purpose of the CQE Program. The Council revised this language in October 2011 to accommodate that potential scenario. This language directly links the holder of the Western AI golden king crab allocation to the Area 4B CQE Program.

Under the existing CQE Program, a governing body in the community must approve the CQE to operate on behalf of the community for the purposes of the program. The intent of this requirement is to ensure that the governing body in the community understands the role of the CQE, and by approval, agrees that the proposed non-profit entity is an appropriate representative for this purpose. It also helps ensure that only one non-profit applies to NMFS to represent a particular community. Alternative 2 explicitly identifies the one entity that can represent Adak as a CQE; however, the Council specified, in October 2011, that approval by the governing body of the eligible community would also be required. Because Adak is incorporated, it is the City of Adak that would need to approve the use of ACDC as the CQE, prior to its approval by NMFS and participation in the program.

⁴²501(c)(4)s are tax-exempt non-profit organizations. According to the Internal Revenue Code (IRC), 501(c)(4)s are: 1) civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or 2) local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and 3) the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes. 501(c)(4)s are a common type of non-profit that can engage in lobbying or political campaigning (the primary difference from a 501(c)(3)).

⁴³Dave Fraser, personal communication, July 8, 2011.

⁴⁴Dave Fraser, personal communication, July 8, 2011.

2.6.2.3 Individual and Cumulative Community Use Caps

The following provisions limit the amount of halibut QS and sablefish QS that: 1) each eligible community (via the CQE) could purchase and hold, and 2) all eligible communities could hold combined. Because Adak is the only potentially eligible community under the proposed action, the same use caps would serve as both an individual community limit and a cumulative community limit. If additional communities were added to the program through a future regulatory amendment, they would be subject to the same limits, unless specified otherwise. The Council specified Option 2 (15%) and Option 4 (15%) for both the halibut and sablefish use caps as part of its preliminary preferred alternative in October 2011.

Each eligible community in Area 4B is limited to purchasing and using either:

- Option 1. An amount of QS equal to the individual use cap for Area 4 halibut QS (i.e., 1.5% of Area 4 QS pool; or*
Option 2. 5%, 10%, or 15% (PPA) of the Area 4B halibut QS pool

And either:

- Option 3. An amount of QS equal to the individual use cap for sablefish (i.e., 1% of all sablefish QS pool; or*
Option 4. 5%, 10%, or 15% (PPA) of the Aleutian Islands sablefish QS pool

All eligible communities combined are limiting to purchasing and using either:

- Option 1. An amount of QS equal to the individual use cap for Area 4 halibut QS (i.e., 1.5% of Area 4 QS pool; or*
Option 2. 5%, 10%, or 15% (PPA) of the Area 4B halibut QS pool

And either:

- Option 3. An amount of QS equal to the individual use cap for sablefish (i.e., 1% of all sablefish QS pool); or*
Option 4. 5%, 10%, or 15% (PPA) of the Aleutian Islands sablefish QS pool

The existing Gulf CQE Program establishes individual community use caps that are the same as the use caps applicable to individual holders: Gulf CQEs are limited to 1% of Area 2C halibut QS and 0.5% of the combined Area 2C, 3A, and 3B halibut QS. They are also limited to 1% of Southeast sablefish QS and 1% of all combined sablefish QS. Table 31 provides the existing use caps for individuals and Gulf CQEs and the number of pounds to which they equate in 2011.

Table 31 2011 quota share use caps

Use Cap	2011 QS use cap	Equivalent 2011 IFQ lbs
Halibut		
1% of 2C	599,799 QS units	23,467 IFQ lbs
0.5% of 2C, 3A, 3B	1,502,823 QS units	116,708 lbs if all 3A quota; 208,219 lbs if all 3B quota (examples)
1.5% of Area 4	495,044 QS units	92,987 lbs if all Area 4B (example)
Sablefish		
1% of SE quota	688,485 QS units	67,489 IFQ lbs
1% of all quota	3,229,721 QS units	276,939 if all AI quota; 432,556 if all BS quota; 230,017 lbs if all CG quota; 262,442 lbs if all WG quota (examples)

Source: NMFS RAM Program. February 18, 2011.

Note: Only the Gulf QS use caps apply to the existing Gulf CQE Program, as this program is limited to Area 2C, 3A, and 3B.

As the proposed action limits CQE purchases to Area 4B halibut QS and AI sablefish QS, it is assumed that the only existing use caps that are relevant for comparison are 1.5% of Area 4 halibut quota (495,044 QS units) and 1% of all sablefish QS (3.23 million QS units). There are no existing use caps specifically limiting the amount of Area 4B halibut QS or AI sablefish QS that a person can purchase. The proposed use caps (Options 1 – 4) for an Area 4B CQE are provided in Table 32. Recall that these represent both the individual and the cumulative community use caps.

Table 32 Proposed Area 4B CQE use caps, using 2011 quota share pools and TACs

Halibut use cap options	QS pool	Use cap	Equivalent 2011 IFQ lbs
Option 1: 1.5% of Area 4 QSP	33,002,937 QS	495,044 QS units	92,987 lbs (if all Area 4B)
Option 2a: 5% of Area 4B QSP	9,284,774 QS	464,239 QS units	87,201 lbs
Option 2b: 10% of Area 4B QSP	9,284,774 QS	928,477 QS units	174,401 lbs
Option 2c: 15% of Area 4B QSP	9,284,774 QS	1,392,716 QS units	261,602 lbs
Sablefish use cap options	QS pool	Use cap	Equivalent 2011 IFQ lbs
Option 3: 1% of sablefish QSP	322,972,132 QS	3,229,721 QS	276,939 lbs (if all AI)
Option 4a: 5% of AI QSP	31,932,492 QS	1,596,625 QS	136,906 lbs
Option 4b: 10% of AI QSP	31,932,492 QS	3,193,249 QS	273,812 lbs
Option 4c: 15% of AI QSP	31,932,492 QS	4,789,874 QS	410,718 lbs

Source: 2011 quota share pools and TACs, RAM Program, February 2011.

Thus, if the Council was to mirror the approach taken in the Gulf with regard to use caps for Area 4B, it would equate to Option 1 and Option 3. Option 1 and Option 3 would establish the same halibut and sablefish use caps, respectively, for the CQE as are currently in place for individual holders. Option 1 would apply the existing Area 4 halibut QS use cap to the CQE (495,044 QS units). However, the CQE could only purchase *Area 4B* halibut QS up to the Area 4 use cap, which equates to 92,987 lbs in 2011. Option 3 would apply the existing use cap of 1% of all sablefish QS (3.23 million QS units) to the CQE. However, the CQE could only purchase *AI sablefish* QS up to the use cap, which equates to 276,939 lbs in 2011.

In effect, under the existing IFQ Program, there is no halibut use cap specific to Area 4B in place for individuals, but individuals cannot hold more than 1.5% of the Area 4 halibut QS pool; thus, the *defacto* limit on Area 4B halibut is 1.5% of the Area 4 halibut QS pool. An individual could, in theory, purchase up to 495,044 Area 4 halibut QS units, all in Area 4B, if desired. They could also, in theory, purchase up to 3.23 million units of sablefish QS, all in the AI area, if desired. Option 1 and Option 3 would establish the same limits for the CQE, except they would restrict its halibut QS and sablefish QS purchases to Area 4B and the AI, respectively.

Option 2 and Option 4 propose a range of use caps (5%, 10%, or 15%), applicable specifically to the Area 4B halibut quota share pool and the AI sablefish quota share pool, respectively. The CQE halibut use caps proposed (Option 2) range from about 464,239 to 1.39 million Area 4B halibut QS units, which equates to about 87,200 to 261,600 IFQ lbs in 2011. By comparison, Option 2a (5% of the pool) establishes a use cap of slightly less than the individual use cap. Option 2b (10% of the pool) proposes an Area 4B halibut quota share use cap (928,477 QS units) for CQEs, that is about two times greater than Option 1 and

Option 2a. Option 2c (15% of the pool) proposes an Area 4B halibut quota share use cap (1.39 million QS units) for CQEs that is about three times greater than Option 1 and Option 2a.

Under Option 4, the CQE sablefish use caps proposed are 5%, 10%, or 15% of the AI sablefish QS pool. In terms of QS units, these caps range from 1.6 million to 4.79 million QS units, which equates to about 136,900 to 410,700 IFQ lbs in 2011. As stated previously, currently there is no sablefish use cap specific to the AI in place for individuals, but individuals cannot hold more than 1% of the entire sablefish QS pool; thus, the *de facto* limit on AI sablefish is 1% of the sablefish QS pool. The proposed use cap under Option 4b about equals that limit. Option 4a is about half of the limit to which individual holders are subject in Area 4 combined, and Option 4c would establish a use cap almost 50% greater.

In testimony in February 2010, ACDC proposed use caps equal to 10% of the Area 4B halibut QS pool (Option 2b) and 10% of the AI sablefish QS pool (Option 4b). They noted that the use caps were proposed because they were similar, in terms of pounds, to the caps established for Gulf CQEs. This is the case in 2011, as demonstrated by comparing Table 31 and Table 32. Note, however, as TACs change over time, these poundage equivalencies may not always occur. This is the primary reason for establishing use caps in QS units, as opposed to pounds.

The Council’s preliminary preferred alternative identifies use caps equal to 15% of the Area 4B halibut QS pool (1,392,716 QS units or 261,602 lbs in 2011); and 15% of the AI sablefish pool (4,789,874 QS units or 410,718 lbs in 2011). In terms of pounds, these are higher than are allowed for Gulf CQEs. However, in considering appropriate use caps, the Council may consider both the problem statement and whether the halibut and sablefish catch limits in the specified areas are fully prosecuted. Table 33 provides the most recent six full years of Area 4B halibut and AI sablefish allocations and landings. On average (2005 through 2010), about 49% of the AI sablefish allocation and about 87% of the Area 4B halibut allocation, has been landed. Refer to Table 29 and Table 30 for the amount of unfished Area 4B halibut and AI sablefish IFQ by quota share category.

Table 33 Area 4B IFQ allocations and landings, 2005 - 2010

Year	Vessel landings	Catch (in million lbs)	Allocation (in million lbs)	% of allocation harvested
Area 4B Halibut				
2010	112	1.39	1.73	81%
2009	67	1.23	1.50	82%
2008	97	1.36	1.49	91%
2007	88	1.09	1.15	94%
2006	78	1.22	1.34	91%
2005	93	1.60	1.81	88%
Ave 05 - 10		1.32	1.50	87%
AI Sablefish				
2010	94	1.42	2.74	52%
2009	98	1.66	2.91	57%
2008	94	1.42	3.23	44%
2007	75	1.61	3.72	43%
2006	87	1.54	3.97	39%
2005	101	2.09	3.47	60%
Ave 05 - 10		1.62	3.34	49%

Source: NMFS RAM Program reports, 2005 – 2009.

In sum, there are options for halibut use caps that align with the use caps established under the existing IFQ Program and GOA CQE Program, and options that increase the use cap for the CQE compared to the existing program. All halibut use caps proposed would only apply to Area 4B halibut. There are options

for sablefish use caps that align with the use caps established under the existing IFQ Program and GOA CQE Program, and options that either increase or decrease the use cap for the CQE compared to the existing program. All sablefish use caps proposed would only apply to AI sablefish.

It is a Council policy decision as to whether a non-profit entity in Area 4B would be allowed to hold more QS than an individual user, considering the proposed problem statement. The purpose of the CQE is to purchase and hold QS for the benefit of many individual residents in the community to use on an annual basis, thus, the comparison to an individual holder may not be entirely appropriate. Recall that other provisions under Alternative 2 would require a limit on the amount of IFQ that each individual resident could lease from the CQE on an annual basis (50,000 lbs per species), thus, there is a provision that requires the CQE to lease QS to multiple holders, the minimum number of which depends on the amount of QS held.

2.6.2.4 Purchase, Use and Sale Provisions

The following provisions govern restrictions on the type of blocked quota share the CQE could purchase; the type of vessel category QS the CQE could purchase; restrictions on the permanent transfer of QS from the CQE once QS is held; who can lease IFQ from the CQE; and how much IFQ can be used by an individual lessee and on an individual vessel.

Block Restrictions

The following comprise the block size restrictions under Alternative 2:

Original block and vessel size designations apply if the community transfers the QS to any person other than another eligible community.

- *Communities may buy blocked and unblocked quota share.*
- *Individual eligible communities are limited to holding 10 blocks of Area 4B halibut QS and 5 blocks of AI sablefish QS. Individuals receiving IFQ leased from an eligible community entity would be subject to the existing individual use caps in regulation.*

The proposed block restrictions would allow an Area 4B CQE to hold both blocked and/or unblocked QS, and allow the CQE to purchase up to 10 blocks of halibut QS in Area 4B and up to 5 blocks of AI sablefish QS. Table 34 shows that the majority of the total Area 4B halibut QS is B category (77%) and the majority of the *catcher vessel* QS (B, C, and D category) is unblocked (64%). There are currently 104 blocks of catcher vessel halibut QS in Area 4B. In effect, a maximum of 10 of the existing 104 blocks of halibut QS (10%) could theoretically be purchased by a CQE representing Adak under the proposed restrictions. The remaining blocks could only be purchased by individuals or initial issues.

Table 34 Total amount of Area 4B halibut QS, by category and block status, 2011

Area 4B halibut	QS category	Blocked status	Sum QS units	IFQ lbs 2011	# of blocks	% QS blocked	% QS by category
	A	B	183,431	34,455	6		
	A	U	370,058	69,510	N/A		
A total	A		553,489	103,965	6	33%	6%
	B	B	1,922,264	361,070	54		
	B	U	5,192,262	975,292	N/A		
B total	B		7,114,526	1,336,362	54	27%	77%
	C	B	958,098	179,965	32		
	C	U	389,665	73,193	N/A		
C total	C		1,347,763	253,158	32	71%	15%
D total	D	B	268,996	50,527	18	100%	3%
TOTAL			9,284,774	1,744,012	110	36%	100%

Source: NMFS RAM Program, data as of May 13, 2011.

Table 35 shows the amount of AI sablefish QS that is blocked versus unblocked, by category, in 2011. More than half (56%) of the AI sablefish QS is A share (catcher processor shares). Of the remaining 44% that is catcher vessel QS, the vast majority (81%) is B category, and relatively little (18%) of the total CV QS is blocked. The data show that of the catcher vessel QS, about 11% of the B category is blocked, and about 50% of the C category QS is blocked. There are currently 59 blocks of catcher vessel sablefish QS in the AI area. In effect, a maximum of 5 of the existing 59 blocks of sablefish QS (8%) could, theoretically, be purchased by a CQE under the proposed action. The remaining blocks could only be purchased by individuals or initial issues.

Table 35 Total amount of AI sablefish QS, by category and block status, 2011

AI sablefish	QS category	Blocked status	Sum QS units	IFQ lbs 2011	# of blocks	% QS blocked	% QS by category
	A	B	461,058	39,534	9		
	A	U	17,491,225	1,499,822	N/A		
A total	A		17,952,283	1,539,356	9	3%	56%
	B	B	1,226,924	105,205	32		
	B	U	10,092,709	865,421	N/A		
B total	B		11,319,633	970,626	32	11%	35%
	C	B	1,320,778	113,253	27		
	C	U	1,339,798	114,884	N/A		
C total	C		2,660,576	228,137	27	50%	8%
TOTAL			31,932,492	2,738,119	68	9%	100%

Source: NMFS RAM Program, data as of May 13, 2011.

The block restrictions proposed are the same as those in place under the Gulf CQE Program, with one omission. The existing CQE Program also prohibits CQEs from purchasing blocked halibut QS in Area 2C and 3A, which at the time of the implementation of the sweep-up provisions (1996), was less than or equal to 5,000 IFQ lbs.⁴⁵ The same restriction applies to blocks of sablefish QS in SE, WY, CG and WG. This measure was originally intended to allow some community purchase of blocked QS, while preserving the smallest, and least costly, blocks for individual holders and new entrants. The proposed options for the Area 4B CQE do not include this prohibition, and would allow a CQE to purchase any

⁴⁵See 50 CFR 679.41(e)(5). The sweep-up limits denote the maximum number of QS units that may be consolidated into a single block. The original CQE block restriction prohibited CQEs from purchasing halibut blocks ≤3,000 lbs (the sweep-up level). However, the sweep-up level for Area 2C and 3A halibut shares changed from 3,000 lbs to 5,000 lbs equivalents (using 1996 quota share pool) in 2007. Thus, the CQE restriction changed accordingly.

level of blocked QS. The Council made this determination after reviewing data in December 2010 that showed that 72 of the 104 existing Area 4B halibut catcher vessel QS blocks equate to a number of QS units that exceed the Area 4B sweep-up limit⁴⁶ (about two-thirds), and only 4 of the 61 blocks of AI sablefish catcher vessel QS blocks exceed the AI sweep-up limit. Implementing a restriction on the size of the block a CQE could purchase equal to the sweep-up limit would essentially prevent a CQE from purchasing blocked sablefish QS. Since only about half of the AI sablefish TAC is harvested on average, and the vast majority of the blocks are less than the sweep-up limit, it appears counter-productive to establish a restriction on the sablefish block size that CQEs could purchase.

In sum, the proposed block provisions would allow an Area 4B CQE to purchase both blocked and unblocked Area 4B halibut QS and AI sablefish QS. The CQE could purchase 10 blocks of halibut, which is 10% of the total number of blocks of catcher vessel QS in Area 4B. This assumes that the CQE is allowed to purchase B, C, and D category halibut QS in Area 4B. The CQE could also purchase a maximum of 5 blocks of AI sablefish QS, which equates to 8% of the total number of catcher vessel sablefish blocks.

Vessel Size Restrictions

The following comprise the vessel size restrictions under Alternative 2:

Original block and vessel size designations apply if the community transfers the QS to any person other than another eligible community.

- *Quota share held by communities under this program would be exempt from vessel size (share class) restrictions, while the QS is owned and leased by the community.*
- *Transferability of halibut QS in Area 4B from commercial to qualified community entities is restricted to B and C category quota share. Should existing Area 3A CQEs be allowed to purchase 'D' category QS, Area 4B CQEs may purchase and fish Area 4B 'D' category halibut QS under the same rules.*

The options for vessel size restrictions address two related issues. The first provision states that quota share held by communities under this program would be exempt from vessel size (share class) restrictions, while the QS is owned and leased by the community. The proposed vessel size restrictions mirror the existing GOA CQE provisions. The vessel size categories would not apply to the QS when it is held and used by the CQE (with the exception of D category QS), but they would be retained if the CQE permanently transfers the QS to an individual. This provision was intended to provide more flexibility to CQEs in the use of the QS, recognizing that some communities would have very few residents with vessels which could lease the shares. If the QS are eventually transferred to a non-CQE, the original vessel size categories would apply. This section provides background data on the vessel size classes held by residents of Adak and in Area 4B overall, in order to compare the current status of holdings.

Current IFQ regulations define catcher vessel quota share by three vessel categories for the halibut fishery (B, C, and D), and two vessel categories for the sablefish fishery (B and C). In the IFQ Program, quota from one vessel category cannot be transferred to another vessel category (with some limited exceptions applicable to CDQ compensation quota). Quota can, for the most part, be “fished down” on a smaller vessel (quota with a B class designation could be fished on a C class vessel), but quota with a smaller designation cannot be “fished up” (quota with a D class designation could not be fished on a vessel >35

⁴⁶The current sweep-up limit for Area 4B halibut QS is 15,087 QS units, meaning that is the maximum number of QS units that may be consolidated into a single block in Area 4B. This equates to 2,834 lbs in 2011. The sweep-up limit for AI sablefish QS is 99,210 QS units, which equates to 8,507 lbs in 2011.

feet LOA), with some exceptions. In October 2011, the Council reviewed an action that would have allowed halibut vessel category D QS in Area 4B to be fished on category C vessels; however, the Council decided not to pursue this action further at this time.

Refer back to Table 14 and Table 15 for data on the halibut QS and sablefish QS holdings by Adak residents, by area, category, and block type (2007 through 2011), respectively. In 2011, there were only two unique holders of any type of halibut QS (Area 4A and 4B) that were reported residents of Adak. They held the equivalent of about 47,000 lbs of halibut IFQ (2011 lbs), all B category. There was also one unique holder of AI sablefish QS that was a resident of Adak. This person holds both B and C category AI sablefish QS, equivalent to about 28,700 lbs in 2011. About 70% of the AI sablefish holdings are B category, the remaining 30% are C category. Adak residents do not hold any A category QS. (The distribution of all Area 4B halibut QS and AI sablefish QS, by vessel category and the QS holder's community of residence, is provided in **Appendix 5**.)

Recall also that the majority of Area 4B halibut QS is B category; the majority of AI sablefish QS is A category, and the majority of catcher vessel sablefish QS is B category. Relatively little QS is designated C (and D in the case of halibut) category in this area.

Vessel size category	Percent of total QS
Halibut	
A (CP)	6%
B (>60')	77%
C (36' – 60')	15%
D (≤35')	3%
Sablefish	
A (CP)	56%
B (>60')	35%
C (≤60')	8%

There are also relatively few vessels homeported in Adak, and in 2008 through 2011, all have been reported as 51' to 59' LOA. Thus, these vessels are eligible to fish B and C category halibut and sablefish IFQ, but not D category. Table 36 provides a count of the number of IFQ vessels for halibut/sablefish in any harvest area, excluding CDQ halibut, by year, for which NMFS has a current report of Adak as the homeport community. This information is current as of June 27, 2011. While this information does not denote residency in the community, it is used as a general proxy to evaluate the number of vessels that may potentially be available for use by Adak residents under the proposed action.

Table 36 Number of IFQ vessels homeported in Adak

IFQ Year	Number of IFQ vessels
2008	5
2009	5
2010	3
2011	3

Source: NMFS RAM Program, 6/27/11.

Given that there are few vessels homeported in Adak, there are few existing QS holders that are residents of Adak, and that Adak is trying to attract new residents with fishing opportunities, it may be appropriate to extend the existing Gulf CQE provision, to exempt quota share held by the CQE from vessel size (share class) restrictions, while the QS is owned and leased by the CQE. This provides flexibility to the CQE to purchase any type of catcher vessel category QS and lease it to community residents for use on

any size vessel, with the exception of D category QS. Note that there is a provision discussed below pertaining specifically to D category QS, which would require that any D category QS be used on D category vessels. Thus, under the proposed action to establish a CQE in Area 4B, there are no ‘fish up’ provisions provided for D category QS.

The second provision states that:

“Transferability of halibut QS in Area 4B from commercial to qualified community entities is restricted to B and C category quota share. Should existing Area 3A CQEs be allowed to purchase ‘D’ category QS, Area 4B CQEs may purchase and fish Area 4B ‘D’ category halibut QS under the same rules.”

Under the proposed language, the CQE could purchase B and C category Area 4B halibut QS. The CQE could also purchase D category Area 4B halibut QS, conditional on a separate, previous Council decision allowing Area 3A CQEs to purchase D category QS in Area 3A. When the suite of alternatives was approved in December 2010, the Council noted it wanted to be consistent with the provisions put in place for the Area 3A CQEs, without presupposing the Council’s decision, which was scheduled for February 2011. **Because the Council took action in February 2011 to allow Area 3A CQEs to purchase D category QS, this analysis assumes that the vessel size restrictions proposed for an Area 4B CQE include allowing a CQE to purchase B, C, and D category Area 4B halibut QS.** Note that this action has not yet been approved by the Secretary of Commerce. The Council’s February 2011 motion on the Area 3A D category purchase provisions is as follows:

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

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

Given the motion above, and the statement in the suite of alternatives that the Area 4B CQE would be eligible to purchase D shares under the ‘same rules’ as Area 3A, staff assumes that Area 4B “D” category quota share purchased by the CQE must have the annual IFQ fished on “D” category vessels (≤35’ LOA), and the CQE may purchase any size block of ‘D’ category QS.

However, the provision under the Area 3A action that sets the cumulative limit established on the purchase of D category QS to an amount equal to the total ‘D’ category QS that were initially issued to individual residents of the CQE community does not apply. Residents of Adak were not initially issued any halibut and sablefish QS at the start of the IFQ Program in 1995, primarily because of the qualifying years and the military status of the community at that time. The IFQ Program issued quota share to qualified applicants who owned or leased a vessel that made fixed gear landings of halibut during 1988 through 1990.⁴⁷ At the time of development of the program, Adak was still a military base, and it did not

⁴⁷Regular QS units were equal to a person’s qualifying pounds for an area. Qualifying halibut pounds for an area were the sum of pounds landed from the person’s best 5 years of landings over a 7-year period (1984 – 1990). Qualifying sablefish pounds for an area were the sum of pounds landed from the person’s best 5 years of landings over a 6-year period (1985 – 1990).

return to a civilian community until the late 1990s. The issue is slightly different in that the intent of the Area 3A action was to maintain the amount of originally issued D shares in the CQE communities, by allowing CQEs to purchase up to that amount and lease the quota to residents for the long-term. The intent of the Area 4B action, of which Adak would be the only eligible community, is not to maintain or regain an amount of quota since transferred out of the community, but to help improve and sustain participation in the halibut and sablefish fisheries as Adak tries to develop an economic base as a civilian community.

Thus, because it is not possible to exactly mirror the action pertaining to the GOA, should the Council select this provision as part of its final preferred alternative, it should consider modifying the language under Alternative 2 as follows:

Transferability of halibut catcher vessel QS in Area 4B from commercial to qualified community entities is allowed for B, C, and D category quota share. The following rules apply to purchases of Area 4B 'D' category quota share purchased by the CQE:

- *Area 4B 'D' category quota share purchased by an Area 4B CQE must have the annual IFQ fished on 'D' category vessels (≤35' LOA).*
- *an Area 4B CQE may purchase any size block of 'D' category QS.*

The primary reason the prohibition on purchasing D shares was originally implemented under the Gulf CQE Program was to reserve the type of shares for the smallest class of vessels, and the least costly type of QS, for individuals and new entrants. Because B and C shares can now be 'fished down' on D category vessels, the issue is not one of matching the QS category to the actual vessel size category. Instead, it is primarily a cost and QS availability issue. While the price of halibut QS in Area 4B is typically less than half of that in Area 2C or 3A, there is still a cost differential between the different categories of QS. The most recent RAM data indicate that B and C category halibut QS in Area 4B were about \$10.16 and \$10.80 (mean price per IFQ lb) in 2009 (Table 38). While the 2009 mean price of D category IFQ cannot be provided due to confidentiality, previous years indicate a trend toward a lower price than B and C shares. In addition, anecdotal evidence suggests that, due to the difficulty in fishing from smaller vessels in Area 4B, category D vessel owners prefer to increase their QS holding by purchasing category B and C QS, so that they may harvest their QS on a larger vessel in the future. Consequently, there is relatively little market demand for Category D QS, according to industry members.

Referring back to Table 34, D shares comprise only 3% of the total catcher vessel QS available in Area 4B, and 18 of the 104 catcher vessel blocks. In 2011, the total amount of D category QS in Area 4B is about 269,000 QS units, or 50,500 lbs, held by 12 persons. If this provision was selected, an Adak CQE would represent a new potential buyer of B, C, and D category halibut QS in Area 4B, and the vessel size restrictions would only apply to the D category QS. If the Council is concerned with retaining D category QS in Area 4B for individual owners, it could either prohibit the purchase of D shares, or develop a CQE cap specific to Area 4B and not linked to the amount of quota initially issued to Adak residents. Given that about 70% of the D category halibut QS in Area 4B typically remains unfished (average 2000 – 2010), and that D category QS remains the lowest cost category of QS, there does not appear to be a reason to prohibit a CQE representing Adak from purchasing D category QS for use by local residents.

Recall that all D category QS (269,000 QS units) in Area 4B is blocked. Under the block provisions of Alternative 2, the CQE would be limited to purchasing a maximum of 10 blocks of halibut QS. Thus, even though the proposed use caps far exceed 269,000 QS units, the CQE would be prevented from purchasing all Area 4B D category QS due to the 10 block limit (see Table 37). If the CQE purchased the maximum of 10 halibut QS blocks, and it was all the largest blocks of D category QS, it would comprise a maximum of 72 percent of the Area 4B D category halibut QS under the current block status. This is

because the ten largest D category halibut QS blocks equate to about 194,500 QS units, or 72% of the total D category QS units in Area 4B.

Table 37 Total Area 4B D category QS, by block

Block size ranking	# QS units	2011 IFQ lbs
1	3,114	585
2	7,293	1,370
3	7,817	1,468
4	9,631	1,809
5	9,820	1,845
6	10,820	2,032
7	11,640	2,186
8	14,389	2,703
9	14,767	2,774
10	14,874	2,794
11	15,004	2,818
12	15,466	2,905
13	15,896	2,986
14	16,925	3,179
15	17,285	3,247
16	20,567	3,863
17	30,726	5,771
18	32,962	6,191
10 largest size blocks (72% of total)	194,472	36,528
Total	268,996	50,526

Source: NMFS RAM Program, data as of 10/6/11.

Table 38 Annual Prices for Halibut QS and IFQ Transfers by Area, Vessel Class, and Year

Area	Vessel Class	Year	Mean Price \$/IFQ	Stan Dev Price \$/IFQ	Total IFQs Transferred Used for Pricing	Mean Price \$/QS	Stan Dev Price \$/QS	Total QS Transferred Used for Pricing	Number of Transactions Used for Pricing
4B	Freezer (A)	1997	C	C	16,846	C	C	56,183	1
		1998	C	C	31,740	C	C	105,248	1
		1999	NA	NA	NA	NA	NA	NA	NA
		2000	C	C	1,002	C	C	2,368	1
	GT 60 ft (B)	1995	C	C	25,118	C	C	125,551	3
		1996	C	C	33,607	C	C	169,002	5
		1997	5.41	1.91	196,074	1.62	0.57	653,912	17
		1998	C	C	35,195	C	C	116,706	5
		1999	NA	NA	NA	NA	NA	NA	NA
		2000	5.02	0.58	305,397	2.12	0.24	721,866	14
		2001	6.01	0.69	346,412	2.54	0.29	818,821	12
		2002	C	C	49,564	C	C	137,616	3
		2003	4.24	1.05	98,937	1.53	0.38	274,698	8
		2004	8.18	1.72	228,002	1.98	0.41	941,702	10
		2005	7.61	1.24	43,133	1.48	0.24	221,501	6
		2007	8.97	2.06	31,403	1.11	0.25	253,095	4
		2008	9.96	1.48	120,182	1.60	0.24	749,908	13
2009	10.16	1.15	83,104	1.64	0.19	515,782	6		
	36-60 ft (C)	1995	C	C	9,598	C	C	47,972	2
		1996	C	C	16,880	C	C	84,886	1
		1997	C	C	77,981	C	C	260,065	10
		1998	6.42	1.55	27,644	1.93	0.46	91,836	5
		1999	NA	NA	NA	NA	NA	NA	NA
		2000	4.14	0.45	41,439	1.75	0.19	97,949	4
		2001	5.15	0.14	93,798	2.18	0.06	221,715	5
		2002	5.01	4.85	64,725	1.8	1.75	179,714	5
		2004	C	C	10,589	C	C	43,735	2
		2005	C	C	20,006	C	C	102,742	2
		2006	C	C	7,850	C	C	54,558	2
		2007	5.35	1.13	4,263	0.66	0.14	34,358	3
		2008	10.40	2.23	11,544	1.67	0.36	72,029	3
2009	10.80	1.59	46,275	1.74	0.26	287,200	6		
	LE 35 ft (D)	1996	C	C	1,282	C	C	6,448	1
		1997	C	C	3,150	C	C	10,503	2
		1999	NA	NA	NA	NA	NA	NA	NA
		2000	2.93	0.62	19,500	1.24	0.26	46,093	4
		2001	C	C	23,977	C	C	56,675	3
		2002	C	C	15,943	C	C	44,267	3
		2007	C	C	1,379	C	C	11,116	2
		2008	C	C	261	C	C	1,633	2

Source: NMFS, Restricted Access Management Program, December 2010. Transfer Report Summary, Changes Under Alaska's Halibut IFQ Program, 1995 Through 2009.

Sale Restrictions

The following comprise the sale restrictions under Alternative 2:

- *Eligible communities owning catcher vessel quota shares may sell those quota shares to any other eligible community or any person meeting the provisions outlined in the existing IFQ Program.*
- *Eligible communities may only sell their quota share for one of the following purposes:*
 - (a) generating revenues to sustain, improve, or expand the program*
 - (b) liquidating the entity's quota share assets for reasons outside the program*

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

The sale restrictions proposed mirror those approved in the final Council motion for the existing GOA CQE Program. A CQE may only sell its catcher vessel QS to another eligible CQE in the program, or to an individual or initial recipient eligible under the IFQ Program rules. Because Adak is the only community potentially eligible under the proposed program, a CQE representing Adak would only be able to sell its QS to persons eligible under the existing IFQ Program. It could not sell Area 4B halibut QS or AI sablefish QS to any of the Gulf of Alaska communities eligible under the Gulf CQE Program, as those communities are prohibited from purchasing QS outside of the Gulf. Similar to the original program, these provisions are intended to influence the community to hold the QS as a long-term asset, to provide access to and benefits from the fisheries over time.

While the above language mirrors the Council's motion from 2002, it may be appropriate to revise this language such that it is consistent with the current regulations implementing the GOA program. At the very least, the Council should be aware of how the intent of this provision was implemented. That language, from 69 FR 23692 (April 30, 2004), reads:

(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.*

The intent of the program is that the CQE hold QS as a long-term investment for community residents to use on an annual basis. However, while the intent of the program is such that the CQE would not purchase QS and then sell it for reasons 'outside the program', the regulations provide some flexibility for the CQE to act in the best interest of its residents and the CQE, or respond to unanticipated circumstances. For example, if the CQE determines that another type of QS would better its position in the program, the CQE can sell its current QS to help finance another type of QS, without penalty. In addition, under the transfer provisions, the CQE could sell QS to a community resident, if it determined that that would improve the ability of community residents to participate in the halibut and/or sablefish fisheries. The regulations also allow the CQE to transfer QS to cover administrative expenses; and provide for the possibility that a CQE must dissolve itself, and allow for another CQE to take its place, if approved by both the governing body in the community and NMFS. However, if the CQE sells its QS, or a portion of its QS, for any reasons not provided for in regulations, the CQE must divest itself of any remaining QS holdings and is not eligible to purchase QS for three years after the effective date of final agency action on the Regional Administrator's determination. No other CQE would be approved by NMFS to operate on behalf of the community during the three year period.

The Regional Administrator has not needed to make such a determination regarding the sale of any Gulf CQE-held QS, as only two CQEs have purchased QS to-date, and neither has transferred QS. While the

Council's original language is generally consistent with the implementing regulations, it may be prudent to mirror the existing regulations for these provisions under Alternative 2.

Use Restrictions

The following comprise the QS use restrictions under Alternative 2:

Option 1. The CQE must lease QS to residents of the community it represents.

Option 2. (Council PPA) The CQE may lease to non-residents for a limited period of five years after the effective date of implementation of the program. After that time, the CQE must lease QS to residents of the community it represents.

Suboption: The individual leasing IFQ from the CQE is not subject to the 150 sea days requirement. (Council PPA)

Additional provisions include:

- *No vessel may be used, during any fishing year, to harvest more than 50,000 pounds of IFQ halibut and 50,000 pounds of IFQ sablefish derived from QS held by a CQE in Area 4. The vessel would also be subject to the same vessel use caps applicable in the overall IFQ Program.⁴⁸*
- *A CQE may lease up to 50,000 pounds of halibut IFQs and 50,000 pounds of sablefish IFQs per lessee annually. The 50,000 pound limit is inclusive of any quota owned by the individual (lessee).*

Option 1 and Option 2 dictate who can lease the IFQ resulting from the QS held by the Area 4B CQE. Option 1 requires that the CQE must lease QS to residents of the community it represents. Under Option 2, the CQE could lease to non-residents for up to five years after the implementation of the program (effective date established in the final rule). After the five-year period is over, the CQE must lease to community residents. If neither option is selected, it is assumed there is no restriction on who can lease IFQ resulting from quota held by the Area 4B CQE (i.e., the CQE representing Adak could lease to any qualified person).⁴⁹ Note that the Council selected Option 2, with the suboption, as part of its preliminary preferred alternative in October 2011.

Under Alternative 2, like the Gulf CQE Program, there would be a prohibition on the resident hiring a master to fish the halibut IFQ or sablefish IFQ derived from QS held by a CQE (50 CFR 679.7(f)(16)). In effect, the CQE leases the IFQ to a resident, and the resident could not then hire someone else (resident or non-resident) to fish the IFQ.

The use restrictions proposed are consistent with the Gulf CQE Program, with the exception of Option 2. Gulf CQEs have only ever been allowed to lease halibut IFQ and sablefish IFQ to eligible residents of the community the CQE represents. For the purposes of the program, an eligible resident is a U.S. citizen that affirms that he or she has maintained a domicile in the community from which the IFQ is leased for twelve consecutive months immediately preceding the time when the assertion of residence is made. The resident must also be qualified to receive QS and IFQ by transfer under existing regulations, meaning that they must be a U.S. citizen and an IFQ crew member.⁵⁰ Note that this does not mean that a person must have been physically located in the community for 12 consecutive months in order to be a resident; however, the person must have established a domicile in the community for 12 consecutive months and

⁴⁸The vessel use caps applicable in the IFQ Program are 0.5% of all halibut IFQ TAC and 1% of all sablefish IFQ TAC.

⁴⁹Whether a community resident or not, the person leasing the IFQ must be qualified to receive QS and IFQ by transfer under the existing regulations (i.e., he or she must hold a Transfer Eligibility Certificate issued by NMFS).

⁵⁰To be an IFQ crew member, one must either have received QS upon initial issuance or have 150 days of experience onboard a vessel, working as part of the harvesting crew, in a U.S. commercial fishery.

may not be a resident of any other community. The Council recommended this provision to explicitly tie the potential benefits of QS held by a CQE to the residents of the community.

The original IFQ proposal for this action, submitted by ACDC, did not include a requirement that CQE-held QS is leased to and fished by community residents, and that was the primary departure from the existing CQE Program. The proposal instead required that the halibut and sablefish resulting from CQE-held QS be delivered ‘in the region.’ Upon review of this proposal in the December 2010 discussion paper, staff interpreted this provision to mean that halibut and sablefish derived from CQE-held QS could be delivered to any community in Area 4B, whether or not that community was eligible under the new program. In effect, halibut and sablefish could be delivered to either the shoreside processor in Adak or Atka. The processor in Atka primarily processes halibut and sablefish, and the Adak processor has historically focused on Pacific cod, some halibut and sablefish, and smaller amounts of Atka mackerel, Pacific ocean perch, and other groundfish.

The IFQ proposal noted that the community of Adak would benefit from both having residents fish the CQE-held quota share, and providing product to the plant located in Adak. However, ACDC wanted the flexibility to lease the QS to non-residents, should resident fishermen not be available. In addition, the proposers note that allowing Adak to become a CQE would work in conjunction with the AI state water Pacific cod fishery, which is allocated 3% of the BSAI Pacific cod allowable biological catch. Halibut IFQ and sablefish IFQ could be leased to fishermen participating in the small boat Pacific cod fishery and delivering to Adak, to address halibut PSC in that fishery. While many of these vessels have delivered Pacific cod to Adak in the past, they are not all Adak residents.

Table 39 CFEC permit and fishing activity for Adak, 2009

Fishery	# permit holders	# permits issued	# fishermen who fished	# permits fished
Halibut	3	3	2	2
Sablefish	2	2	1	1
Other groundfish	2	3	1	1
Total combined	3	8	2	4

Source: CFEC permit and fishing activity by year, state, census area, or city, 2009.

City and state of residence are based on the address and residency claimed year-end by the permit holder when issued the permit.

The CFEC data from 2001 through 2010 show few permits and permit holders as residents of Adak, for both halibut and sablefish. In 2009, it shows that there were three Adak residents holding eight permits, the landings and earnings from which are confidential. In 2011, NMFS RAM Program reported there are two holders of Area 4B halibut QS, and one holder of AI sablefish QS that reported an Adak address (total of 2 unique persons).

Note that Gulf CQEs have reported that the residency requirement is an obstacle in the existing program, and this issue was documented in the March 2010 CQE Program review. The residency requirement was also cited as an issue at a February 2009 CQE workshop, and submitted as an IFQ proposal during the recent call for proposals, for consideration by the Council in February 2010.⁵¹ One of the primary objectives of the CQE Program is to provide an opportunity for employment and fishing effort in CQE communities that have realized a transfer of QS out of their communities, thus, many CQE communities

⁵¹IFQ proposal to change residency requirements for CQEs, submitted by Gulf Coastal Communities Coalition, May 27, 2009.

want to attract resident fishermen back to their communities, including young fishermen. This is one of the primary reasons ACDC has cited as a need for this program in Adak – the need to provide a viable fishing economy for new or returning residents. The 12 month residency requirement has been noted as a barrier, as communities attempt to provide fishing opportunities as an incentive for residents to return to the community, as leasing from the CQE would not be possible for 12 months.

In addition, it has been stated that this requirement may be difficult to meet in some small communities, including Adak, as many of those communities do not have year-round economies, effectively requiring residents to live outside of the community for a period or season, even if their principal home is in the community. Note that this requirement has been interpreted by many to preclude a person from taking advantage of leasing QS from a CQE until the individual has physically lived in the community for 12 continuous months. However, the current regulations only require that the individual has *maintained a domicile* in a rural community 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. Thus, the criteria for residency in the existing CQE Program do not appear to require that a person must have ‘lived continuously’ in the community for 12 months; rather, residency is based on having the principal home in the community, and the intent to return to that home.

No Council action has been proposed to-date to modify this requirement for the GOA CQE Program, and the Council explicitly added both Options 1 and 2 to the suite of alternatives for Area 4B in February 2011. The intent of Option 2 (the Council’s preliminary preferred alternative) is to allow the CQE to get started with the program by leasing to non-residents, if necessary, while interest is garnered and as individuals establish residency over a 12 month period. Even if IFQ is not leased to a community resident, a community resident could crew on a vessel using CQE-held quota and work toward eligibility to lease IFQ himself or herself. After five years, however, the CQE would need to find Adak residents to lease the annual IFQ. Note that vessel ownership is not a requirement in the proposed program or the existing GOA CQE Program; thus, an individual resident could lease CQE quota and bring the IFQ onboard a vessel and work as a crew member (e.g., Pacific cod fishery, halibut fishery, or sablefish fishery).

Another reason for the addition of Option 2 was to allow the CQE to get started with the program, with non-residents if necessary, while young resident fishermen obtained the necessary hours of sea time to qualify as an IFQ crewmember. Currently, in order for an individual to receive QS or IFQ by transfer, they must obtain a ‘Transfer Eligibility Certificate’ (TEC) from NMFS, which requires that the individual must be a U.S. citizen and approved by NMFS as an IFQ crewmember. An IFQ crewmember is defined by regulation below (50 CFR 679.2):

IFQ crew member means any individual who has at least 150 days experience working as part of the harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS. For purposes of this definition, “harvesting” means work that is directly related to the catching and retaining of fish. Work in support of harvesting, but not directly involved with harvesting, is not considered harvesting crew work. For example, searching for fish, work on a fishing vessel only as an engineer or cook, or work preparing a vessel for a fishing trip would not be considered work of a harvesting crew.

However, in October 2011, the Council added a suboption, which was selected as part of its preliminary preferred alternative, that would remove the 150 sea days requirement for individuals leasing IFQ from the Adak CQE. There are several ways this intent could be implemented. One approach would be for the CQE to lease the annual IFQ to community residents (or non-residents, for a period of up to five year under Option 2), but NMFS would not approve the transfer, and thus, the requirements to hold a TEC would not be applicable. The CQE would determine who could fish the IFQ, regardless of commercial fishery experience, provided the individual was a U.S. citizen. This approach is similar to the western

Alaska CDQ Program, in which a CDQ hired master permit, not a TEC, is all that is required for an individual to fish a CDQ halibut allocation for a CDQ group. A TEC is only required for transfers of QS and IFQ, including leases of IFQ in the GOA CQE Program, and CDQ halibut fishermen are not leasing the CDQ allocation, they are working for the CDQ group.

The suboption could be implemented such that the CQE would provide NMFS with a list of eligible individuals, with confirmation that they are residents, if required, and NMFS would provide each of those individuals with a skipper card (hired skipper permit) authorizing them to fish the CQE quota. The skipper card does not limit or identify an amount of IFQ that each individual is allowed to harvest, since the permit is retained by the CQE. It would be the responsibility of the CQE to limit and monitor how much is harvested by each person authorized, similar to how the CDQ groups operate for halibut CDQ. NMFS would only monitor the use of total pounds from the CQE permit. The primary difference between the hired skipper permit approach and the lease (TEC) approach is that the individual acting as the hired skipper is conducting the IFQ permit holder's (e.g., the CQE's) business and receives no allocation themselves. Under the GOA CQE lease model, the IFQ is transferred annually from the CQE's permit to the individual resident's permit, and the lease holder is conducting their own business. Applying the hired skipper model to the Area 4B CQE in Adak would not prevent the CQE from developing their own contracts to lease a specified amount of IFQ to individual residents; it means that NMFS would not authorize or monitor a transfer of a specified amount of IFQ from the CQE to an individual.

Upon review, NMFS noted that applying the hired skipper provision to CQEs would likely make it more efficient to harvest the IFQ, as opposed to requiring that NMFS approve multiple transfers. In the GOA CQE Program, one CQE has had to request the return of IFQ to their account when the individual leasing the IFQ is unable to participate or completely harvest the leased IFQ. (This CQE has implemented a 'clean-up' fishery, such that if the quota is not harvested by a specified date, it must be transferred back to the CQE such that another individual can ensure it is fished.)

An alternative approach to using the hired master permit system would be for NMFS to continue to approve the transfer of IFQ from the CQE to the individual resident (i.e., the lease), but either: 1) not apply the 150 sea days criteria in order for the individual to receive a TEC; or 2) not require that the individual lessee hold a TEC to approve the transfer. GOA CQEs currently use a specific transfer application when leasing their IFQ to residents.⁵² Under this approach for Area 4B, NMFS's approval would continue to be based upon a review of that application form to ensure that it meets the regulatory criteria. If the regulations state that the CQE representing Adak can lease IFQ to an individual without the 150 sea days requirement, or without a TEC, NMFS would approve the application based on that criteria (other criteria could include U.S. citizenship, Adak residency, etc). The leaseholder would get an IFQ permit, specifying an amount of IFQ pounds. Like in the GOA, if some amount of IFQ needed to be 'returned' to the CQE because it could not be fished by the lessee, it would require the consent of the IFQ holder (lessee).

If the suboption is selected as part of the Council's final preferred alternative, the Council could specify whether there is a preferred approach to implementing the intent of the suboption. Otherwise, NMFS would determine how to implement the intent during the rulemaking process.

In the past, testimony by representatives of ACDC and others have conveyed that there is interest in having the Adak CQE lease the resulting IFQ to young residents graduating from high school in need of employment, residents that may not have 150 days of crew experience in a U.S. commercial fishery. Many young fishermen have extensive experience operating a vessel out of Adak, or experience in fishing halibut subsistence, but there are fewer commercial fisheries in which to gain crew experience in the

⁵²<http://alaskafisheries.noaa.gov/ram/cqp/COETransfer.pdf>

western Aleutian Islands compared to the Gulf of Alaska. Many young residents of GOA communities gain experience through the GOA salmon or halibut fisheries. Testimony has indicated that young Adak residents have more limited opportunities, potentially in the Pacific cod or halibut fisheries, in part due to the much smaller number of resident fishermen on whose vessels one might be employed as crew.

Part of the intent of Option 2 is to allow the CQE to lease to non-residents for the first five years, allowing time for these young residents to garner the necessary sea time to be eligible to lease the IFQ (i.e., hold a transfer eligibility certificate). The Council may want to consider, if the primary purpose is to lease IFQ to young residents, whether Option 2 is necessary in conjunction with the proposed suboption. If the sea days requirement is removed, it may become less necessary to allow Adak to lease to non-residents for a period of five years. Selecting both Option 2 and the suboption would, however, create the maximum flexibility under the current suite of options, for the CQE to efficiently harvest its quota in a manner they deem most beneficial to the community.

In addition, if Option 2 and the suboption are selected as part of the final preferred alternative, the Council should specify whether the suboption would also apply to non-residents. Meaning, the Council should clarify whether non-residents would also be exempt from the sea days requirement and/or obtain a hired skipper permit from NMFS to fish IFQ resulting from CQE-held quota. Recall that under Option 2, the CQE's option to lease to non-residents would expire five years after implementation.

Note that there are benefits that could be derived by the community of Adak without a lessee residency requirement, through both processing within Adak and the use of onshore support businesses. If the Council wants to provide an additional access opportunity to the community of Adak and is concerned with the efficacy of the proposed program due to the currently low number of resident fishermen, it could develop a CQE Program with a different mechanism to tie the benefits to the community. However, the Council has strongly supported the residency requirement to-date, and in February 2011, did not support an in-region delivery requirement as an alternative provision. The in-region delivery requirement, absent a residency requirement, would theoretically allow halibut and/or sablefish QS to be purchased by the Adak CQE, leased to non-residents of Adak, and the fish delivered to a processor within Area 4B but outside of Adak (e.g., Atka). In that example, the benefits to the community of Adak become limited to the revenue derived by the CQE from leasing the QS. However, regardless of whether the QS is leased to non-residents (or residents), the CQE could include a requirement to deliver to Adak in the private contract between the CQE and the lessee.

Additional provisions relevant to the use of the IFQ under Alternative 2 are 1) vessel use caps, and 2) a cap on the amount of IFQ that each individual resident can lease on an annual basis. Both of the following provisions are included as part of the Council's preliminary preferred alternative.

The first provision is a vessel use cap. This cap mirrors the vessel use caps that the Council recently recommended under a separate action pertaining to the GOA CQE Program, and thus does not mirror the status quo regulations. Recall that under the regulations for the GOA program, no vessel may be used to harvest more than 50,000 lbs of halibut and/or 50,000 lbs of sablefish IFQ from any IFQ source, if that vessel is used to harvest any amount of CQE quota. Thus, if one pound of IFQ from a CQE is used onboard, the vessel is subject to an annual 50,000 lb cap applicable to all IFQ of the respective species. The Council took action in October 2011 to revise the vessel use caps to align with the individual vessel use caps in the overall IFQ program. The Council's preferred alternative mirrors the language proposed above for the Area 4B CQE program above.

Alternative 2 does not directly regulate participants in the IFQ Program that do not use IFQ derived from CQE-held QS. Under this provision of Alternative 2, non-CQE participants in the halibut and sablefish fisheries would continue to be subject to the vessel use caps in the existing program. If an individual

chose to use onboard any IFQ derived from CQE-held quota, that vessel would be limited to 50,000 lbs of halibut IFQ and 50,000 lbs of sablefish IFQ derived from CQE-held quota per fishing year. However, in total, the vessel would be subject to the overall vessel use caps applicable in the general program, which allows for the use of IFQ over and above the 50,000 lbs, as long as it is not derived from quota held by the CQE. The existing vessel use caps for the IFQ Program are: 1% of Area 2C halibut IFQ TAC and 0.5% of the entire halibut IFQ TAC; 1% of Southeast sablefish IFQ TAC and 1% of the entire sablefish IFQ TAC. There is not a vessel use cap that pertains specifically to Area 4.

Under the proposed action, it is a choice for a vessel owner to use IFQ derived from CQE-held quota share onboard. While the impacts of the action are somewhat speculative, it may create additional opportunities for vessels to use IFQ (derived from CQE quota), whether the vessels are owned by residents of the CQE community or not. Thus, compared to the status quo provisions for the GOA, the vessel use cap provisions proposed for Area 4B may result in participants in the IFQ fisheries being less deterred from a potential opportunity to bring a community resident leasing CQE quota onboard their vessel as crew because it does not affect their overall vessel use cap. Vessel owners that hold their own quota may be interested in helping other community members by allowing them to fish the IFQ they leased from the CQE on their vessel. This opportunity is more likely to be available to both vessel owners and residents leasing CQE quota if the total vessel use cap does not change when CQE quota is used onboard.

Table 40 provides information on the total number of vessels in 2010 that landed some amount of Area 4B halibut IFQ or AI sablefish IFQ, and whose total amount of IFQ landed was <50,000 lbs versus \geq 50,000 lbs. An estimated 54% and 81% of the total IFQ landed by vessels using Area 4B halibut and AI sablefish IFQ, respectively, met or exceeded 50,000 lbs in a single year (2010). However, the data also show that the majority of vessels that landed Area 4B halibut IFQ (29 of 41) and AI sablefish IFQ (28 of 38), landed amounts less than 50,000 lbs. Note that under the proposed provisions for Area 4B, the 50,000 lb caps would only apply to CQE derived quota; the data provided in this table serve to provide background information on the amount of IFQ being used on vessels in this area currently.

Under the proposed action, vessels using CQE quota in Area 4B would be subject to the overall vessel use caps in the IFQ Program: 0.5% of all halibut IFQ, which equates to 151,910 lbs in 2011; and 1% of all sablefish IFQ, which equates to 267,947 lbs in 2011. Of all the vessels that fished Area 4B halibut IFQ or AI sablefish IFQ in 2010, 5 vessels exceeded the overall halibut vessel use cap and 1 vessel exceeded the sablefish vessel use cap.⁵³ Thus, in theory, all of the vessels reported below could have used additional IFQ onboard in 2010, with the exception of the 6 vessels that met the vessel use caps.

⁵³Note that it is allowable for a vessel to exceed an annual vessel use cap if only one person's IFQ permits were used onboard that vessel during a year.

Table 40 Vessels landing Area 4B halibut IFQ and AI sablefish IFQ, in amounts <50,000 lbs and ≥50,000 lbs, 2010

Pound category	2010 IFQ Lbs landed	% of total IFQ landed	Number of vessels
Area 4B Halibut			
Under 50,000 IFQ lbs landed	639,441	46%	29
50,000 IFQ lbs or more landed	755,311	54%	12
Total	1,394,752	100%	41
AI Sablefish			
Under 50,000 IFQ lbs landed	271,081	19%	28
50,000 IFQ lbs or more landed	1,138,345	81%	10
Total	1,409,426	100%	38

Source: RAM Program data, 5/13/11.

Establishing a limit on the amount of IFQ derived from CQE-held quota that can be fished on a single vessel would compel a distribution of the potential benefits that one vessel or vessel owner could derive from the CQE Program. Comparing the proposed vessel use caps of 50,000 lbs to the use caps that limit the amount of QS that an Area 4B CQE can purchase, helps provide some general guidance on the minimum number of vessels that may be used to fish CQE quota, *if the CQE purchased quota up to the maximum amount allowed under use caps, using the example year of 2011* (Table 41). While the overall use caps fluctuate annually with the IFQ TACs and quota share pool by area, the vessel use caps proposed are fixed at 50,000 lbs of CQE quota. If the CQE purchased Area 4B halibut quota up to the use cap, in 2011, for example, a minimum of two vessels would be necessary to fish the IFQ under use cap Option 1 and Option 2a, four vessels under Option 2b, and 6 vessels under Option 2c. For AI sablefish, a minimum of 6 vessels would be necessary to fish the IFQ under Option 3 and Option 4b, a minimum of 3 vessels under Option 4a, and a minimum of 9 vessels under Option 4c. As stated previously, because the use (ownership) caps would fluctuate each year with the Area 4B halibut and AI sablefish quota share pools, the minimum number of vessels necessary to land that amount of quota under a fixed 50,000 lb cap would also change.

Table 41 Minimum number of vessels necessary to land IFQ derived from the CQE under a 50,000 lb vessel use cap and the use cap Options 1 – 4, if the CQE purchased QS up to the use cap, 2011

Halibut QS use cap options	Use caps proposed	Equivalent 2011 IFQ lbs	Minimum # of vessels needed to fish total IFQ under a 50,000 lb vessel use cap
Option 1: 1.5% of Area 4 QSP	495,044 QS units	92,987 lbs (if all Area 4B)	2
Option 2a: 5% of Area 4B QSP	464,239 QS units	87,201 lbs	2
Option 2b: 10% of Area 4B QSP	928,477 QS units	174,401 lbs	4
Option 2c: 15% of Area 4B QSP (Council PPA)	1,392,716 QS units	261,602 lbs	6
Option 3: 1% of sablefish QSP	3,229,721 QS	276,939 lbs (if all AI)	6
Option 4a: 5% of AI QSP	1,596,625 QS	136,906 lbs	3
Option 4b: 10% of AI QSP	3,193,249 QS	273,812 lbs	6
Option 4c: 15% of AI QSP (Council PPA)	4,789,874 QS	410,718 lbs	9

The second provision is a cap on the amount of annual IFQ derived from CQE quota that can be leased to an individual resident. The action would allow a CQE to lease up to 50,000 pounds of halibut IFQ and 50,000 pounds of sablefish IFQ, per lessee, annually. The 50,000 pound limit is inclusive of any quota owned by the individual (lessee). This provision mirrors that in the GOA CQE Program.

This provision was originally developed because of a concern about how the IFQs resulting from the community QS would be allocated among community members. The provision is intended to help ensure that the benefits from the community-held QS are distributed among community fishermen and not dominated by a select few residents. This provision would limit community entities in the maximum amount of annual IFQs they could lease to an individual community resident to 50,000 lbs per species, per resident. Note that this provision does not propose a minimum amount of IFQs that community entities could lease to an individual resident, nor does it dictate how the CQE should design and implement criteria by which to determine who can fish the IFQ. Each community would be free to decide how to allocate to community residents on an annual basis, subject to any performance standards adopted under the following section (Section 2.6.2.5).

This restriction may have a positive potential impact on the eligible community and its residents in that it would help prevent one person from controlling all of the IFQs in a given community on an annual basis. This may be a significant factor in community participation and efforts to spread the benefits from the QS among the community. The assessment of benefits within a community is also critically dependent upon the administrative entity (the CQE) being representative of the entire community, to help ensure a fair distribution of potential IFQ. Note that the performance standards proposed in Section 2.6.2.5 are also intended to regulate the use of community-held QS in this manner, by providing some minimum requirements relevant to the leasing of IFQs.

The effect of this option will depend both on the amount of QS the community is allowed to purchase and how much the community actually purchases. For example, Table 41 provides the options for individual community use caps, the range for which equates to 87,000 lbs to 261,600 lbs of halibut IFQ (in 2011 IFQ lbs). If an individual resident can lease a maximum of 50,000 lbs of halibut IFQ, that range would require a minimum of 2 to 6 individual residents to fish the total IFQ. (This scenario assumes the CQE purchases QS up to the use cap.) Under the proposed sablefish use caps, which range from 137,000 lbs to 410,700 lbs using the 2011 TACs, a minimum of 3 to 9 individual residents would be needed to fish the total IFQ and stay within the 50,000 lb individual limit.

Regardless of whether a community is limited in its purchase of QS so that the IFQs derived from that quota are sufficient for only a few fishermen to lease per year, there is a risk that the restriction may not meet the purpose for which it was developed. This is mainly because, while this restriction would prevent one person from controlling all the IFQs in a given community in a given year, it would not prevent the same few residents from being issued the IFQ permits resulting from CQE-held QS year after year. This is because the restriction only applies to the transfer of IFQs on an annual basis and does not restrict the leasing of IFQs over a longer period of time. In this sense, and depending upon how much QS the community has purchased, the restriction may not be very effective in preventing control by few residents of the community. On the other hand, in very small communities, there may be few eligible resident fishermen, and it may make sense for the CQE to lease to the same fishermen for several years. The GOA CQE Program balanced the need to ensure that the benefits are distributed among community residents to some extent, with the desire to allow the CQE to determine how to fish the IFQ to maximize potential benefit to the community. The annual report for each CQE provides information on individual lessees annually, such that NMFS and the Council could evaluate whether the program is meeting its intent.

It is difficult to develop an effective provision that compels a distribution of benefits among community residents while recognizing that the community may have relatively few eligible residents to fish the IFQ.

If a community only has a couple of resident fishermen who are able to lease the IFQs in a given year, a restriction of this type may: 1) limit QS purchases to an amount of QS less than the individual cap, or 2) force the community to leave some of its annual IFQ unfished in order to stay within the cap on leasing to individual residents. The first situation could prevent a community from taking advantage of the program to the fullest extent allowed, simply because they have only a few residents to which to lease IFQs. The latter situation would reflect negatively on a community in an evaluation of their ability to meet the performance standards, as one of the proposed standards requires that community QS/IFQ is not held and unfished.

In addition, the limit proposed applies to the amount of IFQ that an individual could fish, inclusive of any IFQ “privately” owned by the individual. This means that the amount any single individual resident could fish is the sum of his/her own IFQ plus any IFQ leased from the CQE, not to exceed a total of 50,000 lbs annually (per species). In a community with very few qualified resident fishermen, some of whom are likely to already hold some amount of QS, there may be unanticipated barriers imposed by these individual use caps that will diminish the potential value of the program. As of mid-2011, there are two unique holders of Area 4B halibut QS and/or AI sablefish QS that are residents of Adak. One person holds Area 4B halibut QS, and one person holds both Area 4B halibut QS and AI sablefish QS (Table 42). Given the equivalent holdings in 2011 IFQ lbs, both current residents with holdings could use additional IFQ (derived from CQE held QS) without exceeding the 50,000 lb limits, as neither have individual holdings of either species that currently exceed 50,000 lbs.

Table 42 Holdings of Area 4B halibut and AI sablefish QS by Adak residents, 2011

Species	Area	QS units	2011 IFQ lbs	Number of unique holders
Halibut	4B	4,066	764	1
Halibut	4B	227,182	42,673	1
Sablefish	AI	335,025	28,727	
Total		566,273	72,164	2

If there is a predetermined goal that the benefits of community QS should be distributed throughout the community, allowing several resident fishermen and crew members to take advantage of the opportunity to benefit from the IFQ, then this could also potentially be addressed in the performance standards. The proposed performance standards reflect the intent of the action to assist fishermen by allowing communities to hold the harvest privilege and thus lower the barriers to entry for individual resident fishermen. Performance standards serve to make the community accountable for using the QS for the purpose and the manner in which it was intended, and thus it may be appropriate to address the issue of “fairness” within the community in the performance standards and allow the community entity the freedom and flexibility to determine the specific steps to prove that they are meeting this standard.

2.6.2.5 Performance Standards

The following are goals of the program with voluntary compliance monitored through the annual reporting mechanism and evaluated upon review of the program. Community entities applying for qualification in the program must describe how their use of QS will comply with the following program guidelines:

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

The performance standards proposed above under Alternative 2, and included in the Council's preliminary preferred alternative, mirror those in place under the existing GOA CQE Program, which were originally developed by NMFS and the State of Alaska. The Council was explicit in stating that the performance standards would be provided as voluntary program 'guidance,' monitored through the annual report, as they were not enforceable through regulation.

By amending the existing IFQ program to allow community entities to hold QS, there is a recognition that residents of Adak (the only eligible community) are uniquely disadvantaged by the terms of the existing program and that they could potentially benefit from a program that allows communities to hold QS/IFQ. In turn, communities could further benefit by using available economic development funds for the purposes of retaining QS/IFQ within the community. It is therefore appropriate that the intent of achieving those benefits be set out by the CQE that will seek authority to participate in the program. The manner in which the intent is "set out" is through the implementation of performance standards.

As guidance, the performance standards outline how the Council intends the QS to be used and allows the CQE to devise the specific steps to meet those goals. By definition, however, these voluntary guidelines would not be implemented in regulation or required for a community entity to hold QS. The benefit of a voluntary reporting mechanism is that it provides the CQE with the ability to maintain flexibility in the day-to-day management of the program and allows it to determine the best way to meet the goals of the program within its unique community. Review of the annual report (see Section 2.6.2.6), with specific information required to understand whether the CQE is meeting the performance standards, is one oversight mechanism. If individuals within or outside of the community were concerned about the management of the CQE-held QS, they could voice their concerns through the Council process. If the CQE is failing to meet the goals of the performance standards voluntarily, or if, through review of an annual report, there is a clear deviation from the intent of the program, the Council could recommend regulations to NMFS to address those concerns.

(a) Maximize benefit from the use of community-held IFQ for crew members that are community residents

This performance standard was intended to encourage CQEs to lease IFQ to residents that would employ residents of the eligible community as crew members. Similar to the GOA program, the regulations would require an annual report that must include, among other information:

- A detailed description of the criteria used by the CQE to distribute IFQ leases among eligible community residents;
- A 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;
- Name and address of individuals employed as crew members when fishing the IFQ derived from the QS held by the CQE.

(b) Insure that the benefits are equitably distributed throughout the community

Equity is a fluid concept and definitions of what constitutes an equitable distribution of benefits will vary among individuals in a community. Given the difficulty is in deciding what those requirements should be to achieve 'equity', the Council originally recommended that this be a voluntary provision, rather than specifically defined in regulation.

Essential to the program is the ability of the CQE to manage the potential benefits in response to community guidance, including criteria that carefully circumscribe individual leasing decisions by the CQE. However, NMFS can implement regulations via the annual report that require the CQE to have

formal criteria by which it can make leasing decisions, and require information on how the CQE solicited lease applications from community residents.

In effect, in addition to the requirements outlined above with regard to resident crew information, the regulations would require an annual report that must include, among other information:

- Name, ADF&G 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;
- A detailed description of the criteria used by the CQE to distribute IFQ leases among eligible community residents;
- A 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;
- Names and business addresses and amount of IFQ requested by each individual applying to receive IFQ from the CQE;
- Any changes in the bylaws of the CQE, board of directors, or other key management personnel.

All of the information required above, including the relevant factors the CQE considers in making leasing decisions, and the list of applicants and how much QS they requested to lease, should assist NMFS and the Council in determining whether the benefits of the program are being distributed relatively equitably in the community. NMFS' primary role in the leasing process would be to review the process used to make those leasing decisions through the annual report, and to ensure that the process follows existing regulations and that the lessee is a resident eligible to hold IFQ. By limiting NMFS' role to ensuring adherence to the proper process, the CQE maintains control of specific allocation decisions. If the CQE fails to provide any of the information required above in the annual report, RAM could deny the CQE's application to lease IFQ or transfer QS. Community entities holding QS could appeal those decisions through the existing administrative appeals process in the Office of Administrative Appeals.

(c) Ensure that QS/IFQ allocated to an eligible community entity would not be held and unfished

This performance standard is straightforward, and unlike the other performance standards, does not require information to be provided separately by the CQE. Because the lease of IFQ from the CQE to community residents must be approved by NMFS, NMFS would have data to verify whether the CQE met this standard. The NMFS RAM Program can provide the total amount of halibut and sablefish QS held by the CQE at the start and end of the calendar year; the total amount of halibut and sablefish IFQ leased from the CQE; the names, addresses, and amount of IFQ received by each individual to whom the CQE leased IFQ; and the number of vessels that fished the IFQ.

In sum, the performance standards are intended to hold the CQE to a different standard than individual holders, in order to ensure the CQE operates in a way the Council intended under the proposed program, given that the program is only available to a specific non-profit corporation representing a specific community in Area 4B. The performance standards are primarily focused on ensuring that residents have an equal opportunity to benefit from the program, and that the CQE acts in a manner that maximizes benefits to the community. The proposed performance standards are intended to mirror the GOA CQE Program, with the ability to evaluate whether a CQE is meeting those standards through review of the annual report (Section 2.6.2.6).

2.6.2.6 Administrative Oversight

*The Council recommends a provision to require submission of a detailed **statement of eligibility** to NMFS prior to being considered for eligibility as a community QS recipient. The statement would be similar to what is required under the GOA CQE Program. This includes, but is not limited to:*

- (a) *Certificate of incorporation*
- (b) *Verification of qualified entity as approved under “Ownership Entity”*
- (c) *Documentation demonstrating accountability to the community*
- (d) *Explanation of how the community entity intends to implement the performance standards*

*The Council also recommends a provision to require submission of an **annual report** detailing accomplishments. The annual report would be similar to what is required under the GOA CQE Program. This includes, but is not limited to:*

- (a) *A summary of business, employment, and fishing activities under the program*
- (b) *A discussion of any corporate changes that alter the representational structure of the entity*
- (c) *Specific steps taken to meet the performance standards*

The oversight provisions mirror those established for the GOA Program in 50 CFR 679.41, which consist of: 1) the statement of eligibility, and 2) the annual report. The statement of eligibility is an application to NMFS, for approval as a CQE representing the eligible community. In the GOA program, each community is first required to form a non-profit corporation under laws of the State of Alaska to be its representative CQE. Under the proposed program in Area 4B, the ‘ownership entity’ provisions under Alternative 2 identify an existing non-profit to represent Adak: “*A non-profit entity, approved by NMFS as the holder of the Adak Community Allocation of Western Aleutian Islands golden king crab will be recognized as the CQE entity for the community of Adak.*” The non-profit entity that currently holds the WAI golden king crab allocation is ACDC. Although the CQE representing Adak would be explicitly identified by the Council, ACDC would still be required to submit an application to the Regional Administrator that contains specific information. In the GOA CQE Program, this application is also submitted to the State of Alaska (DCCED) for a 30-day review and comment period prior to approval or disapproval by NMFS. It is assumed this step would also apply in Area 4B. If an application is disapproved, that determination may be appealed under provisions established at 50 CFR 679.43.

NMFS developed regulations for the GOA CQE Program in response to the Council’s direction above.⁵⁴ As Alternative 2 was developed to mirror those requirements, a complete application to become a CQE for Area 4B would consist of: (i) the articles of incorporation; (ii) a statement indicating the eligible community (i.e., Adak) represented by the CQE for purposes of holding QS; (iii) management organization information, including: (A) the bylaws; (B) a list of key personnel of the managing organization including, but not limited to, the board of directors, officers, representatives, and any managers; (C) a description of how the CQE is qualified to manage QS on behalf of the eligible community it is designated to represent, and a demonstration that the CQE has the management, technical expertise, and ability to manage QS and IFQ; and (D) the name of the non-profit organization, taxpayer ID number, permanent business mailing addresses, name of contact persons and contact information of the managing personnel, resumes of management personnel, and the point of contact for the governing body of each community represented.

The application would also require a statement describing the procedures that will be used to determine the distribution of IFQ to residents of the community, including: (A) procedures used to solicit requests from residents to lease IFQ; and (B) criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria. This specific requirement is intended to assist in the evaluation of the three performance standards described in the previous section, which outline the intent regarding the distribution and use of CQE-held QS. Finally, the application must include a statement of support from the governing body of the eligible community. In the case of Adak,

⁵⁴Regulations governing the annual report are at 50 CFR 679.5(l)(8). Regulations governing the statement of eligibility are at 50 CFR 679.41(l)(3).

which is an incorporated city, the statement of support would be a resolution from the city council or other official municipal body.

It is expected that the CQE representing Adak would develop specific and comprehensive criteria to distribute IFQ among community residents, based on the goals and objectives set out by the community. As in the GOA program, NMFS would only require that criteria are developed, not that the CQE representing Adak follows specified criteria. For example, a CQE may emphasize providing IFQ to new entrants versus long-term participants (or vice-versa), or it may focus on ensuring that the resident IFQ holder's crew is comprised of resident crewmembers. In the Gulf program, some CQEs have employed a 'point system', while others have developed other types of rating criteria. This CQE reports that it leases quota share to community residents on an equitable basis, and that preference is given to residents that have experience, equipment, investment, and commit to the employment of community residents. The point system developed by the CQE reflects these preferences.

Finally, Alternative 2 would require submission of an annual report to NMFS detailing the CQE's activity in the previous fishing year. The annual report would be similar to what is required under the GOA CQE Program, and would likely be due to NMFS on the same date (January 31). Regulations at 50 CFR 679.5(l)(8) detail the requirements of the annual report for the Gulf program that staff assumes would also be required for Adak. The CQE must report to NMFS, annually, on IFQ activities, including nonprofit governance, changes in bylaws of the CQE, board of directors, or personnel, copies of minutes and other relevant decision-making documents from CQE Board meetings, QS holdings, IFQ recipient selection, landings, and other relevant information. If a CQE fails to submit a timely and complete annual report, NMFS would initiate an administrative action to suspend the ability of that CQE to transfer QS and IFQ, and to receive additional QS by transfer. The annual report is also required to be provided to the governing body of each community represented by the CQE. This is intended to assist the governing body and residents of that community in reviewing the activities of the CQE relative to that community. In the case of Adak, the governing body would be the city council or other official municipal body.

Note that the annual report in the Gulf CQE Program is not required to be submitted to the Council, but Council staff can request the annual reports and relevant data from NMFS for use in analyses and reports to the Council, recognizing there are some confidentiality restrictions. It is assumed under Alternative 2 that the annual report for the Adak CQE would also only be directly submitted to NMFS and the governing body of the community.

In sum, the requirements for an application to become a CQE and the annual report are the primary mechanisms for administrative oversight provided under Alternative 2. Both are intended to provide sufficient information to NMFS, the Council, and the public to understand how the program is operating, and whether it is meeting the Council's intent. The information requirements in both the application and the report are directly related to the performance standards described in Section 2.6.2.5. The requirements proposed in Alternative 2 appear both necessary and adequate to collect information that would allow the Council to evaluate the management and effectiveness of the CQE. The proposed rule for the GOA CQE Program estimated (per the Paperwork Reduction Act, approved by OMB) the following response times for each of the proposed reporting requirements: 2 hours for an application to receive a TEC; 200 hours for the application to become a CQE; and 40 hours for the CQE annual report. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information, sending the initial application to NMFS to become a CQE, and sending the annual report to NMFS and the community governing body of the community that the CQE represents.

2.6.2.7 Effects on IFQ (non-CQE) participants

While the impacts of the proposed action are somewhat speculative, Alternative 2 should create additional opportunities for vessel owners to use IFQ (derived from CQE-held QS), possibly including vessels not owned by residents of the CQE community. This is because the program would require that only Adak residents lease IFQ from a CQE representing Adak, but there is no requirement for vessel ownership. Thus, under Alternative 2, residents of Adak that do not own vessels could lease annual IFQ from the CQE and bring it onboard any eligible vessel. One possible scenario is that hook-and-line catcher vessels fishing in the AI State water Pacific cod fishery that deliver to Adak could employ an Adak resident leasing halibut IFQ from the CQE as a crewmember, and use that IFQ onboard during the Pacific cod fishery. Other residents may own vessels, but be unable to finance a QS purchase of their own; in that case, a lease arrangement with the CQE could be a viable option.

Participants in the IFQ fisheries may take advantage of a potential opportunity to bring a community resident leasing CQE quota onboard their vessel as crew, if they are not constrained by the overall vessel use cap. Vessel owners that hold their own quota may also be interested in helping other community members by allowing them to fish the IFQ they leased from the CQE on their vessel. Refer to Table 40 for information on the total number of vessels in 2010 that fished some amount of Area 4B halibut and AI sablefish IFQ, and whose total amount of IFQ landed was <50,000 lbs versus ≥50,000 lbs. Of the 41 vessels fishing halibut IFQ and the 38 fishing sablefish IFQ in 2010, 5 vessels exceeded the overall halibut vessel use cap and 1 vessel exceeded the sablefish vessel use cap.⁵⁵ Thus, in theory, with the exception of these 6 vessels, all of the vessels reported could have used additional IFQ onboard in 2010.

ACDC, the entity identified to represent Adak as the CQE, originally noted that it would also work in conjunction with the AI State water Pacific cod fishery,⁵⁶ by allowing small hook-and-line Pacific cod vessels to use CQE-held halibut IFQ to retain halibut PSC in that fishery. Absent IFQ onboard, participants are required to discard halibut caught incidentally in this fishery.

No significant effects on individual participants in the IFQ fisheries or residents of non-CQE communities, are anticipated under Alternative 2, compared to the status quo. Note that while there is an option under consideration that would allow the CQE to lease IFQ to non-resident fishermen for a period of up to five years, the benefits of CQE-held quota to potential non-resident lessees are not treated in depth, as it is intended as a short-term measure. Over the long-term, the benefits of leasing IFQ from a CQE would only be afforded to residents of the CQE community (e.g., Adak).

The primary effect on existing participants would be the potential for greater competition in the market for purchasing Area 4B halibut QS and AI sablefish QS, which could result in a higher price. As discussed previously, however, a significant portion of the QS pool remains unused each year, and anecdotal evidence suggests that there is little demand for the smallest vessel category (D category) of halibut QS in Area 4B. If a CQE representing Adak is provided the opportunity to purchase shares for use by local residents, the benefits of these QS will be a new addition to that economy. If the current demand for QS in these areas is relatively low, including a CQE in the market for QS may serve to benefit private sellers.

⁵⁵Note that it is allowable for a vessel to exceed an annual vessel use cap if only one person's IFQ permits were used onboard that vessel during a year.

⁵⁶Recall that the State AI Pacific cod fishery is allocated 3% of the BSAI Pacific cod ABC annually, which has equated to about 4,000 mt to 7,000 mt each year since 2006. Roughly 25% to 50% of the total Pacific cod landed in this fishery was delivered shoreside each year, 2006 – 2008. A significant reduction in shoreside deliveries occurred in 2009 and 2010, due to the plant in Adak not being operational. The plant is operating in 2011.

While several factors limit the impact of the proposed action, the most important are the number of eligible communities, the cumulative limit on the amount of QS an Area 4B CQE would be allowed to purchase, and the limit on number of blocks the CQE can hold. Only one community is estimated to be eligible under the proposed criteria (Adak). The CQE representing Adak would be limited to purchasing 1.5% of the Area 4 halibut QS pool, or 5%, 10% or 15% of the Area 4B halibut QS pool, depending on the Council's final preferred alternative. Recall that, on average, 10% of the Area 4B halibut *catcher vessel* QS pool is not fished annually (Table 29). Note also that, because the vast majority of the Area 4B halibut QS pool is catcher vessel QS, for example, a use cap (number of QS units) equal to 15% of the total Area 4B halibut QS pool (the Council's PPA) is equal to 16% of the Area 4B halibut *catcher vessel* QS pool.

The maximum number of halibut QS units under the proposed range of use caps is 1.39 million QS units, or 261,000 lbs, in 2011. The CQE would also be limited to purchasing a maximum of 10 blocks of halibut QS in Area 4B, in total. If a CQE representing Adak was able to purchase the maximum of 10 blocks of Area 4B halibut QS and stay under the limit of 1.39 million QS units, that would represent 10% of the total number of blocks of Area 4B catcher vessel halibut QS (refer to Table 34).

A CQE under this program would also be limited to purchasing 1% of the entire sablefish QS pool, or 5%, 10%, or 15% of the AI sablefish QS pool, depending on the Council's final preferred alternative. Recall that, on average, 50% of the AI sablefish *catcher vessel* QS pool is not fished annually (Table 30). Note also that, because less than half of the AI sablefish QS pool is *catcher vessel* QS, for example, a use cap (number of QS units) equal to 15% of the total AI sablefish QS pool (the Council's PPA) is equal to about 34% of the AI sablefish *catcher vessel* QS pool.

The maximum number of sablefish QS units under the proposed range of use caps is 4.8 million QS units, or 410,700 lbs, in 2011. The CQE would also be limited to purchasing a maximum of 5 blocks of sablefish QS in the AI in total. If the CQE was able to purchase the maximum of 5 blocks of AI sablefish QS and stay under the limit of 4.8 million QS units, its holdings would represent 8% of the total number of blocks of AI catcher vessel sablefish QS (refer to Table 34). The practical effect of the proposed action depends on how much QS the CQE is willing and able to purchase, up to the regulated limits.

In sum, non-CQE participants are not directly regulated by the proposed action. Due primarily to the cumulative program use cap and block limit, it is likely that non-CQE participants would not be significantly negatively affected by the proposed action. Only non-CQE participants would continue to have access to 84% of the catcher vessel halibut QS in Area 4B and 66% of the catcher vessel sablefish QS in the AI, under the Council's PPA, without potential competition from CQEs. This action would not affect IFQ participants' access to QS in areas other than Area 4B.

2.6.2.8 Effects on Adak CQE and Adak

Under Alternative 2, Adak would become an eligible CQE community for the purpose of purchasing Area 4B halibut QS and AI sablefish QS. The practical effect of the proposed action depends on the willingness and ability of a CQE in Adak to purchase Area 4B halibut and AI sablefish QS. If that occurs, Alternative 2 could lower the cost of participating in, and gaining benefits from, the IFQ fisheries by individual Adak residents, and help maintain access to and participation in the IFQ fisheries. Residents of Adak were not issued any halibut or sablefish QS at the start of the IFQ Program in 1995, because no residents met the qualifying criteria necessary to receive an initial allocation. As of May 2011, two Adak residents held the equivalent of about 2.5% of the Area 4B halibut QS pool, and about 1.0% of the AI sablefish QS pool. This represents about 43,000 halibut IFQ lbs, and almost 29,000 sablefish IFQ lbs.

The maximum number of halibut QS units that could be purchased by an Adak CQE under the proposed range of use caps is 1.39 million QS units, or 261,000 lbs, in 2011. The CQE would also be limited to purchasing a maximum of 10 blocks of halibut QS in Area 4B. The maximum number of sablefish QS units under the proposed range of use caps is 4.8 million QS units, or 410,700 lbs, in 2011. The CQE would be limited to a maximum of 5 blocks of AI sablefish QS. At recent ex-vessel prices, if the CQE purchased and used QS up to the proposed use caps, it could generate an estimated \$300,000 to \$1 million in halibut ex-vessel gross revenues, and \$650,000 to \$2 million in annual sablefish ex-vessel gross revenues (Table 8), depending upon the use cap selected at final action.⁵⁷ This assumes that the CQE purchases the maximum amount of QS allowed under the use cap for each species. The CQE share of such revenue would depend upon the lease terms agreed upon with resident fishermen.

In addition, the proposed action recognizes that the CQE would likely want to purchase the least costly type of QS (D category). On average, the majority (70%) of D category halibut IFQ in Area 4B is unfished (Table 29, average 2000 through 2010). Alternative 2 would allow the Adak CQE to purchase B, C, and D category QS, and while the vessel length restrictions do not apply to B and C category IFQ if derived from QS held by a CQE, D category QS could only be used on D category vessels. While Alternative 2 may serve to increase transfers of D category QS from individuals to the CQE, because the CQE is limited to 10 blocks of QS, it could not purchase all D category QS in Area 4B (there are 18 total blocks). Table 37 shows that if the CQE purchased the maximum of 10 halibut QS blocks, and it was all the largest blocks of D category QS, it would comprise a maximum of 72 percent of the Area 4B D category halibut QS under the current block status.

The CQE would be subject to performance standards, outlining the intent to maximize the benefit from use of CQE-held quota for resident crew, to ensure that the benefits are equitably distributed throughout the community, and to ensure that the IFQ is fished. The performance standard related to equitable use would, in part, be regulated through a requirement that each resident would be limited to leasing a maximum of 50,000 lbs of IFQ (each species) on an annual basis, which is inclusive of any IFQ privately held. In addition, each vessel would be limited to using a maximum of 50,000 lbs of IFQ derived from CQE QS (each species) onboard, annually. The combination of these requirements is intended to regulate some level of distribution of benefits resulting from the use of community-held quota. The annual report would be the primary mechanism to determine whether the performance standards are being met.

The potential benefits to those participating in both the IFQ fisheries and the Pacific cod fisheries may entice Adak resident fishermen to lease IFQ from the CQE, and potentially deliver those fish to the processor in Adak. Thus, the benefits to the community are not necessarily limited to the CQE and the lessees. Increased fishing activity by small boat resident fishermen should also serve to benefit the shoreside processor in Adak, and support businesses, recognizing that landings derived from CQE-held QS would not be required to be delivered to Adak under Alternative 2. However, the CQE could make delivery to Adak (or another in-region processor) a condition of the lease of IFQ, under private contract.⁵⁸ If delivery to Adak is not a condition of the contract, other shoreside processors, such as those in Atka, Akutan, or Dutch Harbor, may benefit by receiving landings from CQE-held quota share. The maximum amount of quota the CQE could purchase is a decision point for the Council under Alternative 2, thus, the level of potential benefit is determined by the range of use caps discussed above.

2.6.3 Monitoring and Enforcement

NMFS would be the primary entity administering the program; specifically, staff of the Restricted Access Management (RAM) Program. “Enforcement” in this context means enforcement of the particular rules

⁵⁷These estimates are based on the range of use caps evaluated in Table 32 and the most recent CFEC price data from Table 8.

⁵⁸The only other onshore processor in the region is located in Atka.

that the Council may apply to CQEs receiving, transferring, and fishing QS/IFQ, and not to enforcing the rules that govern actual fishing operations. With respect to those operational requirements, no special rules would apply to QS/IFQ held by CQEs that do not already apply to all other IFQ holders.

Thus, enforcement herein means ensuring that the regulations that govern eligibility to receive QS by transfer, purchase and sale of QS, transfer of IFQ permits to designated fishermen, and related matters are followed, similar to how the Gulf CQE Program operates. In this manner, enforcing a CQE Program for Area 4B, within the IFQ program, will not be significantly more burdensome than enforcing the requirements for all other QS holders and IFQ fishermen, and existing Gulf CQEs.

Note that residents leasing IFQs from the CQE would also be subject to the IFQ cost recovery fee, as are individual QS holders, to help pay for the cost of managing and enforcing the program. Similar to the current IFQ Program, fishermen leasing the IFQs from Adak would be responsible for submitting payment to NMFS.

2.6.4 Net benefit impacts

The proposed action is not expected to have a significant effect on net benefits to the Nation. The intent of the action is to allow a non-profit entity representing Adak to purchase catcher vessel QS for annual lease to and use by community residents. This is intended to lower the cost of entry into the commercial halibut and sablefish fisheries by individual residents, and would essentially add one new potential buyer in the market for Area 4B halibut QS and AI sablefish QS. The non-profit entity representing Adak, the Adak Community Development Corporation, was established to promote and develop fisheries related resources, infrastructure, and assets for the benefit of Adak. The original proposal was submitted by ACDC, premised on the idea that it would use its Western AI golden king crab royalties to purchase Area 4B halibut and AI sablefish QS. Thus, the proposed action would provide an opportunity for ACDC to purchase B, C, and D category Area 4B halibut QS, and B and C category AI sablefish QS.

Two possible general outcomes of the proposed action are possible, each of which could have different net benefit impacts. The first possible outcome is that the Adak CQE does not purchase any QS. Net benefits would not change under this outcome, as the market for QS would remain unchanged. The second scenario is that the CQE purchases a moderate amount of Area 4B halibut QS and AI sablefish QS, up to the use caps determined by the Council. The highest halibut use cap under consideration is 15% of the Area 4B quota share pool, which equates to 261,600 lbs in 2011. The highest sablefish use cap under consideration is 15% of the AI sablefish QS pool, which equates to 410,700 lbs in 2011. These use caps represent the Council's preliminary preferred alternative.

This analysis considers two possible approaches to assessing the net benefits of the proposed action. The first considers the action's net benefits from a private perspective, considering only the change in production efficiency. This type of analysis would suggest that the action could result in a reduction in producer surplus, as the current distribution of QS likely provides greater net benefits than one through a program that allows a community purchase of QS. In a competitive market with a functioning capital market and low transaction costs, the least cost fishing operations would purchase QS and harvest the halibut. Thus, under the current market, if small community fishermen are able to harvest fish at a lower cost than the current QS holders, it is reasonable to assume they would purchase QS in the market and enter the fishery. However, the existing data have indicated that this is not the case under the status quo, and relatively little QS is held by Adak residents. Remote community fishermen, due to the lack of nearby markets and high transportation costs, do not typically harvest fish at a lower cost than QS holders from larger, less remote communities. Thus, any action, such as the proposed action, that shifts QS to fishermen from smaller, more remote communities, would, all else equal, increase (harvest) costs in the fishery and decrease net benefits. (However, this may not hold true if access to capital is the primary

problem for residents of small, remote communities.) In addition, CQE operations have the added inefficiency associated with administrative costs. Over time, CQE operations may become more efficient, as they purchase more shares and gain more experience, but the administrative cost associated with operating a non-profit, establishing leasing criteria, developing annual reports, is likely higher for a CQE than for an individual fisherman that does not have similar requirements.

The above analysis, however, ignores the social value that is not captured in the private market created under the IFQ Program. Allowing communities to participate in the market for catcher vessel QS may introduce social value into the market and change the net benefits of the IFQ fisheries. If Adak is permitted to participate in the market for QS, purchases will be based on the community's assessment of the total value of the QS, including the value of the QS to the private fishermen in the community and the broader community values deriving from the added local economic activity. Social values may include improved economic circumstances in the community, the stimulation of community activity, and an increase in the economic welfare of community members. A community that includes these broader welfare considerations in its calculation of the value of QS would be willing to pay more for the QS than private individuals in communities. The result is a market in which price and the distribution of QS is based on the total value of QS (including both the private and social values of the QS), rather than a distribution based simply on the private value of QS. However, whether this change is likely to result in an increase in net benefits cannot be determined. Overall, the CQE Program in general represents a policy decision by the Council that it is beneficial to support the interests of small, remote communities holding quota share for use by community residents.

Thus, given the above, one ongoing consideration is that private interests could be outcompeted in a market that includes a community purchaser. A potential cost of the program is that individual fishermen wishing to purchase catcher vessel QS in Area 4B may face higher market prices, because a CQE may be more willing to bear higher costs for its purchase of QS if the purchase is believed to benefit the community (i.e., the community's assessment of total value of the QS may include the value of the QS to the individual resident that leases the QS from the CQE, as well as the social value of the QS). If those individuals eliminated from the market include low cost harvesters that could afford QS in a market that does not include CQEs, economic efficiency will be reduced.

However, the above analysis is premised on a competitive market for QS. Recall, however, on average (2000 through 2010), about 10% of the Area 4B halibut catcher vessel IFQ has remained unfished, as well as 50% of the AI sablefish catcher vessel QS. In addition, anecdotal evidence suggests that there is little demand for the smallest category (D category) of halibut QS in Area 4B. Unfished IFQs represent a leakage of potential benefits from the fishery. If Adak is provided the opportunity to purchase shares for use by local fishermen, the benefits of these QS will be a new addition to the economy, resulting in an increase in net benefits. Unlike the previous benefits discussed, both private and social benefits would be realized from fishing currently unfished IFQs. In addition, if the current demand for QS in these areas is relatively low, including a CQE in the market for QS may serve to benefit private interests (sellers).

In sum, the practical effect of the proposed action depends on the willingness and ability of a CQE in Adak to purchase Area 4B halibut and AI sablefish QS. When considering only private estimates of net benefits, the proposed action may result in no change, a positive change, or a loss of net benefits. The intent of the action is to provide the regulatory framework to allow a redistribution of some QS from individuals to a CQE representing Adak, as a voluntary market transaction, in which willing buyers and sellers negotiate a mutually beneficial transfer of QS. If CQEs represent a higher cost harvester than individuals, net benefits could decrease. However, if the action allows a CQE to enter the market and purchase QS, it may introduce a mechanism into the market for capturing some social value of QS, which may be greater than the benefit realized by an individual fisherman. Non-CQE communities could realize a loss of social benefits (if non-CQE community residents sell QS to the Adak CQE); however, this loss

would not be realized if the IFQ would not have otherwise been fished. Thus, it is not possible to determine whether the potential losses could outweigh the potential benefits. Whether an overall increase in net benefits would result from the purchases cannot be determined, *a priori*.

2.7 Proposed FMP and regulatory changes

2.7.1 Proposed regulatory changes

Alternative 2 would require regulations in Subpart D of 50 CFR 679, which establishes the halibut and sablefish individual fishing quota management measures. Regulations would need to be revised to establish a CQE Program in Area 4B. The following notes the *type* of revisions that would be necessary under Alternative 2, as well as various existing provisions that currently apply to the GOA but could be extended to Area 4B:

- 50 CFR 679.2: Add new definition of a ‘CQE’ and ‘eligible community’ specific to Area 4B (e.g., Adak). The existing definition of ‘eligible community resident’ would apply to Area 4B.
- Reference to the non-profit identified to represent the community of Adak would need to be added.
- 50 CFR 679.5(l)(8): Existing requirements for annual report would apply to Area 4B.
- 50 CFR 679.7(f)(16) and (17): The existing prohibition to hire a master to fish for IFQ halibut or sablefish that is derived from QS held by a CQE would need to be revised for the Area 4B CQE, depending on the Council’s preferred alternative. The existing prohibition to process IFQ halibut or sablefish onboard a vessel on which a person is using IFQ derived from QS held by a CQE would apply.
- 50 CFR 679.41(c)(10), (d)(1), and (g): Existing provisions denoting individual eligibility to receive IFQ by transfer from a CQE would apply.
- 50 CFR 679.41(e)(4) and (5): Existing provisions prohibiting the purchase of QS blocks of a specified size would need to be revised to explicitly not be applicable to an Area 4B CQE.
- 50 CFR 679.41(g)(5): This section describing the category of QS that a CQE is allowed to purchase would need to be revised to add specific information for a CQE in Area 4B. Remaining sections (6) requiring lease to community residents, and (7) regarding sale provisions, would apply.
- 50 CFR 679.41(l): The existing provisions outlining the requirements of the statement of eligibility (application to become a CQE) would apply.
- 50 CFR 679.42(e) and (f): Limitations on the use of QS and IFQ. The sections pertaining to individual and cumulative community use caps would need to be revised to add limitations specific to an Area 4B CQE, per the Council’s preferred alternative. Sections (e)(3) and (f)(3), which state that no CQE could hold AI sablefish QS or Area 4B halibut QS, would need to be revised to allow for purchases of such QS by one specified CQE representing Adak. Remaining provisions governing the limit on the amount of IFQ that each individual resident could lease annually from the CQE would apply.
- 50 CFR 679.42(g)(1)(ii), pertaining to the number of blocks the CQE could purchase, would apply as written.

- 50 CFR 679.42(h)(1)(ii) and (2)(ii): the vessel use caps would need to be revised to pertain specifically to an Area 4B CQE, per the Council’s preferred alternative.

2.7.2 Proposed FMP changes

Alternative 2 would also require changes to the BSAI groundfish FMP (Amendment 102). A new section would need to be added, establishing the Area 4B CQE Program for AI sablefish (halibut is not included in the BSAI groundfish FMP). If modeled after the language establishing the GOA CQE Program, it would require an addition to **Section 3.7.1** (Fixed Gear Sablefish Fishery) as follows:

3.7.1.8 Community Quota Share Purchases

Community Quota Entities (CQEs) representing specified BSAI coastal communities are eligible to hold commercial catcher boat sablefish quota share under the IFQ Program as defined and described in this section. Communities are subject to the provisions of the IFQ Program as described in Section 3.7.1 unless otherwise described in this section.

3.7.1.8.1 Eligible Communities

Eligible communities are those that meet the following qualifying criteria: 1) not eligible for the western Alaska Community Development Quota Program; 2) located in Area 4B; 3) population of less than 1,500 people; 4) no road access to larger communities; 5) direct access to saltwater, and 6) a documented historic participation in the halibut or sablefish fisheries and are listed in Federal regulation. Communities in Area 4B that are not listed in Federal regulation must apply to the Council to be approved for participation in the program and will be evaluated using the above criteria.

The administrative entity (CQE) permitted to hold quota share for the eligible community of Adak is the entity approved by NMFS to hold the Adak community allocation of Western Aleutian Islands golden king crab.

3.7.1.8.2 Management Areas

CQEs representing eligible communities may purchase and hold sablefish quota shares and IFQs in the Aleutian Islands management area of the BSAI.

3.7.1.8.3 Use and Ownership Provisions

1. Individual and Cumulative Community Use Caps

- a. For sablefish, the qualified CQE representing an eligible community may own, hold, or otherwise control, but may not exceed, [*1% of the entire sablefish QS pool; or 5%, 10%, or 15% of the Aleutian Islands sablefish QS pool*] on behalf of that community;
- b. For sablefish, all CQEs representing eligible communities may own, hold, or otherwise control, collectively, but may not exceed, [*1% of the entire sablefish QS pool; or 5%, 10%, or 15% of the Aleutian Islands sablefish QS pool*] on behalf of that community.

2. Quota Share Block Provisions

Each CQE may own and use up to five quota share blocks in the Aleutian Islands management area, per eligible community it represents.

3. Vessel Size Provisions

The vessel size category designations for catcher vessel quota shares (Category B and C) do not apply to the quota share when it is owned and used by a CQE.

3.7.1.8.4 Transfer Provisions

1. CQEs owning QS may lease the IFQs arising from those quota shares only to residents of the eligible community. *[Depending on the Council's preferred alternative, the following language may also be necessary: The CQE may lease to non-residents for a limited period of five years after the effective date of implementation of the program. After that time, the CQE must lease QS to residents of the community it represents.]*
2. Any CQE owning catcher vessel quota shares may lease, but may not exceed, 50,000 pounds of sablefish IFQs per lessee annually. The 50,000 pound limit is inclusive of any quota owned by the individual (lessee).
3. No vessel may be used, during any fishing year, to harvest more than 50,000 pounds of IFQ sablefish derived from QS held by a CQE in Area 4B. The vessel would also be subject to the same vessel use caps applicable in the overall IFQ Program.
4. CQEs owning catcher vessel quota shares may sell those quota shares to any other CQE representing an eligible community in Area 4B or any person meeting the provisions outlined in Section 3.7.1.4.
5. CQEs may only sell their quota share for one of the following purposes:
 - a. generating revenues to sustain, improve, or expand the program
 - b. liquidating the entity's quota share assets for reasons outside the program

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

3.0 CONSISTENCY WITH APPLICABLE LAW AND POLICY

This section examines the consistency of the proposed action to establish a CQE Program in Area 4B for communities that meet specified criteria with the National Standards and Fishery Impact Statement requirements in the Magnuson-Stevens Act and E.O. 12866. This section applies to sablefish in particular, as halibut management is authorized under the Halibut Act.

Under Alternative 2, the Council's preliminary preferred alternative, the action would allow eligible communities in Area 4B to use a designated non-profit entity (ACDC) as a CQE to purchase Area 4B halibut and AI sablefish catcher vessel QS, up to a specified maximum amount, on the community's behalf. The analysis indicates that only one community would be eligible under the proposed eligibility criteria (see Section 2.6.2.1). The CQE would be required to lease the annual IFQs resulting from purchased QS only to community residents, either at the effective date of program implementation, or five years from the date of implementation. There would be a limit on the amount of QS the CQE could purchase, and restrictions on the number of blocks that could be purchased; the amount of IFQ that could be leased to an individual; the amount of IFQ that can be used on an individual vessel; and the permanent transfer of the QS from the CQE. Other than the provisions specified under Alternative 2, communities are subject to all other provisions of the IFQ Program.

3.1 National Standards

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

National Standard 1

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

None of the alternatives considered in this action would affect overfishing of sablefish in the AI, nor would they prevent achieving, on a continuing basis, the optimum yield from the AI sablefish fishery. Alternative 2 would modify existing regulations to allow a non-profit entity representing Adak to purchase catcher vessel sablefish QS in the AI. This action would not affect the amount of sablefish that could be harvested, nor the manner in which sablefish is harvested. About 50% of the AI sablefish TAC is generally harvested annually. If a CQE purchases catcher vessel QS for lease to resident fishermen, it may improve the overall ability of the fleet to harvest the TAC.

National Standard 2

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

The analysis for this amendment is based upon the most recent and best scientific information available.

National Standard 3

To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

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

National Standard 4

Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation

shall be (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation, and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The proposed action to establish a CQE Program in Area 4B does not discriminate between residents of different states. National Standard 4 may be construed as not applicable in this case, as the action does not allocate or assign ‘fishing privileges.’ The action is provides an opportunity for a non-profit entity representing Adak to purchase QS on the open market, and there is no exclusive allocation assigned.

National Standard 5

Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose.

The proposed action may promote efficient utilization of fishery resources in that it may provide an opportunity for additional sablefish TAC allocated to the AI to be harvested. Some amount of sablefish TAC may be remain unused each year due to the inefficiency associated with its harvest. Improved efficiency may be considered under the proposed action, but economic allocation is not the sole purpose. The action does not allocate or assign ‘fishing privileges’, but it does provide an opportunity for a CQE representing a small, remote community to purchase QS on the open market. Thus, the action is intended to have distributional effects among QS holders, promoting the transfer of a limited amount of QS from individual (which may include corporate) ownership to the CQE.

The Council may wish to also consider the management approach stated in the BSAI FMP and the management objectives of the Programmatic Supplemental Environmental Impact Statement (PSEIS) that are related to potential societal benefits, such as ‘providing socially and economically viable fisheries for the well-being of fishing communities’ and ‘balancing many competing uses of marine resources and different social and economic goals for sustainable fishery management, including protection of the long-term health of the resource and the optimization of yield.’ The proposed action is intended to increase the opportunity for residents of a small, remote community to participate in the commercial halibut and sablefish fisheries, by leasing IFQ purchased by a CQE representing the community.

National Standard 6

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

None of the proposed alternatives are expected to affect the availability of and variability in the BSAI IFQ fisheries resource in future years. The harvest would be managed to and limited by the TAC, regardless of the proposed action considered in this amendment.

National Standard 7

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

The proposed action does not duplicate any other management action.

National Standard 8

Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

This amendment was proposed solely to provide for the sustained participation of a small, remote community in the Aleutian Islands in the IFQ fisheries, which is attempting to regain commercial fishing as its economic center. This amendment is intended to provide fishing opportunities for residents of the eligible community, as well as minimize the adverse economic impacts of the current IFQ program. The proposed action is intended to resolve what may have been unintended consequences of the commercial IFQ Program. The program necessarily increases the cost of entry into the fisheries for persons that did not receive an initial allocation, by creating the need to purchase and hold QS in order to participate. Individuals in small, remote communities may realize a higher cost of participation than larger communities with road access to markets. The proposed action is estimated to benefit one community, Adak, which is the only community in the area with historical participation in the halibut and sablefish fisheries that is not also eligible under the western Alaska Community Development Quota (CDQ) Program.

The concept under Alternative 2 necessitates that there be a change in the distribution of halibut and sablefish QS. The maximum amount of sablefish QS under consideration that could be purchased by a CQE is 15% of the AI sablefish QS pool; the maximum amount of halibut QS under consideration is 15% of the Area 4B halibut QS pool. Overall, individuals residing in communities other than Adak will still realize the majority of the benefit from AI sablefish QS, but more of the revenues will be captured in the community of Adak than are currently, and less in the larger, more accessible communities, or in communities outside of Alaska, where other AI sablefish (and Area 4B halibut) QS holders reside. See Appendix 5 for residency information on all holders of AI sablefish and Area 4B halibut QS. Sections 2.6.2.7 and 2.6.2.8 discuss the estimated impacts of the proposed action on individual QS holders and Adak, respectively.

The intent of the action is to meet the objectives of National Standard 8 by facilitating long-term access to and participation in the commercial halibut and sablefish fisheries by residents of a small, remote, coastal community in Area 4B. The mechanism proposed to help facilitate participation is to allow a non-profit entity in the community to purchase a limited amount of QS and lease the annual IFQs to community residents.

National Standard 9

Conservation and management measures shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

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

National Standard 10

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

The alternatives proposed should have no effect on safety at sea.

3.2 Section 303(a)(9) – Fisheries Impact Statement

Section 303(a)(9) of the Magnuson-Stevens Act requires that any management measure submitted by the Council take into account potential impacts on the participants in the fisheries, as well as participants in adjacent fisheries. The impacts on participants in the IFQ fisheries have been discussed in previous sections of this document (Section 2.6.2.7 and Section 2.6.4). The proposed action is not anticipated to have significant effects on participants in other fisheries.

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- Appendix 2 Council motion on proposed Area 4B CQE Program, December 2010 (p. A-4)
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**Council Motion on Proposed BSAI Amendment 102:
Establishing a Community Quota Entity Program in Area 4B**

October 3, 2011

The Council approves the following changes to the problem statement (deletions are stricken; additions are in bold underline):

*As a small coastal community in the Aleutian Islands, Adak is struggling to remain economically viable. The halibut and sablefish IFQ program, as with other limited entry programs, increases the cost of entry into or expansion in the commercial halibut and sablefish fisheries. Adak is not a beneficiary of the CDQ Program for halibut and sablefish. Allowing this non-CDQ community to purchase Area 4B halibut and sablefish quota share for lease to ~~residents of Adak~~ **eligible fishermen** will help minimize adverse economic impacts on this small, remote, coastal community in the Aleutians, and help provide for the sustained participation in the halibut and sablefish IFQ fisheries. The Council seeks to provide for this sustained participation without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities.*

The Council recommends sending the analysis out for public review and selects the following as its preliminary preferred alternative:

Alternative 2. Establish a CQE Program in Area 4B. Allow a non-profit entity representing an eligible community in Area 4B to purchase and hold Area 4B halibut quota share and Aleutian Islands sablefish quota share, with similar qualifying criteria and operational limits as the existing GOA CQE communities (see specific provisions below).

Components of Alternative 2 include:

1. Eligible communities

Non-CDQ communities located in Area 4B with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut or sablefish fisheries are eligible to own and use commercial catcher vessel halibut and sablefish quota share. In addition to meeting these criteria at final action, eligible communities must be listed as a defined set of eligible communities in Federal regulation. Communities not meeting the qualifying criteria and not on the list adopted by the Council are not eligible to participate. Other Area 4B communities could petition the Council for inclusion after the implementation of this program.

Qualifying Area 4B communities would be restricted to purchasing Area 4B halibut and Aleutian Islands sablefish quota share.

2. Ownership Entity

A non-profit entity, approved by NMFS as the holder of the Adak Community Allocation of Western Aleutian Islands golden king crab will be recognized as the CQE for the community of Adak. The governing body in the community (currently City of Adak) must approve the CQE to operate on behalf of the community.

3. Use Caps for Individual Communities

Each eligible community in Area 4B is limited to purchasing and using either:

- Option 2. 15% of the Area 4B halibut QS pool; and
- Option 4. 15% of the Aleutian Islands sablefish QS pool

4. Cumulative Community Use Caps

All eligible communities combined are limiting to purchasing and using either:

- Option 2. 15% of the Area 4B halibut QS pool; and
- Option 4. 15% of the Aleutian Islands sablefish QS pool

5. Purchase, Use and Sale Provisions

Original block and vessel size designations apply if the community transfers the QS to any person other than another eligible community.

Block Restrictions

- Communities may buy blocked and unblocked quota share.
- Individual eligible communities are limited to holding 10 blocks of Area 4B halibut QS and 5 blocks of AI sablefish QS. Individuals receiving IFQ leased from an eligible community entity would be subject to the existing individual use caps in regulation.

Vessel Size Restrictions

- Quota share held by communities under this program would be exempt from vessel size (share class) restrictions, while the QS is owned and leased by the community.
- Transferability of halibut QS in Area 4B from commercial to qualified community entities is restricted to B and C category quota share. Should existing Area 3A CQEs be allowed to purchase 'D' category QS, Area 4B CQEs may purchase and fish Area 4B 'D' category halibut QS under the same rules.

Sale Restrictions

- Eligible communities owning catcher vessel quota shares may sell those quota shares to any other eligible community or any person meeting the provisions outlined in the existing IFQ Program.
- Eligible communities may only sell their quota share for one of the following purposes:
 - (a) generating revenues to sustain, improve, or expand the program
 - (b) liquidating the entity's quota share assets for reasons outside the program

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

Use Restrictions

- Option 2. The CQE may lease to non-residents for a limited period of five years after the effective date of implementation of the program. After that time, the CQE must lease QS to residents of the community it represents.

Suboption: The CQE is not subject to the 150 sea days requirement when leasing IFQ to residents.

Additional provisions include:

- No vessel may be used, during any fishing year, to harvest more than 50,000 pounds of IFQ halibut and 50,000 pounds of IFQ sablefish derived from QS held by a CQE in Area 4. The vessel would also be subject to the same vessel use caps applicable in the overall IFQ Program.¹
- A CQE may lease up to 50,000 pounds of halibut IFQs and 50,000 pounds of sablefish IFQs per lessee annually. The 50,000 pound limit is inclusive of any quota owned by the individual (lessee).

6. Performance Standards

The following are goals of the program with voluntary compliance monitored through the annual reporting mechanism and evaluated upon review of the program. Community entities applying for qualification in the program must describe how their use of QS will comply with the following program guidelines:

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

7. Administrative Oversight

The Council recommends a provision to require submission of a detailed statement of eligibility to NMFS prior to being considered for eligibility as a community QS recipient. The statement would be similar to what is required under the GOA CQE Program. This includes, but is not limited to:

- (a) Certificate of incorporation
- (b) Verification of qualified entity as approved under “Ownership Entity”
- (c) Documentation demonstrating accountability to the community
- (d) Explanation of how the community entity intends to implement the performance standards

The Council also recommends a provision to require submission of an annual report detailing accomplishments. The annual report would be similar to what is required under the GOA CQE Program. This includes, but is not limited to:

- (a) A summary of business, employment, and fishing activities under the program
- (b) A discussion of any corporate changes that alter the representational structure of the entity
- (c) Specific steps taken to meet the performance standards

¹The current vessel use caps applicable in the IFQ Program are 0.5% of all halibut IFQ TAC and 1% of all sablefish IFQ TAC.

Council Motion: Establishing a CQE Program in Area 4B
December 11, 2010

The Council initiated an analysis for an amendment to include Area 4B communities in the Community Quota Entity (CQE) Program with the same qualifying criteria and under the same operational limits as the existing CQE communities in Areas 3B and 3A, with the following differences:

1. A pre-existing non-profit entity, the Adak Community Development Corporation, will be recognized as the CQE entity for the community of Adak.
2. Qualifying Area 4B communities would be restricted to purchasing Area 4B halibut and Aleutian Islands sablefish quota share.
3. A qualifying community CQE use cap of Area 4B quota of:
 - a. An amount equal to the individual acquisition cap for Area 4 quota¹
 - b. 5%, 10%, or 15% of the Area 4B quota share pool
4. A cumulative qualifying community CQE use cap of Area 4B quota of:
 - a. An amount equal to the individual acquisition cap for Area 4 quota
 - b. 5%, 10%, or 15% of the Area 4B quota share pool
5. No more than 50,000 pounds of any halibut IFQ and 50,000 pounds of sablefish IFQ leased by an eligible community may be taken on any one vessel, inclusive of any IFQ owned by the individual leasing the IFQs. However, the CQE lessee may fish up to 50,000 pounds of leased CQE quota, inclusive of individual quota held, on a vessel that has fished non-CQE quota so long as the total quota fished on the vessel does not exceed the individual vessel use cap.
6. Should existing Area 3A CQEs be allowed to purchase 'D' category quota share, Area 4B CQEs may purchase and fish Area 4B 'D' category halibut quota share under the same rules.
7. No limit on the size of halibut and sablefish (B and C category) quota share blocks that CQEs could purchase.
8. Add an option that the CQE may lease to non-residents for a limited period of five years after implementation of the program.

The Council adopted the following problem statement for the analysis:

As a small coastal community in the Aleutian Islands, Adak is struggling to remain economically viable. The halibut and sablefish IFQ program, as with other limited entry programs, increases the cost of entry into or expansion in the commercial halibut and sablefish fisheries. Adak is not a beneficiary of the CDQ Program for halibut and sablefish. Allowing this non-CDQ community to purchase Area 4B halibut and sablefish quota share for lease to residents of Adak will help minimize adverse economic impacts on this small, remote, coastal community in the Aleutians, and help provide for the sustained participation in the halibut and sablefish IFQ fisheries. The Council seeks to provide for this sustained participation without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities.

¹ The Council clarified that Option 3a and Option 4a are applicable only to the use caps for halibut quota share, as there is no cap on Area 4 sablefish quota share applicable to individual holders that the CQE could mirror. The sablefish use cap options would be as follows: Option 3a and 4a) an amount equal to the individual use cap of 1% of all sablefish QS; and Option 3b and 4b) 5%, 10%, or 15% of the Aleutian Islands sablefish QS pool.

Appendix 3

Council Motion on Community Quota Share Purchase – Gulf FMP Amendment 66

April 10, 2002

The Council recommends to allow eligible Gulf of Alaska coastal communities to hold commercial halibut and sablefish QS for lease to and use by community residents, as defined by the following elements and options.

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

Rural communities with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation in the halibut and/or sablefish fisheries.

Communities meeting the above criteria at final action will be listed as a defined set of qualifying communities in regulation (*see attached list*). Communities not listed must apply to the North Pacific Fishery Management Council to be approved for participation in the program and will be evaluated using the above criteria.

Element 2. Ownership Entity

- New non-profit community entity
- New non-profit entity formed by an aggregation of several qualifying communities
- New regional or Gulf-wide umbrella entity acting as trustee for individual communities

Element 3. Use Caps for Individual Communities

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

Communities in Areas 3A and 3B cannot buy halibut quota share in Area 2C and communities in Area 2C cannot buy halibut quota shares in Area 3B.

Element 4. Cumulative Use Caps for All Communities

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

Element 5. Purchase, use and sale restrictions

Block Restrictions (Block restrictions are retained if the community transfers QS.)

- Allow communities to buy blocked and unblocked shares.
- Individual communities will be limited to 10 blocks of halibut QS and 5 blocks of sablefish QS in each management area.
- Restrict community purchase of blocked halibut quota share to blocks of shares which, at the time of the implementation of sweep provisions (1996), exceeded the following minimum poundage of IFQ:
 - (a) For Areas 2C and 3A, minimum halibut IFQ poundage of 3,000 lbs.
 - (b) For areas SE, WY, CG, and WG, minimum sablefish IFQ poundage of 5,000 lbs.

Appendix 3

Vessel Size Restrictions (Vessel size restrictions are retained if the community transfers the QS)

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

Transferability of halibut QS in Areas 2C and 3A from commercial to community entities is restricted to B and C category quota share.

Sale Restrictions

Communities may only sell their QS for one of the following purposes:

- (a) generating revenues to sustain, improve, or expand the program
- (b) liquidating the entity's QS assets for reasons outside the program. In that event, NMFS would not qualify that entity or another entity to hold QS for that community for a period of 3 years.

Use Restrictions

Leasing of community quota share shall be limited to an amount equal to 50,000 pounds of halibut and 50,000 pounds of sablefish IFQs, inclusive of any IFQ owned, per transferee.

Leasing of community quota share shall be limited to an amount equal to 50,000 pounds of halibut and 50,000 pounds of sablefish IFQs, inclusive of any IFQ owned, per vessel.

Element 6. Performance Standards

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

- (a) Leasing of annual IFQs resulting from community owned QS shall be limited to residents of the ownership community. (Residency criteria similar to that established for the subsistence halibut provisions shall be used and verified by affidavit.)

The following should be seen as goals of the program with voluntary compliance monitored through the annual reporting mechanism and evaluated when the program is reviewed. When communities apply for eligibility in the program they must describe how their use of QS will comply with program guidelines. This information will be used as a benchmark for evaluating the program.

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

Appendix 3

Element 7. Administrative Oversight

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

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

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

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

Element 8. Program Review

Council review of the program after 5 years of implementation.

The Council also recommends forming a community QS implementation committee, in order to ensure that the program is implemented as intended.

Appendix 3

(42) Eligible Communities for Purchase of Halibut and Sablefish Quota Share (Element 1)

General Qualifying Criteria: Rural communities in the Gulf of Alaska with less than 1,500 people, no road access to larger communities, direct access to saltwater, and a documented historic participation¹ in the halibut or sablefish fisheries.

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

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

²2000 census data, Alaska Department of Community and Economic Development.

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



2011 QUOTA SHARE POOLS (QSPs) AND TOTAL ALLOWABLE CATCHES (TACs) FOR IFQ

HALIBUT AND SABLEFISH QSPs AND IFQ TACs			
Species & Area	Quota Share Pool (units)	IFQ TAC (pounds)	Ratio (QS:IFQ)
Halibut 2C	59,552,039	2,330,000	25.5588
3A	184,911,315	14,360,000	12.8768
3B	54,203,176	7,510,000	7.2175
4A	14,587,099	2,410,000	6.0527
4B	9,284,774	1,744,000	5.3238
4C	4,016,352	845,000	4.7531
4D	4,958,250	1,183,000	4.1913
4E	139,999	0	0
All Areas	331,653,004	30,382,000	
Sablefish AI	31,932,492	2,738,113	11.6622
BS	18,765,280	2,513,244	7.4666
CG	111,686,632	8,359,843	13.3599
SE	66,120,619	6,481,524	10.2014
WG	36,029,579	2,857,162	12.6103
WY	53,266,430	3,844,822	13.8541
All Areas	317,801,032	26,794,708	

Notes:

- ✓ The "ratio" displays the number of units of QS that yield one pound of annual IFQ.
- ✓ QS Pools include small amounts of QS in "Reserve" (QS that is yet to be issued) and QS that is Restricted (QS that has been issued, but which does not yield IFQ to its holder).
- ✓ IFQ TACs do not include pounds that have been set aside for the CDQ program.
- ✓ Halibut weights are displayed in net pounds; sablefish weights in round pounds.
- ✓ Areas are shown in alphabetic order.

Verified: March 7, 2011

Program Administrator
Restricted Access Management
Alaska Region, NMFS

Appendix 5**Adak Community Development Corporation**

January 8th, 2010

Dear Chairman Olson,

Adak Community Development Corporation is the entity which received the community allocation of 10% of the WAG crab. The stated purpose of that allocation from the Council's October 2002 motion was "aid in the development of seafood harvesting and processing activities within that community."

This goal is reflected in our bylaws which state that all funds of the Corporation shall be "dedicated to the promotion and development of fisheries related resources, infrastructure and assets for the benefit of the community of Adak, Alaska."

At the Dec. 2008 NPFMC meeting ACDC president, Michael Swetzof, submitted a proposal to the Council to "Allow Adak to use its crab royalties to buy Area 4B halibut IFQ and Aleutian Islands area sablefish IFQ for use by local fishermen (add Adak to the CQE program)."

When the IFQ implementation team met in September 2009 to review proposals, they recommended that the Council "take no action since a specific proposal was not received."

"The team felt that a specific proposal for Council action was not received. Bob Alverson asked if this would be for only Area 4 CQE and what caps would apply. Nicole Kimball responded that the proposal was vague and the analysis could apply the current CQE provisions for GOA communities to an Adak CQE. Bob suggested that Adak should not have more liberal privileges to buy any more QS than any current GOA CQE. He pointed out that ACDC can now use their royalties to buy Area 4B halibut IFQ and AI sablefish IFQ for community members and a regulatory regime was not necessary."

"The team unanimously agreed to recommend that the Council take no action since a specific proposal was not received."

In response to the team comments and the Council decision to extend the deadline for proposals, ACDC has prepared a detailed proposal based on the all the elements and options included in the Council's preferred alternative for the Amendment 66 GOA CQE program.

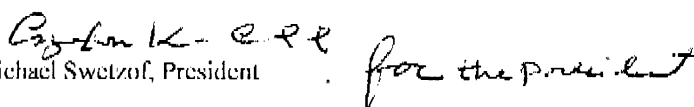
We believe the Implementation Team's minutes stating "that ACDC can now use their royalties to buy Area 4B halibut IFQ and AI sablefish IFQ for community members" reflects a misunderstanding of the status quo and is not consistent with the "owner on board" provisions of the program.

Additionally, ACDC is not seeking "more liberal privileges to buy any more QS than any current GOA CQE." In our attached proposal, we are asking for caps that are roughly equivalent in pounds to the caps for GOA CQE communities.

Allowing Adak to become an Aleutian Island CQE community would work well in conjunction with the state water cod fishery for small boats to address the halibut bycatch in the hook and line cod fishery.

Please accept the attached "Proposal for Halibut and Sablefish Community QS Purchase" for review.

Sincerely,


Michael Swetzof, President

ACDC Proposal for Halibut and Sablefish Community QS Purchase Amendment

Community QS Purchase Problem Statement

As a small coastal community in the Aleutian Islands, Adak is struggling to remain economically viable. The halibut and sablefish IFQ program, as with other limited entry programs, increases the cost of entry into or expansion in the commercial halibut and sablefish fisheries. Adak is not a beneficiary of the CDQ program for halibut and sablefish. Allowing this non-CDQ community to purchase a 4B halibut and sablefish quota share for lease for delivery in the region will help minimize adverse economic impacts on this small, remote, coastal community in the Aleutians, and help provide for the sustained participation in the halibut and sablefish IFQ fisheries. The Council seeks to provide for this sustained participation without undermining the goals of the halibut and sablefish IFQ program or precluding entry-level opportunities for fishermen residing in other fishery-dependent communities.

Preferred Alternative Elements:

Eligible communities

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

Ownership Entity

The Council recommends that a non-profit organization formed for the purpose of holding the Adak Community Allocation of WAG crab also be eligible for purchasing and holding QS on behalf of the community.

Individual Community Use Caps

Eligible communities in the Aleutian Islands are limited to purchasing and using 10% of the Area 4B, and 10% of Aleutian Island sablefish QS. Eligible communities in Area 4B cannot buy halibut QS in any other Area.

Cumulative Community Use Caps

Communities are limited to owning and using 10% of the Area 4B halibut QS and 10% of the AI sablefish QS, unless modified by the Council.

Purchase, Use and Sale Provisions

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

Block Restrictions

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

Vessel Size Restrictions

- Quota share held by communities under this program would be exempt from vessel size (share class) restrictions, while the QS is owned and leased by the community.
- Transferability of halibut QS in Area 4B from commercial to qualified community entities is restricted to B and C category quota share.

Sale Restrictions

- Eligible communities owning catcher boat (B, C, D category) quota shares may sell those quota shares to any other eligible community or any person meeting the provisions outlined in the existing IFQ Program.
- Eligible communities may only sell their quota share for one of the following purposes:
 - (a) generating revenues to sustain, improve, or expand the program
 - (b) liquidating the entity's quota share assets for reasons outside the program
 Should an eligible community sell their quota share for purposes consistent with (b) above, an administrative entity would not be qualified to purchase and own quota share on behalf of that community for a period of three years

Use Restrictions

- Eligible communities owning quota shares may lease the IFQs arising from those quota shares for delivery in the region
- An eligible community owning catcher boat quota shares may lease up to 50,000 pounds of halibut IFQs and 50,000 pounds of sablefish IFQs per lessee annually. The 50,000 pound limit is inclusive of any quota owned by the individual (lessee).
- No more than 50,000 pounds of any IFQs leased by an eligible community may be taken on any one vessel, inclusive of any IFQ owned by the individual leasing the IFQs.

Performance Standards

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

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

Administrative Oversight

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

- (a) Certificate of incorporation
- (b) Verification of qualified entity as approved under "Ownership Entity"
- (c) Documentation demonstrating accountability to the community
- (d) Explanation of how the community entity intends to implement the performance standards

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

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

Program Review

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

*faxed
4 of 4
1/9/2010 [signature]*

Appendix 6 Area 4B halibut and AI sablefish QS holders, by community

Number of QS holders that hold Area 4B halibut QS at levels <50,000 IFQ lbs and 50,000 lbs or greater, 2011, by community of residence

IFQ lb category	QS holder community of residence	Total 2011 IFQ lbs	Total number of QS holders
<50,000 IFQ lbs	ADAK	43,437	2
<50,000 IFQ lbs	ALLYN	11,135	1
<50,000 IFQ lbs	ANACORTES	4,806	1
<50,000 IFQ lbs	ANCHORAGE	15,019	2
greater than 50,000 IFQ lbs	ANCHORAGE	58,582	1
<50,000 IFQ lbs	ASTORIA	25,593	2
<50,000 IFQ lbs	ATKA	42,844	9
<50,000 IFQ lbs	BEAVERTON	18,764	1
<50,000 IFQ lbs	CHINOOK	39,260	1
<50,000 IFQ lbs	CONTOOCOOK	11,250	1
<50,000 IFQ lbs	CORDOVA	32,600	1
greater than 50,000 IFQ lbs	DILLINGHAM	69,558	1
<50,000 IFQ lbs	DUTCH HARBOR	13,513	2
<50,000 IFQ lbs	EDMONDS	49,890	2
<50,000 IFQ lbs	ELMA	9,834	1
<50,000 IFQ lbs	EVERETT	38,026	1
<50,000 IFQ lbs	FAIRBANKS	4,206	1
<50,000 IFQ lbs	FRIDAY HARBOR	17,529	1
<50,000 IFQ lbs	GIG HARBOR	12,227	1
<50,000 IFQ lbs	GRAPEVIEW	28,878	1
<50,000 IFQ lbs	GUSTAVUS	7,787	1
<50,000 IFQ lbs	HAINES	1,370	1
<50,000 IFQ lbs	HOMER	76,933	3
<50,000 IFQ lbs	JUNEAU	445	1
<50,000 IFQ lbs	KODIAK	190,152	14
greater than 50,000 IFQ lbs	KODIAK	171,983	3
<50,000 IFQ lbs	LYNDEN	15,102	1
greater than 50,000 IFQ lbs	MONTESANO	60,479	1
<50,000 IFQ lbs	MUKILTEO	15,098	1
<50,000 IFQ lbs	NEWPORT	8,929	1
<50,000 IFQ lbs	OAK HARBOR	2,360	1
<50,000 IFQ lbs	PALMER	23,218	1
<50,000 IFQ lbs	PORT TOWNSEND	42,396	3
greater than 50,000 IFQ lbs	POULSBO	58,004	1
<50,000 IFQ lbs	RENO	43,983	1
<50,000 IFQ lbs	RICHLAND	21,344	1
<50,000 IFQ lbs	SAN PEDRO	26,744	1
<50,000 IFQ lbs	SANDY	1,646	1
<50,000 IFQ lbs	SEATTLE	49,069	4
greater than 50,000 IFQ lbs	SEATTLE	64,875	1
<50,000 IFQ lbs	SEWARD	317	1
<50,000 IFQ lbs	SHORELINE	45,723	1
<50,000 IFQ lbs	SITKA	51,237	3
<50,000 IFQ lbs	STANWOOD	32,280	1
<50,000 IFQ lbs	STEAMBOAT SPRINGS	9,561	1
<50,000 IFQ lbs	UNALASKA	7,412	2
<50,000 IFQ lbs	VASHON	11,323	1
<50,000 IFQ lbs	VIRGIN	45,046	1
<50,000 IFQ lbs	WARRENTON	24,972	1
<50,000 IFQ lbs	WEIPPE	843	1
<50,000 IFQ lbs	WESTHAVEN	22,596	1
greater than 50,000 IFQ lbs	WOODINVILLE	63,834	1
TOTAL		1,744,012	91

Number of QS holders that hold AI sablefish QS at levels <50,000 IFQ lbs and 50,000 lbs or greater, 2011, by community of residence

IFQ lb category	QS holder community of residence	Total 2011 IFQ lbs	Total number of QS holders
<50,000 IFQ lbs	ADAK	28,727	1
<50,000 IFQ lbs	ANCHORAGE	4,398	2
greater than 50,000 IFQ lbs	ANCHORAGE	153,470	1
<50,000 IFQ lbs	BOTHELL	251	1
greater than 50,000 IFQ lbs	BOTHELL	50,081	1
<50,000 IFQ lbs	CHINOOK	7,193	1
<50,000 IFQ lbs	CORDOVA	4,794	1
greater than 50,000 IFQ lbs	DILLINGHAM	58,244	1
<50,000 IFQ lbs	EDMONDS	9,734	2
greater than 50,000 IFQ lbs	EDMONDS	217,893	1
<50,000 IFQ lbs	ELMA	599	1
<50,000 IFQ lbs	EVERETT	38,551	2
<50,000 IFQ lbs	FAIRBANKS	24,341	1
<50,000 IFQ lbs	GIG HARBOR	9,941	1
<50,000 IFQ lbs	GRANITE FALLS	2,686	1
<50,000 IFQ lbs	GRAPEVIEW	7,028	1
<50,000 IFQ lbs	GUSTAVUS	4,628	1
<50,000 IFQ lbs	HOMER	58,530	4
greater than 50,000 IFQ lbs	JUNEAU	90,871	1
<50,000 IFQ lbs	KAILUA KONA	2,075	1
<50,000 IFQ lbs	KENMORE	9,891	1
<50,000 IFQ lbs	KODIAK	81,692	13
greater than 50,000 IFQ lbs	KODIAK	87,438	1
<50,000 IFQ lbs	LYNDEN	12,048	1
<50,000 IFQ lbs	MILL CREEK	549	1
greater than 50,000 IFQ lbs	MILL CREEK	89,387	1
<50,000 IFQ lbs	MONTESANO	44,083	1
<50,000 IFQ lbs	MUKILTEO	8,766	1
<50,000 IFQ lbs	PALMER	4,140	1
<50,000 IFQ lbs	PELICAN	5,129	1
<50,000 IFQ lbs	PETERSBURG	20,843	2
<50,000 IFQ lbs	PORT TOWNSEND	63	1
greater than 50,000 IFQ lbs	REEDSPORT	55,129	1
<50,000 IFQ lbs	RENTON	4,150	1
<50,000 IFQ lbs	SAN PEDRO	7,782	1
<50,000 IFQ lbs	SAVOONGA	44,649	1
<50,000 IFQ lbs	SEATTLE	59,641	9
greater than 50,000 IFQ lbs	SEATTLE	1,161,839	11
<50,000 IFQ lbs	SEQUIM	1,806	1
<50,000 IFQ lbs	SEWARD	18,431	3
greater than 50,000 IFQ lbs	SHORELINE	101,928	1
<50,000 IFQ lbs	SITKA	20,410	3
<50,000 IFQ lbs	STANWOOD	5,710	1
<50,000 IFQ lbs	UNALASKA	22,110	1
<50,000 IFQ lbs	VANCOUVER	36,986	1
<50,000 IFQ lbs	WALDPORT	2,565	1
<50,000 IFQ lbs	WARRENTON	5,350	1
<50,000 IFQ lbs	WESTHAVEN	2,412	1
<50,000 IFQ lbs	WOODINVILLE	1,611	1
<50,000 IFQ lbs	YAKUTAT	142	1
<50,000 IFQ lbs	YELM	39,605	1
TOTAL		2,730,320	93