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Donald S. Welsh,

Regional Administrator, EPA Region III.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 030922237-3237-01; I.D. 082503D]

RIN 0648-AQ98

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

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

ACTION: Proposed rule.

SUMMARY: NMFS issues a proposed rule to implement Amendment 66 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), and an amendment to the Pacific halibut commercial fishery regulations for waters in and off of Alaska. Amendment 66 to the FMP and the regulatory amendment would modify the Individual Fishing Quota (IFQ) Program by revising the definition of an eligible quota share holder to allow eligible communities in the Gulf of Alaska (GOA) to establish non-profit entities to purchase and hold halibut and sablefish quota share (QS) for lease to, and use by, community residents as defined by specific elements of the proposed action. This action is intended to improve the effectiveness of the IFQ Program and is necessary to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Northern Pacific Halibut Act of 1982 (Halibut Act) with respect to the IFQ fisheries.

DATES: Comments on the proposed rule must be received on or before December 1, 2003.

ADDRESSES: Comments may be sent to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall. Comments also may be delivered by hand to NMFS, Room 420, 709 West 9th Street, Juneau, AK 99801. Send comments on collection-of-information requirements to the same address and to

the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), via facsimile (202-395-7285; Attn: NOAA Desk Officer) or email at David_Rostker@omb.eop.gov. Comments also may be sent via facsimile (fax) to 907-586-7557. Comments will not be accepted if submitted by email or the Internet. Copies of Amendment 66 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendment 66 may be obtained from the North Pacific Fishery Management Council at 605 West 4th, Suite 306, Anchorage, AK 99501-2252, Phone: (907) 271-2809.

FOR FURTHER INFORMATION CONTACT:

Glenn Merrill, 907-586-7228 or email at glenn.merrill@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The groundfish fisheries in the Exclusive Economic Zone of the GOA are managed under the FMP. The FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act (Public Law 94-265, 16 U.S.C. 1801). The FMP was approved by the Secretary of Commerce and became effective in 1978. Fishing for Pacific halibut (*Hippoglossus stenolepis*) is managed by the International Pacific Halibut Commission (IPHC) and the Council under the Halibut Act. The IFQ Program, a limited access management system for the fixed gear Pacific halibut and sablefish (*Anoplopoma fimbria*) fisheries off Alaska, was recommended by the Council in 1992, approved by NMFS in January 1993, and initial implementing rules were published on November 9, 1993 (58 FR 59375). Fishing under the IFQ program began on March 15, 1995. The IFQ Program limits access to the halibut and sablefish fisheries to those persons holding QS in specific management areas. The IFQ Program for the sablefish fishery is implemented by the FMP and Federal regulations at 50 CFR part 679 under authority of the Magnuson-Stevens Act. The IFQ Program for the halibut fishery is implemented by Federal regulations at 50 CFR part 679 under the authority of the Halibut Act.

The IFQ Program originally was designed to resolve conservation and management problems that are endemic to open access fisheries. The background issues leading to the Council's initial action recommending the adoption of IFQs are described in the preamble to the proposed rule

establishing the IFQ Program published December 3, 1992 (57 FR 57130).

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

The purpose of this proposed rule is to revise existing IFQ Program regulations and policy to explicitly allow a new group of non-profit entities to hold QS on behalf of residents of specific rural communities located adjacent to the coast of the GOA. This change would allow a non-profit corporate entity that meets specific criteria to receive transferred halibut or sablefish QS on behalf of an eligible community and to lease the resulting IFQ to fishermen who are residents of the eligible community. This change is intended to provide additional opportunities to these fishermen, and may indirectly address concerns about the economic viability of those communities.

A Notice of Availability (NOA) of the FMP amendment was published on September 2, 2003 (68 FR 52173), with comments on the FMP amendment invited through November 3, 2003. Written comments may address the FMP amendment, the proposed rule, or both, but must be received by November 3, 2003, to be considered in the decision to approve or disapprove the FMP amendment.

Since initial issuance of QS, and as a result of voluntary transfers of QS, the amount of QS and the number of resident QS holders has substantially declined in most of the GOA communities that would be affected by