

this action. This trend may have had an effect on employment and may have reduced the diversity of fisheries to which fishermen in rural communities have access.

The ability of fishermen in small rural communities to purchase QS or maintain existing QS may be limited by a variety of factors unique to those communities. In particular, many fishermen in small rural communities may be limited in their ability to obtain access to financing due to the remote nature of the communities and their dependence on a limited range of economic opportunities. Many small rural communities are isolated from other communities and this isolation limits access to a wider variety of markets for fishery product that are available to communities with better transportation infrastructure. In addition, fishermen in these rural communities tend to have smaller vessels and fishing operations relative to fishermen in larger ports. These fishermen may have received less QS during initial issuance and may have chosen to divest themselves of QS that was not economically viable. Although the specific causes for decreasing QS holdings in rural communities may vary, the net effect is overall lower participation by residents of these communities in the halibut and sablefish IFQ fisheries.

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

The proposed action developed by the Council would address these concerns by modifying the IFQ Program to allow non-profit entities that represent small rural communities in the GOA with a historic participation in the halibut and sablefish fisheries to hold QS. The Council's recommendations also reflect the most recent amendments to the

Magnuson-Stevens Act, and IFQ policy recommendations by the National Research Council (NRC).

The 1996 amendments to the Magnuson-Stevens Act established a new national standard for fishery conservation and management (National Standard 8) that requires management programs to "take into the 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" (16 U.S.C. 1851). The Halibut Act requires consideration of the effect of halibut allocations to fishing communities by reference to section 303(b)(6) of the Magnuson-Stevens Act. This reference requires, among other things, that the effects of halibut allocations be considered as is described under the directives of National Standard 8 of the Magnuson-Stevens Act.

The 1996 Magnuson-Stevens Act amendments also directed the NRC to submit a report to Congress on existing IFQ Programs and provide recommendations on the implementation of existing and future programs. The NRC published its report "Sharing the Fish: Toward a National Policy on Individual Fishing Quotas" in 1999. In this report, the NRC recommends that NMFS and the Regional Councils consider including fishing communities as stakeholders in fishery management programs. The NRC recommends that Regional Councils should be permitted to authorize the purchase, holding, management, and sale of QS/IFQs by communities. This action proposes to implement provisions that would address the NRC recommendations on the use of QS by communities.

The Council considered the range of comments from the public, NMFS, and the State of Alaska (State), and incorporated various suggestions in developing its proposed community QS policy. The basic provisions of this proposed policy are described as follows.

Community QS Provisions

1. Community Quota Entities

Community quota entities (CQEs), incorporated under the laws of the State to represent eligible communities, would obtain QS by transfer and hold the QS and lease the resulting annual IFQ to individual community residents. Unless otherwise specified, the restrictions that apply to any current QS holder would apply to a CQE. CQEs,

however, would be subject to additional regulatory requirements beyond those applying to existing QS holders.

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

During Council deliberations, a new non-profit entity was selected as the appropriate QS holder for these communities based on recommendations from GOA communities. These recommendations indicated that a non-profit entity could be more flexible and cost-effective than either a for-profit corporation or an existing governmental body. To be considered eligible to hold QS on behalf of a community, a CQE would be required to be incorporated after April 10, 2002, the date of final Council action.

The Council stated that the purpose of designating a new non-profit entity to hold QS is that existing administrative structures such as municipal governments, tribal councils, or other community organizations may be focused on other priorities. The Council considered that a new non-profit entity may be better suited to represent an entire community with the express purpose of purchasing and managing QS. Additionally, the EA/RIR/IRFA noted that a number of communities considered as eligible for this program are unincorporated, do not have local tribal governments, or other community organizations, and therefore lack an existing governmental body that could manage the QS.

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

Once an application to become a CQE has been approved, then that CQE would be eligible to hold and receive QS, and lease IFQ to eligible community residents under the mechanisms established by this proposed rule. If a CQE does not remain in compliance, (e.g., by failing to submit a complete annual report), then NMFS could initiate administrative proceedings to deny the transfer of QS or IFQ to or from the CQE. As with other administrative determinations under the IFQ Program, any such determination could be