DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060929252–6252–01; I.D. 080106C]

RIN 0648–AS84

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

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to modify the Individual Fishing Quota (IFQ) Program for the fixed-gear commercial Pacific halibut fishery and sablefish fishery by revising regulations specific to those fisheries. This action is intended to improve the effectiveness of the Halibut and Sablefish IFQ Program (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 must be received no later than December 18, 2006.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Walsh. Comments may be submitted by:

- Mail: P.O. Box 21668, Juneau, AK 99802.
- Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.
- Fax: 907–586–7557.
- E-mail: *0648–AS84@noaa.gov*. Include in the subject line of the e-mail the following document identifier: IFQ Halibut Sablefish RIN 0648–AS84. E-mail comments, with or without attachments, are limited to 5 megabytes.
- Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.

Copies of the Categorical Exclusion (CE), Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) prepared for this action may be obtained from the North Pacific Fishery Management Council (Council) at 605 West 4th, Suite 306, Anchorage, Alaska 99501–2252, 907–271–2809, or the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Walsh, and on the Alaska Region, NMFS, website at *http://www.noaa.fakr.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS, Alaska Region, and by email to *David_Rostker@omb.eop.gov* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Jay Ginter, 907–586–7228 or *jay.ginter@noaa.gov*.

SUPPLEMENTARY INFORMATION: The IPHC and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under the authority of the Halibut Act. The IPHC promulgates regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention). The IPHC's regulations are subject to approval by the Secretary of State with concurrence of the Secretary of Commerce (Secretary). The IPHC publishes regulations as annual management measures pursuant to 50 CFR 300.62. Additional management regulations not in conflict with regulations adopted by the IPHC (such as the IFQ Program) may be recommended by the Council and implemented by the Secretary through NMFS to allocate harvesting privileges among U.S. fishermen.

The U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands (BSAI) in the exclusive economic zone (EEZ) are managed by NMFS under fishery management plans (FMPs). The FMPs were prepared by the Council under the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) and are implemented by regulations at 50 CFR part 679. NMFS manages fishing for sablefish (*Anoplopoma fimbria*) through regulations established under the authority of the Magnuson-Stevens Act. NMFS manages sablefish as a groundfish species under the FMP for Groundfish of the Gulf of Alaska. Sablefish also remain subject to the same IFQ Program that allocates halibut harvesting privileges among U.S. fishermen.

The Council recommended a limited access system for the fixed gear halibut and sablefish fisheries off Alaska, the IFQ Program, in 1992. NMFS approved the IFQ Program in January 1993, and initially 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 December 3, 1992 (57 FR 57130) describes the background issues leading to the Council's initial action recommending the adoption of the IFQ Program.

The IFQ Program limits access to the halibut and sablefish fisheries to those persons holding quota share (QS) in specific management areas. Federal regulations at 50 CFR part 679 established under the authority of the Magnuson-Stevens Act implement the IFQ Program for the halibut and sablefish fishery. Additional Federal regulations at 50 CFR part 300, subpart E, and 50 CFR part 679, established under the authority of the Halibut Act, also govern the halibut fishery.

The Council and NMFS designed the IFQ Program to provide economic stability to the commercial halibut and sablefish fisheries. The IFQ management approach was chosen to provide fishermen with the ability to decide how much and what type of investment they wished to make to harvest halibut or sablefish. 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 sablefish and halibut 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. The IFQ Program includes several provisions, such as ownership caps and vessel use caps, to protect small producers, part-time participants, and entry-level participants that could be adversely affected by excessive consolidation. The IFQ Program also includes other restrictions intended to prevent the fishery from being dominated by large boats or by any particular vessel class.

NMFS initially assigned QS to vessel categories based on vessel size and kind of fishery and issued QS specifically by vessel class and IFQ regulatory area. The Council and NMFS also designed a ''block program'' to guard against excessive consolidation of QS and consequent social impacts on the fishery and dependent communities. The block program reduced the amount of QS consolidation permissible under the IFQ Program, and slowed consolidation by restricting QS transfers. The Council later relaxed restrictions on using QS across vessel categories, providing a ''fish down'' provision allowing QS derived from larger catcher vessels to be fished on smaller vessels, with an exception for Southeast Alaska. Another design feature of the IFQ Program requires IFQ holders to be on board the vessel to maintain a predominantly ''owner-operated'' fishery with a narrow exemption for initial recipients of QS. The Council created each of these design features of the IFQ Program to support 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. However, the characteristics and needs of the fishermen changed with the evolution of the halibut and sablefish IFQ fisheries.

This proposed rule would amend the IFQ Program regulations to implement seven separate actions recommended by the Council in December 2004. Those actions affecting the halibut fishery are proposed under the authority of the Halibut Act. Those actions affecting the sablefish fishery are proposed under the authority of the Magnuson-Stevens Act. To implement Action 7 (described below) for the sablefish fishery, proposed Amendment 67 to the Fishery Management Plan for Groundfish of the GOA must also be approved by the Secretary.

The proposed actions would (1) allow IFQ holders to transfer their IFQ, avoiding owner-on-board requirements, in the event of a medical condition which precludes their participation; (2) narrow restrictions for using hired masters to fish IFQ; (3) add vessel clearance requirements to the sablefish IFQ fisheries in the Bering Sea and Aleutian Islands regulatory areas; (4) change the product recovery rate (PRR) for bled sablefish; (5) amend the halibut QS block program; (6) allow halibut IFQ derived from category D QS to be fished on category C vessels in Areas 3B and 4C; and (7) allow category B QS to be used on vessels of any length for halibut and sablefish in all regulatory areas. A separate **Federal Register** notice of availability requests comment on the proposed Amendment 67 (Action 7) as it relates to the sablefish fishery under the Magnuson-Stevens Act. NMFS also provides two administrative changes in this proposed rule. The first administrative change clarifies the existing regulation related to the use of sablefish IFQ with respect to the state waters sablefish fishery. The second administrative change converts the nomenclature and application of the ''IFQ Card'' to an ''IFQ Hired Master Permit.'' Each of the proposed actions is discussed separately below.

Medical Transfers

Current regulations require catcher vessel QS holders to be aboard the vessel during harvest and offloading of IFQ species, except under limited circumstances where initial recipients of QS qualify to use hired masters or when a QS holder experiences an emergency while at sea. Therefore, QS holders who experience a short-term medical condition that prevents them from fishing their IFQs cannot temporarily transfer those IFQs. Despite a prohibitive medical condition, QS holders generally must be aboard the vessel when fishing their QS. In the event of an injury or illness, fishermen who may not hire a master must either divest their QS or forego the economic benefits of their QS until they recover.

The Council originally prohibited emergency medical transfers to support the IFQ policy of maintaining an owner-operated fleet with restrictive leasing provisions. Since 1995, NMFS and the Council received several anecdotal accounts of injured or sick IFQ holders being transported on and off of fishing vessels to meet the owner-on-board requirements. Because of loan repayment obligations and financial dependence on the IFQ Program, QS holders reportedly also engaged in private arrangements to sell and repurchase their QS, which circumvents Council intent and places the seller and buyer at increased financial risk.

NMFS previously declined to implement a proposed medical transfer because the agency did not possess the necessary expertise to make medical assessments, which previous Council proposals required. NMFS determined that any medical transfer program must remove the responsibility for making a medical assessment from NMFS, and that a temporary medical transfer must be based on a physician's recommendation. This proposed emergency medical transfer system would grant individuals the ability to transfer their quota to an eligible individual for a short time to allow principal QS holders to recuperate from the medical condition precluding their participation.

In December 2004, the Council recommended a program that would allow medical transfers without jeopardizing its policy of maintaining an owner-operated fleet. The Council's recommended program would establish requirements for eligibility, application, transfer, restrictions, and appeals. Specifically, the program would allow the temporary transfer of an annual IFQ permit or permits by an ill or injured QS holder to a recipient eligible under 50 CFR 679.41(d). The eligible IFQ transferee would presumably compensate the QS holder for the transfer of his IFQ, thereby allowing the injured QS holder to recoup a portion of his economic losses. Therefore, medical transfers would allow QS holders to benefit from the fishery through transfer of their IFQ under limited circumstances without substantially undermining the original owner-on-board IFQ Program design.

The Council recommended several provisions to ensure that the medical transfer would be limited to legitimate medical conditions. First, the Council recommended including a declaration or affidavit signed by a ''certified medical professional'' as part of the application form that will be provided by NMFS. The signed declaration would remove any discretionary responsibility from NMFS to determine whether an injury or illness is substantial enough to preclude fishing and would be presumed dispositive if signed by the submitting certified medical professional. Second, the Council recommended clearly defining which medical professionals would be allowed to sign the medical declaration. Thus, NMFS defined certified medical professionals as physicians that fall into three categories based on the Council's recommendation. NMFS proposed definitions for ''licensed medical doctor,'' ''advanced nurse practitioner,'' and ''primary community health aide'' based on definitions implemented by the State of Alaska. Certified medical professional definitions would include practitioners in states other than Alaska. NMFS proposes these definitions

because they are well-established and longstanding definitions of the proposed terms within the State system and the medical profession. Lastly, as part of the application, the licensed medical doctor, advanced nurse practitioner, or primary community health aide would be required to document the medical condition and certify that the condition would prevent the applicant from participating in the halibut or sablefish IFQ fisheries.

The Council also recommended several additional restrictions to the medical transfer provision to prevent potential abuse. Medical transfers would be valid for only the calendar year in which the permit is issued. For instance, an individual who receives a medical transfer for a medical condition near the end of the season in November 2006 would have to apply for and receive a new medical transfer prior to the new IFQ season in 2007 if his or her medical condition persists. Additionally, subsequent applications for medical transfers based on the same medical condition would be denied unless a certified medical professional attests to a reasonable likelihood of recovery. Furthermore, NMFS would not approve a medical transfer if the applicant has received a medical transfer in any 2 of the previous 5 years for the same medical condition. Medical transfer provisions and their restrictions would be found at a revised § 679.42(d) along with the emergency waiver provision.

The application process for a medical transfer would be similar to existing transfer applications under the IFQ Program. The application would consist of a form provided by NMFS that also describes the requirements necessary to receive an approved medical transfer. If NMFS denies an application for a medical transfer, the applicant may appeal the denial according to existing appeal procedures found at § 679.43.

Owner-on-board Exception

Requiring the owner of catcher vessel QS to be on board the vessel while fishing is a key element of maintaining the owner/operator nature of the halibut and sablefish fishing fleet. Hence, this requirement is intended to ensure that catcher vessel QS would continue to be held by professional fishermen instead of by absentee owners or investment speculators. An exception to the owner-on-board requirement is provided, however, for individuals who received initial allocations of QS in vessel category B, C, and D (catcher vessel QS). Initial recipients of catcher vessel QS may be absent from a vessel conducting IFQ halibut or sablefish fishing, provided the QS holder can demonstrate ownership of the vessel which harvests the IFQ halibut or sablefish and representation on the vessel by a hired master. This exception allows fishermen who historically operated their fishing businesses using hired masters before the implementation of the IFQ Program to retain the flexibility of using hired masters under the IFQ Program. By limiting this exception to initial recipients, the owner-on-board exception will expire with the eventual transfer of all QS from initial recipients.

The Council and NMFS did not initially define ''ownership'' and received anecdotal accounts of QS holders retaining nominal ownership in a vessel, in some cases as little as one percent, to meet the ownership requirement to fish their IFQ under the owner-on-board exception. In 1997, the Council and NMFS recognized that nominal ownership in a vessel confounded the intent of the IFQ Program to maintain an owner-operated fleet and recommended that changes to the owner-on-board requirement were necessary.

In 1999, NMFS revised the owner-on-board exception regulations (64 FR 24960, May 10, 1999) to require QS holders to demonstrate vessel ownership of at least 20 percent before issuing associated IFQ to a person other than the named QS holder. The revised owner-on-board exception allows initial recipients of catcher vessel QS to employ a hired master to fish his or her IFQ provided the QS holder demonstrates ownership of at least 20 percent of the vessel on which the hired master intends to use the IFQ. However, current regulations do not require specific documentation of ownership. In December 2004, the Council recommended requiring explicit ownership documentation to meet the exception to the owner-on-board requirement.

This action proposes to require catcher vessel QS holders who wish to use hired masters to harvest IFQ halibut or sablefish on a Federally-licensed vessel to file a U.S. Abstract of Title issued by the U.S. Coast Guard with NMFS. Catcher vessel QS holders who wish to use hired masters to harvest IFQ halibut or sablefish on a State-licensed vessel would be required to file the State of Alaska vessel registration with NMFS. NMFS would require the U.S. Abstract of Title or State of Alaska vessel registration in addition to any other information indicating ownership. The required documentation must establish that the QS holder maintained 20 percent ownership of the vessel for 12 months prior to application for IFQ to be used by a hired master. For instance, a catcher vessel QS holder who is eligible to hire a master under the owner-on-board exception would have to wait 12 months after purchasing any vessel, regardless of whether the vessel is newly built or used, before he or she may use a hired master to fish his or her IFQ. The 12-month restriction would eliminate the opportunity for QS holders to form short-term agreements which transfer vessel ownership for the duration of a fishing trip or trips, thus circumventing Council intent for maintaining an owner-operated fleet.

This action also proposes to allow vessel owners who qualify for the owner-on-board exemption to continue to fish under the exemption if they experience an actual or constructive loss of their vessel. NMFS would adapt similar vessel loss language from the American Fisheries Act (Public Law 105–277, Title II of Division C) to address the vessel loss provision for the IFQ Program. This exemption would allow the use of hired masters by qualified QS owners who lose their vessels due to fire or sinking until the vessel is replaced exclusive of the 12-month ownership requirement. However, this action proposes to allow the use of the vessel loss exemption only if it was a legitimate actual or constructive vessel loss and not when the loss results from fraud or malfeasance. The revisions to the owner-on-board provisions would be located at 50 CFR 679.42(i).

Sablefish Vessel Clearance Requirements

To address possible misreporting in the BSAI by harvesters fishing in the western GOA, the Council recommended implementing vessel clearance requirements including check-in/check-out procedures or vessel monitoring system (VMS) for all vessels that participate in the BSAI sablefish fisheries. The Council believes fishing location misreporting is occurring due to increasing killer whale depredation in the BSAI, increased costs of traveling to the BSAI, and relatively low catch rates in the BSAI. Current regulations require self-reporting of fishing location in the BSAI sablefish fisheries. Although no direct evidence indicates fishing location misreporting, misreporting could affect sablefish biomass estimates and, as a result, impact the allowable biological catch (ABC) of sablefish or associated quotas.

The IFQ sablefish harvest fell short of the sablefish TAC in the BSAI in several recent years. The 2003 sablefish landings were the lowest relative to the TAC since the IFQ Program began.

Killer whale depredation may be one reason for reduced sablefish harvests in the BSAI. In 1996, the IFQ Program was revised to allow the use of longline pots in the Bering Sea for sablefish after BSAI sablefish hook-and-line fishermen faced increasing predation of hooked sablefish by killer whales (61 FR 49076, September 18, 1996). NMFS does not recognize killer whale depredation as a significant biological factor affecting sablefish stocks. However, industry anecdotal accounts suggest that BSAI sablefish QS holders began fishing in the Western GOA in an effort to avoid killer whales, which could result in fishing location misreporting of GOA sablefish harvests as BSAI sablefish harvests. Industry also cites higher prices for sablefish in the GOA than in the BSAI as another reason for potential misreporting of BSAI sablefish as taken in the GOA.

NMFS determined that fishing location misreporting would not affect biomass estimates or the ABC for sablefish in the Alaska EEZ as long as fishermen report the total amount of catch correctly. However, misreporting, if occurring, might affect area apportionments of ABCs because NMFS bases area allocation of ABC on survey and fishery catch rates by area. For example, if higher catch rates occur in the Western GOA than the BSAI, misreporting GOA sablefish as BSAI sablefish would inflate nominal catch rates for the BSAI and affect the ABC estimates in the BSAI. Consequently, misreporting of Western GOA catches as BSAI catches may increase the area apportionment for the BSAI and decrease the apportionment for the GOA, thus decreasing the TAC available to GOA sablefish IFQ holders.

This proposed action to implement vessel clearance requirements for the BSAI sablefish IFQ fisheries would correspond to existing halibut IFQ fishery vessel clearance requirements in the analogous halibut IFQ areas. The IPHC has successfully used vessel clearance through a visual clearance procedure in the halibut fisheries since the 1960s. More recently, the IPHC allowed a VMS option as a vessel clearance mechanism in the BSAI halibut IFQ fisheries. Current information indicates that 85 unique BSAI sablefish IFQ holders also hold Area 4 halibut IFQ and are already subject to IPHC vessel clearance requirements including a VMS option. Additionally, 26 sablefish IFQ participants already possess a VMS endorsement on their Federal Fisheries Permit (FFP) to comply with Steller sea lion avoidance measures in the groundfish fisheries. This leaves approximately 100 BSAI sablefish QS holders who do not currently possess a VMS endorsement for other fisheries. Therefore, a majority of the sablefish IFQ vessels subject to this action currently participate in vessel clearance requirements under other programs and would not be subject to additional burden under this action.

This action proposes vessel clearance requirements in the BSAI sablefish fisheries to reduce the potential for misreporting of sablefish harvests from the Western GOA as BSAI landings. The Council recommended NMFS adopt an option for fishermen to use either visual clearance (a paper check-in/check-out procedure) or VMS when participating in the BSAI IFQ sablefish fisheries. However, VMS is the most effective mechanism to verify vessel location and to effect vessel clearance. Also, the NMFS Office for Law Enforcement (OLE) maintains it does not possess the infrastructure to support the visual clearance proposal.

NMFS does not support a visual clearance for several reasons. First, OLE may not delegate enforcement authority to a private entity. As a result, OLE may not allow processors in the BSAI to conduct vessel clearances similar to the IPHC's procedures for visual clearance. Therefore, vessel clearance would require an authorized officer, such as an OLE or Coast Guard officer. Second, the Council proposed allowing clearances from Adak, Atka, Akutan, St. Paul, St. George, and Dutch Harbor. Neither OLE nor the Coast Guard maintain offices or regularly station officers in these ports, except for Dutch Harbor. Even in Dutch Harbor, however, OLE cannot ensure continuous staffing for vessel clearance purposes. Third, OLE lacks personnel to monitor and review faxed vessel clearance reports. Without the appropriate authorization, a faxed vessel clearance has no enforcement value. Therefore, without authorized officers stationed in the proposed clearance ports and available personnel to review the faxed reports, the proposed visual vessel clearance program loses all enforcement value and becomes a regulatory burden with no corresponding enforcement benefit. Consequently, OLE maintains that VMS represents the only viable option.

VMS consists of a NMFS-approved transmitter on a vessel that automatically transmits a vessel's position to a NMFS-approved communications service provider who relays the information to NMFS. A vessel owner who wishes to use the BSAI sablefish VMS exemption would obtain a NMFS-approved VMS transmitter and install it onboard his or her vessel in accordance with NMFS instructions. VMS would allow BSAI sablefish QS holders to use the existing VMS procedures and equipment described in 50 CFR 679.28. The proposed VMS vessel clearance requirement for BSAI sablefish vessels would be located at 50 CFR 679.42(l).

The Council proposed the visual clearance options, in part, to accommodate small vessels that would find the VMS requirement economically infeasible. Although OLE recommends requiring VMS for all vessels in the BSAI IFQ sablefish fisheries, NMFS recognizes that VMS on small vessels may be economically prohibitive because VMS operation and total costs are disproportionate to small vessel income. The OLE believes that a minimum vessel size requirement for VMS would be an acceptable alternative for the visual clearance or VMS requirements.

NMFS specifically seeks public comment on the VMS requirements of this proposed rule. NMFS has analyzed alternatives for VMS requirements in the GOA that would further reduce costs for small vessels (less than 32 ft (9.8 m) length overall (LOA)). Public comment could help NMFS decide whether less comprehensive BSAI VMS coverage would meet goals and reduce small vessel burden.

Bled Sablefish PRR

The Council recommended changing the PRR for bled sablefish from 0.98 to 1.00. A PRR represents the ratio of the weight of product divided by the round weight expressed as a percentage. The Council proposed that the current PRR for bled sablefish is unreasonable, provides no conservation benefit, provides a disincentive to improved quality through bleeding, and represents an unfair reduction in sablefish IFQs because the current PRR is inaccurate. However, accurate reporting remains the main objective in applying PRRs to landed fish and the PRR of 0.98 for bled sablefish appears accurate as provided by the scientific record. Moreover, an accurate PRR allows for more accurate accounting of biomass removals, thus ensuring the harvest of sablefish remains below the total allowable catch consistent with the conservation goals of NMFS.

NMFS established the regulation creating a PRR for bled sablefish in the mid–1980s. However, some processors might have incorrectly reported bled sablefish as ''round'' or whole fish by not applying the bled sablefish PRR until recently. When those buyers began appropriately applying the required PRR to bled sablefish after contact with OLE

officers, the sablefish QS holders affected by the correction lost revenues associated with the 2 percent of the IFQs deducted from their landed weights.

NMFS based the bled sablefish PRR on research developed by the Observer Program in the 1980s. In 2002–2003, NMFS scientists conducted a cooperative study with sablefish fishermen to determine the expected blood loss for bled sablefish and round sablefish. NMFS scientists concluded that the cooperative study results were consistent with the original Observer Program research and the current product recovery rate of 0.98 for bled sablefish remained the correct one. Thus, NMFS notes serious concerns that the proposal may not be based on sufficient scientific evidence. However, NMFS has determined that the proposal is sufficient for publication as a proposed rule for public comment. NMFS specifically requests public comment on the appropriate product recovery rate for this product type.

Halibut Block Program Amendments

The IFQ Program includes an element to prevent excessive consolidation in the halibut and sablefish fisheries and maintain the diversity of the IFQ longline fleet. All initially issued QS that resulted in less than 20,000 lb (9.1 mt) of IFQ was ''blocked'' or issued as an inseparable unit. Under current regulations, no person may own more than two QS blocks per species in any regulatory area, or one QS block if the person also holds unblocked QS for that area. For more information on the specifics of the block program see the proposed rule for the original IFQ Program (57 FR 57130, December 3, 1992).

The regulations also include a ''sweep up'' provision designed to minimize creation of small blocks that are often economically disadvantageous to harvest. The sweep up provision allows small individual QS blocks to be permanently consolidated as long as the resulting block does not exceed a set limit. NMFS originally set the maximum sweep up level at 1,000 lb (0.45 mt) for halibut and 3,000 lb (1.36 mt) for sablefish, based on 1994 TAC limits for those species. After the first IFQ season, fishermen reported that the established sweep-up levels were insufficient. Subsequently, NMFS increased maximum sweep-up levels to 3,000 lb (1.36 mt) for halibut and 5,000 lb (2.27 mt) for sablefish based on the 1996 TACs (61 FR 67962, December 26, 1996).

Recently, halibut QS holders indicated that the existing block and sweep-up restrictions unreasonably restrain their efficiencies and flexibility in fishing operations. Large quota increases, consolidation, and changing use patterns within the fleet suggest that the block and sweep-up provisions should be changed. This action proposes to (1) increase halibut block limits to 3 blocks unless unblocked QS is held, in which case the limit would remain one block; (2) divide QS blocks yielding more than 20,000 lb (9.1 mt) into one block of 20,000 lb (9.1 mt), based on the 2004 TACs, and unblock the remainder in regulatory Areas 3B and 4A; and (3) increase sweep-up levels in regulatory Areas 2C and 3A to the 5,000 lb (2.27 mt) equivalent in 1996 QS units. The Council recommended these actions to improve the halibut block program while maintaining the diversity of the IFQ longline fleet and preventing excessive consolidation. Further description of the proposed changes follows.

Block Limit Increase

The proposed change would increase the limit on the number of blocks of halibut QS that may be held by a person to 3 blocks unless unblocked QS is held. Increasing the halibut block limit to 3 blocks would increase flexibility of QS holders in arranging transfers of QS. Existing vessel and ownership caps would continue to limit consolidation of QS.

Overall, this proposed action would provide an opportunity for increased economic efficiency among blocked halibut QS holders by relaxing the current restrictions. The relaxed restrictions would also enhance operational flexibility among QS holders because individual QS holders could hold more blocks available for transfer, making transfers logistically more simple among owners. The value of blocked QS holdings would likely increase. However, unblocked QS values may decrease as the price differential between the two QS classes narrows. Although this action may lead to increased consolidation, small holdings would remain blocked. Therefore, while entry-level opportunities in the fishery may become less available because of this action, they are not necessarily precluded.

Block Exception for Areas 3B and 4A

This proposal would divide QS blocks in regulatory Areas 3B and 4A that yield more than 20,000 lb (9.1 mt) into one block and unblock the remainder based on the 2004 TACs. This change potentially may benefit QS holders in western areas by allowing them to acquire and hold more unblocked QS than currently allowed. Likewise, increased availability of unblocked QS would benefit buyers if it is accompanied by a decrease in the unit price of unblocked QS. However, the lack of availability of small lots of QS over time could adversely affect persons seeking entry-level opportunities in the fishery.

This proposed action would permanently adjust the proportion of blocked versus unblocked QS in Areas 3B and 4A and responds to the increase in halibut TACs since the initiation of the IFQ Program, which has reportedly resulted in operational difficulties due to large block sizes. Large block sizes make transfers prohibitively expensive because the price of IFQ associated with a QS block increases along with the TAC. Overall, this proposal would increase economic efficiency in Areas 3B and 4A by expanding the holdings of unblocked halibut QS, which may be transferred more inexpensively in smaller increments than a block. Thus, it would provide individual fishermen with flexibility to increase revenues and decrease costs by reversing the proportion of unblocked versus blocked QS available in these areas. Existing holders of unblocked QS may experience some decrease in the value of the holdings as more unblocked QS is generated.

This proposed action could result in a QS holder possessing unblocked QS in an amount much larger than their 20,000 lb (9.1 mt) QS block. For instance, apportionment of 50,000 lb (22.68 mt) of QS under this proposed action would result in one 20,000 lb (9.1 mt) block and 30,000 lb (13.61 mt) of unblocked QS. The resulting 30,000 lb (13.61 mt) of QS would be fully tradable in any increment as unblocked QS.

An exemption would be awarded to QS holders who, as a result of this action, end up with two blocks and unblocked QS. QS holders who hold two blocks would be grandfathered in to allow them to hold two blocks of QS plus additional unblocked QS, until such time as they transfer one of their blocks. Under the exemption, QS holders who possess two blocks would be allowed to freely trade unblocked QS. However, once an exempted QS holder transfers a block, they would no longer be eligible for the exemption. QS holders would remain subject to any applicable QS use and vessel limitations under § 679.42 as part this proposed action.

Implementation of this action would require NMFS to reassign QS as unblocked prior to the start of the IFQ season. QS certificates would be reissued to all affected QS holders.

Increased management costs for the year would be partially reimbursed by the IFQ cost recovery fee and NMFS does not anticipate additional administrative, enforcement, or information costs.

Sweep-up Levels

This proposed change also would increase sweep-up levels for halibut in Areas 2C and 3A to the recommended equivalent of 5,000 lb (2.27 mt) in 1996 QS units. In 1996, the Council previously responded to information from the fishing industry that the previous sweep-up levels were lower than the harvest amount of a worthwhile fishing trip by increasing the sweep-up levels in 1996. This action would increase the sweep-up limits in Areas 2C and 3A consistent with the other halibut regulatory areas and would provide economic incentives for currently unfished QS blocks to be fully harvested. Although NMFS currently does not know how many QS holders would take advantage of the increased sweep-up limit, the change would allow some QS holders whose QS holdings currently exist at the 3,000 lb sweep-up limit and the block limit to incrementally increase their QS holding without first selling one of their blocks. Under the proposed changes, a modest increase in consolidation could occur, but it would not preclude entry level participation.

Halibut QS Vessel Category Amendments

The Council originally designed the IFQ Program to preserve the diversity of the fleet and maintain entry-level opportunity in the fisheries. This was achieved in part by assigning QS holdings to halibut vessel categories A, B, C, and D, and restricting the use of IFQ derived from QS of one category on vessels of other categories. The QS category determines whether harvested fish may be processed onboard and the size of vessel on which the catcher vessel IFQ may be harvested. Halibut IFQ derived from category A QS may be harvested and processed onboard the assigned vessel. Category B IFQ may be fished only on vessels greater than 60 feet LOA, category C IFQ may be fished on vessels greater than 35 feet but less than or equal to 60 feet LOA, and category D IFQ may be fished on vessels less than or equal to 35 feet LOA. A 1996 regulatory amendment (61 FR 43312, August 22, 1996) allowed halibut IFQ derived from category B or C QS to be fished on smaller vessels in all halibut areas except Area 2C.

In 1999, industry members proposed that the restrictions governing the use of IFQ derived from category D QS presented a serious safety issue in Areas 3B and 4C because weather conditions restrict smaller vessels to shorter harvesting windows. Additionally, affected fishermen claim that fishing during peak safety conditions may not be possible for small vessels because processors may not be accepting halibut during the peak of the salmon fisheries, which tend to coincide with the best weather conditions. Therefore, category D vessels may be limited to a substantially shortened season in less safe conditions to harvest their IFQ. As an additional result of these conditions, category D vessel owners have reported that they prefer to purchase category B and C QS because it allows them to use the resulting IFQ on larger vessels.

This action proposes to allow category D QS to be fished on vessels less than or equal to 60 ft (18.29 m) LOA in Areas 3B and 4C only. Implementation in Area 3B would address economic hardship and safety concerns resulting from fishing in small vessels. Implementation in Area 4C would address reduced catches of IFQ derived from category D QS in this area and would act in combination with a separate action allowing Area 4C IFQ holders to fish their quota in Area 4D (70 FR 43328, July 27, 2005). The Council did not consider recommending this change in other regulatory areas.

Area 2C QS Restriction Amendment

In 1996, NMFS implemented regulations (61 FR 43312, August 22, 1996) that allow under 60 ft (18.29 m) LOA vessels to fish IFQ derived from category B QS. This is known colloquially as the ''fish down'' provision. However, at that time, the Council recommended excluding Southeast Outside District sablefish and Area 2C halibut fisheries from the fish down provision to ensure market availability of category B QS for vessels over 60 ft (18.29 m) LOA. Area 2C and Southeast Outside District fishermen subject to the restriction recently identified the ''fish down'' exclusion as unnecessary, inefficient, and burdensome because the market conditions originally expected to justify the provision never materialized.

Under current regulations, IFQ derived from category B QS must be used on vessels greater than 60 ft (18.29 m) LOA in Area 2C (for halibut) and the Southeast Outside District (for sablefish), unless the QS is a block of less than or equal to 5,000 lb (2.27 mt), based on 1996 TACs. Category B QS represents a small percentage of total halibut QS in Area 2C and a relatively small proportion of total sablefish QS in the Southeast Outside District. Only IFQ derived from category B QS blocks of less than 5,000 lb (2.27 mt), based on the 1996 TACs, is eligible to be fished down on vessels smaller than 60 ft (18.29 m) LOA. Currently, 75 percent of halibut IFQ derived from category B QS and 96 percent of sablefish IFQ derived from category B QS cannot be fished down. Of the halibut IFQ derived from category B QS that must be fished on a vessel greater than 60 ft (18.29 m) LOA, about half is blocked, with block sizes ranging from 6,000 lb (2.72 mt) to 17,000 lb (7.71 mt), based on the 2004 TACs. For sablefish, only 7 percent of the IFQ derived from category B QS that is ineligible to be fished down is blocked. The affected fishing industry and the Council contend that the discrepancy between the use restrictions on category B QS in Southeast Alaska compared to the rest of the State is discriminatory because the intended effect never occurred and assert that all category B QS should be eligible for fish down to achieve equity.

This action proposes to allow QS holders to fish all IFQ derived from category B QS on a vessel of any length in all areas, including Area 2C and the Southeast Outside District. Over time, this action might contribute to a change in the diversity of the IFQ fleet in Southeast Alaska by decreasing the number of large catcher vessels that are typically greater than 60 ft (18.29 m) LOA. A maximum of 1,414 category B, C, and D halibut QS holders operate in Area 2C and a maximum of 440 category B and C sablefish QS holders operate in the Southeast Outside District. A total of 1,996,568 QS units of halibut and 12,891,624 QS units of sablefish would become eligible for the fish down provision under this action.

IFQ derived from category B QS would likely become more valuable because the QS could be used on a vessel of any size. However, the increase in category B QS value might result in an undetermined corresponding decrease in the value of category C and D QS. The proposed change also might negatively affect vessels greater than 60 ft (18.29 m) LOA by making QS less available for those vessels, because those vessels may only harvest IFQ derived from category B QS. Over the long term, this action may contribute to a change in the diversity of the IFQ fleet in Southeast Alaska by decreasing the number of catcher vessels greater than 60 ft (18.29 m) LOA participating in the fishery.

Administrative Changes

Current regulations at 50 CFR 679.1(d)(1)(i)(B) provide that the Federal IFQ regulations govern commercial

fishing for sablefish with fixed gear in the waters of the State of Alaska adjacent to the BSAI and the GOA, provided that a person who holds QS, an IFQ permit, or an IFQ hired master permit is aboard the vessel engaged in the fishery. The proposed change would clarify NMFS' intent that this provision applies only to persons who hold sablefish quota shares, sablefish IFQ permits, or sablefish IFQ hired master permits. If a sablefish IFQ fisherman fishes any of his IFQ in the Federal EEZ, this provision prohibits him or her from harvesting additional sablefish with fixed gear in State waters in the same fishing year because his or her total IFQ poundage has been debited from his or her IFQ account.

An IFQ fisherman who either holds QS or has harvested some part of his or her annual IFQ may not participate in a State open access sablefish fishery unless he or she debits all the sablefish harvested in the state fishery from his or her IFQ allocation.

Additionally, this action proposes to change the name of the ''IFQ card'' found at 50 CFR 679.4(d)(2) and all subsequent occurrences to ''IFQ hired master permit'' to provide consistency and clarity in the regulations. The IFQ card originally served as a catch accounting tool necessary for both identification and catch reporting through a swipe card computer accounting system. However, the swipe card computer accounting system has since been replaced, making the IFQ card redundant and technologically obsolete. This administrative correction would eliminate the redundant requirement for QS owners present on board the vessel during fishing to possess an ''IFQ card'' in addition to the ''IFQ permit.'' Hired masters would still be required to carry the IFQ hired master permit for identification purposes. The administrative correction eliminating the redundancy of the ''IFQ card'' for QS owners would relieve an unnecessary and burdensome requirement.

Finally, this action also proposes to remove language at 50 CFR 679.42(a)(1)(i) through (ii), which applied only to harvesting IFQ species in Area 4C and Area 4D during the 2005 IFQ fishing season. This proposed change would not alter the rights and obligations of persons fishing in Area 4C or Area 4D in the current or future fishing seasons and remains consistent with the final rule implementing the Area 4C and Area 4D regulatory area exemption (70 FR 43328, July 27, 2005).

Classification

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by Office of Management and Budget (OMB) under OMB Control Number 0648–0445. Public reporting per response is estimated to average 12 minutes for a VMS check-in report, 6 hours for VMS installation, and 4 hours for VMS maintenance.

This proposed rule also contains a collection-of-information requirement subject to review and approval by OMB under the PRA and which has been submitted to OMB for approval under OMB Control Number 0648–0272. Public reporting per response is estimated to average 2 hours for Application for Emergency Medical Transfer of IFQ and 1 hour for each proof-of-ownership document for the hired master changes. Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSEES**) and by e-mail to *David_Rostker@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB Control Number.

No duplicative or overlapping rules exist that are associated with this proposed rule. This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council recommended this action to the Secretary for adoption pursuant to its authority under the Magnuson-Stevens Act and the Halibut Act. An RIR/IRFA for the proposed regulatory amendments describe the management background, the purpose and need for action, the management alternatives, and the socioeconomic impacts of the alternatives (see **ADDRESSES**).

The RIR assesses costs and benefits of available regulatory alternatives. The Council considered all quantitative and qualitative measures and chose a preferred alternative based on those measures that maximize net benefits to affected individuals and communities under the halibut and sablefish IFQ and CDQ programs.

The IRFA prepared for each action assess potential impacts on small entities for purposes of the Regulatory Flexibility Act (RFA). The Council reviewed multiple alternatives for each individual action, including a ''no action'' alternative and a preferred alternative, in independent IRFAs. Each independent IRFA describes the potential adverse impacts on small entities, attributable to the proposed alternatives for each action.

The objectives of the proposed actions are to amend halibut and sablefish IFQ regulations to increase efficiency and flexibility for fishermen subject to the Halibut and Sablefish IFQ Program. The legal basis for the proposed action is explained in the preamble of this proposed rule. In summary, NMFS manages the North Pacific halibut fisheries in Convention waters under the authority of the Halibut Act and the sablefish fisheries in the waters of the EEZ under the authority of the Magnuson-Stevens Act. Regulations at 50 CFR 300.60 through 300.65 govern the halibut fishery in the waters of the United States. The annual Pacific halibut management measures for 2005 were published in the **Federal Register** on February 25, 2005 at 70 FR 9242. Regulations at 50 CFR 679.1 through 50 CFR 679.28 govern the sablefish fishery. Regulations at 50 CFR 679.30 through 50 CFR 679.45 govern the halibut and sablefish IFQ and CDQ programs.

NMFS defines all halibut and sablefish vessels as small businesses, for the purpose of this analysis. In 2003, 1,338 unique vessels made IFQ halibut landings, and 409 unique vessels made sablefish landings.

The number of small entities operating as fishing vessels in the IFQ fisheries may be deduced from certain restrictions placed on those vessels. The IFQ Program restricts the amount of annual IFQ that may be landed from any individual vessel. A vessel may be used to land up to 0.5 percent of all halibut IFQ TAC, or up to 1 percent of all sablefish TAC. In 2003, 295,050 lb of halibut constituted 0.5 percent of all the halibut IFQ TAC and 348,635 lb of

sablefish constituted 1 percent of all the sablefish IFQ TAC. NMFS annually publishes standard prices for halibut and sablefish that are estimates of the ex-vessel prices received by fishermen for their harvests. NMFS uses these prices for calculating IFQ holder cost recovery fee liabilities. In 2003, price data suggested that the prevailing prices were approximately $2.92 per pound for halibut and $2.36 per pound for sablefish (68 FR 71036, December 22, 2003). In combination, the harvest limits and prices imply maximum ex-vessel revenues of about $1.68 million for halibut and sablefish together. Although some halibut and sablefish IFQ operations participate in other revenue generating activities, the halibut and sablefish IFQ fisheries probably represent the largest single source of annual gross receipts.

Based upon available data, and more general vessel economic activity information of vessels in these IFQ fisheries, no vessel subject to these restrictions could have been used to land more than $3.5 million in combined gross receipts in 2003. Therefore, all halibut and sablefish vessels have been assumed to be ''small entities,'' for purposes of the IRFA. However, this simplifying assumption likely overestimates the true number of small entities, since it does not take account of vessel affiliations. No reliable data exists on vessel affiliation. The IRFA for each action is summarized separately below.

Emergency Medical Transfers

Since the initial implementation of the halibut and sablefish IFQ Programs in 1995, individuals have submitted numerous petitions to NMFS and the Council requesting the temporary transfer of IFQs for medical reasons. These individuals sought medical transfers due to the inability of IFQ holders to physically be onboard the vessel as IFQs were fished. NMFS was previously unable to implement a medical transfer program recommended by the Council due to legal and administrative constraints. The approach proposed in this action would resolve the issues arising from previous approaches.

This action could directly affect 3,350 halibut QS holders and 875 sablefish QS holders. NMFS currently does not have sufficient ownership and affiliation information to determine the precise number of small entities in the IFQ Program or the number that would be adversely impacted by the proposed action. Approximately 12 QS holders contact NMFS or the Council each year for information about medical transfers in the IFQ Program. However, it is not possible to estimate how many QS holders did not contact NMFS or the Council, but would have requested a medical transfer if it were available. This analysis assumes that all halibut and sablefish QS operations are small for RFA purposes.

This analysis summary reviews the status quo of no temporary transfers and an alternative to allow medical transfers. Alternative 1 is the no action or status quo alternative and would not have any associated adverse economic impacts on directly regulated small entities. Alternative 2 would allow medical transfers, but would require an applicant to document his or her medical emergency with NMFS. A medical professional would also be required to file an affidavit that describes the medical condition affecting the applicant and attests to the inability of the applicant to participate in the IFQ fisheries for which he or she holds IFQ permits during the IFQ season. In the case of a medical condition involving a family member, the medical professional's affidavit would describe the necessity for the IFQ permit holder to tend to an immediate family member who suffers from the medical condition.

An individual must submit an Emergency Medical Transfer form to receive a medical transfer. Submission of information would be minimized under the requirements of the Paperwork Reduction Act.

NMFS is not aware of any other Federal rules that would duplicate, overlap, or conflict with this action.

Owner-on-board Exception

The requirement for catcher vessel QS holders to be onboard the vessel during harvest and offloading of IFQ species constitutes a key element of the halibut and sablefish IFQ Program. The Council remains concerned about alleged abuses of the regulatory provision allowing vessel owners who received QS at initial allocation to hire masters to harvest their IFQs without being onboard the vessel. The objective of the preferred alternative is to improve adherence to the owner-on-board provisions of the original program, while providing an opportunity to hire a master when appropriate.

The preferred alternative could directly regulate 4,300 halibut and sablefish QS holders who hold category B, C, or D QS. NMFS currently does not have sufficient ownership and affiliation information to determine precisely the number of small entities in the IFQ Program or the number that would be adversely impacted by the present action. The analysis of the proposed hired master changes assumes that all operations are small for RFA purposes.

The analysis of the proposed hired master provisions reviews the status quo, an alternative to limit the use of the hired master exception, and the preferred alternative. Alternative 1 would maintain the current 20 percent vessel ownership requirement for catcher vessel QS holders to hire a master to harvest IFQs. Current regulations do not require vessel ownership legal documentation and, therefore, the requirement cannot be monitored, verified, or enforced. Alternative 2 would amend the regulations to require documentation of ownership of the catcher vessel before use of the hired master exception. Options under Alternative 2 would require continuous ownership of the catcher vessel upon which the IFQ would be fished, for a period between 6 months and two years to hire a skipper. The preferred alternative modified Alternative 2 by designating a 12-month period during which ownership must be documented to allow the use of a hired master.

Catcher vessel QS holders who wish to hire a master to catch their IFQs on a federally licensed vessel would be required to file a U.S. Abstract of Title issued by the U.S. Coast Guard with NMFS. Catcher vessel QS holders who wish to hire a master to catch their IFQs on a State-licensed vessel would be required to file the State of Alaska vessel registration with NMFS.

NMFS is not aware of any other Federal rules that would duplicate, overlap, or conflict with this action.

Sablefish Vessel Clearance Requirements

This section summarizes the impacts on small entities of the proposed alternatives for adding vessel clearance requirements to the BSAI sablefish fisheries. The BS and AI sablefish fixed gear sectors have not fully harvested their TACs since the beginning of the IFQ Program. Reasons for harvest shortfalls include predation by killer whales, increased costs of traveling to the BSAI, and relatively low catch rates in the BSAI that may result in harvesters fishing in the western GOA and possible misreporting in the BS or AI. The industry has expressed concern that a lack of enforcement may have resulted in misreporting of harvests taken in the GOA as having come from the BSAI.

One-hundred and sixty-three unique persons hold QS in the AI or BS and GOA. Of these, 42 unique persons hold QS in all three areas, 34 unique persons

hold QS in the AI and GOA, and 43 unique persons hold QS in both the BS and GOA for a total of 119 directly affected small entities under Alternative 2. This analysis assumes that all operations are small.

The analysis of vessel clearance alternatives reviews the status quo and the preferred alternative to add either visual clearance or VMS requirements. Alternative 1 would result in no change to the regulations. The preferred alternative would implement either or both visual clearance or VMS requirements to the sablefish IFQ fishery in the BSAI as a disincentive to misreporting of catch areas.

The operator of any vessel who fishes for sablefish in the BS or AI management area must obtain a vessel clearance for the management area in which fishing is to occur. Under the preferred alternative, an operator has two options. Under option one, an operator obtaining a vessel clearance must obtain the clearance in person from the authorized clearance personnel and sign the NMFS form documenting that a clearance was obtained. Except when the clearance is obtained via VHF radio, the authorized clearance personnel must sign the form documenting that the clearance was obtained. Under option two, any vessel that carries a transmitting VMS transmitter while fishing for sablefish in the BS or AI management area and until all sablefish caught in any of these areas is landed, is exempt from the clearance requirements, provided that the operator of the vessel complies with VMS regulations. If VMS is used, the operator of the vessel must notify the OLE within 72 hours before fishing and receive a VMS confirmation number.

NMFS is not aware of any other Federal rules that would duplicate, overlap, or conflict with this action.

Bled Sablefish PRR

This action could directly affect 876 sablefish QS holders, although only an unknown subset of these IFQ holders land their catch as bled fish. At present, NOAA Fisheries does not have sufficient ownership and affiliation information to determine precisely the number of small entities in the IFQ Program or the number that would be adversely impacted by this action. This analysis assumes that all operations are small.

This analysis summary reviews the status quo and two alternatives to change the PRR for bled sablefish. Alternative 1 would not revise the PRR for bled sablefish, which would remain at 0.98. Alternative 2, the preferred alternative, would change the PRR to 1.0 for bled sablefish, which would effectively eliminate the PRR. Alternative 3 would change the PRR to 0.99.

No additional recordkeeping or reporting requirements are associated with this action.

NMFS is not aware of any other Federal rules that would duplicate, overlap, or conflict with this action.

Halibut Block Program Amendments

Since implementation of the IFQ Program, the halibut fleet has experienced large quota increases, consolidation, and changing use patterns. Halibut QS holders have indicated that the existing block and sweep-up restrictions are cumbersome, and changing the restrictions could improve flexibility and efficiency in fishing operations.

This action would directly regulate holders of halibut QS blocks in all IFQ areas. There are 3,205 persons, both individual and collective entities, who hold at least one block of halibut QS in all IFQ management areas off Alaska. At least one block is owned by 80–90 percent of all halibut QS holders in all regulatory areas, except Area 4C, where only 69 QS holders own at least one block. At present, NOAA Fisheries does not have sufficient ownership and affiliation information to determine precisely the number of small entities in the IFQ Program, nor the number of directly regulated small entities that would be adversely impacted by the present actions. This analysis assumes that all operations are small for RFA purposes.

This analysis summary reviews the status quo and four alternatives to the existing halibut IFQ Program requirements. One alternative would increase block limits, two alternatives would ease restrictions on blocks yielding greater than 20,000 lb of halibut, based on the 2004 TACs, and a fourth would increase sweep-up limits for halibut in Areas 2C and 3A. The alternatives are summarized below.

Alternative 1 is the no action alternative and would not have any associated adverse economic impacts on directly regulated small entities.

Alternative 2 would increase the block limit to three or four blocks under four options in all regulatory areas. The Council selected Alternative 2 Option ''a'' as its preferred alternative. QS block holders that are currently constrained would benefit from increased operational flexibility under an increased block limit. This action may decrease the value of unblocked QS in relation to blocked QS, by relaxing the ownership constraint on blocked QS. Blocked QS would become relatively more marketable as a result. There are no data available to determine whether and how the alternative would change QS value. However, there would be no differential impacts on the basis of size of the regulated entity attributable to this proposed action, because all are assumed small under the RFA.

Alternative 3 would unblock all large QS blocks, which includes those yielding greater than 20,000 lb of halibut based on 2004 TACs in all regulatory areas. The Council modified Alternative 3 by limiting the preferred alternative to only Areas 3B and 4C because these areas contain the most large QS blocks. Additional flexibility in managing QS holdings would yield greater asset liquidity to holders of large QS blocks, allowing them to be more responsive to operational needs and economic opportunities. The preferred alternative may also impact the value of unblocked shares in Areas 3B, 4A, 4B, 4C, and 4D, by increasing the proportion of unblocked QS available in those IFQ areas. Benefits could accrue to holders of large QS blocks, as well as fishermen wishing to make adjustments to their QS asset holdings to reflect changes in their personal circumstances, or the broader economic environment. Currently, the capital demands associated with transferring very large restricted blocks is reportedly prohibitive. This alternative would contribute to alleviating this potential barrier to transfer the large restricted blocks. In any case, there would be no differential impacts on the basis of size of the regulated entity attributable to this preferred alternative because all are assumed small for these purposes.

Alternative 4 would allow large QS block holders to divide their holding into smaller blocks, potentially increasing efficient use of the QS holding. Data are unavailable to determine the extent to which QS holders would be likely to take advantage of this option. If all large holdings are divided, the alternative may impact the price of block holdings.

Alternative 5 would increase the sweep-up levels in Areas 2C and 3A from a 3,000 lb equivalent to a 5,000 lb equivalent in QS units based on the 1996 halibut TAC. This preferred alternative would allow small QS block holders to incrementally increase their holdings. There are no apparent adverse impacts on small entities.

No additional recordkeeping and reporting requirements are associated with this action.

NMFS is not aware of any other Federal rules that would duplicate, overlap, or conflict with this action.

The detailed analysis of attributable impacts of each alternative is contained in the RIR and IRFA for this action. Few, if any, actual adverse impacts are associated with these actions, and no additional alternatives could be identified which have the potential to further minimize existing or potential adverse impacts on small entities, while achieving the objectives of the proposed action.

Halibut QS Vessel Category Amendments

Halibut fishermen in western Alaska have identified safety concerns associated with fishing in those areas on small vessels, which could be alleviated, in large part, by relaxing the current restrictions on vessel length associated with category D QS.

The action could potentially directly regulate 243 category D halibut QS holders in Areas 3B, 4A, 4B, and 4C. Currently, NMFS does not have sufficient ownership and affiliation information to determine precisely the number of entities in the IFQ Program that are ''small,'' based on the SBA guidelines, nor the number that would be adversely impacted by the present action. This analysis assumes that all directly regulated operations are small, for RFA purposes.

This analysis summary reviews the status quo and three alternatives to the existing requirements. Two alternatives would allow category D QS to be fished on vessels less than or equal to 60 ft (18.29 m) LOA, and one alternative allow category D QS to be fished on vessels of any size.

Alternative 1 is a no action alternative and would not have associated adverse economic impacts on directly regulated small entities.

Alternatives 2, 3, and 4 would allow category D QS to be fished on larger vessels, which includes vessels equal to or less than 60 feet LOA for Alternatives 2 and 4, and vessels of any size for Alternative 3. The proposed alternatives could address safety concerns for small vessel operators. Since the proposed alternatives are likely to increase the value of category D QS, there may be some corollary decrease in the value of category C QS, and also category B QS in the case of Alternative 3. However, category D QS constitutes such a small share to the aggregate halibut TAC in any of these areas, that such a change in relative value would not be expected to substantially influence the market for QS. Furthermore, there would be no differential impacts on the basis of size of the directly regulated entities attributable to these proposed actions, because all are considered small for the purposes of this analysis.

No additional recordkeeping and reporting requirements are associated with this action.

NMFS is not aware of any other Federal rules that would duplicate, overlap, or conflict with this action.

Each of the alternatives contributes to the objectives of this proposed action, comports with the Magnuson-Stevens Act and other applicable law, and minimizes the economic impacts on directly regulated small entities. NMFS is not aware of any additional alternatives to this action that would meet the RFA criteria.

Area 2C QS Restriction Amendment

In the original IFQ Program for halibut and sablefish, category B QS was permitted to be fished only on a vessel 60 feet or greater LOA. In 1996, the Council adopted a regulatory change that allowed category B QS to be fished on vessels under 60 feet LOA. At the time, certain category B QS holdings in the Southeast Outside District sablefish and Area 2C halibut fisheries were identified as ineligible for ''fish down,'' and IFQ derived from these QS must be fished on a vessel greater than 60 ft (18.29 m) LOA. This was intended to ensure category B quota share would be available to vessels 60 ft (18.29 m) LOA or greater. However, some fishermen have recently identified this prohibition as unnecessary, inefficient, and burdensome.

This proposed action could potentially affect 72 holders of category B halibut QS in Area 2C, and 87 persons who hold category B sablefish QS in the Southeast Outside District. Indirectly, the action may affect 22 owners of vessels greater than 60 ft (18.29 m) LOA who made landings in 2003 in the halibut fisheries in Area 2C, 40 large vessel owners who landed sablefish in the Southeast Outside District in 2003, 825 persons who are category B, C, or D halibut QS holders in Area 2C, and 436 persons who are category B or C sablefish QS holders in the Southeast Outside District. Currently, NMFS does not have sufficient ownership and affiliation information to determine precisely the number of ''small entities,'' as the term is defined for RFA purposes, in the IFQ Program nor the number that would be adversely impacted by the preferred alternative. For the purposes of this RFA, this analysis assumes that all operations are small.

This analysis summary reviews the status quo and an alternative to allow category B QS to be fished on a vessel of any length in any area. Alternative 1 is the no action alternative and its adoption would have no associated adverse economic impacts on directly regulated small entities. The preferred alternative would allow all category B QS, in either Area 2C for halibut or the Southeast Outside District for sablefish to be fished on any size vessel. It may have the potential to disadvantage large vessel operations that can only harvest category B QS, as competition for access to these QS could be substantially broadened. The relative scarcity of category B QS in Southeast Alaska halibut and sablefish fisheries may mean that large vessel operations may experience difficulty in acquiring additional QS under the preferred alternative due to increased costs. However, there would be no differential impacts on the basis of size of the regulated entity attributable to this preferred alternative, because all are ''small'' on the basis of RFA criteria.

No additional recordkeeping and reporting requirements are associated with this action.

NMFS is not aware of any other Federal rules that would duplicate, overlap, or conflict with this action.

According to NOAA Administrative Order (NAO) 216–6, including the criteria used to determine significance, this rule would not have a significant effect, individually or cumulatively, on the human environment beyond those effects identified in the previous NEPA analysis. An environmental impact statement (EIS; dated December 1992) was prepared for the final rule implementing the original halibut and sablefish IFQ and CDQ programs (58 FR 59375; November 9, 1993). The scope of the EIS includes the potential environmental impacts of this proposed rule because the EIS analyzed the original IFQ Program, which included analysis of biological and socioeconomic impacts on the environment, affected fishermen, and affected communities. Based on the nature of the proposed rule and the previous environmental analysis, this proposed rule is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement, in accordance with Section 5.05b of NAO 216–6. Copies of the EIS for the original halibut and sablefish IFQ and CDQ programs and the categorical exclusion for this action are available from NMFS (see **ADDRESSES**).

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: October 26, 2006.

Samuel D. Rauch III

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

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

Authority: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq;* 1851 note; 3631 *et seq.*

2. In § 679.1, paragraph (d)(1)(i)(B) is revised to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(B) Using fixed gear in waters of the State of Alaska adjacent to the BSAI and the GOA, provided that aboard such vessels are persons who currently hold sablefish quota shares, sablefish IFQ permits, or sablefish IFQ hired master permits.

* * * * *

3. In § 679.2 add definitions in alphabetical order for ''Advanced nurse practitioner'', ''Licensed medical doctor'', and ''Primary community health aide'' to read as follows:

§ 679.2 Definitions.

* * * * *

Advanced nurse practitioner means a registered nurse authorized to practice in any state who, because of specialized education and experience, is certified to perform acts of medical diagnosis and the prescription and dispensing of medical, therapeutic, or corrective measures under regulations adopted by the state Board of Nursing.

* * * * *

Licensed medical doctor means a person who is licensed, certified, and/or registered in accordance with applicable Federal, state, or local laws and regulations, and is authorized to conduct the practice of medicine as defined by the state in which the person resides.

* * * * *

Primary community health aide means a person who has completed the first of three levels of community health aide training offered by the Norton Sound Health Corporation at the Nome Hospital, the Kuskokwim Community College in Bethel, the Alaska Area Native Health Service in Anchorage, or another accredited training center.

* * * * *

4. In § 679.4, paragraphs (a) introductory text, (a)(1)(i), (d) introductory text, (d)(2), (d)(3)(i), (d)(4), (d)(5), (d)(6)(i) are revised to read as follows:

§ 679.4 Permits.

(a) *Requirements.* Only persons who are U.S. citizens are authorized to receive or hold permits under this section, with the exception that an IFQ hired master permit issued to an individual person designated by a QS or IFQ permit holder as a hired master employed to fish his/her IFQ need not be held by a U.S. citizen.

(1) * * *

If program permit or card type is:	Permit is in effect from issue date through the end of:	For more information, see...
(i) IFQ:		
(A) Registered Buyer	Until next renewal cycle	Paragraph (d)(3) of this section
(B) Halibut & sablefish permits	Specified fishing year	Paragraph (d)(1) of this section
(C) Halibut & sablefish hired master permits	Specified fishing year	Paragraph (d)(2) of this section

* * * * *

(d) *IFQ permits, IFQ hired master permits, and Registered Buyer permits.* The permits described in this section are required in addition to the permit and licensing requirements prescribed in the annual management measures published in the **Federal Register** pursuant to § 300.62 of this title and in the permit requirements of this section.

* * * * *

(2) *IFQ hired master permit.* (i) An IFQ hired master permit authorizes the individual identified on the IFQ hired master permit to land IFQ halibut or IFQ sablefish for debit against the specified IFQ permit until the IFQ hired master permit expires, or is revoked, suspended, or modified under 15 CFR part 904, or cancelled on request of the IFQ permit holder.

(ii) An original IFQ hired master permit issued to eligible individuals in accordance with § 679.42(i) and (j) by the Regional Administrator must be on board the vessel that harvests IFQ halibut or IFQ sablefish at all times that such fish are retained on board by a hired master. Except as specified in § 679.42(d), an individual that is issued an IFQ hired master permit must remain aboard the vessel used to harvest IFQ halibut or IFQ sablefish with that IFQ hired master permit during the IFQ fishing trip and at the landing site during all IFQ landings.

(iii) Each IFQ hired master permit issued by the Regional Administrator will display an IFQ permit number and the name of the individual authorized by the IFQ permit holder to land IFQ halibut or IFQ sablefish for debit against the IFQ permit holder's IFQ. In addition, IFQ hired master permits will also display the ADF&G vessel identification number of the authorized vessel.

(3) * * *

(i) A Registered Buyer permit authorizes the person identified on the permit to receive and make an IFQ landing by an IFQ permit or IFQ hired master permit or to receive and make a CDQ halibut landing by a CDQ permit or cardholder at any time during the fishing year for which it is issued until the Registered Buyer permit expires, or is revoked, suspended, or modified under 15 CFR part 904.

* * * * *

(4) *Issuance.* The Regional Administrator will renew IFQ permits and IFQ hired master permits annually or at other times as needed to accommodate transfers, revocations, appeals resolution, and other changes in QS or IFQ holdings, and designation of masters under § 679.42.

(5) *Transfer.* The quota shares and IFQ issued under this section are not transferable, except as provided under § 679.41. IFQ hired master permits and Registered Buyer permits issued under this paragraph (d) are not transferable.

(6) * * *

(i) *IFQ permit and IFQ hired master permit.* (A) The IFQ permit holder must present a copy of the IFQ permit for inspection on request of any authorized officer or Registered Buyer receiving IFQ species.

(B) The IFQ hired master permit holder must present a copy of the IFQ permit and the original IFQ hired master permit for inspection on request of any authorized officer or Registered Buyer receiving IFQ species.

* * * * *

5. In § 679.5, paragraphs (a)(1)(i)(B); (g)(2)(iv)(A); (l)(2)(i)(D) and (E); (l)(2)(iii)(C), (l)(2)(iii)(H), (I) and (M); (l)(2)(iv)(B)(*2*); (l)(2)(iv)(D); (l)(4)(i)(E)(*1*); (l)(4)(ii)(D); and (l)(5)(ii) introductory text are revised to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

(a) * * *

(1) * * *

(i) * * *

(B) *IFQ halibut and sablefish.* The IFQ permit holder, IFQ hired master permit holder, or Registered Buyer must comply with the R&R requirements provided at paragraphs (g), (k), and (l) of this section.

* * * * *

(g) * * *

(2) * * *

(iv) * * *

(A) A person holding a valid IFQ permit, IFQ hired master permit, and Registered Buyer permit may conduct a dockside sale of IFQ halibut or IFQ sablefish with a person who has not been issued a Registered Buyer permit after all IFQ halibut and IFQ sablefish have been landed and reported in accordance with paragraph (l) of this section.

* * * * *

(l) * * *

(2) * * *

(i) * * *

(D) *Remain at landing site.* Once the landing has commenced, the IFQ permit holder, IFQ hired master permit holder, or CDQ cardholder and the harvesting vessel may not leave the landing site until the IFQ halibut, IFQ sablefish or CDQ halibut account is properly debited (as defined in paragraph (l)(2)(iv)(D) of this section).

(E) *No movement of IFQ halibut, CDQ halibut, or IFQ sablefish.* The offloaded IFQ halibut, CDQ halibut, or IFQ sablefish may not be moved from the landing site until the IFQ Landing Report is received by OLE, Juneau, AK, and the IFQ permit holder's or CDQ cardholder's account is properly debited (as defined in paragraph (l)(2)(iv)(D) of this section).

* * * * *

(iii) * * *

(C) Name and permit number of the IFQ permit holder, IFQ hired master permit holder, or CDQ cardholder;

* * * * *

(H) ADF&G statistical area of harvest reported by the IFQ permit holder or IFQ hired master permit holder;

(I) If ADF&G statistical area is bisected by a line dividing two IFQ regulatory areas, the IFQ regulatory area of harvest reported by the IFQ permit holder or IFQ hired master permit holder;

* * * * *

(M) After the Registered Buyer enters the landing data in the Internet submission form(s) and receipts are printed, the Registered Buyer, or his/her representative, and the IFQ permit holder, IFQ hired master permit holder, or CDQ cardholder must sign the receipts to acknowledge the accuracy of the IFQ landing report.

(iv) * * *

(B) * * *

(*2*) The IFQ permit holder, IFQ hired master permit holder, or CDQ cardholder must initiate a Landing Report by logging into the IFQ landing report system using his or her own password and must provide identification information requested by the system.

* * * * *

(D) *Properly debited landing.* A properly concluded printed Internet submission receipt or a manual landing report receipt which is sent by facsimile from OLE to the Registered Buyer, and which is then signed by both the Registered Buyer and IFQ permit holder, IFQ hired master permit holder, or CDQ cardholder constitutes confirmation that OLE received the landing report and that the IFQ permit holder or CDQ cardholder's account is properly debited. A copy of each receipt must be maintained by the Registered Buyer as described in paragraph (l) of this section.

* * * * *

(4) * * *

(i) * * *

(E) * * *

(*1*) A vessel operator submitting an IFQ Departure Report to document IFQ halibut or IFQ sablefish must have one or more IFQ permit holders or IFQ hired master permit holders on board with a combined IFQ balance equal to or greater than all IFQ halibut and IFQ sablefish on board the vessel.

* * * * *

(ii) * * *

(D) Halibut IFQ, halibut CDQ, sablefish IFQ, and CR crab permit numbers of IFQ and CDQ permit holders on board;

* * * * *

(5) * * *

(ii) *Record retention.* The IFQ permit holder, IFQ hired master permit holder, or CDQ cardholder must retain a legible copy of all Landing Report receipts, and the Registered Buyer must retain a copy of all reports and receipts required by this section. All retained records must be available for inspection by an authorized officer:

* * * * *

6. In § 679.7, paragraphs (f)(3)(i), (f)(3)(ii), (f)(4), (f)(6)(i) and (ii), and (f)(11) introductory text are revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(f) * * *

(3) * * *

(i) *Halibut.* (A) Retain halibut caught with fixed gear without a valid IFQ permit, and if using a hired master, without an IFQ hired master permit in the name of an individual aboard.

(B) Retain halibut caught with fixed gear without a valid CDQ permit and without CDQ card in the name of an individual aboard.

(ii) *Sablefish.* Retain sablefish caught with fixed gear without a valid IFQ permit, and if using a hired master, without an IFQ hired master permit in the name of an individual aboard, unless fishing on behalf of a CDQ group and authorized under § 679.32(c).

(4) Except as provided in § 679.40(d), retain IFQ or CDQ halibut or IFQ or CDQ sablefish on a vessel in excess of the total amount of unharvested IFQ or CDQ, applicable to the vessel category and IFQ or CDQ regulatory area(s) in which the vessel is deploying fixed gear, and that is currently held by all IFQ or CDQ permit holders aboard the vessel, unless the vessel has an observer aboard under subpart E of this part and maintains the applicable daily fishing log prescribed in the annual management measures published in the **Federal Register** pursuant to § 300.62 of this title and § 679.5.

(5) * * *

(6) * * *

(i) *IFQ permit or CDQ permit.* Make an IFQ landing without an IFQ permit, IFQ hired master permit, or CDQ card, as appropriate, in the name of the individual making the landing.

(ii) *Hired master, IFQ.* Make an IFQ landing without an IFQ hired master permit listing the name of the hired master and the name of the vessel making the landing.

* * * * *

(11) Discard halibut or sablefish caught with fixed gear from any catcher vessel when any IFQ permit holder aboard holds unused halibut or sablefish IFQ for that vessel category and the IFQ regulatory area in which the vessel is operating, unless:

* * * * *

7. In § 679.23, paragraph (g)(2) is revised to read as follows:

§ 679.23 Seasons.

* * * * *

(g) * * *

(2) Catches of sablefish by fixed gear during other periods may be retained up to the amounts provided for by the directed fishing standards specified at § 679.20 when made by an individual aboard the vessel who has a valid IFQ permit and unused IFQ in the account on which the permit was issued.

* * * * *

8. In § 679.40, paragraphs (a)(5)(ii)(A) through (D) are revised to read as follows:

§ 679.40 Sablefish and halibut QS.

* * * * *

(a) * * *

(5) * * *

(ii) * * *

(A) Category A QS and associated IFQ, which authorizes an IFQ permit holder to harvest and process IFQ species on a vessel of any length;

(B) Category B QS and associated IFQ, which authorizes an IFQ permit holder to harvest IFQ species on a vessel of any length;

(C) Category C QS and associated IFQ, which authorizes an IFQ permit holder to harvest IFQ species on a vessel less than or equal to 60 ft (18.3 m) LOA:

(D) Category D QS and associated IFQ, which authorizes an IFQ permit holder to harvest IFQ halibut on a vessel less than or equal to 35 ft (10.7 m) LOA, except as provided in § 679.42(a);

* * * * *

9. In § 679.41, paragraphs (a)(2), (e)(3) introductory text, (e)(3)(i), and (e)(3)(ii) are revised to read as follows:

§ 679.41 Transfer of quota shares and IFQ.

(a) * * *

(2) Transactions requiring IFQ permits to be issued in the name of a hired master employed by an individual or a corporation are not transfers of QS or IFQ.

* * * * *

(e) * * *

(3) *Halibut.* QS blocks for the same IFQ regulatory area and vessel category that represent less than 3,000 lb (1.4 mt) of halibut IFQ, based on the 1996 catch limit for halibut in a specific IFQ regulatory area and the QS pool for that IFQ regulatory area on January 31, 1996, may be consolidated into larger QS blocks provided that the consolidated blocks do not represent greater than 3,000 lb (1.4 mt) of halibut IFQ based on the preceding criteria. In Areas 2C and 3A, QS blocks for the same IFQ regulatory area and vessel category that represent less than 5,000 lb (2.3 mt) of halibut IFQ, based on the 1996 catch limit for halibut in a specific IFQ regulatory area and the QS pool for that IFQ regulatory area on January 31, 1996, may be consolidated into larger QS blocks provided that the consolidated blocks do not represent greater than 5,000 lb (2.3 mt) of halibut IFQ based on the preceding criteria. A consolidated block cannot be divided and is considered a single block for purposes of use and transferability. The maximum number of QS units that may be consolidated into a single block in each IFQ regulatory area is as follows:

(i) Area 2C: 33,320 QS.

(ii) Area 3A: 46,520 QS.

* * * * *

10. In § 679.42, paragraph (a)(3) is removed; paragraphs (a)(2)(iv), (g)(3), and (l) are added; and paragraphs (a)(1) introductory text, (c)(1)(i), (d), (g)(1) introductory text, (i) and (j) are revised to read as follows:

§ 679.42 Limitations on use of QS and IFQ.

(a) * * *

(1) The QS or IFQ specified for one IFQ regulatory area must not be used in a different IFQ regulatory area, except all or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

* * * * *

(2) * * *

(iv) In Areas 3B and 4C, category D QS and associated IFQ authorizes an IFQ permit holder to harvest IFQ halibut on a vessel less than or equal to 60 ft (18.3 m) LOA.

* * * * *

(c) * * *

(1) * * *

(i) Have a valid IFQ permit.

* * * * *

(d) *Medical transfers and emergency waivers.* The original recipient of an individual IFQ card must be aboard the vessel during fishing operations and must sign the IFQ landing report except as provided in § 679.41 and under the following circumstances:

(1) *Emergency waiver.* In the event of extreme personal emergency involving the IFQ user during a fishing trip, the requirements of paragraph (c) of this section may be waived. The waiving of these requirements under this provision shall apply to IFQ halibut or IFQ sablefish retained on the fishing trip during which the emergency occurred.

(2) *Medical transfers.* In the event of a medical condition affecting an IFQ holder or his or her immediate family member that prevents that IFQ holder from being able to participate in the halibut or sablefish IFQ fisheries, a medical transfer may be approved.

(i) *General.* A medical transfer will not be approved unless the applicant demonstrates that:

(A) He or she is unable to participate in the IFQ fishery for which he or she holds IFQ because of a medical condition that precludes participation; or

(B) He or she is unable to participate in the IFQ fishery for which he or she holds IFQ because of a medical condition involving an immediate family member that requires the IFQ holder's full time attendance.

(ii) *Eligibility.* To be eligible to receive a medical transfer, an individual halibut or sablefish QS holder must:

(A) Possess one or more catcher vessel IFQ permits; and

(B) Not qualify for a hired master exception under paragraph (i)(1) of this section.

(iii) *Application.* An individual may apply for a medical transfer by submitting a medical transfer application to the Alaska Region, NMFS. A QS or IFQ holder who has received an approved medical transfer from RAM may transfer his or her annual IFQ permit to an individual eligible to receive QS or IFQ. A medical transfer application is available at *http://www.fakr.noaa.gov* or by calling 1–800–304–4846. Completed applications must be mailed to: Restricted Access Management Program, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668. A complete application must include:

(A) The applicant's (transferor's) identity including his or her full name, NMFS person ID, date of birth, Social Security Number or Tax ID, permanent business mailing address, business telephone and fax numbers, and e-mail address (if any). A temporary mailing address may be provided, if appropriate;

(B) The recipient's (transferee's) identity including his or her full name, NMFS person ID, date of birth, Social Security Number or Tax ID, permanent business mailing address, business telephone and fax numbers, and e-mail address (if any). A temporary mailing address may be provided, if appropriate;

(C) The identification characteristics of the IFQ including whether the transfer is for halibut or sablefish IFQ, IFQ regulatory area, number of units, range of serial numbers for IFQ to be transferred, actual number of IFQ pounds, transferor (seller) IFQ permit number, and fishing year;

(D) The price per pound (including leases) and total amount paid for the IFQ in the requested transaction, including all fees;

(E) The primary source of financing for the transfer, how the IFQ was

located, and the transferee's (buyer's) relationship to the transferor (seller);

(F) A written declaration from a licensed medical doctor, advanced nurse practitioner, or primary community health aide as those persons are defined in § 679.2. The declaration must include:

(*1*) The treating physician's identity including his or her full name, business telephone, permanent business mailing address (number and street, city and state, zip code), and the type of physician;

(*2*) A concise description of the medical condition affecting the applicant or applicant's family member including verification that the applicant is unable to participate in the IFQ fishery for which he or she holds IFQ permits during the IFQ season because of the medical condition and, for an affected family member, a description of the care required; and

(*3*) The dated signature of the licensed medical doctor, advanced nurse practitioner, or primary community health aide who conducted the medical examination;

(G) The signatures and printed names of the transferor and transferee, and date; and

(H) The signature, seal, and commission expiration of a notary public.

(iv) *Restrictions.* (A) A medical transfer shall be valid only during the calendar year for which the permit is issued.

(B) NMFS will not approve subsequent applications for medical transfers based on the same medical condition unless a licensed medical doctor, advanced nurse practitioner, or primary community health aide attests to a reasonable likelihood of recovery.

(C) NMFS will not approve a medical transfer if the applicant has received a medical transfer in any 2 of the previous 5 years for the same medical condition.

(v) *Medical transfer evaluations and appeals*—(A) *Initial evaluation.* The Regional Administrator will evaluate an application for a medical transfer submitted in accordance with paragraphs (d)(2)(iii) and (d)(2)(iv) of this section. An applicant who fails to submit the information specified in the application for a medical transfer will be provided a reasonable opportunity to submit the specified information or submit a revised application.

(B) *Initial administrative determinations (IAD).* The Regional Administrator will prepare and send an IAD to the applicant if the Regional Administrator determines that the application provided by the applicant is deficient or if the applicant fails to submit the specified information or a revised application. The IAD will indicate the deficiencies in the application, including any deficiencies with the information or the revised application. An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43.

* * * * *

(g) * * *

(1) *Number of blocks per species.* No person, individually or collectively, may hold more than two blocks of sablefish or three blocks of halibut in any IFQ regulatory area, except:

* * * * *

(3) *Transfer of QS blocks.* A person who holds two blocks of halibut QS and unblocked halibut QS as of [EFFECTIVE DATE OF FINAL RULE] may transfer unblocked QS until such time as that person sells a halibut QS block.

* * * * *

(i) *Use of IFQ resulting from QS assigned to vessel category B, C, or D by individuals.* In addition to the requirements of paragraph (c) of this section, IFQ permits issued for IFQ resulting from QS assigned to vessel category B, C, or D must be used only by the individual who holds the QS from which the associated IFQ is derived, except as provided in paragraph (i)(1) of this section.

(1) An individual who received an initial allocation of QS assigned to category B, C, or D does not have to be aboard the vessel on which his or her IFQ is being fished or to sign IFQ landing reports if that individual:

(i) For a documented vessel, continuously owned a minimum 20–percent interest in the vessel for the previous 12 months as supported by the U.S. Abstract of Title issued by the U.S. Coast Guard and any other documentation indicating percentage ownership;

(ii) For an undocumented vessel, continuously owned a minimum 20–percent interest in the vessel for the previous 12 months as supported by a State of Alaska vessel registration and any other documentation indicating percentage ownership; and

(iii) Is represented on the vessel by a hired master employed by that individual and permitted in accordance with § 679.4(d)(2).

(2) Paragraph (i)(1) of this section does not apply to any individual who received an initial allocation of QS assigned to category B, C, or D and who, prior to April 17, 1997, employed a master to fish any of the IFQ issued to that individual, provided the individual continues to own the vessel from which the IFQ is being fished at no lesser percentage of ownership interest than that held on April 17, 1997, and provided that this individual has not acquired additional QS through transfer after September 23, 1997.

(3) Paragraph (i)(1) of this section does not apply to individuals who received an initial allocation of QS assigned to vessel category B, C, or D for halibut in IFQ regulatory Area 2C or for sablefish QS in the IFQ regulatory area east of 140° W. long., and this exemption is not transferable.

(4) The exemption provided in paragraph (i)(1) of this section may be exercised by an individual on a vessel owned by a corporation, partnership, or other entity in which the individual is a shareholder, partner, or member, provided that the individual maintains a minimum 20–percent interest in the vessel owned by the corporation, partnership, or other entity. For purposes of this paragraph, interest in a vessel is determined as the percentage ownership of a corporation, partnership, or other entity by that individual multiplied by the percentage of ownership of the vessel by the corporation, partnership, or other entity.

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

(6) In the event of the actual total loss or constructive total loss of vessel owned by an individual who qualifies for the exemption in paragraph (i)(1) of this section, the owner of such vessel may remain exempt under paragraph (i)(1) of this section until such time that the owner purchases a replacement vessel, provided that such loss was caused by an act of God, an act of war, a collision, an act or omission of a party other than the owner or agent of the vessel, or any other event not caused by the willful misconduct of the owner or agent.

(j) *Use of IFQ resulting from QS assigned to vessel category B, C, or D by corporations and partnerships.* (1) Except as provided in paragraph (j)(7) of this section, a corporation or partnership that received an initial allocation of QS assigned to category B, C, or D may fish the IFQ resulting from that QS and any additional QS acquired within the limitations of this section provided that the corporation or partnership:

(i) For a documented vessel, continuously owned a minimum 20–percent interest in the vessel for the previous 12 months as supported by the U.S. Abstract of Title issued by the U.S. Coast Guard and any other documentation indicating percentage ownership;

(ii) For an undocumented vessel, continuously owned a minimum 20–percent interest in the vessel for the previous 12 months as supported by a State of Alaska vessel registration and any other documentation indicating percentage ownership; and

(iii) Is represented on the vessel by a hired master permitted in accordance with § 679.4(d)(2) and employed by the corporation or partnership that received the initial allocation of QS.

(2) The provision of paragraph (j)(1) of this section is not transferable and does not apply to QS assigned to vessel category B, C, or D for halibut in IFQ regulatory Area 2C or for sablefish in the IFQ regulatory area east of 140° W. long. that is transferred to a corporation or partnership. Such transfers of additional QS within these areas must be to an individual pursuant to § 679.41(c) and be used pursuant to paragraphs (c) and (i) of this section.

(3) A corporation or partnership, except for a publicly held corporation, that receives an initial allocation of QS assigned to vessel category B, C, or D loses the exemption provided under this paragraph (j) on the effective date of a change in the corporation or partnership from that which existed at the time of initial allocation.

(4) For purposes of this paragraph (j), ''a change'' means:

(i) For corporations and partnerships, the addition of any new shareholder(s) or partner(s), except that a court appointed trustee to act on behalf of a shareholder or partner who becomes incapacitated is not a change in the corporation or partnership; or

(ii) For estates, the final or summary distribution of the estate.

(5) The Regional Administrator must be notified of a change in the corporation, partnership, or other entity as defined in this paragraph (j) within 15 days of the effective date of the change. The effective date of change, for purposes of this paragraph (j), is the date on which the new shareholder(s) or partner(s) may realize any corporate liabilities or benefits of the corporation or partnership or, for estates, the date of the determination of a legal heir to the estate, or the date of the order for distribution of the estate.

(6) QS assigned to vessel category B, C, or D and IFQ resulting from that QS held in the name of a corporation, partnership, or other entity that changes, as defined in this paragraph (j), must be transferred to an individual, as prescribed in § 679.41, before it may be used at any time after the effective date of the change.

(7) A corporation or a partnership that received an initial allocation of QS assigned to category B, C, or D and that, prior to April 17, 1997, employed a master to fish any of the IFQ issued to that corporation or partnership may continue to employ a master to fish its IFQ on a vessel owned by the corporation or partnership provided that the corporation or partnership continues to own the vessel at no lesser percentage of ownership interest than that held on April 17, 1997, and provided that corporation or partnership did not acquire additional QS through transfer after September 23, 1997.

(8) A corporation, partnership, or other entity, except for a publicly held corporation, that receives an initial allocation of QS assigned to category B, C, or D must provide annual updates to the Regional Administrator identifying all current shareholders or partners and affirming the entity's continuing existence as a corporation or partnership.

(9) The exemption provided in this paragraph (j) may be exercised by a corporation, partnership, or other entity on a vessel owned by a person who is a shareholder in the corporation, partnership, or other entity, provided that the corporation, partnership, or other entity maintains a minimum of 20–percent interest in the vessel. For purposes of this paragraph (j), interest in a vessel is determined as the percentage of ownership in the corporation, partnership, or other entity by that person who is a shareholder in the corporation, partnership, or other entity, multiplied by the percentage of ownership in the vessel by that person who is a shareholder in the corporation, partnership, or other entity.

* * * * *

(l) *Sablefish Vessel Clearance Requirements*—(1) *General.* Any vessel operator who fishes for sablefish in the Bering Sea or Aleutian Islands IFQ regulatory areas must possess a transmitting VMS transmitter while fishing for sablefish.

(2) *VMS Requirements.* (i) The operator of the vessel must comply with § 679.28(f)(3), (f)(4), and (f)(5); and

(ii) The operator of the vessel must contact NMFS at 800–304–4846 (option 1) between 0600 and 0000 A.l.t. and receive a VMS confirmation number at least 72 hours prior to fishing for sablefish in the Bering Sea or Aleutian Islands IFQ regulatory areas.

11. Revise Table 3 to Part 679 to read as follows:

BILLING CODE 3510–22–P

Table 3 to Part 679--Product Recovery Rates (PRR) for Groundfish Species and Conversion Rates for Pacific Halibut

FMP Species	Species Code	Product Code											
		1, 2, 41,86, 92, 93, 95 Whole Fish	3, 42 Bled	4 Gutted Head On	5 Gutted Head Off	6 H&G with Roe	7 H&G West Cut	8 H&G East Cut	10 H&G w/o Tail	11 Kirimi	12 Salted & Split	13 Wings	14 Roe
Pacific Cod	110	1.00	0.98	0.85	---	0.63	0.57	0.47	0.44	---	0.45	---	0.05
Arrowtooth Flounder	121	1.00	0.98	0.90	---	0.80	0.72	0.65	0.62	0.48	---	---	0.08
Flathead Sole	122	1.00	0.98	0.90	---	0.80	0.72	0.65	0.62	0.48	---	---	0.08
Rock Sole	123	1.00	0.98	0.90	---	0.80	0.72	0.65	0.62	0.48	---	---	0.08
Dover Sole	124	1.00	0.98	0.90	---	0.80	0.72	0.65	0.62	0.48	---	---	0.08
Rex Sole	125	1.00	0.98	0.90	---	0.80	0.72	0.65	0.62	0.48	---	---	0.08
Yellowfin Sole	127	1.00	0.98	0.90	---	0.80	0.72	0.65	0.62	0.48	---	---	0.08
Greenland Turbot	134	1.00	0.98	0.90	---	0.80	0.72	0.65	0.62	0.48	---	---	0.08
Thornyhead Rockfish	143	1.00	0.98	0.88	---	0.55	0.60	0.50	---	---	---	---	---
Sculpins	160	1.00	0.98	0.87	---	---	0.50	0.40	---	---	---	---	---
Atka Mackerel	193	1.00	0.98	0.87	---	0.67	0.64	0.61	---	---	---	---	---
Pollock	270	1.00	0.98	0.80	---	0.70	0.65	0.56	0.50	0.25	---	---	0.07
Smelts	510	1.00	0.98	0.82	---	---	0.71	---	---	---	---	---	---
Eulachon	511	1.00	0.98	0.82	---	---	0.71	---	---	---	---	---	---

Capelin	516	1.00	0.98	0.89	---	---	0.78	---	---	---	---	---	---
Sharks	689	1.00	0.98	0.83	---	---	0.72	---	---	---	---	---	---
Skates	700	1.00	0.98	0.90	---	---	---	0.32	---	---	---	0.32	---
Sablefish	710	1.00	1.00	0.89	---	---	0.68	0.63	0.50	---	---	---	---
Octopus	870	1.00	0.98	0.81	---	---	---	---	---	---	---	---	---
Squid	875	1.00	0.98	0.69	---	---	---	---	---	---	---	---	---
Rockfish	---	1.00	0.98	0.88	---	---	0.60	0.50	---	---	---	---	---
Conversion Rates to Net Weight for PACIFIC HALIBUT	200	---	---	0.90	1.0	---	---	---	---	---	---	---	---

FMP Species	Species Code	Product Code											
		15 Pectoral Girdle	16 Heads	17 Cheeks	18 Chins	19 Belly	20 Fillets w/ Skin & Ribs	21 Fillets w/ Skin No Ribs	22 Fillets w/ Ribs No Skin	23 Fillets Skinless Boneless	24 Fillets Deep Skin	30 Surimi	31 Mince
Pacific Cod	110	0.05	---	0.05	---	0.01	0.45	0.35	0.25	0.25	---	0.15	0.5
Arrowtooth Flounder	121	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
Flathead Sole	122	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
Rock Sole	123	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
Dover Sole	124	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
Rex Sole	125	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
Yellowfin Sole	127	---	---	---	---	---	0.32	0.27	0.27	0.22	---	0.18	---
Greenland Turbot	134	---	---	---	---	---	0.32	0.27	0.27	0.22	---	---	---
Thornyhead Rockfish	143	---	0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25	---	---	---
Sculpins	160	---	---	---	---	---	---	---	---	---	---	---	---
Atka Mackerel	193	---	---	---	---	---	---	---	---	---	---	0.15	---

Pollock	270	---	0.15	---	---	---	0.35	0.30	0.30	0.21	0.16	0.16[1] 0.17[2]	0.22
Smelts	510	---	---	---	---	---	---	0.38	---	---	---	---	---
Eulachon	511	---	---	---	---	---	---	0.38	---	---	---	---	---
Capelin	516	---	---	---	---	---	---	---	---	---	---	---	---
Sharks	689	---	---	---	---	---	---	0.30	0.30	0.25	---	---	---
Skates	700	---	---	---	---	---	---	---	---	---	---	---	---
Sablefish	710	---	---	0.05	---	---	0.35	0.30	0.30	0.25	---	---	---
Octopus	870	---	---	---	---	---	---	---	---	---	---	---	---
Squid	875	---	---	---	---	---	---	---	---	---	---	---	---
Rockfish	---	---	0.15	0.05	0.05	0.10	0.40	0.30	0.33	0.25	---	---	---
Conversion Rates to Net Weight for PACIFIC HALIBUT	200	---	—	—	---	---	---	---	---	---	---	---	---

FMP Species	Species Code	Product Code							
		32 Meal	33 Oil	34 Milt	35 Stomachs	36 Mantles	37 Butterfly Backbone Removed	88, 89 Infested or Decomposed Fish	98, 99 Discards
Pacific Cod	110	0.17	---	---	---	---	0.43	0.00	1.00
Arrowtooth Flounder	121	0.17	---	---	---	---	---	0.00	1.00
Flathead Sole	122	0.17	---	---	---	---	---	0.00	1.00
Rock Sole	123	0.17	---	---	---	---	---	0.00	1.00
Dover Sole	124	0.17	---	---	---	---	---	0.00	1.00
Rex Sole	125	0.17	---	---	---	---	---	0.00	1.00
Yellowfin Sole	127	0.17	---	---	---	---	---	0.00	1.00
Greenland Turbot	134	0.17	---	---	---	---	---	0.00	1.00
Thornyhead Rockfish	143	0.17	---	---	---	---	---	0.00	1.00
Sculpins	160	0.17	---	---	---	---	---	0.00	1.00
Atka Mackerel	193	0.17	---	---	---	---	---	0.00	1.00
Pollock	270	0.17	---	---	---	---	0.43	0.00	1.00
Smelts	510	0.17	---	---	---	---	---	0.00	1.00
Eulachon	511	0.17	---	---	---	---	---	0.00	1.00
Capelin	516	0.17	---	---	---	---	---	0.00	1.00
Sharks	689	0.17	---	---	---	---	---	0.00	1.00
Skates	700	0.17	---	---	---	---	---	0.00	1.00
Sablefish	710	0.17	---	---	---	---	---	0.00	1.00
Octopus	870	0.17	---	---	---	0.85	---	0.00	1.00
Squid	875	0.17	---	---	---	0.75	---	0.00	1.00
Rockfish	---	---	---	---	---	---	---	0.00	1.00
Conversion Rates to Net Weight for PACIFIC HALIBUT	200	---	---	---	---	---	---	0.00	0.75

[1]Standard pollock surimi rate during January through June
[2]Standard pollock surimi rate during July through December.

Notes: To obtain round weight of groundfish, divide the product weight of groundfish by the table PRR.
To obtain IFQ net weight of Pacific halibut, multiply the product weight of halibut by the table conversion rate.
To obtain round weight from net weight of Pacific halibut, divide net weight by 0.75 or multiply by 1.33333.

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