

domestic vessels is correlated in part with the relocation of large cannery operations. Currently, there are no domestic deliveries of raw tuna to canneries in California.

NMFS compared the effects of the bluefin tuna restrictions imposed by this rule to a no action alternative. Under the no action alternative, there would be no change to current regulations, which do not limit U.S. commercial catches of Pacific bluefin tuna in the IATTC Convention Area. Based on recent Pacific bluefin tuna catch data and expected future trends, it is unlikely that any benefit to U.S. commercial fisheries would be gained from not implementing Resolution C-12-09 because the catch limit is not expected to be reached. However, failing to adopt this rule would result in the United States not satisfying its international obligations as a member of the IATTC. Furthermore, implementing Resolution C-12-09 could benefit the conservation of Pacific bluefin tuna by limiting catches.

#### Small Entities Compliance Guide

The Compliance Guide for this action is available via the Federal e-Rulemaking portal, at <http://www.regulations.gov>, and is also available from the Regional Administrator, Rodney R. McInnis, NMFS Southwest Regional Office, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

#### List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: May 30, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

#### PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. The authority citation for 50 CFR part 300 continues to read as follows:

**Authority:** 16 U.S.C. 951–961 et seq.

■ 2. In § 300.24, a new paragraph (u) is added to read as follows:

#### § 300.24 Prohibitions.

\* \* \* \* \*

(u) Target or retain Pacific bluefin tuna in the IATTC Convention Area by

any United States vessel engaged in commercial fishing after the dates specified by the Regional Administrator's notification of closure issued under § 300.25 (h).

■ 3. In § 300.25, a new paragraph (h) is added to read as follows:

#### § 300.25 Eastern Pacific fisheries management.

\* \* \* \* \*

(h) *Bluefin tuna commercial catch limits in the eastern Pacific Ocean.* (1) After the dates specified in a notice published by Regional Administrator in the **Federal Register**, a United States vessel engaged in commercial fishing may not target or retain bluefin tuna in the Convention Area for the remainder of the calendar year. NMFS will publish such a notice prohibiting further targeting and retention of Pacific bluefin tuna on the projected dates for the remainder of 2013 when 3,295 metric tons or more have been harvested in 2013 by the commercial fishing vessels of all IATTC member countries and cooperating non-member countries. This prohibition will not be effective unless and until the annual commercial harvest of Pacific bluefin tuna by the United States fleet has reached 500 metric tons.

(2) [Reserved]

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 15 CFR Part 902

#### 50 CFR Parts 300 and 679

[Docket No. 120223143-3489-02]

RIN 0648-BB94

#### Amendment 94 to the Gulf of Alaska Fishery Management Plan and Regulatory Amendments for Community Quota Entities

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

**ACTION:** Final rule.

**SUMMARY:** NMFS publishes regulations to implement Amendment 94 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). This final rule amends certain sablefish provisions of the Individual Fishing Quota Program for the Fixed-Gear Commercial Fisheries for Pacific Halibut and Sablefish in Waters in and off Alaska (IFQ Program). Amendment 94

and its implementing regulations revise the vessel use caps applicable to sablefish quota share (QS) held by Gulf of Alaska (GOA) Community Quota Entities (CQEs). This final rule makes the same regulatory revisions to the vessel use caps applicable to halibut QS held by GOA CQEs. In this action, NMFS also revises the IFQ Program regulations to add three eligible communities to the CQE Program; to allow CQEs in International Pacific Halibut Commission regulatory area 3A (Area 3A) to purchase vessel category D halibut QS; to revise CQE annual reporting requirements, including specifying reporting requirements for the charter halibut program; to clarify the CQE floating processor landing reporting requirements; and to consolidate CQE Program eligibility by community in a single table in the regulations.

**DATES:** Effective July 5, 2013.

**ADDRESSES:** Electronic copies of the Regulatory Impact Review (RIR) prepared for Amendment 94 and the changes to the vessel use caps applicable to halibut IFQ derived from CQE QS, the RIR prepared for the regulatory amendment to add three communities to the list of CQE eligible communities, and the RIR prepared for the regulatory amendment to allow CQEs in Area 3A to purchase vessel category D halibut QS are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Peggy Murphy, (907) 586-7228.

**SUPPLEMENTARY INFORMATION:** This final rule implements Amendment 94 to the FMP and a suite of regulations that modify the GOA CQE Program. NMFS published the Notice of Availability for Amendment 94 in the **Federal Register** on February 22, 2013 (78 FR 12287) with a 60-day comment period that ended April 23, 2013. The Secretary approved Amendment 94 on May 20, 2013 after taking into account public comments, and determining that Amendment 94 is consistent with the FMP, the Magnuson-Stevens Fishery Conservation and Management Act

(Magnuson-Stevens Act), and other applicable law. NMFS published a proposed rule for Amendment 94 in the **Federal Register** on March 6, 2013 (78 FR 14490). The 30-day comment period on the proposed rule ended on April 5, 2013. NMFS received three comment letters on the proposed rule. A summary of these comments and NMFS' responses are provided in the "Comments and Responses" section of this preamble.

A detailed review of this action is provided in the notice of availability for Amendment 94 (78 FR 12287, February 22, 2013) and the proposed rule (78 FR 14490, March 6, 2013) and is not repeated here.

The preamble to this final rule provides a brief review of the regulatory changes made by this final rule to the management of the IFQ and CQE Programs and the annual recordkeeping and reporting requirements for CQEs participating in the IFQ Program, the Charter Halibut Limited Access Permit Program, and the License Limitation Program for GOA Pacific cod.

#### **Background on the IFQ and CQE Program**

The IFQ Program, a limited access privilege program for the commercial fixed-gear halibut fisheries off Alaska and sablefish (*Anoplopoma fimbria*) fisheries in the Exclusive Economic Zone (EEZ) off Alaska, was recommended by the Council in 1992 and approved by NMFS in 1993. Initial implementing rules were published November 9, 1993 (58 FR 59375), and fishing under the IFQ Program began on March 15, 1995. The IFQ Program limits access to the halibut and sablefish fisheries to those persons holding QS in specific management areas. The IFQ Program for the sablefish fishery is implemented by the FMP and Federal regulations at 50 CFR part 679 under the authority of the Magnuson-Stevens Act. The IFQ Program for the halibut fishery is implemented by Federal regulations at 50 CFR part 679 under the authority of the Northern Pacific Halibut Act (Halibut Act). A comprehensive explanation of the IFQ Program can be found in the final rule implementing the program (58 FR 59375, November 9, 1993).

Since the inception of the IFQ Program, many residents of Alaska's smaller remote coastal communities who held QS have transferred their QS to non-community residents or moved out of the smaller coastal communities. As a result, the number of resident QS holders has declined substantially in most of the GOA communities with IFQ Program participants. This transfer of

halibut and sablefish QS and the associated fishing effort from the GOA's smaller remote coastal communities has limited the ability of residents to locally purchase or lease QS and has reduced the diversity of fisheries to which fishermen in remote coastal communities have access. The ability of fishermen in a remote coastal community to purchase QS or maintain existing QS may be limited by a variety of factors both shared among and unique to each community. Although the specific causes for decreasing QS holdings in a specific community may vary, the net effect is overall lower participation by residents of these communities in the halibut and sablefish IFQ fisheries. The substantial decline in the number of resident QS holders and the total amount of QS held by residents of remote coastal communities may have aggravated unemployment and related social and economic conditions in those communities.

The Council recognized that a number of remote coastal communities were struggling to remain economically viable. The Council developed the CQE Program to provide these communities with long-term opportunities to access the halibut and sablefish resources. The Council recommended the CQE Program as an amendment to the IFQ Program in 2002 (Amendment 66 to the FMP), and NMFS implemented the program in 2004 (69 FR 23681, April 30, 2004).

The CQE Program allows a distinct set of remote coastal communities in the GOA that met historic participation criteria in the halibut and sablefish fisheries to purchase and hold catcher vessel halibut QS in halibut Areas 2C, 3A, and 3B, and catcher vessel sablefish QS in the GOA. The communities are eligible to participate in the CQE Program once they are represented by a NMFS-approved non-profit entity called a CQE. The CQE is the holder of the QS and is issued the IFQ annually by NMFS. With certain exceptions, the QS must remain with the CQE. This program structure creates a permanent asset for the community to use. The structure promotes community access to QS to generate participation in, and fishery revenues from, the commercial halibut and sablefish fisheries.

Once the CQE holds QS, the CQE can lease the annual IFQ resulting from the CQE-held QS to individual community residents. The CQE Program also promotes QS ownership by individual community residents. Individuals who lease annual IFQ from the CQE could use IFQ revenue to purchase their own QS. The Council believed, and NMFS agrees, that both the CQE and non-CQE-

held QS are important in terms of providing community residents fishing access that promotes the economic health of communities.

Since the CQE Program began, NMFS has implemented regulations that authorize the allocation of limited access fishing privileges for the guided sport halibut fishery and the GOA groundfish fishery for Pacific cod, to be allotted to select communities that are eligible to form a CQE. For the guided sport halibut fishery, the Council recommended and NMFS authorized certain communities in Southeast Alaska and Southcentral Alaska, Areas 2C and 3A, to request and receive a limited number of charter halibut permits, and designate a charter operator to use a community charter halibut permit to participate in the charter halibut fisheries (75 FR 554, January 5, 2010). The Council recommended, and NMFS approved and implemented, Amendment 86 to the FMP to authorize CQEs representing certain communities in the Central and Western GOA to request and receive a limited number of Pacific cod endorsed non-trawl groundfish License Limitation Program (LLP) licenses and assign those LLP licenses to specified users and vessels operating in those CQE communities (76 FR 15826, March 22, 2011). The Council and NMFS wanted to enhance access to the groundfish and halibut fisheries and generate revenues for communities. Furthermore, the Council and NMFS wanted to provide for direct participation by individuals residing in, or operating out of, CQE communities. A description of the specific rationale and criteria considered by the Council and NMFS when authorizing these additional fishery access opportunities to CQEs are provided in the final rules implementing these programs and are not repeated here (75 FR 554, January 5, 2010; 76 FR 15826, March 22, 2011). Generally, the Council chose to rely on the criteria defined under Amendment 66 to determine the subsets of coastal communities that may benefit from participation opportunities in the guided sport halibut and GOA Pacific cod fisheries.

#### **Actions Implemented by This Rule**

This final rule implements four separate actions: (1) Revises the vessel use cap applied to sablefish QS held by GOA CQEs (Amendment 94) and to halibut QS held by CQEs; (2) adds three communities to the list of CQE-eligible communities; (3) allows CQEs in Area 3A to purchase halibut vessel category D QS; and (4) adds and updates annual recordkeeping and recording

requirements for CQEs participating in limited access programs for charter halibut fisheries and the GOA Pacific cod endorsed non-trawl groundfish fisheries. Action 1, as it relates to sablefish, implements the GOA FMP. Action 1, as it relates to halibut, and actions 2 through action 4, amend the IFQ Program and CQE Program regulations.

The four actions are described below.

*Action 1: Revise Vessel Use Cap for Sablefish (Amendment 94) and Halibut*

Action 1 implements the GOA FMP and amends Federal regulations at § 679.42(h)(1)(ii) and (h)(2)(ii) to make the vessel use caps applicable to vessels fishing either sablefish or halibut IFQ derived from CQE-held QS similar to those applicable to vessels fishing sablefish or halibut derived from non-CQE-held QS. This regulatory revision is intended to provide community residents with additional access to vessels to fish IFQs leased from CQEs and may enable more CQEs and eligible community residents to participate in the IFQ Program.

Under this final rule, IFQ derived from non-CQE-held QS is excluded from the 50,000 pound vessel use cap. Only IFQ derived from CQE-held QS will count towards the vessel use cap. In effect, the following annual vessel use caps will apply to all vessels harvesting IFQ: No vessel can be used to harvest (1) more than 50,000 pounds (22.7 mt) of halibut or sablefish IFQ leased from a CQE, and (2) more halibut or sablefish IFQ than the IFQ Program overall vessel use caps. The IFQ Program halibut vessel use caps will remain at 1 percent of the Area 2C halibut IFQ total catch limit and 0.5 percent of the combined halibut total catch limits in all halibut regulatory areas off Alaska (Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E). The IFQ Program sablefish vessel use caps will remain at 1 percent of the Southeast sablefish IFQ total allowable catch (TAC) and 1 percent of the combined sablefish TAC in all sablefish regulatory areas off Alaska (GOA and BSAI).

Under Action 1, if, during any fishing year, a vessel is used to harvest halibut IFQ or sablefish IFQ derived from CQE-held QS and non-CQE-held QS, the harvests of IFQ derived from the non-CQE-held QS will not accrue against either the halibut 50,000-pound vessel use cap or the sablefish 50,000-pound vessel use cap for IFQ leased from a CQE. However, the harvests of halibut and sablefish IFQ derived from all sources will accrue against the overall vessel use caps. A vessel cannot use more than 50,000 pounds of halibut IFQ and 50,000 pounds of sablefish IFQ

derived from QS held by a CQE during the fishing year. A vessel can be used to harvest additional IFQ from non-CQE-held QS up to the overall vessel use caps applicable in the IFQ Program, if the overall vessel use caps are greater than 50,000 pounds. If the vessel use caps in the IFQ Program are lower than 50,000 pounds in a given year, then the lowest vessel use cap will apply. For example, in the Area 2C halibut fishery in 2013, the overall vessel use cap for the IFQ Program of 1 percent of the Area 2C halibut IFQ total catch limit was 29,700 pounds. This 29,700-pound limit is more restrictive than the 50,000-pound vessel use cap for IFQ leased from a CQE, as proposed under Action 1. Alternatively, for Areas 3A and 3B, the 50,000-pound vessel use cap for halibut IFQ derived from CQE-held QS is more restrictive in 2013 because the overall vessel use cap of 0.5 percent of the combined halibut total catch limits in all halibut regulatory areas was 109,054 pounds.

The final rule is expected to provide additional opportunities for a CQE to lease IFQ to community residents, as the pool of potential resident applicants should increase if there is a larger pool of potential vessels from which residents can fish CQE-leased IFQ. CQEs and community residents leasing IFQ from CQEs may benefit from an increase in available vessels that will be able to use additional CQE-leased IFQ onboard. The revision will increase a vessel's overall IFQ use cap. The resulting increase in harvesting opportunity could benefit CQE communities through increases in revenues and CQE purchases of QS. Such resources are important for CQE communities to develop short and longer term financial and fishery business plans.

*Action 2: Add Three CQE Communities*

Action 2 of this final rule adds the communities of Game Creek and Naukati Bay in Area 2C, and Cold Bay in Area 3B to the list of communities that are eligible to participate in the GOA CQE Program. In establishing the CQE Program, the Council adopted a specific list of eligible communities to limit entry of new communities into the CQE Program. A community not specifically designated on the list of communities adopted by the Council may apply directly to the Council to be included. In this event, the Council may modify the list of eligible communities through a regulatory amendment approved by the Secretary.

The communities of Game Creek and Naukati Bay petitioned the Council in March 2010 to be added to the list of CQE-eligible communities. Upon

receiving the petitions from Game Creek and Naukati Bay, the Council reviewed all communities that are located on the coast of Areas 2C, 3A, or 3B. The Council and NMFS found the community of Cold Bay eligible, and the city of Cold Bay agreed to represent the community in approval of a CQE. The Council evaluated each of the three communities with respect to the CQE qualification criteria and determined they would be eligible to participate as CQE communities. The Council recommended that the communities be added to the list of eligible CQE communities in Table 21 to part 679. This final rule revises Table 21 to part 679 to add the communities of Game Creek, Naukati Bay and Cold Bay as eligible to participate in the CQE Program.

Each of the three eligible communities will need to meet applicable requirements to participate in the CQE Program. Each of the three communities will need to form a new (or use an existing) qualified non-profit entity to represent the eligible community as a CQE, as required by regulations at § 679.41(l). Once the non-profit entity is formed, it must have written approval from the governing body of the community to submit an application to NMFS for review and approval to participate in the CQE Program. Upon approval by NMFS, the non-profit entity becomes a CQE and is permitted to purchase and hold halibut and sablefish QS on behalf of the community. The CQEs representing Game Creek and Naukati Bay will be eligible to purchase halibut catcher vessel QS in Area 2C and Area 3A, and sablefish catcher vessel QS in the GOA (Southeast, West Yakutat, Central Gulf and Western Gulf). The CQE representing Cold Bay will be eligible to purchase halibut catcher vessel QS in Area 3A and Area 3B, and GOA sablefish catcher vessel QS.

The Council also reviewed these three communities with respect to eligibility criteria for the other limited access programs for which the existing CQEs are eligible: the charter halibut limited access program and the LLP for GOA groundfish. The Council determined that the communities of Naukati Bay and Game Creek meet the regulatory criteria to be eligible to participate as CQE communities in the charter halibut limited access program (75 FR 554, January 5, 2010). The Council determined the community of Cold Bay is not eligible because it is located in the Alaska Peninsula regulatory area, Area 3B. Only CQEs representing certain communities in Southeast Alaska and Southcentral Alaska, Areas 2C and 3A, are allowed to request and receive a

limited number of charter halibut permits. The CQEs representing Game Creek and Naukati Bay can request up to four charter halibut permits endorsed for Area 2C. Four is the maximum number of charter halibut permits that CQE communities located in Area 2C may request.

The Council also determined the community of Cold Bay is eligible to participate as a CQE community in the GOA Pacific cod LLP. Naukati Bay and Game Creek are not eligible to participate in the GOA Pacific cod LLP because they are located in Southeast Alaska and the LLP affects the Western and Central GOA. Cold Bay can have its CQE request Pacific cod endorsed non-trawl groundfish LLP licenses as implemented by NMFS under the GOA fixed gear recency action under GOA FMP Amendment 86 (76 FR 15826, March 22, 2011). Under LLP regulations, the community of Cold Bay is eligible to receive a maximum of two Western GOA LLP licenses with endorsements for Pacific cod and pot gear.

NMFS does not know if this action will result in increased community access to the halibut and sablefish fisheries due to the limited financing options and high quota prices seen in recent years. Council analysis indicated that CQE communities are most likely to participate in the charter halibut limited access program because they will receive a limited number of community charter halibut permits at no cost. Furthermore, the charter halibut permit program does not restrict charter halibut permit use only to CQE community residents. Overall, the Council concluded that adding communities to the CQE Program will have a limited impact on existing users of the halibut and groundfish resources of the GOA, but will provide additional opportunities to the residents of Cold Bay, Game Creek, and Naukati Bay.

*Action 3: Allow CQEs in Area 3A To Purchase Vessel Category D Halibut QS*

Action 3 allows a CQE representing a community or communities in Area 3A to hold QS that is assigned to vessel category D. Action 3 allows some redistribution of vessel category D QS to CQEs, thereby increasing fishing opportunities for CQE communities in Area 3A and for the owners of the small category D catcher vessels they may use. Vessel category D QS is generally the least expensive category of halibut QS because non-CQE IFQ derived from category D QS can only be used on the smallest category of catcher vessel. It is often purchased and used by smaller operations or new entrants. Based on public testimony received from

residents of communities located in Area 3A and its review of the CQE Program, the Council determined that additional CQEs in Area 3A could participate in the CQE Program if they were eligible to purchase vessel category D halibut QS.

Action 3 has three provisions that allow CQEs representing communities in Area 3A to hold a limited amount of vessel category D halibut QS in Area 3A as described in the preamble for the proposed rule (78 FR 14490, March 6, 2013). No change to Area 2C is made by this final rule.

The first provision implemented by this final rule requires that CQEs that purchase and hold Area 3A, vessel category D, QS, fish the annual halibut IFQ on category D vessels, which are vessels less than or equal to 35 ft. length overall (LOA). These less than 35 ft. LOA vessels are typically used by an entry-level participant and by most residents in Area 3A communities.

The second provision of this action caps the purchase of vessel category D QS by eligible Area 3A CQEs at 1,223,740 units (132,293 pounds in 2010). The new cap equals the number of vessel category D QS units initially issued to individual residents of Area 3A CQE communities. If Area 3A CQE communities purchase sufficient QS to reach the cap, then NMFS will notify Area 3A CQEs that no more vessel category D QS can be transferred, and further transfers will be prohibited by NMFS. The Council recommended this limit to provide opportunities for CQEs to hold an amount of vessel category D QS up to the amount historically held by CQE residents. However, the cap amount does not significantly expand the total holdings of vessel category D QS in CQE communities or significantly increase potential competition for vessel category D QS between non-CQE and CQE QS holders.

The third provision of this action allows a CQE to purchase any size block of vessel category D halibut QS in Area 3A. A block is a consolidation of QS units that may not be divided. The IFQ Program initially issued QS in blocks to address various problems. Most initially issued QS that resulted in less than the equivalent of 20,000 pounds (9 mt) of IFQ (in 1994 pound equivalents) was "blocked," that is, issued as an inseparable unit. Subsequent amendments to the IFQ Program created a variety of block sizes that were available for transfer. One of the primary purposes of QS blocks and the amendments to the block provisions was to conserve small blocks of QS that could be purchased at a relatively low cost by crew members and new entrants

to the IFQ fisheries. As the experience of these fishermen increased and the size of their fishing operations grew, larger amounts of QS were needed to accommodate this growth. The method of a "sweep-up" was introduced to allow very small blocks of QS to be permanently consolidated so as to be practical to fish without exceeding block use caps. Over time, the Council and NMFS made moderate increases in the sweep-up levels to allow greater amounts of QS to be swept-up into larger amounts that could be fished more economically.

Prior to this final rule, CQEs were prohibited from purchasing a halibut QS block in Area 3A that consists of less than 46,520 QS units. The majority of vessel category D halibut QS available in Area 3A is in small blocks less than or equal to the current sweep-up limit of 46,520 QS units. At the time of analysis (2010), 10 percent of the Area 3A, vessel category D, halibut QS was unblocked, 28 percent was blocked at levels greater than the sweep-up limit (large blocks), and 62 percent was blocked at levels less than or equal to the sweep-up limit (small blocks). The Council reviewed these data and determined that regulations requiring CQEs to use unblocked QS and large blocks of QS limited the opportunity for CQEs in Area 3A to purchase vessel category D QS. CQEs have few opportunities to purchase vessel category D QS from residents of CQE communities who are either retiring out of the fishery or transitioning to a different category of QS. Therefore, the Council recommended the provision implemented by this final rule to allow CQEs to purchase any size block of vessel category D halibut QS in Area 3A.

The primary effect of the three provisions implemented by this action on existing IFQ and CQE Program participants will be the potential for greater competition in the market for purchasing vessel category D halibut QS, which could result in a higher price. While this potential for competition affects all current and potential QS holders, including resident fishermen of CQE communities, the impacts of the action on all IFQ Program participants will be limited by the total amount of vessel category D halibut QS available for sale and the extent that CQEs are capable of purchasing vessel category D QS in Area 3A. Given current financing options to secure funding for a QS purchase and the trend of reduced rates of halibut QS transfers, the Council and NMFS could not determine through the analysis of this action whether allowing CQEs to access vessel category D QS in Area 3A will have an impact

on the amount of vessel category D QS transfers or the overall market price for the purchase of vessel category D QS. While CQEs will likely continue to have difficulty in funding the purchase of QS, this action will potentially provide more opportunity for communities to participate in the halibut QS market.

#### *Action 4: Technical Revisions to Recordkeeping and Reporting*

Action 4 amends CQE recordkeeping and reporting requirements, clarifies CQE Program eligibility for individual communities, and corrects minor errors in current program regulations.

#### **Annual Reporting**

When the Council developed the CQE Program, it recommended that CQEs prepare and submit an annual report to NMFS that described the prior year's business and fishing operations. The annual report requirements capture three performance standards that the Council established for CQEs. The performance standards are (1) equitable distribution of IFQ leases within a community, (2) the use of IFQ by local crew members, and (3) the percentage of IFQ resulting from community-held QS that is fished on an annual basis. A CQE's annual report is used by the Council to measure the CQE's prior year's performance against these standards. These annual reports are used to track the progress of the CQEs and assess whether the CQE issuance of the fishing privileges is meeting the overall goal of the CQE Program.

This action consolidates the CQE annual reporting requirements for all CQE participation in Federal fishery management programs in § 679.5(t), the recordkeeping and reporting regulations. Paragraph (t) describes both general reporting requirements for CQE annual reports and specific reporting requirements for any CQE participating in the IFQ, charter halibut limited access, and LLP programs. The action also revises § 679.4(k), Permits, and § 679.5(l), Recordkeeping and Reporting, to reference the single location for annual reporting regulations at § 679.5(t). Finally, the action adds a CQE annual reporting requirement to the charter halibut limited access program at § 300.67(k)(7). This final rule streamlines regulatory text and provides CQEs with a single reference to determine their annual reporting requirements.

#### **CQE Floating Processor Landing Report Requirements**

This action revises the recordkeeping and reporting regulations at § 679.5(e) for CQE floating processors. Under

Amendment 83 to the GOA FMP, NMFS implemented regulations that allow vessels to receive and process catch harvested by other vessels within the municipal boundaries of CQEs located in the Central and Western GOA (76 FR 74670, December 1, 2011). This action does not modify provisions applicable to the general use of CQE floating processors that were established and described in the final rule implementing Amendment 83, but does clarify specific reporting requirements that must be met. This final rule revises regulations at § 679.5(e)(5) to require CQE floating processors that receive groundfish from catcher vessels to submit a shoreside processor landing report. In addition, the definition of a mothership at § 679.2(3), which is specific to CQE floating processors, is no longer needed and is removed with this final rule.

#### **Modify Table 21 to Part 679**

This action makes three modifications to Table 21 to part 679 by adding column headings to describe the management areas where CQE Program communities may use halibut and sablefish. The preambles to the proposed and final rules for GOA Amendment 66 describe the specific communities that may use halibut and sablefish IFQ (proposed rule: 68 FR 59564, October 16, 2003; final rule: 69 FR 23681, April 30, 2004). Under GOA Amendment 66, the Council allowed a distinct set of 42 remote coastal communities with historic participation in the halibut and sablefish fisheries to purchase and hold halibut QS in halibut regulatory Areas 2C, 3A, and 3B of the GOA and sablefish QS in the Southeast and Southcentral Alaska. The distinction between communities that may lease halibut IFQ in Area 3A as compared to Area 3B is not clear in the original table. As a result, this final rule modifies Table 21 to part 679 to clearly delineate which communities may lease halibut IFQ in Areas 3A and 3B. This modification is needed to accurately describe community eligibility to lease halibut QS by halibut IFQ regulatory area and eliminate potential confusion by the regulated public.

This final rule also modifies Table 21 by adding a column to specify the CQE communities in the GOA that are eligible to lease sablefish IFQ to community residents.

A third modification implemented by this final rule adds columns to Table 21 to list the maximum number of charter halibut limited access permits and the halibut IFQ regulatory area of the charter halibut limited access permits that may be granted to CQEs representing specific communities. The

halibut charter moratorium program (75 FR 554, January 5, 2010) issued a limited number of charter halibut permits to each CQE representing a community in Area 2C and Area 3A that meets specific criteria denoting underdeveloped charter halibut ports. Under this final rule, Table 21 lists the maximum number of charter halibut limited access permits that may be issued in halibut IFQ regulatory Area 2C and Area 3A by an eligible community.

The three modifications to Table 21 implemented by this rule will assist CQEs and other stakeholders in referencing fishing program eligibility by CQE community.

#### **Remove Table 50 to Part 679**

This final rule incorporates the information previously located in Table 50 to part 679 and moves it into Table 21. Table 50 originated as part of Amendment 86 to the FMP to modify the License Limitation Program (LLP) for groundfish fisheries (76 FR 15826, March 22, 2011). Amendment 86 authorized CQEs representing certain communities in the Central and Western GOA to request and receive a limited number of Pacific cod endorsed non-trawl groundfish LLP licenses and assign those LLP licenses to specified users and vessels operating in those CQE communities. Combining Table 21 and Table 50 consolidates regulations describing each CQE community's eligibility to participate in Federal fishery management programs in the GOA. The revised Table 21 clearly defines each CQE community's opportunities and removes duplicate information currently contained in Table 50. CQEs and other stakeholders will be able to reference Table 21 and efficiently locate all the fishing programs for which a specific CQE community is eligible.

#### **Comments and Responses**

The proposed rule for this action was published in the **Federal Register** on March 6, 2013 (78 FR 14490). NMFS received three comment letters for the proposed rule. One comment letter did not directly address Amendment 94 or the proposed rule; rather, the commenter provided general comments related to the Federal government's management of marine resources. Because they do not address the amendment or proposed rule, NMFS does not respond to those comments in this final rule. A second commenter was in favor of the rule because it will promote better monitoring and reporting of harvests. The third comment letter was received from a fishing industry representative who supported actions 1

through 3 as proposed. However, the fishing industry representative suggested three modifications to the proposed regulations under action 4 for CQE annual reporting. A summary of these four unique comments and NMFS' responses follow.

*Comment 1:* I support this rule because it will improve NOAA's ability to monitor harvests. This will benefit fish stocks in Alaska.

*Response:* NMFS acknowledges the comment.

*Comment 2:* The proposed rule would require CQEs to report each set of ports from which a vessel using a charter halibut held by the CQE departed and to which it returned, and the total number of trips to occur to and from each set of ports. This reporting requirement is burdensome on CQEs because the information would need to be collected at the end of the fishing season when it is difficult to interface with the CQE permit holder. Moreover, this information is already compiled in the state charter operator's logbook.

*Response:* NMFS proposed to require CQEs to provide information in their annual reports for each set of ports from which the vessel departed and to which it returned, and the total number of trips to occur to and from each set of ports for charter halibut permits, because the information is not compiled elsewhere. Currently, charter operators record the community or port where each charter fishing trip ended in the Saltwater Charter Logbook administered by the Alaska Department of Fish and Game. The community or port of departure is not recorded in the Saltwater Charter Logbook. Therefore, NMFS will require the complete set of charter halibut permit use information. The proposed reporting requirement is consistent with the goals of the charter halibut limited access program and is necessary for NMFS and the Council to review and evaluate the use of charter halibut permits held by CQEs.

NMFS considers that it is feasible and a reasonable request that CQEs obtain charter halibut permit use information, including each set of ports from which the vessel departed and to which it returned, and the total number of trips to occur to and from each set of ports. A CQE can establish that persons using a charter halibut permit held by the CQE will provide this information as a condition of permit use. Additionally, annual reports are due January 31 for the prior calendar year, which provides sufficient time between the end of the fishing season and the report deadline for the CQE charter halibut permit user to submit required port data to the CQE.

For these reasons, this final rule requires CQEs to report each set of ports from which the vessel departed and to which it returned, and the total number of trips to occur to and from each set of ports in the CQE annual report for charter halibut permits.

*Comment 3:* Remove the proposed requirement for CQEs to report the business address of each person employed as a crew member on each vessel used to harvest IFQ derived from QS held by the CQE. Since the CQE Program was implemented, it has proven difficult to obtain address information for IFQ crew members after the fishing season is completed. Generally, a crew member's name and residency may be the only information a CQE can obtain. The CQE should only be required to provide the name and residency of crew members employed on each vessel used to harvest IFQ derived from QS held by the CQE.

*Response:* NMFS agrees. The collection of business address information from an IFQ crew member is not essential for the Council to assess whether the issuance of the fishing privileges to CQEs is meeting the overall goal of the CQE Program. This final rule requires CQEs to report crew member name, and the city and state of residence in the CQE annual report for participation in the IFQ Program. NMFS believes this reporting requirement maintains the Council's objectives for the annual report by providing information on the residency of crew members without imposing burdens on the CQE to obtain a business address for each crew member.

*Comment 4:* We suggest removing the annual report requirement for a description of the efforts by the CQE to ensure crew members onboard the vessels authorized to harvest LLP groundfish using one or more LLP groundfish licenses held by the CQE are residents of the eligible community. A report on these efforts is outside the scope of the Council's intent when granting a LLP groundfish license to a CQE community because no requirement exists to ensure that crew members onboard the vessel authorized to harvest LLP groundfish were community residents.

*Response:* NMFS agrees. The final rule implementing Amendment 86 to the GOA FMP (76 FR 15826, March 22, 2011) required that CQEs provide information in an annual report describing the number and residency of crew employed on a vessel using the LLP license held by the CQE. The commenter is correct that Amendment 86 did not implement a requirement for CQEs to ensure crew members onboard

vessels authorized to harvest LLP groundfish using LLP groundfish license held by the CQE are residents of the eligible community. NMFS did not intend to add annual reporting requirements for CQE participation in the LLP program with this action. Therefore, this final rule revises the proposed rule as suggested by the commenter and does not include a requirement for the CQE to describe its efforts to ensure crew members onboard the vessel using the LLP are residents of the eligible community. This final rule retains the requirement for CQEs to report the number and city and state residency of crew employed on a vessel using an LLP held by the CQE, as required by the final rule implementing Amendment 86 and as suggested by the commenter.

This final rule also revises the proposed regulation requiring CQEs to report the business address of each crew member employed on a vessel using an LLP held by the CQE in the annual report. As described in the response to comment 3, collection of business address information for a crew member in the annual reports is not essential for the Council to evaluate CQE participation in the LLP program.

#### **Summary of the Changes From Proposed to Final Rule**

NMFS made changes from the proposed to final rule in response to public comments. NMFS made three changes to the CQE annual reporting requirements that are discussed in the responses to comments 3 and 4.

- NMFS changed the proposed regulations for the IFQ program reporting requirements at § 679.5(t)(5)(v)(I) to remove the proposed requirement for a CQE to report the business address of each person employed as a crew member on a vessel used to harvest IFQ derived from QS held by the CQE.
- NMFS changed the proposed regulations for the LLP program reporting requirements at § 679.5(t)(5)(vi)(H) to remove the proposed requirement for a CQE to describe its efforts to ensure crew members onboard a vessel authorized to harvest LLP groundfish using one or more LLP groundfish licenses held by the CQE are residents of the eligible community.
- NMFS changed the proposed regulations at § 679.5(t)(5)(vi)(I) to remove the proposed requirement for a CQE to report the business address of each person employed as a crew member on a vessel authorized to harvest LLP groundfish using one or

more LLP groundfish licenses held by the CQE.

Regulations at 15 CFR 902.1(b) are amended to display the control numbers assigned by the Director of the Office of Management and Budget (OMB) for the collections-of-information imposed by this rule. Section 3507(c)(B)(i) of the Paperwork Reduction Act requires that agencies inventory and display a current control number assigned by the Director, OMB, for each agency information collection. 15 CFR 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued.

Under NOAA Administrative Order 205-11, dated December 17, 1990, the under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA.

#### Classification

The Administrator, Alaska Region, NMFS, determined that FMP Amendment 94 is necessary for the conservation and management of the sablefish fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

Regulations governing the U.S. fisheries for Pacific halibut are developed by the International Pacific Halibut Commission (IPHC), the Pacific Fishery Management Council, the North Pacific Fishery Management Council (Council), and the Secretary of Commerce. Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. The proposed action is consistent with the Council's authority to allocate halibut catches among fishery participants in the waters in and off Alaska.

#### Executive Order 12866

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

#### Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the

proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

#### Recordkeeping and Reporting

The final rule would require additional reporting and recordkeeping by CQEs. Specifically, the final rule would require CQEs to add a description of the previous year's business and fishing operations for the charter halibut limited access program to its annual report submitted to NMFS. The reports are currently, and would continue to be, reviewed by NMFS. Information would be released to the Council, if requested, in a manner that is consistent with section 402(b) of the Magnuson-Stevens Act and applicable agency regulations and policies. To improve efficiency and clarity, the CQE activities are being brought together with other CQE forms under one collection.

#### Duplicate, Overlapping, or Conflicting Federal Rules

No Federal rules that might duplicate, overlap, or conflict with these final actions have been identified.

#### Collection-of-Information

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB. The collections are listed below by OMB control number.

#### OMB Control No. 0648-0272

Two forms (Application for a Non-profit Corporation to be Designated as a Community Quota Entity (CQE) and Application for Transfer of QS/IFQ to or from a CQE) are removed from this collection and are placed in the new OMB Control No. 0648-0665 collection (see below). No changes are made to the forms.

#### OMB Control No. 0648-0334

Three elements (Application for a CQE to Receive a Non-trawl Groundfish LLP License; Letter of Authorization for Persons Using LLP Licenses Assigned to a CQE; and CQE Annual Report) are removed from this collection and are placed in the new OMB Control No. 0648-0665 collection (see below). No changes are made to the elements.

#### OMB Control No. 0648-0665

Public reporting burden per response is estimated to average 200 hours for Application to become a Community Quota Entity (CQE); two hours for Application for Transfer of QS/IFQ to or

from a CQE; 20 hours for Application for a CQE to Receive a Non-trawl Groundfish LLP License; 40 hours for CQE Annual Report; and one hour for a CQE Letter of Authorization.

The estimated public reporting burden includes 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 these burden estimates, or any other aspect of these data collections, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA\_Submission@omb.eop.gov*, or by fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall 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.

#### List of Subjects

##### 15 CFR Part 902

Reporting and recordkeeping requirements.

##### 50 CFR Part 300

Fisheries, Reporting and recordkeeping requirements.

##### 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: May 30, 2013.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR parts 300 and 679 as follows:

#### TITLE 15—COMMERCE AND FOREIGN TRADE

#### PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

**Authority:** 44 U.S.C. 3501 et seq.

- 2. In § 902.1, in the table in paragraph (b), under the entry "50 CFR:"
- a. Remove entry for "300.67(h), (i), (k), and (l)."
  - b. Add an entry in alphanumeric order for "300.67(h) and (i)."

- c. Add an entry in alphanumeric order for “300.67(k) and (l);”
- d. Revise the entry for “679.4(k);”
- e. Remove entry for “679.4(l);”
- f. Add an entry in alphanumeric order for “679.4(l)(1) through (l)(7);”
- g. Add an entry in alphanumeric order for “679.5(l)(8);”
- h. Add an entry in alphanumeric order for “679.5(t);”
- i. Remove entry for “679.41;”

- j. Add an entry in alphanumeric order for “679.41(a), (b), (c)(1) through (9), (d) through (f), (g)(1) through (4), (h) through (k), and (m);”
- k. Add an entry in alphanumeric order for “679.41(c)(10), (g)(5) through (8), and (l);”
- l. Add an entry in alphanumeric order for “679.42(a)(1)(i) through (ii), (b) through (g), (h)(1), (h)(1)(i), (h)(2), and (h)(2)(i);” and

- m. Add an entry in alphanumeric order for “679.42(a)(2)(iii), (h)(1)(ii), and (h)(2)(ii).”

The additions and revisions read as follows:

**§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

\* \* \* \* \*

(b) \* \* \*

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
* * * * *	* * * * *
50 CFR.	
* * * * *	* * * * *
300.67(h) and (i) .....	-0592
300.67(k) and (l) .....	-0592 and -0665
* * * * *	* * * * *
679.4(k) .....	-0334, -0545, -0565, and -0665
679.4(l)(1) through (l)(7) .....	-0393
679.5(l)(8) .....	-0665
* * * * *	* * * * *
679.5(t) .....	-0665
* * * * *	* * * * *
679.41(a), (b), (c)(1) through (9), (d) through (f), (g)(1) through (4), (h) through (k), and (m) ...	-0272
679.41(c)(10), (g)(5) through (8), and (l) .....	-0272 and -0665
679.42(a)(1)(i) through (ii), (b) through (g), (h)(1), (h)(1)(i), (h)(2), and (h)(2)(i) .....	-0272
679.42(a)(2)(iii), (h)(1)(ii), and (h)(2)(ii) .....	-0272 and -0665
* * * * *	* * * * *

**TITLE 50—WILDLIFE AND FISHERIES**

**PART 300—INTERNATIONAL FISHERIES REGULATIONS**

■ 3. The authority citation for part 300 continues to read as follows:

**Authority:** 16 U.S.C. 773–773k.

■ 4. In § 300.67, revise paragraph (k)(2)(i) and add paragraph (k)(7) to read as follows:

**§ 300.67 Charter halibut limited access program.**

- \* \* \* \* \*
- (k) \* \* \*
- (2) \* \* \*
- (i) For Area 2C: Angoon, Coffman Cove, Edna Bay, Game Creek, Hollis, Hoonah, Hydaburg, Kake, Kasaan, Klawock, Metlakatla, Meyers Chuck, Naukati Bay, Pelican, Point Baker, Port

Alexander, Port Protection, Tenakee, Thorne Bay, Whale Pass.

\* \* \* \* \*

(7) An annual report on the use of charter halibut permits must be submitted by the CQE as required at § 679.5(t) of this title.

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

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

**Authority:** 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447.

**§ 679.2 [Amended]**

- 6. In § 679.2, remove paragraph (3) of the definition for “Mothership.”
- 7. In § 679.4, revise paragraphs (k)(10)(vi)(A), (k)(10)(vi)(C) introductory

text, (k)(10)(vi)(C)(2), (k)(10)(vi)(F)(1), (k)(10)(vi)(F)(2), and (k)(10)(vi)(G) to read as follows:

**§ 679.4 Permits.**

\* \* \* \* \*

(k) \* \* \*

(10) \* \* \*

(vi) \* \* \*

(A) Each CQE that has been approved by the Regional Administrator under the requirements of § 679.41(l)(3) to represent a community listed in Table 21 to part 679 that is eligible for Pacific cod endorsed non-trawl groundfish licenses, may apply to receive the maximum number of groundfish licenses listed in Table 21 to part 679 on behalf of the eligible communities listed in Table 21 to part 679 that CQE is designated to represent. In order to receive a groundfish license, a CQE must submit a complete application for



a groundfish license to the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802. A CQE may not apply for, and may not receive more than the maximum number of groundfish licenses designated in the regulatory area specified for a community as listed in Table 21 to part 679.

(C) A groundfish license approved for issuance to a CQE by the Regional Administrator for a community listed in Table 21 to part 679:

(2) Will have only the regional designation specified for that community as listed in Table 21 to part 679;

(F) NMFS will issue only pot gear Pacific cod endorsements for groundfish licenses with a Western Gulf of Alaska designation to CQEs on behalf of a community listed in Table 21 to part 679.

(2) NMFS will issue either a pot gear or a hook-and-line gear Pacific cod endorsement for a groundfish license with a Central Gulf of Alaska designation to CQEs on behalf of a community listed in Table 21 to part 679 based on the application for a groundfish license as described in paragraph (k)(10)(vi)(B) of this section provided that application is received by NMFS not later than six months after April 21, 2011. If an application to receive a groundfish license with a Central Gulf of Alaska designation on behalf of a community listed in Table 21 to part 679 is received later than six months after April 21, 2011, NMFS will issue an equal number of pot gear and hook-and-line gear Pacific cod endorsements for a groundfish license issued to the CQE on behalf of a community listed in Table 21 to part 679. In cases where the total number of groundfish licenses issued on behalf of a community listed in Table 21 to part 679 is not even, NMFS will issue one more groundfish license with a pot gear Pacific cod endorsement than the number of groundfish licenses with a hook-and-line gear Pacific cod endorsement.

(G) An annual report on the use of Pacific cod endorsed non-trawl groundfish licenses shall be submitted by the CQE as required at § 679.5(t).

■ 8. In § 679.5,  
 ■ a. Remove paragraph (e)(6)(i)(A)(12) and redesignate paragraph (e)(6)(i)(A)(13) as paragraph (e)(6)(i)(A)(12);

■ b. Revise paragraphs (e)(3)(iv)(A), (e)(3)(iv)(B), (e)(5) introductory text, (e)(5)(i) introductory text, (e)(6) introductory text, and (l)(8); and  
 ■ c. Add paragraphs (e)(5)(i)(A)(12) and (t) to read as follows:

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

\* \* \* \* \*

(e) \* \* \*  
 (3) \* \* \*  
 (iv) \* \* \*

(A) *Groundfish shoreside processor, SFP, or CQE floating processor.* If a groundfish shoreside processor, SFP, or CQE floating processor, enter the FPP number.

(B) *Groundfish catcher/processor or mothership.* If a groundfish catcher/processor or mothership, enter the FPP number.

\* \* \* \* \*

(5) *Shoreside processor, SFP, or CQE floating processor landing report.* The manager of a shoreside processor, SFP, or CQE floating processor that receives groundfish from a catcher vessel issued an FFP under § 679.4 and that is required to have an FFP under § 679.4(f) must use eLandings or other NMFS-approved software to submit a daily landing report during the fishing year to report processor identification information and the following information under paragraphs (e)(5)(i) through (iii) of this section:

(i) Information entered for each groundfish delivery to a shoreside processor, SFP, or CQE floating processor. The User for a shoreside processor, SFP, or CQE floating processor must enter the following information (see paragraphs (e)(5)(i)(A) through (C) of this section) for each groundfish delivery (other than IFQ sablefish) provided by the operator of a catcher vessel, the operator or manager of an associated buying station, and from processors for reprocessing or rehandling product into eLandings or other NMFS-approved software:

(A) \* \* \*

(12) If receiving deliveries of groundfish in the marine municipal boundaries of a CQE community listed in Table 21 to this part.

\* \* \* \* \*

(6) *Mothership landing report.* The operator of a mothership that is issued an FFP under § 679.4(b) that receives groundfish from a catcher vessel required to have an FFP under § 679.4 is required to use eLandings or other NMFS-approved software to submit a daily landing report during the fishing year to report processor identification information and the following

information under paragraphs (e)(6)(i) through (iii) of this section:

\* \* \* \* \*

(l) \* \* \*

(8) An annual report on the halibut and sablefish IFQ activity must be submitted by the CQE as required at § 679.5(t).

(t) *Community Entity Quota Program Annual Report—(1) Applicability.* A CQE must submit an annual report on the CQE's administrative activities, business operation, and community fishing activities for each calendar year it holds any of the following: community charter halibut permits as described at § 300.67(k) of this title, halibut and sablefish individual fishing quota (IFQ) and quota shares (QS) as described at § 679.41(l)(3), and community Pacific cod endorsed non-trawl groundfish license limitation program (LLP) licenses as described at § 679.4(k)(10)(vi)(F)(2). The CQE may combine annual reports about its holdings of community charter halibut permits, IFQ, and LLPs in one report. A CQE must submit annual report data for the community charter halibut permit, IFQ, and LLP permits it held during the calendar year. A CQE is not required to submit an annual report for any calendar year in which it did not hold any community charter halibut permits, IFQ, or LLPs.

(2) *Time limits and submittal.* By January 31, the CQE must submit a complete annual report for the prior calendar year to the Regional Administrator, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, and to the governing body of each community represented by the CQE as identified in Table 21 to this part.

(3) *Complete annual report.* A complete annual report contains all general report requirements listed in paragraphs (t)(4)(i) through (t)(4)(iii) of this section and all program specific report requirements applicable to the CQE as described in paragraphs (t)(5)(i) through (t)(5)(iii).

(4) *General report requirements.* Each CQE must report the following information:

(i) The eligible community or communities, represented by the CQE, any new communities, and any withdrawn communities;

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

(iii) Copies of minutes and other relevant decision making documents from all CQE board meetings held during the prior calendar year.

(5) *Program specific report requirements.* Each CQE must report

business operations and fishing activity for the charter halibut permit, IFQ, and LLP programs for each eligible community represented by the CQE.

(i) If a community in Table 21 to part 679 was issued one or more charter halibut permits held on behalf of the community by a CQE, then the CQE must complete paragraphs (t)(5)(iv)(A) through (I) of this section;

(ii) If a community in Table 21 to part 679 leased halibut and sablefish IFQ derived from the QS held on behalf of the community by a CQE, then the CQE must complete paragraphs (t)(5)(v)(A) through (J) of this section; and

(iii) If a community in Table 21 to part 679 was assigned one or more Pacific cod endorsed non-trawl groundfish licenses held on behalf of the community by a CQE, then the CQE must complete paragraphs (t)(5)(vi)(A) through (I) of this section.

(iv) *Charter Halibut Limited Access Program.* For each community represented by the CQE, the program specific report for charter halibut permits held by a CQE, must include:

(A) The total number of charter halibut permits held by the CQE at the start of the calendar year, at the end of the calendar year, and projected to be held in the next calendar year;

(B) A description of the process used by the CQE to solicit applications from persons to use charter halibut permits that the CQE is holding on behalf of the eligible community;

(C) The total number of persons who applied to use one or more charter halibut permits;

(D) Name, business address, city and state, and number of charter halibut permits requested by each person who applied to use a charter halibut permit held by the CQE;

(E) A detailed description of the criteria used by the CQE to distribute charter halibut permits among persons who applied to use one or more charter halibut permits that the CQE is holding on behalf of the eligible community;

(F) For each person issued one or more charter halibut permits held by a CQE, provide their name, business address, city and state, ADF&G logbook number(s), and the number(s) of each charter halibut permits they were authorized to use with the corresponding regulatory area endorsement and angler endorsement;

(G) For each vessel authorized to participate in the charter halibut fishery using one or more charter halibut permits held by the CQE, provide the vessel name, ADF&G vessel registration number, USCG documentation number, length overall, home port and each

charter halibut permits number held by the CQE and used onboard the vessel;

(H) For each vessel authorized to participate in the charter halibut fishery using one or more charter halibut permits held by the CQE, provide each set of ports from which the vessel departed and to which it returned, and the total number of trips that occurred to and from each set of ports when one or more charter halibut permits held by the CQE was used onboard the vessel; and

(I) For each community represented by the CQE, provide any payments made to the CQE for use of the charter halibut permits.

(v) *Individual Fishing Quota Program.* For each community represented by the CQE, the program specific report for halibut IFQ or sablefish IFQ that were derived from QS held by the CQE must include:

(A) The total amount of halibut QS and total amount of sablefish QS held by the CQE at the start of the calendar year, at the end of the calendar year, and projected to be held in the next calendar year;

(B) A description of the process used by the CQE to solicit applications from eligible community residents to use IFQ that is derived from QS that the CQE is holding on behalf of the eligible community;

(C) The total number of community residents who applied to use IFQ derived from QS held by the CQE;

(D) Name, business address, city and state, and amount of IFQ requested by each person who applied to use IFQ derived from QS held by the CQE;

(E) A detailed description of the criteria used by the CQE to distribute IFQ among eligible community residents who applied to use IFQ held by the CQE;

(F) For each person who leased IFQ derived from QS held by the CQE, provide their name, business address, city and state, each IFQ permit number, and the total pounds of halibut IFQ and total pounds of sablefish IFQ they were authorized to use through each IFQ permit number;

(G) For each vessel used to harvest IFQ derived from QS held by the CQE, provide the vessel name, ADF&G vessel registration number, USCG documentation number, length overall, home port, and each IFQ permit number(s) used onboard;

(H) A description of the efforts made by the CQE to ensure crew members onboard the vessels used to harvest the IFQ derived from QS held by the CQE are residents of the CQE eligible community;

(I) Name, resident city and state of each person employed as a crew member on each vessel used to harvest IFQ derived from QS held by the CQE; and

(J) For each community whose residents landed IFQ derived from QS held by the CQE, provide any payments made to the CQE for use of the IFQ.

(vi) *License Limitation Program.* For each community represented by the CQE, the program specific report for GOA Pacific cod endorsed non-trawl groundfish licenses held by a CQE must include:

(A) The total number of LLP groundfish licenses by gear type endorsement held by the CQE at the start of the calendar year, at the end of the calendar year, and projected to be held in the next calendar year;

(B) A description of the process used by the CQE to solicit applications from residents of the eligible community to use LLP groundfish license(s) that the CQE is holding on behalf of the eligible community;

(C) The total number of community residents who applied to use an LLP groundfish license held by the CQE;

(D) Name, business address, city and state, and number of LLP groundfish licenses requested by each person who applied to use a LLP groundfish license held by the CQE;

(E) A detailed description of the criteria used by the CQE to distribute LLP groundfish licenses among eligible community residents who applied to use LLP groundfish licenses held by the CQE;

(F) For each person assigned one or more LLP groundfish licenses held by the CQE, provide their name, business address, city and state, and LLP groundfish license numbers for permits of each gear endorsement type they were authorized to use;

(G) For each vessel authorized to harvest LLP groundfish using one or more LLP groundfish licenses held by the CQE, provide the vessel name, ADF&G vessel registration number, USCG documentation number, length overall, home port, and each LLP groundfish license number used onboard;

(H) Name, resident city and state of each person employed as a crew member on each vessel authorized to harvest LLP groundfish using one or more LLP groundfish licenses held by the CQE; and

(I) For each community whose residents made landings using one or more LLP groundfish licenses held by the CQE, provide any payments made to the CQE for use of the LLP groundfish licenses.

■ 9. In § 679.41, revise paragraphs (c)(10)(ii) and (g)(5) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(10) \* \* \*

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

\* \* \* \* \*

(g) \* \* \*

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

(i) A CQE may not hold QS in halibut IFQ regulatory area 3A that is assigned to vessel category D on behalf of a community that is located in halibut IFQ regulatory areas 2C or 3B as listed in Table 21 to part 679.

(ii) In aggregate, CQEs may not hold an amount of QS in halibut IFQ

regulatory area 3A that is assigned to vessel category D in excess of 1,233,740 QS units.

\* \* \* \* \*

■ 10. In § 679.42, revise paragraphs (a)(2)(iii), (h)(1)(ii), and (h)(2)(ii) to read as follows:

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

(a) \* \* \*

(2) \* \* \*

(iii) IFQ derived from QS held by a CQE may be used to harvest IFQ species from a vessel of any length, with the exception of IFQ derived from QS in IFQ regulatory area 3A that is assigned to vessel category D.

\* \* \* \* \*

(h) \* \* \*

(1) \* \* \*

(ii) No vessel may be used, during any fishing year, to harvest more than

50,000 lb (22.7 mt) of IFQ halibut derived from QS held by a CQE, and no vessel used to harvest IFQ halibut derived from QS held by a CQE may be used to harvest more IFQ halibut than the vessel use caps specified in paragraphs (h)(1) introductory text and (h)(1)(i) of this section.

(2) \* \* \*

(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 lb (22.7 mt) of IFQ sablefish derived from QS held by a CQE, and no vessel used to harvest IFQ sablefish derived from QS and held by a CQE may be used to harvest more IFQ sablefish than the vessel use caps specified in paragraphs (h)(2) introductory text and (h)(2)(i) of this section.

\* \* \* \* \*

■ 11. Revise Table 21 to part 679 to read as follows:

**TABLE 21 TO PART 679—ELIGIBLE COMMUNITIES, HALIBUT IFQ REGULATORY AREA LOCATION, COMMUNITY GOVERNING BODY THAT RECOMMENDS THE CQE, AND THE FISHING PROGRAMS AND ASSOCIATED AREAS WHERE A CQE REPRESENTING AN ELIGIBLE COMMUNITY MAY BE PERMITTED TO PARTICIPATE**

Eligible GOA community	Halibut IFQ regulatory area in which the community is located	Community governing body that recommends the CQE	May lease halibut QS in halibut IFQ regulatory			May lease sablefish QS in sablefish IFQ regulatory areas	Maximum number of CHPs that may be issued in halibut IFQ regulatory		Maximum number of Pacific cod endorsed non-trawl groundfish licenses that may be assigned in the GOA groundfish regulatory area	
			Area 2C	Area 3A	Area 3B		CG, SE, WG, and WY (All GOA)	Area 2C		
						Central GOA			Western GOA	
Akhiok .....	3A	City of Akhiok	.....	X	X	X	.....	7	2	.....
Angoon .....	2C	City of Angoon	X	X	.....	X	4	.....	.....	.....
Chenega Bay	3A	Chenega IRA Village.	.....	X	X	X	.....	7	2	.....
Chignik .....	3B	City of Chignik	.....	X	X	X	.....	.....	3	.....
Chignik Lagoon.	3B	Chignik Lagoon Village Council.	.....	X	X	X	.....	.....	4	.....
Chignik Lake ..	3B	Chignik Lake Traditional Council.	.....	X	X	X	.....	.....	2	.....
Coffman Cove	2C	City of Coffman Cove.	X	X	.....	X	4	.....	.....	.....
Cold Bay .....	3B	City of Cold Bay.	.....	X	X	X	.....	.....	.....	2
Craig .....	2C	City of Craig ...	X	X	.....	X	.....	.....	.....	.....
Edna Bay .....	2C	Edna Bay Community Association.	X	X	.....	X	4	.....	.....	.....
Elfin Cove .....	2C	Community of Elfin Cove.	X	X	.....	X	.....	.....	.....	.....
Game Creek ..	2C	N/A .....	X	X	.....	X	4	.....	.....	.....
Gustavus .....	2C	Gustavus Community Association.	X	X	.....	X	.....	.....	.....	.....
Halibut Cove ..	3A	N/A .....	.....	X	X	X	.....	7	2	.....
Hollis .....	2C	Hollis Community Council.	X	X	.....	X	4	.....	.....	.....
Hoonah .....	2C	City of Hoonah	X	X	.....	X	4	.....	.....	.....
Hydaburg .....	2C	City of Hydaburg.	X	X	.....	X	4	.....	.....	.....
Ivanof Bay .....	3B	Ivanof Bay Village Council.	.....	X	X	X	.....	.....	.....	2
Kake .....	2C	City of Kake ...	X	X	.....	X	4	.....	.....	.....

TABLE 21 TO PART 679—ELIGIBLE COMMUNITIES, HALIBUT IFQ REGULATORY AREA LOCATION, COMMUNITY GOVERNING BODY THAT RECOMMENDS THE CQE, AND THE FISHING PROGRAMS AND ASSOCIATED AREAS WHERE A CQE REPRESENTING AN ELIGIBLE COMMUNITY MAY BE PERMITTED TO PARTICIPATE—Continued

Eligible GOA community	Halibut IFQ regulatory area in which the community is located	Community governing body that recommends the CQE	May lease halibut QS in halibut IFQ regulatory			May lease sablefish QS in sablefish IFQ regulatory areas	Maximum number of CHPs that may be issued in halibut IFQ regulatory		Maximum number of Pacific cod endorsed non-trawl groundfish licenses that may be assigned in the GOA groundfish regulatory area	
			Area 2C	Area 3A	Area 3B		CG, SE, WG, and WY (All GOA)	Area 2C		
						Central GOA			Western GOA	
Karluk .....	3A	Native Village of Karluk.	.....	X	X	X	.....	7	2	.....
Kasaan .....	2C	City of Kasaan	X	X	.....	X	4	.....	.....	.....
King Cove .....	3B	City of King Cove.	.....	X	X	X	.....	.....	.....	9
Klawock .....	2C	City of Klawock.	X	X	.....	X	4	.....	.....	.....
Larsen Bay .....	3A	City of Larsen Bay.	.....	X	X	X	.....	7	2	.....
Metlakatla .....	2C	Metlakatla Indian Village.	X	X	.....	X	4	.....	.....	.....
Meyers Chuck .....	2C	N/A .....	X	X	.....	X	4	.....	.....	.....
Nanwalek .....	3A	Nanwalek IRA Council.	.....	X	X	X	.....	7	2	.....
Naukati Bay .....	2C	Naukati Bay, Inc.	X	X	.....	X	4	.....	.....	.....
Old Harbor .....	3A	City of Old Harbor.	.....	X	X	X	.....	7	5	.....
Ouzinkie .....	3A	City of Ouzinkie.	.....	X	X	X	.....	7	9	.....
Pelican .....	2C	City of Pelican	X	X	.....	X	4	.....	.....	.....
Perryville .....	3B	Native Village of Perryville.	.....	X	X	X	.....	.....	.....	2
Point Baker .....	2C	Point Baker Community.	X	X	.....	X	4	.....	.....	.....
Port Alexander .....	2C	City of Port Alexander.	X	X	.....	X	4	.....	.....	.....
Port Graham .....	3A	Port Graham Village Council.	.....	X	X	X	.....	7	2	.....
Port Lions .....	3A	City of Port Lions.	.....	X	X	X	.....	7	6	.....
Port Protection .....	2C	Port Protection Community Association.	X	X	.....	X	4	.....	.....	.....
Sand Point .....	3B	City of Sand Point.	.....	X	X	X	.....	.....	.....	14
Seldovia .....	3A	City of Seldovia.	.....	X	X	X	.....	7	8	.....
Tatitlek .....	3A	Native Village of Tatitlek.	.....	X	X	X	.....	7	2	.....
Tenakee Springs .....	2C	City of Tenakee Springs.	X	X	.....	X	4	.....	.....	.....
Thorne Bay .....	2C	City of Thorne Bay.	X	X	.....	X	4	.....	.....	.....
Tyonek .....	3A	Native Village of Tyonek.	.....	X	X	X	.....	7	2	.....
Whale Pass .....	2C	Whale Pass Community Association.	X	X	.....	X	4	.....	.....	.....
Yakutat .....	3A	City of Yakutat	.....	X	X	X	.....	7	3	.....

N/A means there is not a governing body recognized in the community at this time. CHPs are Charter halibut permits.

■ 12. Remove and reserve Table 50 to part 679.

[FR Doc. 2013-13196 Filed 6-3-13; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 120718255-3500-02]

RIN 0648-BC38

#### Amendment 4 to the Corals and Reef Associated Plants and Invertebrates Fishery Management Plan of Puerto Rico and the U.S. Virgin Islands; Seagrass Management

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 4 to the Corals and Reef Associated Plants and Invertebrates Fishery Management Plan (FMP) of Puerto Rico and the U.S. Virgin Islands (USVI) (Coral FMP), as prepared and submitted by the Caribbean Fishery Management Council (Council). This final rule removes seagrass species from the Coral FMP. The purpose of this rule and Amendment 4 to the Coral FMP is to address the future management of seagrasses in the U.S. Caribbean exclusive economic zone (EEZ) in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** This rule is effective July 5, 2013.

**ADDRESSES:** Electronic copies of Amendment 4 to the Coral FMP, which include an Environmental Assessment, a Regulatory Flexibility Act analysis, a regulatory impact review, and a fishery impact statement, may be obtained from the Southeast Regional Office Web site at: <http://sero.nmfs.noaa.gov/index.html>.

**FOR FURTHER INFORMATION CONTACT:** Maria del Mar Lopez, Southeast Regional Office, NMFS, telephone: 727-824-5305, or email: [Maria.Lopez@noaa.gov](mailto:Maria.Lopez@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Seagrasses in the U.S. Caribbean EEZ are managed under the Coral FMP. The Coral FMP was prepared by the Council and is implemented under the authority of the

Magnuson-Stevens Act by regulations at 50 CFR part 622.

On February 25, 2013, NMFS published a notice of availability for Amendment 4 and requested comments (78 FR 12703). On March 6, 2013, NMFS published a proposed rule for Amendment 4 to the Coral FMP and requested public comments (78 FR 14503). The proposed rule and Amendment 4 to the Coral FMP outline the rationale for the actions contained in this final rule. Amendment 4 to the Coral FMP was approved by the Secretary of Commerce on May 23, 2013. A summary of the actions implemented by this final rule is provided below.

This final rule removes seagrass species from the Coral FMP. The Council determined that Federal management of these seagrass species is unnecessary because there is no known harvest of seagrasses, and these species occur predominantly in Puerto Rico commonwealth and USVI territorial waters (state waters). In addition, seagrasses are designated as essential fish habitat (EFH) for stocks within the four Council FMPs (Queen Conch Resources of Puerto Rico and the USVI, Reef Fish Fishery of Puerto Rico and the USVI, Spiny Lobster Fishery of Puerto Rico and the USVI, and Coral) and as habitat areas of particular concern (HAPC) within special areas in state waters, and will continue to be protected by these designations.

#### Other Changes Contained in This Final Rule

In 50 CFR part 622, Appendix A, NMFS removes the text regarding aquarium trade species as being in the "data collection" category in the Coral FMP and the Reef Fish Fishery of Puerto Rico and the USVI FMP (Table 1 and Table 2).

NMFS has also determined that the description of waypoints B and C in the Puerto Rico Management Area (in Table 1) and waypoints B and C in the St. Thomas/St. John Management Area (in Table 3), as well as the boundary line that connects these two waypoints, were incorrectly described in the final rule for the 2010 Caribbean ACL Amendment. NMFS removes the description for points B and C in Appendix E, and maintains just the waypoints because they are sufficient descriptions of the boundary in those instances. NMFS also revises the description of the boundary line that connects waypoints B and C in Appendix E to be "the 3-nautical mile Territorial boundary of the St. Thomas/St. John island group" instead of "the EEZ/Territorial boundary," to be

consistent with the Council's intent for the specification of these Caribbean island management areas. Additionally, NMFS has determined that two boundary lines, one in the St. Croix Management Area (in Table 2) and one in the St. Thomas/St. John Management Area (in Table 3), were incorrectly described as the "EEZ/Territorial boundary" and are revised to "International/EEZ boundary." These revisions are consistent with the Council's intent for the specification of these Caribbean island management areas.

#### Comments and Responses

NMFS received a total of three comments on Amendment 4 to the Coral FMP and the proposed rule. A Federal agency had no comments on the actions in Amendment 4 to the Coral FMP. One comment was unrelated to the actions in Amendment 4 to the Coral FMP. The specific comment related to the actions contained in the amendment or the proposed rule is summarized and responded to below.

*Comment:* Seagrasses are important fish breeding habitat and in addition to being protected from harvest, they should also be protected from physical damage (e.g., sand harvesting, anchoring, mooring, traps).

*Response:* NMFS agrees that seagrasses are important fish habitats. However, because there is no known direct harvest of seagrasses and these species occur predominately in state waters, the Council determined that Federal management of these species would serve no useful purpose. That decision does not mean that seagrasses are unprotected. Seagrass habitat is already protected by EFH and HAPC designations in the four Caribbean Fishery Management Council FMPs (Queen Conch Resources of Puerto Rico and the USVI, Reef Fish Fishery of Puerto Rico and the USVI, Spiny Lobster Fishery of Puerto Rico and the USVI, and Coral). This rule will not affect those EFH and HAPC designations. To the extent that seagrasses are present in Federal waters, this habitat is protected by anchoring restrictions in some areas and year-round prohibitions on the use of pots, traps, bottom longlines, gillnets, or trammel nets in Federal closed areas. Other management measures, such as the prohibition on the use of chemicals, plant or plant-derived toxins, and explosives to harvest reef-associated species, as well as restricting to hand-held dip nets and slurp guns the allowable gear for collecting marine aquarium fishes, provide direct and indirect physical benefits to the seagrass