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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 679

[Docket No. 120223143-3156-01]

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: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 94 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP), which would amend 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 proposed implementing regulations would revise the vessel use caps applicable to sablefish quota share (QS) held by Gulf of Alaska (GOA) Community Quota Entities (CQEs). NMFS is proposing the same regulatory revisions to the vessel use caps applicable to halibut QS held by GOA CQEs. In this action, NMFS is also proposing to revise 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 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: Comments must be received no later than 5 p.m., Alaska local time, on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by FDMS

Docket Number NOAA–NMFS–2012–0040, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA–NMFS–2012–0040](http://www.regulations.gov/#!docketDetail;D=NOAA–NMFS–2012–0040), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.
- Fax: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Fax comments to (907) 586–7557.
- Hand delivery to the Federal Building: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public

viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

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 action may be submitted to NMFS at the above address and by e-mail 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:

Regulatory Authority

NMFS proposes regulations to implement Amendment 94 to the FMP and regulatory amendments to revise the GOA CQE Program. The North Pacific Fishery Management Council (Council) recommended and NMFS approved the FMP in 1978

under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 et seq.). Regulations implementing the FMP and general regulations governing groundfish appear at 50 CFR part 679. Fishing for Pacific halibut (Hippoglossus stenolepis) is managed by the International Pacific Halibut Commission (IPHC) and the Council under the Northern Pacific Halibut Act of 1982 (Halibut Act). Section 773(c) of the Halibut Act authorizes the Council to develop regulations that are in addition to, and not in conflict with, approved IPHC regulations. Such Council-recommended regulations may be implemented by NMFS only after approval by the Secretary of Commerce.

#### 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 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 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).

The IFQ Program changed the management structure of the fixed-gear halibut and sablefish fishery by issuing QS to qualified persons who owned or leased a vessel that made fixed-gear landings of those species from 1988 to 1990. Halibut QS was issued specific to one of eight IPHC halibut management areas throughout the Bering Sea and Aleutian Islands (BSAI) and GOA, and four vessel categories: freezer (catcher/processor) category (A share); catcher vessel greater than 60 ft. length overall (LOA) (B share); catcher vessel 36 ft. to 60 ft. LOA (C share); and catcher vessel 35 ft. LOA or less (D share). Sablefish QS was issued specific to one of six sablefish management areas throughout the BSAI and GOA, and three vessel categories: freezer (catcher/processor) category (A share); catcher vessel greater than 60 ft. LOA (B share); and catcher vessel 60 ft. LOA or less (C share). The amount of halibut and sablefish that each QS holder may harvest is calculated annually and issued as individual fishing quota (IFQ) in pounds on an IFQ permit. An IFQ halibut permit authorizes participation in the fixed-gear fishery for Pacific halibut in and off Alaska, and an IFQ sablefish permit authorizes participation in most fixed-gear sablefish fisheries off Alaska. IFQ permits are issued annually to persons holding Pacific halibut and sablefish QS or to those persons who are recipients of IFQ transfers from QS holders.

The IFQ Program was structured to retain the owner-operator nature of the fixed-gear halibut and sablefish fisheries and limit consolidation of QS. The QS may be permanently transferred or leased with several restrictions by type of QS and management area. Only persons who were initially issued category B, C, and D catcher vessel QS, S-type corporations formed by initial issuee individuals, or individuals who qualify as IFQ crew members are allowed to hold or purchase catcher vessel QS. Thus,

the IFQ Program restricts holders of catcher vessel QS to individuals and initial recipients. With few exceptions, individual QS holders are required to be on board the vessel to fish the IFQ.

Although the IFQ Program resulted in significant safety and economic benefits for many fishermen, 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 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 (GOA Amendment 66), and NMFS implemented the program in 2004 (69 FR 23681, April 30, 2004).

The Community Quota Entity (CQE) Program allows a distinct set of 42 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.

To participate in the CQE Program, an eligible community must first acquire a statement of support from the community governing body, then form a CQE and have that CQE approved by NMFS to represent the community. After NMFS approval, a CQE may receive catcher vessel QS for the represented community(ies) through NMFS-approved transfers. The eligible communities and the community governing body that recommends the CQE are listed in Table 21 to 50 CFR part 679. 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.

Current CQE Program regulations include several provisions affecting the use of QS and the annual IFQ by the CQE. Under some provisions, a CQE has the same privileges and is held to the same limitations as individual users. For example, CQE-held QS is subject to the same area use cap that applies to non-CQE-held QS. In other instances, the CQE is subject to less restrictive measures than individual QS holders. For example, the catcher vessel size classes do not apply to QS and the IFQ held by CQEs. In yet other instances, the CQE must operate under more restrictive measures than individual QS holders, in part to protect existing QS holders and preserve entry-level opportunities for fishermen. For example, CQEs currently cannot purchase Area 2C or Area 3A vessel category D halibut QS. This limitation is proposed to be changed through this rule. A comprehensive explanation of these CQE Program provisions can be found in the final rule authorizing the CQE program (69 FR 23681, April 30, 2004).

The Charter Halibut Limited Access Permit Program, License Limitation Program, and the CQE Program

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 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. 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 License Limitation Program (LLP) licenses and assign those LLP licenses to specified users and vessels operating in those CQE communities. The Council and NMFS wanted to enhance access to the groundfish and halibut fisheries and generate revenues for communities. Further, 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.

#### Review of the IFQ Program and CQE Program and Proposed Modifications to the Programs

Between December 2010 and October 2011, the Council recommended three proposals to change the GOA CQE Program. In addition, NMFS has identified a need to revise recordkeeping and recording requirements for the CQE Program. Based on the Council's three recommendations and NMFS's review of recordkeeping and reporting requirements in the CQE Program, this proposed rule would implement four separate actions: (1) revise the vessel use cap applied to sablefish QS held by GOA CQEs (Amendment 94) and to halibut QS held by CQEs; (2) add three communities to the list

of CQE-eligible communities; (3) allow CQEs in Area 3A to purchase halibut vessel category D QS; and (4) add and update 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 requires amendment of the GOA FMP. Action 1, as it relates to halibut and actions 2 through action 4, require amendments to the IFQ Program and CQE Program regulations. The Council recommended Action 1 in October 2011, Action 2 in December 2010, and Action 3 in February 2011. Under Action 4, NMFS is proposing regulations to: (1) carry-out Council intent for CQE recordkeeping and reporting; (2) clarify community eligibility in the CQE Program in Table 21 to part 679; and (3) correct minor errors in current regulations.

#### Actions Proposed by This Rule

The four proposed actions are described below.

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

Action 1 would amend the GOA FMP and 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. The current vessel use cap that applies to vessels fishing IFQ derived from CQE-held QS can be more restrictive than the vessel use caps that apply to vessels harvesting only non-CQE-held IFQ. Revising the current vessel use cap would 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.

The existing FMP and IFQ CQE regulations provide that a vessel may not be used to harvest more than 50,000 pounds (22.7 mt) of IFQ from any QS source if the vessel is used to harvest IFQ derived from QS held by a CQE. As a result, community residents leasing IFQ from a CQE may use the IFQ only on vessels that harvest annually no more than 50,000 pounds of IFQ in total: IFQ derived from CQE-held QS plus IFQ derived from non-CQE-held QS count towards the cap. The Council established these limitations in the original CQE Program to prevent consolidation of IFQ harvest on a small number of vessels and broadly distribute the benefits from fishing activities among CQE community residents.

The proposed regulations would exclude IFQ derived from non-CQE-held QS from the 50,000 pound vessel use cap. Only IFQ derived from CQE-held QS would count towards the vessel use cap. The effect would be that the following annual vessel use caps would apply to all vessels harvesting IFQ: no vessel could 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 existing IFQ Program halibut vessel use caps would 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 existing IFQ Program sablefish vessel use caps would 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 was 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 would 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 would accrue against the overall vessel use caps. In effect, a vessel could not 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 could 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 would apply. For example, in the Area 2C halibut fishery in 2011, the overall vessel use cap for the IFQ Program of 1 percent of the Area 2C halibut IFQ total catch limit was 23,300 pounds. This 23,300-pound limit would have been 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 would have been more restrictive in 2011 because the overall vessel use cap of 0.5 percent of the combined halibut total catch limits in all halibut regulatory areas was 151,910 pounds.

Since the CQE Program was implemented, community residents have found that the current vessel use cap prevents CQE communities and residents from realizing the intended benefits of the Program. The restrictions impede development of community-based fisheries by limiting the use of IFQ by CQEs, community residents, and owners of vessels in the IFQ fleet. The current CQE vessel use cap eliminates the opportunity for community residents leasing IFQ from a CQE to use a vessel that has harvested or will

harvest more than 50,000 pounds of IFQ, even if it is the only vessel available for use by a CQE community. Also, the existing regulations restrict the option for multiple residents leasing IFQ from a CQE to combine their IFQ on a vessel if the cumulative IFQ, derived from both CQE-held and non-CQE-held QS, exceeds 50,000 pounds.

CQE representatives told the Council that the existing 50,000-pound (22.7 mt) IFQ vessel use cap reduces flexibility and opportunity to use IFQ leased from CQEs on larger vessels. The use of larger vessels could increase employment of community residents as crew and improve safety at sea during bad weather. As discussed in Section 2.1 of the analysis prepared for this action (See ADDRESSES), representatives of CQEs also told the Council that the use of CQE-leased IFQ on vessels owned by non-CQE community residents is important to the program's success, as many of the eligible CQE community residents may be entry-level fishermen or fishermen with no vessels or very small vessels. Changing the vessel use cap would increase the flexibility of CQEs to lease IFQ to community residents who do not own vessels. The change also could help residents find employment as crew members. These entry-level fishermen could fish the IFQ derived from CQE-held QS on other vessels to work their way into the fishery. The opportunity to lease IFQ in the short-term and sell fish may help community residents purchase QS from the CQE over the longer term.

The proposed rule likely would provide additional opportunities for a CQE to lease IFQ to community residents, as the pool of potential resident applicants could increase if there were a larger pool of potential vessels from which residents could fish CQE-leased IFQ. CQEs and community residents leasing IFQ from CQEs may benefit from an increased availability of vessels that would be able to use additional CQE-leased

IFQ onboard under the proposed revision to exclude IFQ derived from non-CQE-held QS from the 50,000-pound vessel use cap applicable when using IFQ derived from CQE-held QS is onboard. The proposed revision, in effect, would increase a vessel's overall IFQ use cap. The resulting increased 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.

The Council also considered the Status Quo Alternative and a third alternative (Alternative 3) that would have eliminated the existing 50,000-pound vessel use caps applicable when using CQE quota onboard. Under Alternative 3, vessels would not have been restricted to 50,000 pounds of IFQ derived from CQE-held QS but would have continued to be subject to the regular vessel use caps. Section 2.6 of the analysis discusses the alternative actions reviewed by the Council. In selecting the Preferred Alternative and not Alternative 3, the Council made a policy choice to retain some limitation on the distribution of benefits among vessels. The Council's choice is intended to equitably distribute the potential benefits of CQE-held QS and IFQ throughout the communities.

#### Action 2: Add Three CQE Communities

Proposed Action 2 would add 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 purpose of proposed Action 2 is to add three communities to the list of eligible communities in Table 21 to part 679. To qualify as eligible to purchase QS, a community must meet the following criteria: (1) have a population of less than 1,500 people and at least 20 persons, based on the 2000 U.S. Census; (2) be located on the GOA coast of the North Pacific Ocean; (3) have direct access to saltwater; (4) have no direct road access to larger communities with a population greater than 1,500 persons; (5) have historic participation in the halibut and sablefish fisheries; and (6) be listed in Table 21 to part 679.

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 criteria 1 through 5 as described above 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. The proposed action would revise 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.

If this action is approved, then each of the three eligible communities would need to meet applicable requirements to participate in the CQE Program. Each of the three

communities would 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 would 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 would 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 would 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 would not be 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. If Naukati Bay and Game Creek are approved as eligible, then each community's CQE could 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. In its December 2010 recommendation for this proposed action, the Council noted that the number of additional permits that could potentially be issued to CQEs representing Naukati Bay and Game Creek does not significantly change the projected number of charter halibut permits to be issued in the Area 2C charter halibut fishery. The additional permits would not be expected to substantially increase fishing in the guided sport halibut fishery in Area 2C.

The Council also determined the community of Cold Bay would be eligible to participate as a CQE community in the GOA Pacific cod LLP. Naukati Bay and Game Creek would not be 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 could, if approved, 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 would be eligible to receive a maximum of two Western GOA LLP licenses with endorsements for Pacific cod and pot gear.

The Council and NMFS considered the potential effects of adding three new communities to the CQE Program on existing users of the halibut and groundfish resources of the GOA and the residents of Cold Bay, Game Creek, and Naukati Bay. This section briefly summarizes the conclusions discussed in Section 2.9.2 of the analysis prepared for this action (see ADDRESSES). The primary effect of the proposed action to add three new communities to the CQE Program on participants in the halibut and sablefish IFQ fisheries would be greater competition for QS purchases and resulting increased prices for QS. However, CQE use caps in current regulations limit the total

amount of halibut and sablefish QS that could be purchased by a CQE and by CQEs in aggregate. Those CQE caps (see § 679.42(e)(4) through (e)(5) for sablefish and § 679.42(f)(2) for halibut) would remain unchanged under the proposed action. Thus, the potential for increased competition and increased prices would be limited. Adding new communities to the program could create additional competition for communities to purchase up to the individual CQE use caps before the aggregate CQE cap is reached. This potential is also considered limited. Although 30 of the currently eligible 42 communities have formed CQEs, only a small amount of QS has been purchased by CQEs under the program. The Council's 5-year review of the CQE Program in March 2010 showed that one of the biggest challenges facing CQEs appears to be financing QS purchases. The lack of credit history and the fact that CQEs are non-profit organizations increases lending risks for financial institutions. Another financial limitation to QS purchases is the administrative cost necessary to both establish and maintain the CQE.

NMFS does not know if proposed action 2 would 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 would 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 would have a limited impact on existing users of the halibut and groundfish resources of the GOA, but would 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

Currently, regulations prohibit the transfer of vessel category D halibut quota share to a CQE representing a community or communities in halibut regulatory Area 3A. Vessel category D halibut QS may only be fished on catcher vessels 35 ft. LOA or less. Proposed Action 3 would allow a CQE representing a community(ies) in Area 3A to hold QS that is assigned to vessel category D. The purpose of proposed action 3 is to allow 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 boats 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.

Currently, the CQEs representing communities in Area 3A and Area 2C are allowed to purchase vessel category B and C halibut QS, but unlike individual holders, are prohibited from purchasing vessel category D halibut QS. The CQEs representing communities in Area 3B can purchase vessel category D halibut QS. Proposed Action 3 has three provisions and would allow CQEs representing communities in Area 3A to hold a limited amount of vessel category D halibut QS in Area 3A as described in more detail below. No change to Area 2C was proposed by the public, and no change to Area 2C would be made by this proposed rule.

The CQE Program was implemented about 10 years after implementation of the IFQ Program. By that time, most CQE communities had experienced substantial migration of locally held QS to larger communities. The CQE Program allowed these eligible communities to purchase limited amounts of vessel category B and C halibut and sablefish QS, but did not allow for purchase of vessel category D QS. One of the primary reasons the Council originally prohibited CQE purchase of vessel category D QS was to ensure that vessel category D QS would continue to be available to new IFQ Program entrants and crew members. The Council was concerned that an influx of CQEs in halibut regulatory Areas 2C and 3A would drive up demand and price for vessel category D QS and reduce the available vessel category D QS for individuals. To date, few CQEs hold any halibut QS; the small number of CQEs representing communities in Area 3B were not prohibited from purchasing vessel category D QS. The Council and NMFS found no clear evidence demonstrating a potential conflict between the limited number of new IFQ Program entrants and CQEs in Area 3B.

At the time the CQE Program was implemented in 2004, 14 communities became eligible for the CQE Program in Area 3A. Residents in 11 of those communities held about 9 percent of the total amount of Area 3A vessel category D halibut QS. Since then, all 14 communities in Area 3A have formed CQEs approved by NMFS. However, only 2 CQEs have purchased a very small amount of halibut QS due to difficulties in securing favorable financing terms. Section 2.4.3.2 of the analysis prepared for this proposed action (see ADDRESSES) provides additional detail on halibut QS holdings by Area 3A CQE communities.

The amount of QS designated as vessel category D QS in Area 2C, Area 3A, and Area 3B is relatively small compared to vessel category A, B, and C QS. Section 2.6.2 of the analysis notes that Area 3A CQE community residents currently hold less than 3 percent of the total catcher vessel QS, and about 30 percent of that QS is vessel category D QS. The vessel category D QS held by community residents is one potential source of QS for CQEs to acquire additional QS. The Council's review of the CQE Program noted that CQE community residents who are transferring QS are more likely to offer the CQE favorable financing terms to purchase their QS if they are transitioning out of the fishery. Allowing Area 3A CQEs to purchase vessel category D QS could build equity and increase the potential that CQEs acquire halibut QS in Area 3A. The CQEs' acquisition of halibut QS would further the goals of the Council by enabling CQE communities to sustain community participation in the fishery.

The first provision would require that CQEs that purchase and hold Area 3A, vessel category D, QS, fish the annual halibut IFQ on category D vessels (vessels less than or equal to 35 ft. 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 proposed action would cap 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 would notify Area 3A CQEs that no more vessel category D QS could be transferred, and further transfers would 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 would 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.

As described in Section 2.6.2 of the analysis, the use cap of 1,223,740 units of vessel category D QS represents 9.6 percent of the total Area 3A, vessel category D QS. This means more than 90 percent of Area 3A, vessel category D QS would remain accessible to non-CQE QS holders. Therefore, the maximum effect, as limited by this action, would be the redistribution of up to 1,223,740 units of Area 3A, vessel category D, halibut QS from non-CQE QS holders to CQEs.

The third provision of this proposed action would remove the current restriction on the minimum size block that a CQE could purchase of Area 3A, vessel category D, halibut QS. 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. Section 2.6.2 of the analysis prepared for this action provides additional detail on the development and regulation of QS blocks and is not repeated here.

CQEs are currently 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 current regulations requiring CQEs to use unblocked QS and large blocks of QS limit 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 added the provision allowing CQEs to purchase any size block of vessel category D halibut QS in Area 3A.

The primary effect of the three provisions of this proposed action on existing IFQ and CQE Program participants would 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 would affect all current and potential QS holders, including resident fishermen of CQE communities, the impacts of the proposed action on

all IFQ Program participants would 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 would 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 would likely continue to have difficulty in funding the purchase of QS, this action would potentially provide more opportunity for communities to participate in the halibut QS market.

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

Action 4 would amend CQE recordkeeping and reporting requirements, clarify CQE Program eligibility for individual communities, and correct 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.

The current CQE annual report requirements for CQE leases of IFQ halibut and sablefish in the IFQ Program are found in the recordkeeping and reporting regulations in § 679.5(l)(8). The CQE annual reporting requirements for CQE assignment of Pacific cod endorsed non-trawl groundfish LLP licenses are in § 679.4(k)(10)(G) of the regulations. The remaining annual reporting requirements for the CQE assignment of LLP licenses are in regulations at § 679.5(l)(8) (i.e., CQE lease of IFQ).

Currently, there are no requirements for CQEs to submit an annual report on their use of community charter halibut permits in the charter halibut limited access program. Following implementation of the charter halibut limited access program, NMFS reviewed the Council's recommendation for the issuance of charter halibut permits to CQEs. NMFS determined that the Council intended that CQEs include information on the distribution and use of charter halibut permits in their annual report, following the same requirements for the IFQ and LLP program annual reports. Therefore, NMFS proposes specific CQE annual reporting requirements for use of community charter halibut permits in the charter halibut limited access program.

This action proposes the consolidation of CQE annual reporting requirements for all CQE participation in Federal fishery management programs in § 679.5(t), the recordkeeping and reporting regulations. Proposed paragraph (t) would describe 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 would also revise § 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 would add the CQE annual reporting requirement to the charter halibut limited access program at § 300.67(k)(7). These proposed changes would streamline regulatory text and provide CQEs with a single reference to determine their annual reporting requirements.

#### CQE Floating Processor Landing Report Requirements

This action would revise 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 proposed action would 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 would clarify specific reporting requirements that must be met. The current regulations at § 679.5(e)(6) state that CQE floating processors that receive groundfish from catcher vessels must submit a daily mothership landing report in the eLandings electronic reporting system that they were taking deliveries within the municipal boundary of a CQE community. However, NMFS proposes this reporting should occur on the shoreside processor landing report for two reasons: first, a shoreside landing report provides a more accurate report of CQE floating processing activity, and second, it will improve the timely collection and assessment of landing data. As such, this action proposes to move the reporting requirement from § 679.5(e)(6) to § 679.5(e)(5). In addition, the definition

of a mothership at § 679.2(3), which is specific to CQE floating processors, would no longer be needed and would therefore be removed.

#### Modify Table 21 to Part 679

This action would make 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.

Currently, Table 21 to part 679 that lists these communities does not clearly delineate which communities may lease halibut IFQ in Areas 3A and 3B. The first modification NMFS proposes is to correct this error in Table 21. This correction is needed to accurately describe community eligibility to lease halibut QS by halibut IFQ regulatory area. This proposed correction to Table 21 would eliminate potential confusion by the regulated public. Since implementation of the CQE Program, any halibut QS issued to a CQE included the corresponding IFQ regulatory area on the permit. This permit is the primary document used by authorized enforcement officers to determine in what regulatory area a fisherman is allowed to fish IFQ derived from the QS. Despite the absence of the information in Table 21 in current regulations, NMFS would not issue a halibut QS permit to a CQE with the incorrect IFQ regulatory areas.

Currently, Table 21 does not indicate the CQE Program communities in the GOA that are eligible to use sablefish QS. NMFS proposes a second modification to Table 21 that would add a column to specify the CQE communities in the GOA that may lease sablefish IFQ.

NMFS proposes a third modification to add columns to Table 21 to list the maximum number and the halibut IFQ regulatory area of 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. Currently, the regulations lack a single listing of the number of permits each community is eligible to receive. NMFS proposes to list in Table 21 the maximum number of charter halibut limited access permits that may be issued in halibut IFQ regulatory Area 2C and Area 3A by eligible community.

The three proposed modifications to Table 21 would assist CQEs and other stakeholders in referencing fishing program eligibility by CQE community. If approved, these modifications to Table 21 would be made in conjunction with the proposed actions in this rule to add three new communities to the CQE Program and to remove Table 50 to part 679.

Remove Table 50 to Part 679

NMFS determined from a review of Table 21 to part 679 that the information in Table 50 to part 679 would be best incorporated 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). As previously explained, 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. Table 50 lists the maximum number and the regulatory area specification of those groundfish LLP licenses that may be granted to CQEs representing the specific GOA communities. Currently, all communities listed in Table 50 are also included in Table 21. Combining Table 21 and Table 50 would consolidate regulations describing each CQE community's eligibility to participate in Federal fishery management programs in the GOA. The revised Table 21 would clearly define each CQE community's opportunities and remove duplicate information currently contained in Table 50. As proposed, CQEs and other stakeholders would be able to reference Table 21 and efficiently locate all the fishing programs for which a specific CQE community is eligible.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 94, the Halibut Act, the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

#### Executive Order 12866

This proposed 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 that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Community quota entities are the only entities that will be directly impacted by this proposed rule. Under the terms of the Regulatory Flexibility Act, CQEs are always considered small entities.

If the proposed actions are implemented, each action would have a positive impact on the affected small entities because they would increase CQE fishing opportunities over the status quo. The action to relieve the vessel use cap restriction when individual, non-CQE IFQ is fished on board the vessel removes an overly restrictive management provision. By removing this provision, CQE communities will have more opportunities to fish than they are currently allowed. The addition of three new communities to the list of communities eligible to form a CQE correctly identifies all of the communities eligible to participate in the CQE Program, thus ensuring that eligible communities are not being left out of the program. The action to allow Area 3A communities to purchase D category halibut QS would not have adverse economic impacts on directly regulated small entities and would preserve fishing opportunities in small rural communities.

Because of the voluntary nature of the CQE Program, and the fact that the proposed actions would increase CQE fishing opportunities, this rule would not impose significant adverse economic impacts on a substantial number of small entities. As a result, an Initial Regulatory Flexibility Analysis is not required and none has been prepared.

### Projected Reporting, Recordkeeping and Other Compliance Requirements

The proposed rule would require additional reporting, recordkeeping, and other compliance requirements by CQEs. Specifically, the proposed 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.

### Duplicate, Overlapping, or Conflicting Federal Rules

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

### Collection-of-Information

This proposed rule contains collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval and are listed below by OMB control number. To improve efficiency and clarity, the CQE activities are being brought together with other CQE forms under one collection.

#### 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 IFQ Program collection and are placed in the new ACQE 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 License Limitation Program (LLP) and are placed in the new ACQE collection (see below). No changes are made to the elements.

OMB Control No. 0648-ACQE

Public reporting burden is estimated to average 200 hours per response for Application to become a Community Quota Entity (CQE); two hours per response 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 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.

NMFS seeks public comment 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. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see

ADDRESSES) and by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto: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

50 CFR Part 300

Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 28, 2013.

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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 proposes to amend 50 CFR parts 300 and 679 as follows:

PART 300-INTERNATIONAL FISHERIES REGULATIONS

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

Authority: 16 U.S.C. 773-773k.

2. 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

3. 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]

4. In §679.2, remove paragraph (3) of the definition for “Mothership.”

5. 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) \* \* \*

(1) 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).

\* \* \* \* \*

6. 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), (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:

\* \* \* \* \*

(1) \* \* \*

(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), 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) 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 (J) 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, and business address, 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) 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;

(I) Name, resident city and state, and business address, 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

(J) 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.

7. 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.

\* \* \* \* \*

8. 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) and (h)(1)(i).

(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) and (h)(2)(i).

\* \* \* \* \*

9. 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 CG, SE, WG, and WY (All GOA)	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		Area 2C	Area 3A	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			

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	Area 3A	Central GOA
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			
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		X	X	X		7	2	

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 CG, SE, WG, and WY (All GOA)	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		Area 2C	Area 3A	Central GOA	Western GOA
		Council.								
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.

10. Remove and reserve Table 50 to part 679.

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