

4. Section 583.6 would be amended by revising paragraphs (a), (c)(1)(ii), (c)(3)(ii), and (c)(6) to read as follows:

§ 583.6 Procedure for determining U.S./Canadian parts content.

(a) Each manufacturer, except as specified in § 583.5(f) and (g), shall determine the percentage U.S./Canadian Parts Content for each carline on a model year basis. This determination shall be made before the beginning of each model year. Items of equipment produced at the final assembly point (but not as part of final assembly) are treated in the same manner as if they were supplied by an allied supplier. All value otherwise added at the final assembly point and beyond, including all final assembly costs, is excluded from the calculation of U.S./Canadian parts content. The country of origin of nuts, bolts, clips, screws, pins, braces, gasoline, oil, blackout, phosphate rinse, windshield washer fluid, fasteners, tire assembly fluid, rivets, adhesives, grommets, and wheel weights, used in final assembly of the vehicle, is considered to be the country where final assembly of the vehicle takes place.

* * * * *

(c) * * *
(1) * * *

(ii) To otherwise have the actual percent of its value added in the United States and/or Canada, rounded to the nearest five percent.

* * * * *

(3) * * *

(ii) To otherwise have the actual percent of its value added in the United States and/or Canada, rounded to the nearest five percent.

* * * * *

(6) If a manufacturer or allied supplier requests information in a timely manner from one or more of its outside suppliers concerning the U.S./Canadian content of particular equipment, but does not receive that information despite a good faith effort to obtain it, the manufacturer or allied supplier may make its own good faith value added determinations, subject to the following provisions:

(i) The manufacturer or allied supplier shall make the same value added determinations as would be made by the outside supplier;

(ii) The manufacturer or allied supplier shall consider the amount of value added and the location in which the value was added for all of the stages that the outside supplier would be required to consider;

(iii) The manufacturer or allied supplier may determine that particular value is added in the United States and/

or Canada only if it has a good faith basis to make that determination;

(iv) A manufacturer and its allied suppliers may, on a combined basis, make value added determinations for no more than 10 percent, by value, of a carline's total parts content from outside suppliers;

(v) Value added determinations made by a manufacturer or allied supplier under this paragraph shall have the same effect as if they were made by the outside supplier;

(vi) This provision does not affect the obligation of outside suppliers to provide the requested information.

* * * * *

5. Section 583.7 would be amended by revising paragraph (a) to read as follows:

§ 583.7 Procedure for determining major foreign sources of passenger motor vehicle equipment.

(a) Each manufacturer, except as specified in § 583.5(f) and (g), shall determine the countries, if any, which are major foreign sources of passenger motor vehicle equipment and the percentages attributable to each such country for each carline on a model year basis, before the beginning of each model year. The manufacturer need only determine this information for the two such countries with the highest percentages. Items of equipment produced at the final assembly point (but not as part of final assembly) are treated in the same manner as if they were supplied by an allied supplier. In making determinations under this section, the U.S. and Canada are treated together as if they were one (non-foreign) country. The country of origin of nuts, bolts, clips, screws, pins, braces, gasoline, oil, blackout, phosphate rinse, windshield washer fluid, fasteners, tire assembly fluid, rivets, adhesives, grommets, and wheel weights, used in final assembly of the vehicle, is considered to be the country where final assembly of the vehicle takes place.

* * * * *

6. Section 583.8 would be amended by revising paragraphs (b) and (d) to read as follows:

§ 583.8 Procedure for determining country of origin for engines and transmissions (for purposes of determining the information specified by §§ 583.5(a)(4) and 583.5(a)(5) only).

* * * * *

(b) The value of an engine or transmission is determined by first adding the prices paid by the manufacturer of the engine/transmission for each component comprising the engine/transmission, as delivered to the

assembly plant of the engine/transmission, and the fair market value of each individual part produced at the plant. The assembly and labor costs incurred for the final assembly of the engine/transmission are then added to determine the value of the engine or transmission.

* * * * *

(d) Determination of the total value of an engine/transmission which is attributable to individual countries. The value of an engine/transmission that is attributable to each country is determined by adding the total value of all of the components installed in that engine/transmission which originated in that country. For the country where final assembly of the engine/transmission takes place, the assembly and labor costs incurred for such final assembly are also added.

* * * * *

7. Section 583.10 would be amended by revising paragraph (a)(5) to read as follows:

§ 583.10 Outside suppliers of passenger motor vehicle equipment.

(a) * * *

(5) For equipment which has less than 70 percent of its value added in the United States and Canada,

(i) The country of origin of the equipment, determined under § 583.7(c); and

(ii) The percent of its value added in the United States and Canada, to the nearest 5 percent, determined under § 583.6(c).

* * * * *

Issued on: January 29, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981221311-8311-01; I.D. 113098C]

RIN 0648-AL21

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

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes amendments to the regulations governing the Western Alaska Community Development Quota (CDQ) Program. The proposed amendments would define how halibut CDQ fishing would be managed in 1999 and thereafter; remove or revise regulations governing groundfish and halibut CDQ fishing consistent with the combination of the management regimes for the fixed gear halibut and sablefish CDQ fisheries, the pollock CDQ fisheries, and the multispecies (MS) groundfish CDQ fisheries starting in fishing year 1999; and make miscellaneous technical and editorial revisions. This proposed action is intended to further the objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Comments must be received at the following address by March 10, 1999.

ADDRESSES: Comments should be sent to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from the same address or by calling the Alaska Region, NMFS, at 907-586-7228. Send comments on collection-of-information requirements to the above address and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Management Background and Need for Action

NMFS manages fishing for groundfish by U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) according to the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels and implementing the FMP appear at 50 CFR parts 600 and 679.

For the 1998 fishing year, four separate CDQ fisheries existed under

current regulations: (1) The fixed gear halibut and sablefish CDQ fisheries; (2) the pollock CDQ fisheries; (3) the multispecies (MS) groundfish CDQ fisheries; and (4) the crab CDQ fisheries.

NMFS published a final rule implementing the administrative and catch monitoring requirements for the MS groundfish CDQ fisheries under Amendment 39 to the BSAI FMP in the **Federal Register** on June 4, 1998 (63 FR 30381). That rule establishes a single management program for the fixed gear sablefish CDQ fisheries, the pollock CDQ fisheries, and the MS groundfish CDQ starting in 1999. Regulatory amendments are necessary to remove or revise sections of the regulations that govern the separate CDQ fisheries in 1998, and to further define how the halibut CDQ fisheries will be managed in 1999 and thereafter. The crab CDQ fisheries will continue to be managed as separate CDQ fisheries by the State of Alaska.

The proposed regulatory amendments fall into three categories: (1) Those governing vessels used to harvest halibut CDQ and the processors or registered buyers taking deliveries from these vessels; (2) those removing or revising sections of the regulations governing the fixed gear sablefish CDQ fishery in 1998; and (3) those executing other miscellaneous technical or editorial revisions to the MS groundfish CDQ regulations.

Management of the Halibut CDQ Fisheries

NMFS established the fixed gear halibut and sablefish CDQ fisheries with the fixed gear halibut and sablefish Individual Fishing Quota (IFQ) Program. The IFQ regulations provide for the reporting of halibut and sablefish CDQ caught with fixed gear through the end of 1998. As the recipients of annual allocations, CDQ groups were required to obtain a CDQ permit from NMFS. Each individual who landed fixed gear halibut or sablefish CDQ was required to have a NMFS-issued CDQ card and to telephone NMFS to provide 6 hours prior notice of landing. Registered buyers were required to report CDQ landings to NMFS using the electronic reporting system and transaction terminals.

In the proposed rule to implement Amendment 39 to the FMP, NMFS proposed to consolidate all of the CDQ fisheries under one set of monitoring and catch accounting regulations to implement the Council's and NMFS's intent that all catch in the groundfish and halibut CDQ fisheries be accounted for by CDQ allocations (62 FR 43865, August 15, 1997). Although NMFS

proposed different observer coverage, equipment, and reporting requirements for different size and gear type vessels, no distinction was made between the requirements for vessels of the same size fishing in the halibut CDQ fisheries versus fishing in the groundfish CDQ fisheries.

Public comment on the proposed rule stated that the proposed regulations combining vessels and processors participating in the groundfish and halibut CDQ fisheries under one set of regulations were burdensome for participants in the halibut CDQ fishery, did not consider the differences between the groundfish fisheries and the halibut fisheries, and had information collection requirements not worth the additional effort and cost to the CDQ participants or NMFS. Specifically, requirements for CDQ observers in shoreside processors taking deliveries of halibut CDQ, retention and delivery of all groundfish CDQ species by small vessels, CDQ check-in/check-out reports for all vessels, and weekly summaries of the catch by all vessels were not considered necessary for the halibut CDQ fisheries.

Due to the large number of persuasive public comments that halibut CDQ fisheries are inherently different from other CDQ fisheries, NMFS did not implement many of the MS CDQ requirements for the halibut CDQ fisheries in the final rule. NMFS agreed that differences exist between the small vessel halibut CDQ fisheries and the other groundfish CDQ fisheries, including fixed gear sablefish. In 1997, 1,884,000 lb (854 mt) of halibut CDQ was allocated to six CDQ groups. At least 75 percent of the 1997 catch was landed by small boats and skiffs under 32 ft (9.73 m) length overall (LOA) at about 10 small shoreside processors or at buying stations in Western Alaska villages. These processors did not submit other landing reports to NMFS and were not required to have observer coverage. In contrast, NMFS expects that most of the groundfish CDQ will be harvested by catcher/processors or large catcher vessels delivering to groundfish shoreside processing plants located in relatively large ports.

Based on the public comment on the proposed rule, and on recommendations made by the Council at its October 1998 meeting, NMFS is proposing the following revisions for management of halibut CDQ in 1999 and thereafter:

A. Remove the definition of "fixed gear sablefish and halibut CDQ fishing."

B. Add a new definition for "halibut CDQ fishing" to mean fishing that results in the landing of halibut CDQ in a delivery by a catcher vessel or a set by

a catcher/processor in which the following conditions are met:

(1) Retained halibut CDQ represents the largest proportion of the catch by weight, and

(2) The weight of other retained groundfish does not exceed the maximum retainable bycatch amounts for each groundfish species or species group.

C. Remove the requirement at § 679.30(a)(5) to list in the Community Development Plan (CDP), halibut CDQ cardholders, vessels less than 60 ft (18.3 m) LOA that land groundfish harvested while halibut CDQ fishing, and processors or registered buyers who purchase halibut CDQ or groundfish harvested while halibut CDQ fishing from vessels less than 60 ft (18.3 m) LOA. Listing these entities in the CDP is not necessary because this information is available from the Restricted Access Management Division.

D. Revise the prohibition at § 679.7(d)(11) to clarify that catcher vessels less than 60 ft (18.3 m) LOA are not prohibited from discarding groundfish while halibut CDQ fishing, unless they are required to retain these fish under improved retention/ utilization requirements. NMFS notes that § 679.7(f)(8), prohibits discarding Pacific cod and rockfish while IFQ halibut or IFQ sablefish are onboard, but does not prohibit this discard when CDQ halibut or CDQ sablefish are onboard.

E. Maintain a separate paragraph (f) in § 679.32 for halibut CDQ fishing that would:

(1) Require that the IFQ regulations would continue to govern the permitting, harvesting and landing of halibut CDQ.

(2) Require vessels harvesting halibut CDQ while groundfish CDQ fishing, as defined at § 679.2, to comply with all requirements for the MS groundfish CDQ fisheries with respect to their catch of groundfish CDQ.

(3) Require the shoreside processor to report on the CDQ delivery report and the CDQ group to report on the CDQ catch report, all groundfish CDQ harvested by vessels equal to or greater than 60 ft (18.3 m) LOA while halibut CDQ fishing. This groundfish CDQ would be subtracted from the CDQ groups' CDQ amounts for these species.

Shoreside processors would be required to report all groundfish, landed by vessels halibut CDQ fishing, to NMFS on logbooks and weekly production reports. They also would be required to report these landings to the State of Alaska on fish tickets. However, groundfish retained by catcher vessels less than 60 ft (18.3 m) LOA that are

halibut CDQ fishing would not accrue against the CDQ groups' groundfish CDQs. Accounting for this incidental groundfish catch under the MS groundfish CDQs would require that shoreside processors or registered buyers taking deliveries of incidentally caught groundfish with a halibut CDQ delivery, fill out the IFQ/CDQ landings report (for the halibut CDQ) and a CDQ delivery report (for the groundfish CDQ). NMFS believes that the cost of requiring the submission of CDQ delivery reports from deliveries by catcher vessels less than 60 ft (18.3 m) LOA, to both the industry and NMFS, would exceed the benefits that would be gained by tracking what is expected to be small amounts of retained groundfish. In addition, allowing this incidental catch of groundfish to accrue against the non-CDQ total allowable catch (TAC) specifications is not expected to reduce the non-CDQ directed fisheries for the bycatch species.

F. Shoreside processors taking deliveries from catcher vessels less than 60 ft (18.3 m) LOA that met the definition of halibut CDQ fishing would not be required to have a CDQ observer to monitor those halibut CDQ deliveries. However, these shoreside processors would be required to comply with the general groundfish observer coverage requirements in § 679.50 that apply to all shoreside processors with a Federal processor permit.

This action proposes catch accounting regulations for operators of vessels less than 60 ft (18.3 m) LOA and halibut CDQ fishing, that are distinct from the catch accounting regulations for the same vessels if they are groundfish CDQ fishing. Specifically, if these vessel operators are halibut CDQ fishing they would not be required to retain all groundfish and deliver it to a shoreside processor, and their groundfish bycatch would not accrue against the groundfish CDQs. Shoreside processors taking deliveries from these vessels would not be required to have CDQ observers to monitor CDQ deliveries.

Under this proposed rule, the same catch accounting requirements would apply to operators of catcher vessels equal to or greater than 60 ft (18.3 m) LOA and catcher/processors while halibut CDQ fishing as would apply to the operators of the same vessels while groundfish CDQ fishing. This would include the accrual of all groundfish CDQ catch against the CDQ group's groundfish CDQ allocations, and the requirement to carry CDQ observers (one for catcher vessels and two for catcher/processors) in order to monitor and verify their catch of groundfish

CDQ species that accrue to the MS groundfish CDQs. In addition, catcher vessels equal to or greater than 60 ft (18.3 m) LOA would be required to notify NMFS in the CDP whether they were going to (1) retain and deliver all groundfish CDQ species to a shoreside processor (Option 1 under § 679.32(c)(2)(ii)(A)), or (2) discard some groundfish CDQ species at sea (Option 2 under § 679.32(c)(2)(ii)(B)), in which case the owner or operator of the catcher vessel must provide an observer sampling station that complies with the requirements of § 679.28(d). Finally, shoreside processors would be required to have deliveries by catcher vessels equal to or greater than 60 ft (18.3 m) LOA monitored by a CDQ observer at the shoreside processor.

The proposed rule would revise § 679.32(a) and (c) to require vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing to comply with requirements necessary to account for their bycatch of groundfish CDQ.

Management of the Sablefish CDQ Fisheries in 1999 and Thereafter

No significant changes are proposed to the regulations for management of the catch of sablefish CDQ using fixed gear. However, NMFS is proposing to remove regulations that expired on December 31, 1998, and to add a prohibition against discarding sablefish caught with fixed gear (discussed below under Proposed Technical and Editorial Revisions).

The following description of the management of the sablefish CDQ fisheries in 1999 and thereafter is presented for clarification for CDQ groups, vessel operators, and processors who will be making a transition from the fixed gear halibut and sablefish CDQ fisheries managed under the IFQ regulations in 1998.

Under the final rule implementing Amendment 39 to the FMP (63 FR 30381, June 4, 1998), all operators of vessels harvesting sablefish CDQ and all processors taking deliveries of sablefish CDQ after December 31, 1998, are required to comply with the MS groundfish CDQ requirements in § 679.32. Sablefish CDQ will no longer be reported under the IFQ program requirements. CDQ groups will no longer be required to obtain sablefish CDQ permits, and individuals will no longer be required to obtain sablefish CDQ cards to harvest sablefish CDQ or to deliver sablefish CDQ to registered buyers. No prior notice of landings, or landings report will be submitted to NMFS. There will no longer be a requirement to report sablefish CDQ on

Shipment Reports. Vessels harvesting sablefish CDQ will be required to carry CDQ observers if they are catcher/processors or catcher vessels equal to or greater than 60 ft (18.3 m) LOA. Shoreside processors will be required to have deliveries from vessels groundfish CDQ fishing observed by a CDQ observer. All groundfish CDQ catch, including sablefish CDQ, must be reported on the CDQ delivery report and CDQ catch report and will accrue against a CDQ group's allocation. Estimates based on observer data will be used to determine the catch of all CDQ and prohibited species quota (PSQ) species (including sablefish CDQ) on all catcher/processors and on any catcher vessel using non-trawl gear and electing to discard groundfish CDQ species at sea (see § 679.32(d)(2)(iv)(B), Option 2).

Two sablefish CDQ reserves currently exist. The "fixed gear sablefish CDQ reserve", established in 1995 under Amendment 15 to the FMP, consists of 20 percent of the fixed gear allocation of the sablefish TAC (see § 679.20(b)(1)(iii)(B)) and may be harvested only with fixed gear. With implementation of the MS groundfish CDQ reserves in 1998, 7.5 percent of the trawl allocation of the sablefish TAC also was allocated to the CDQ program as the "sablefish CDQ reserve"; however, no gear restriction was implemented for this CDQ reserve. Therefore, while only fixed gear may be used to harvest the fixed gear sablefish CDQ reserve, any legal gear may be used to harvest the sablefish CDQ reserve.

Current regulations at § 679.23(e)(3) specify that fishing for halibut and sablefish CDQ with fixed gear may occur only during the IFQ fishing season, which in 1998, was between March 15 and November 15. This requirement was implemented under the fixed gear halibut and sablefish IFQ and CDQ programs, and no changes to these seasons were implemented under the MS groundfish CDQ program or are proposed to be implemented in this proposed rule.

Between January 1 and the start of the IFQ fishing season, and between the end of the IFQ fishing season and December 31, sablefish CDQ may be retained, but the retained catch weight of sablefish CDQ must not exceed the maximum retainable bycatch amounts specified under § 679.20(d)(1)(iii). In addition, under current regulations governing the annual establishment of groundfish specifications, no sablefish is allocated to the fixed gear sablefish CDQ reserve until the BSAI specifications are final. Therefore, under current regulations, any sablefish harvested with fixed gear prior to the date the BSAI groundfish

specifications become final will accrue against the sablefish CDQ reserve (non-gear specific reserve). After the BSAI specifications become final, any catch of sablefish with fixed gear first accrues against the CDQ group's fixed gear sablefish reserve. Once the fixed gear sablefish CDQ reserve has been harvested, any catch of sablefish CDQ with fixed gear will accrue against the non-gear specific sablefish CDQ reserve. Catch of sablefish CDQ with trawl gear will accrue only to the non-gear specific sablefish CDQ reserve.

Fishing IFQ and CDQ Together

NMFS proposes to revise § 679.7(d)(15) to remove the prohibition against catching IFQ and CDQ species together in the same set. NMFS has revised observer data collection forms and procedures to allow the harvest of IFQ and CDQ together in the same set. Therefore, this prohibition is no longer necessary. This proposed rule would require that IFQ species and halibut CDQ be reported to NMFS under the IFQ regulations, as discussed in a previous section.

Other Proposed Technical and Editorial Revisions

In addition to the regulatory amendments discussed in the preceding text, the proposed rule would also:

A. Correct a cross reference error in the definition of "Prohibited species quota PSQ".

B. Remove the reference in § 679.7(d)(4) to "halibut CDQ" so that vessels less than 60 ft (18.3 m) LOA harvesting only halibut CDQ are not required to be listed in the CDP.

C. Clarify that the prohibition at § 679.7(d)(11) against discarding groundfish CDQ species applies only to vessels groundfish CDQ fishing and not to vessels halibut CDQ fishing.

D. Consolidate the prohibitions at § 679.7(d)(19) and (d)(20) addressing requirements for catcher/processors using trawl gear and motherships to weigh total catch and to conduct daily tests of the scale used to weigh catch at sea.

E. Remove the prohibition at § 679.7(d)(22), which addresses the use of certified bins in the pollock CDQ fisheries. This prohibition is not necessary in 1999 and thereafter because all catcher/processors and motherships harvesting pollock CDQ will be required to weigh all CDQ catch on a scale. Volumetric estimates made by observers using certified bins will no longer be allowed.

F. Remove the prohibition in paragraph § 679.7(d)(26), which

addresses legal gear for halibut, because this prohibition is redundant. Regulations issued by the International Pacific Halibut Commission define legal gear for halibut fishing.

G. Add a prohibition at newly redesignated § 679.7(d)(24) against discarding sablefish CDQ harvested with fixed gear. This prohibition is required under the FMP for both IFQ and CDQ sablefish, but had not been previously included in the CDQ prohibitions.

H. Revise § 679.7(f), the prohibitions for the IFQ fisheries, to clarify which of these prohibitions also apply to halibut CDQ. NMFS is proposing to require that the prohibitions in paragraphs (f)(3), (f)(5), (f)(6), and (f)(10) apply to halibut CDQ as well as to halibut and sablefish IFQ. This proposed rule would revise paragraph (f)(3) to clarify that sablefish CDQ may be retained without an IFQ or CDQ permit or card by vessels fishing for a CDQ group with available sablefish CDQ.

I. Correct a cross reference error in § 679.21(e)(2)(ii).

J. Correct a paragraph numbering error in § 679.23(e)(3). The final rule published on June 4, 1998 (63 FR 30381), added paragraph (e)(3)(iv); however, there is no paragraph (e)(3)(iii), so the paragraph (e)(3)(iv) would be redesignated as paragraph (e)(3)(iii). In addition, a portion of the last sentence of this paragraph that addressed the season starting date for the 1998 MS groundfish fisheries would be removed.

K. Correct an error in § 679.30(a)(5)(i)(A)(2)(ii) by removing pots as a gear that is included under "hook-and-line" gear.

L. Remove § 679.31(d)(3) that referenced the 1998 crab CDQ reserve allocation that states "(3) For calendar year 1998 (applicable through December 31, 1998), 3.5 percent".

M. Remove § 679.31(f) that provided the authority to reallocate CDQ and PSQ in 1998. This paragraph expired on December 31, 1998.

N. In § 679.32, remove paragraphs (a)(2) and (a)(3) which expired on December 31, 1998.

Classification

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). OMB approved the proposed collection of information about halibut CDQ (50 CFR 679.32(e)) under OMB control number 0648-0272 (the halibut and sablefish IFQ program).

OMB has approved the collection of information associated with the Community Development Plans (50 CFR

§ 679.30) under OMB control numbers 0648-0269. This proposed rule would reduce some of the approved requirements for vessels less than 60 ft LOA while halibut CDQ fishing and for shoreside processors taking deliveries from these vessels.

Additions to the collection of information approved under OMB control number 0648-0269 (the CDQ program) that would be made by this rulemaking have been submitted to OMB for review and approval. No new forms are proposed with this rulemaking.

This proposed rule would require vessels equal to or greater than 60 ft (18.3 m) LOA to comply with the reporting requirements for the groundfish CDQ program while they are halibut CDQ fishing. The only new information collection that would apply to the owners or operators of the catcher vessels would be the requirement to provide an observer sampling station if they elected in their CDP to discard groundfish CDQ species at sea. Shoreside processors taking deliveries of groundfish CDQ from catcher vessels equal to or greater than 60 ft (18.3 m) LOA that had been halibut CDQ fishing would be required to notify the CDQ observer in the plant prior to delivery of CDQ groundfish, to print and retain the scale print-outs, and to report all groundfish CDQ in a CDQ delivery report. The CDQ group would be required to report any groundfish CDQ caught by vessels equal to or greater than 60 ft (18.3 m) LOA on a CDQ catch report.

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

The estimated time for the owner of a catcher vessel to submit a request for an observer sampling station inspection and to maintain a copy of the observer sampling station inspection report on the vessel is 2 hours; the estimated time for the shoreside processor to print and retain the scale print-out is 15 minutes; the estimated time for the shoreside processor to notify the CDQ observer prior to the delivery of CDQ catch is 2 minutes; the estimated time for a shoreside processor to complete the CDQ delivery report is one hour; and the estimated time for the CDQ group to complete the CDQ catch report is 15 minutes.

The estimated response times include the time needed to review instructions, search existing data sources, gather and

maintain the data needed, and complete and review the collection of information.

Public comment is sought regarding whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information has 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 the use of automated collection techniques or other forms of information technology.

Send comments regarding the burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, to NMFS and to OIRA, OMB (see ADDRESSES).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared an IRFA that describes the impact this proposed rule, if adopted, would have on small entities. A copy of this analysis is available from NMFS (see ADDRESSES). The preamble to this proposed rule supplements that IRFA. The analysis made the following conclusions with respect to impacts on small entities.

All of the participants in the halibut CDQ fisheries are small entities, including the approximately 250 fishing vessel owners or operators who harvest halibut CDQ, the approximately 20 registered buyers who purchase halibut CDQ, the six CDQ groups who are allocated halibut CDQ, and the 56 western Alaska communities that are eligible for the CDQ program. All of these small entities incur some economic impact due to an increase in annual compliance costs as a result of recordkeeping and reporting requirements. For example, this proposed rule would require the CDQ groups to incur costs associated with obtaining CDQ permits and submitting the CDQ catch reports. It would also require vessel operators and registered buyers to incur costs associated with CDQ landings reports as well as the requirement that owners or operators of vessel equal to or greater than 60 ft (18.3 m) LOA incur costs associated with the requirement to carry a CDQ observer.

NMFS has determined that a regulation has a significant economic impact for the purposes of the Regulatory Flexibility Act (RFA) if it is likely to result in more than a 5-percent decrease in annual gross revenues; annual compliance costs (e.g., annualized capital, operating, reporting)

that increase total costs of production by more than 5 percent; compliance costs as a percent of sales that are 10 or more percent higher for small entities than compliance costs for large entities; capital costs of compliance that represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities; or is likely to result in 2 or more percent of the small entities affected being forced to cease business operations.

NMFS believes that the proposed action will not reach these thresholds. However, the agency does not currently have sufficient information about the operating and production costs of the potentially affected small entities. Therefore, NMFS determines that the preferred alternative may have a significant impact on a substantial number of small entities and has provided the requisite analytical information required for an IRFA.

NMFS considered the alternative of allowing current regulations to expire on December 31, 1998, which would result in no regulations governing the permitting, catching, recordkeeping, reporting, and monitoring of halibut CDQ catch. While this alternative may appear to minimize the economic impact of the proposed rule on small entities, it is not consistent with NMFS's fisheries management objectives and obligations under the Magnuson-Stevens Act and the North Pacific Halibut Act. Furthermore, it would not be supported by the fishing industry, the CDQ groups, the State of Alaska, or the International Pacific Halibut Commission, all of whom have an interest in the collection of catch data to manage the halibut CDQ fisheries.

The proposed rule would satisfy NMFS's fisheries management obligations in a manner consistent with the RFA by removing some requirements and compliance costs for small entities. Specifically, it would remove the requirement that the CDQ groups (1) list vessels less than 60 ft (18.3 m) LOA that conduct halibut CDQ fishing only, and the processors taking deliveries of CDQ only from these vessels in their CDPs, and (2) submit technical amendments to their CDPs to add or remove these vessels and processors. It would also remove the requirement for observers in shoreside processing plants that take deliveries from vessels less than 60 feet (18.3 m) LOA who have been halibut CDQ fishing.

The President has directed Federal agencies to use plain language in their communications with the public,

including regulations. To comply with that directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: February 1, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

Authority: 16 U.S.C. 773 et seq., 1801 et seq. and 3631 et seq.

2. In § 679.2, the definition for "Fixed gear sablefish and halibut CDQ fishing (applicable through December 31, 1998)" is removed; the definition for "Prohibited species quota (PSQ)" is revised; and the definition for "Halibut CDQ fishing" is added in alphabetical order to read as follows:

§ 679.2 Definitions.

Halibut CDQ fishing means fishing that results in a delivery by a catcher vessel or a set by a catcher/processor in which the following conditions are met:

- (1) Retained halibut CDQ represents the largest proportion of the retained catch in round weight equivalent, and
(2) The round weight equivalent of other retained groundfish does not exceed the maximum retainable bycatch amounts for these species or species groups as established in § 679.20(e) and (f).

Prohibited species quota (PSQ) means the amount of a prohibited species catch limit established under § 679.21(e)(1) and (e)(2) that is allocated to the groundfish CDQ program under § 679.21(e)(1)(i) and (e)(2)(ii).

3. In § 679.7, paragraphs (d)(4), (d)(11), (d)(15), (d)(19) through (d)(24), and paragraphs (f)(3), (f)(5), (f)(6), and (f)(10) are revised; paragraphs (d)(25) and (d)(26) are removed; paragraphs (d)(27) and (d)(28) are redesignated as (d)(25) and (d)(26) respectively.

§ 679.7 Prohibitions.

(d) * * *

(4) Harvest groundfish CDQ on behalf of a CDQ group with a vessel that is not listed as an eligible vessel on an approved CDP for that CDQ group.

(11) For the operator of a catcher vessel using trawl gear or any vessel less than 60 ft (18.3 m) LOA that is groundfish CDQ fishing as defined at § 679.2, discard any groundfish CDQ species or salmon PSQ before it is delivered to an eligible processor listed on an approved CDP.

(15) For the operator of a catcher/processor or a catcher vessel required to carry a CDQ observer, combine catch from two or more CDQ groups in the same haul or set.

(19) For the operator of a catcher/processor using trawl gear or a mothership, sort, process, or discard CDQ or PSQ species before the total catch is weighed on a scale that meets the requirements of § 679.28(b), including the daily test requirements described at § 679.28(b)(3).

(20) For the manager of a shoreside processor or the manager or operator of a buying station that is required elsewhere in this part to weigh catch on a scale approved by the State of Alaska under § 679.28(b), fail to weigh catch on a scale that meets the requirements of § 679.28(b).

(21) For a CDQ representative, use methods other than those approved in the CDP to determine the catch of CDQ and PSQ reported to NMFS on the CDQ catch report.

(22) For the operator of a vessel using trawl gear, harvest pollock CDQ in 1998 with trawl gear other than pelagic trawl gear.

(23) For a CDQ group, report catch of sablefish CDQ for accrual against the fixed gear sablefish CDQ reserve if that sablefish CDQ was caught with fishing gear other than fixed gear.

(24) For any person on a vessel using fixed gear that is fishing for a CDQ group with an allocation of fixed gear sablefish CDQ, discard sablefish harvested with fixed gear.

(3)(i) Halibut. Retain halibut caught with fixed gear without a valid IFQ or CDQ permit and without an IFQ or CDQ card in the name of an individual aboard.

(ii) Sablefish. Retain sablefish caught with fixed gear without a valid IFQ permit and without an IFQ card in the name of an individual aboard, except as provided under an approved CDP.

(5) Possess, buy, sell, or transport IFQ or CDQ halibut or IFQ sablefish harvested or landed in violation of any provision of this part.

(6) Make a IFQ halibut, IFQ sablefish, or CDQ halibut landing without an IFQ or CDQ card in the name of the individual making the landing.

(10) Make an IFQ halibut, IFQ sablefish, or CDQ halibut landing other than directly to (or by) a registered buyer.

4. In § 679.21, paragraph (e)(2)(ii) is revised to read as follows.

§ 679.21 Prohibited species bycatch management.

- (e) * * *
(2) * * *

(ii) The amount of 7.5 percent of the non-trawl gear halibut PSC limit set forth in paragraph (e)(2)(i) of this section is allocated to the groundfish CDQ program as PSQ reserve. The PSQ reserve is not apportioned by gear or fishery.

5. In § 679.23, paragraph (e)(4)(iii) is removed; and paragraph (e)(4)(iv) is revised to read as follows:

§ 679.23 Seasons.

- (e) * * * * *
(4) * * *

(iii) Groundfish CDQ. Fishing for groundfish CDQ species, other than fixed gear sablefish CDQ under subpart C of this part, is authorized from 0001 hours, A.l.t., January 1, through the end of each fishing year, except as provided in paragraph (c) of this section.

6. In § 679.30, paragraph (a)(5)(i)(C) is removed, paragraphs (a)(5) introductory text, paragraphs (a)(5)(i)(A)(1), (a)(5)(i)(A)(2)(ii), (a)(5)(i)(B) are revised to read as follows:

§ 679.30 General CDQ regulations.

- (a) * * *

(5) Fishing plan for groundfish and halibut CDQ fisheries. The following information must be provided for all vessels that will be groundfish CDQ fishing, all vessels equal to or greater than 60 ft (18.3 m) LOA that will be halibut CDQ fishing, and for all shoreside processors that will take delivery of any groundfish CDQ species from vessels that will be groundfish CDQ fishing or vessels equal to or greater than 60 ft (18.3 m) LOA that will be halibut CDQ fishing.

(i) List of eligible vessels and processors—(A) Vessels—(1)

Information required for all vessels. A list of the name, Federal fisheries permit number (if applicable), ADF&G vessel number, LOA, gear type, and vessel type (catcher vessel, catcher/processor, or mothership). For each vessel, report only the gear types and vessel types that will be used while CDQ fishing. Any CDQ vessel that is exempt from the moratorium under § 679.4(c)(3)(v) must be identified as such.

(2) * * *

(ii) Average and maximum number of hauls or sets that will be retrieved on any given fishing day while groundfish CDQ fishing.

* * * * *

(B) *Shoreside processors.* A list of the name, Federal processor permit number, and location of each shoreside processor that is required to have a Federal processor permit under § 679.4(f) and will take deliveries of, or process, groundfish CDQ catch from any vessel groundfish CDQ fishing or from vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing.

* * * * *

7. In § 679.31, paragraphs (d)(1) and (d)(2) are revised; paragraphs (d)(3) and (f) are removed, and paragraph (g) is redesignated as paragraph (f) as follows:

§ 679.31 CDQ reserves.

* * * * *

(d) * * *

(1) For calendar year 2000, and thereafter, 7.5 percent; and

(2) For calendar year 1999 (applicable through December 31, 1999), 5 percent.

* * * * *

8. In § 679.32, paragraphs (a), (c) introductory text, (c)(3)(i), (c)(3)(v), and (f) are revised to read as follows:

§ 679.32 Groundfish and halibut CDQ catch monitoring.

(a) *Applicability.* The CDQ group, the operator or manager of a buying station, the operator of a vessel groundfish CDQ fishing as defined at § 679.2, the operator of a vessels equal to or greater than 60 ft (18.3 m) LOA halibut CDQ fishing as defined at § 679.2, and the manager of a shoreside processor taking deliveries of groundfish CDQ from these vessels must comply with the requirements of paragraphs (b) through (d) of this section for all groundfish CDQ and PSQ. The CDQ group, the operator of a vessel harvesting halibut CDQ, the shoreside processor, and the registered buyer must comply with the requirements of paragraph (f). In addition, the CDQ group is responsible for ensuring that vessels and processors listed as eligible on the CDQ group's approved CDP comply with all

requirements of this section while harvesting or processing CDQ species.

* * * * *

(c) *Requirements for vessels and processors.* In addition to complying with the minimum observer coverage requirements at § 679.50(c)(4), vessel operators and shoreside processors meeting the requirements of paragraph (a) of this section must comply with the following requirements:

* * * * *

(3) * * *

(i) *Prior notice to observer of offloading schedule.* Notify the CDQ observer of the offloading schedule of each CDQ delivery at least 1 hour prior to offloading to provide the CDQ observer an opportunity to monitor the sorting and weighing of the entire delivery.

* * * * *

(v) *CDQ delivery report.* Submit a CDQ delivery report described at § 679.5(n)(1) for each delivery of groundfish CDQ.

* * * * *

(f) *Halibut CDQ—(1) Applicability.* The CDQ group, the operator of a vessel harvesting halibut CDQ, the shoreside processor, and the registered buyer must comply with the requirements of this paragraph for halibut CDQ.

(2) *Accounting for halibut CDQ catch.* The CDQ group, vessel owner, registered buyer, and shoreside processor must comply with the following requirements for the catch of halibut CDQ.

(i) *Permits.* The CDQ group must obtain a halibut CDQ permit issued by the Regional Administrator. The vessel operator must have a copy of the halibut CDQ permit on any fishing vessel operated by, or for, a CDQ group that will have halibut CDQ onboard and must make the permit available for inspection by an authorized officer. The halibut CDQ permit is non-transferable and is issued annually until revoked, suspended, or modified.

(ii) *CDQ cards.* A person must have a valid halibut CDQ card issued by the Regional Administrator before landing any halibut CDQ. Each halibut CDQ card will identify a CDQ permit number and the person authorized by the CDQ group to land halibut for debit against the CDQ group's halibut CDQ.

(iii) *Alteration.* No person may alter, erase, mutilate, or forge a halibut CDQ permit, landing card, registered buyer permit, or any valid and current permit or document issued under this part. Any such permit, card, or document that has been intentionally altered, erased, mutilated, or forged is invalid.

(iv) *Landings.* A person may land halibut CDQ only if he or she has a valid halibut CDQ card, and that person may deliver halibut CDQ only to a person with a valid registered buyer permit. The person holding the halibut CDQ card and the registered buyer must comply with the requirements of § 679.5(l)(1) and (l)(2).

(v) The CDQ group, vessel owner or operator, and registered buyer must comply with all of the IFQ prohibitions at § 679.7(f).

(3) *Accounting for catch of groundfish CDQ while halibut CDQ fishing.* The shoreside processor must report on a CDQ delivery report described at § 679.5(n)(1), all groundfish CDQ landed from vessels equal to or greater than 60 ft (18.3 m) LOA while halibut CDQ fishing. The CDQ group must report on a CDQ catch report described at § 679.5(n)(2), all groundfish CDQ landed from vessels equal to or greater than 60 ft (18.3 m) LOA while halibut CDQ fishing. This groundfish CDQ will accrue to the CDQ group's groundfish CDQ allocations. The shoreside processor is not required to report on the CDQ delivery report and the CDQ group is not required to report on the CDQ catch report, groundfish caught by vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing, and this catch will not accrue against the CDQ group's groundfish CDQ allocations.

(4) *Groundfish CDQ retention requirements.* Operators of vessels less than 60 ft (18.3 m) LOA are not required to retain and deliver groundfish CDQ species while halibut CDQ fishing. Operators of vessels equal to or greater than 60 ft (18.3 m) LOA are required to comply with all groundfish CDQ and PSQ catch accounting requirements in paragraphs (b) through (d) of this section, including the retention of all groundfish CDQ, if option 1 under § 679.32(c)(2)(ii) is selected in the CDP.

(5) *Observer coverage requirements.* The owner or operator of a vessel equal to or greater than 60 ft (18.3 m) LOA halibut CDQ fishing as defined at § 679.2 or shoreside processors taking deliveries from vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing must comply with observer coverage requirements at § 679.50(c)(4) and (d)(4).

9. In § 679.50, paragraphs (c)(4) and (d)(4) are revised to read as follows

§ 679.50 Groundfish Observer Program applicable through December 31, 2000.

* * * * *

(c) * * *

(4) *Groundfish and halibut CDQ fisheries.* The owner or operator of a vessel groundfish CDQ fishing or

halibut CDQ fishing as defined at § 679.2 must comply with the following minimum observer coverage requirements each day that the vessel is used to harvest, transport, process, deliver, or take deliveries of CDQ or PSQ species. The time required for the CDQ observer to complete sampling, data recording, and data communication duties shall not exceed 12 hours in each 24-hour period and the CDQ observer is

required to sample no more than 9 hours in each 24-hour period.

* * * * *

(d) * * *
(4) *Groundfish and halibut CDQ fisheries.* Each shoreside processor required to have a Federal processor permit under § 679.4(f) and taking deliveries of CDQ or PSQ from all vessels groundfish CDQ fishing as defined at § 679.2 or taking deliveries from vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing must have at least one lead CDQ

observer as described at paragraph (h)(1)(i)(E) of this section present at all times while CDQ is being received or processed. The time required for the CDQ observer to complete sampling, data recording, and data communication duties shall not exceed 12 hours in each 24-hour period, and the CDQ observer is required to sample no more than 9 hours in each 24-hour period.

* * * * *

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