

(II)." Any party that files an objection to the rates published in today's Notice must state their intention to participate in a proceeding and state in detail their reasons for the objection as well their significant interest in the outcome of this proceeding.

#### List of Subjects in 37 CFR Part 386

Copyright, Satellite, Television.

#### Proposed Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges propose to add part 386 to Chapter III of title 37 of the Code of Federal Regulations to read as follows:

#### PART 386—ADJUSTMENT OF ROYALTY FEES FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS

Sec.

386.1 General.

386.2 Royalty fee for secondary transmission by satellite carriers.

**Authority:** 17 U.S.C. 119(c), 801(b)(1).

##### § 386.1 General.

This part 386 adjusts the rates of royalties payable under the statutory license for the secondary transmission of broadcast stations under 17 U.S.C. 119.

##### § 386.2 Royalty fee for secondary transmission by satellite carriers.

(a) *General.* (1) For purposes of this section, *Per subscriber per month* shall mean for each subscriber subscribing to the station in question (or to a package including such station) on the last day of a given month.

(2) In the case of a station engaged in digital multicasting, the rates set forth in paragraph (b) of this section shall apply to each digital stream that a satellite carrier or distributor retransmits pursuant to 17 U.S.C. 119, provided however that no additional royalty shall be paid for the carriage of any material related to the programming on such stream.

(b) *Rates.* (1) *Private home viewing.* The rates applicable to Satellite Carriers' carriage of each broadcast signal for private home viewing shall be as follows:

(i) 2010: 25 cents per subscriber per month (for each month of 2010);

(ii) 2011: the 2010 rate, adjusted for the amount of inflation as measured by the change in the Consumer Price Index for all Urban Consumers All Items for October 2009 to October 2010;

(iii) 2012: the 2011 rate, adjusted for the amount of inflation as measured by the change in the Consumer Price Index

for all Urban Consumers All Items for October 2010 to October 2011;

(iv) 2013: the 2012 rate, adjusted for the amount of inflation as measured by the change in the Consumer Price Index for all Urban Consumers All Items from October 2011 to October 2012;

(v) 2014: the 2013 rate, adjusted for the amount of inflation as measured by the change in the Consumer Price Index for all Urban Consumers All Items from October 2012 to October 2013.

(2) *Viewing in Commercial Establishments.* The rates applicable to Satellite Carriers' carriage of each broadcast signal for viewing in commercial establishments shall be as follows:

(i) 2010: 50 cents per subscriber per month (for each month of 2010);

(ii) 2011: the 2010 rate, adjusted for the amount of inflation as measured by the change in the Consumer Price Index for all Urban Consumers All Items from October 2009 to October 2010;

(iii) 2012: the 2011 rate, adjusted for the amount of inflation as measured by the change in the Consumer Price Index for all Urban Consumers All Items from October 2010 to October 2011;

(iv) 2013: the 2012 rate, adjusted for the amount of inflation as measured by the change in the Consumer Price Index for all Urban Consumers All Items from October 2011 to October 2012;

(v) 2014: the 2013 rate, adjusted for the amount of inflation as measured by the change in the Consumer Price Index for all Urban Consumers All Items from October 2012 to October 2013.

Dated: July 8, 2010.

**William J. Roberts, Jr.,**

*U.S. Copyright Royalty Judge.*

[FR Doc. 2010-17037 Filed 7-12-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 679 and 680

[Docket No. 070718367-7374-01]

RIN 0648-AV33

#### Fisheries of the Exclusive Economic Zone Off 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 to amend regulations that govern fisheries managed under the Western Alaska Community Development Quota (CDQ) Program. These revisions are needed to comply with certain changes made to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) in 2006. Proposed changes include revising regulations associated with recordkeeping, vessel licensing, catch retention requirements, and fisheries observer requirements to ensure that they are no more restrictive than the regulations in effect for comparable non-CDQ fisheries managed under individual fishing quotas or cooperative allocations. In addition, NMFS proposes to remove CDQ Program regulations that now are inconsistent with the Magnuson-Stevens Act, including regulations associated with the CDQ allocation process, transfer of groundfish CDQ and halibut prohibited species quota, and the oversight of CDQ groups' expenditures.

**DATES:** Comments must be received no later than August 12, 2010.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648-AV33, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal Web site at <http://www.regulations.gov>.

- *Mail:* P.O. Box 21668, Juneau, AK 99802.

- *Fax:* (907) 586-7557.

- *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personal Identifying Information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

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, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Written comments regarding the burden-hour estimates or other aspects

of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS (*see ADDRESSES*), e-mailed to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or faxed to 202-395-7285.

Copies of the Environmental Assessment (EA), Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) prepared for this action may be obtained from <http://www.regulations.gov> or from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Obren Davis, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish and crab fisheries of the Bering Sea and Aleutian Islands management area (BSAI) under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (groundfish FMP) and the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (crab FMP). The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*). The International Pacific Halibut Commission and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Northern Pacific Halibut Act of 1982. Regulations governing the groundfish, crab, and halibut fisheries in the BSAI and implementing the FMPs appear at 50 CFR parts 300, 600, 679, and 680.

**Overview of the CDQ Program**

The CDQ Program is an economic development program associated with Federally managed fisheries in the BSAI. The purpose of the program is to provide western Alaska communities the opportunity to participate and invest in BSAI fisheries, to support economic development in western Alaska, to alleviate poverty and provide economic and social benefits for residents of western Alaska, and to achieve sustainable and diversified local economies in western Alaska. The large-scale commercial fisheries of the BSAI developed in the eastern Bering Sea without significant participation from rural western Alaska communities. These fisheries are capital-intensive and require large investments in vessels, infrastructure, processing capacity, and specialized gear. The CDQ Program was developed to redistribute some of the BSAI fisheries' economic benefits to adjacent communities by allocating a portion of commercially important BSAI species including pollock, crab, halibut,

and various groundfish, to such communities. The percentage of each annual BSAI catch limit allocated to the CDQ Program varies by both species and management area. Regulations establishing the CDQ Program were first implemented in 1992. The CDQ Program was incorporated into the Magnuson-Stevens Act in 1996 through the Sustainable Fisheries Act (Pub. L. 104-297).

NMFS allocates a portion of the annual catch limits for a variety of commercially valuable marine species in the Bering Sea and Aleutian Islands area (BSAI) to the CDQ Program. These apportionments are in turn allocated among six different non-profit managing organizations representing different affiliations of communities (CDQ groups). There are 65 communities participating in the program. These communities, and their managing organizations, are identified in the Magnuson-Stevens Act at Section 305(i)(1)(D). CDQ groups use the revenue derived from the harvest of their fisheries allocations as a basis both for funding economic development activities and for providing employment opportunities. The successful harvest of CDQ Program allocations is integral to achieving the goals of the program. The National Marine Fisheries Service (NMFS), the State of Alaska (State), and the Western Alaska Community Development Association administer the CDQ Program.

The fisheries management regulations governing the CDQ fisheries are integrated into the regulations governing the concurrent fisheries for groundfish, halibut, and crab. These are often termed the "non-CDQ" fisheries. CDQ fisheries management regulations have been developed incrementally since the creation of the CDQ Program. These regulations were developed to ensure that catch of all species allocated to the CDQ Program should be limited to the amount of the allocations, with no catch from CDQ fisheries accruing against non-CDQ allocations. They also were developed to ensure that NMFS and the CDQ groups had timely, accurate catch information during the course of CDQ fishing activities. Applicable CDQ fisheries regulations may subject CDQ fishery participants to additional costs, additional catch reporting requirements, or be designed to control some aspect of CDQ fishing activities. This is typical of the development of regulations that govern catch share programs in the Alaska groundfish, halibut, and crab fisheries. Federal catch share programs convey harvesting privileges (licenses, fishing quota, exclusive access) for specific marine species to individuals,

cooperatives, communities, or other eligible entities. In turn, the beneficiaries of such privileges are subject to higher levels of catch accounting, catch monitoring, and fisheries enforcement than they may have been subject to before receiving these privileges.

The original fishery management objectives for the groundfish, halibut, and crab CDQ fisheries include, in general, limiting the catch of all species to the amount allocated to the program and not allowing catch made under the program to accrue against non-CDQ portions of total allowable catch (TAC) limits or prohibited species catch (PSC) limits. These objectives also included managing target and non-target species allocations made to the CDQ groups with the same level of strict quota accountability, and holding each CDQ group responsible not to exceed any of its groundfish CDQ allocations.

**2006 and 2007 Statutory Changes Affecting the CDQ Program**

Section 305(i)(1) of the Magnuson-Stevens Act includes requirements to establish the CDQ Program and allocate a percentage of the total allowable catch (TAC) of each Bering Sea (BS) and Aleutian Island (AI) directed fishery to the program. Corresponding Federal and State regulations implement various administrative and fisheries management aspects of the CDQ Program. The fisheries management regulations governing the groundfish, halibut, and crab CDQ fisheries are integrated into the regulations governing the concurrent, non-CDQ fisheries for such species.

Section 305(i)(1) of the Magnuson-Stevens Act was amended on July 11, 2006, by the Coast Guard and Maritime Transportation Act (Coast Guard Act) (Pub. L. 109-241). The Coast Guard Act revised all of the existing language in section 305(i)(1) with new language. The new requirements in section 305(i)(1) address all aspects of management and oversight of the CDQ Program including the purpose of the CDQ Program; allocations of groundfish, halibut, and crab to the program and among the CDQ groups; management of the CDQ fisheries with respect to non-CDQ fisheries; eligible communities; eligibility criteria; limits on allowable investments; the creation of a CDQ administrative panel; compliance with State reporting requirements; a decennial review and allocation adjustment process; and other features of program administration and oversight by the State and NMFS. These amendments were intended to address a variety of oversight and management

issues associated with the CDQ Program, including conferring a higher level of self-governance to CDQ groups.

On January 12, 2007, the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Pub. L. 109–479) further amended section 305(i)(1) of the Magnuson-Stevens Act specifically by amending sections 305(i)(1)(B)(ii) and (C). The allocations of groundfish (other than pollock and sablefish) to the CDQ Program and among the CDQ groups were increased by this Reauthorization Act. Furthermore, it amended restrictions associated with the transfer of quota among the CDQ groups.

Most of the new CDQ Program requirements in the Magnuson-Stevens Act must be implemented through revisions to Federal regulations at 50 CFR parts 679 and 680. This action proposes regulatory amendments related to the regulation of harvest in select CDQ fisheries, as described below. This action also proposes to modify or remove other regulations related to the CDQ allocation and transfer process, as well as to remove regulations associated with the oversight of expenditures and investments by CDQ groups. These proposed regulatory amendments are described later in the preamble to this proposed rule. Other regulatory amendments to the CDQ Program required by the Coast Guard Act have been or are being addressed in other, separate regulatory actions.

NMFS prepared an EA/RIR/IRFA (*see ADDRESSES*) as part of an evaluation to identify which regulations in 50 CFR parts 679 and 680 would need to be changed to comply with the Magnuson-Stevens Act requirements associated with the management of CDQ fisheries. NMFS presented this analysis to the Council in June 2007. The Council recommended implementation of an alternative that would amend CDQ fisheries management regulations to align them with comparable non-CDQ fisheries regulations.

The regulation of CDQ harvest is directly addressed in the Magnuson-Stevens Act at section 305(i)(1)(B)(iv). This paragraph states:

The harvest of allocations under the program for fisheries with individual quotas or fishing cooperatives shall be regulated by the Secretary in a manner no more restrictive than for other participants in the applicable sector, including with respect to the harvest of non-target species.

Accordingly, this proposed action focuses on those BSAI fisheries with individual fishing quotas (IFQs) or those BSAI fisheries managed with cooperatives. The BSAI fisheries that include allocations of IFQs are the

Pacific halibut, fixed gear sablefish, and crab fisheries. Recipients of IFQ receive a specific amount of a particular IFQ species to catch each year. The BSAI fisheries that include components managed with cooperatives include the BS pollock fishery, as well as the allocations of Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod made to the non-American Fisheries Act (AFA) trawl catcher/processor sector (otherwise known as the Amendment 80 sector). Cooperatives allow multiple quota recipients to aggregate their annual quota amounts, coordinate their collective fishing operations, and benefit from the resulting efficiencies. Each of the BSAI fisheries managed with IFQs or cooperatives also include allocations to the CDQ Program.

NMFS interprets the statement “in a manner no more restrictive than for other participants in the applicable sector” from the Magnuson-Stevens Act to mean that the fishery management regulations associated with regulating the harvest of CDQ allocations should be no more costly, complex, or burdensome than those that apply to comparable non-CDQ sectors managed under IFQs or cooperative allocations. This applies to most of the major BSAI fisheries, although one noteworthy exception is the Pacific cod fishery conducted by hook-and-line catcher/processors. Hook-and-line catcher/processors are allocated 48.7 percent of the annual BSAI Pacific cod TAC, but are not rationalized as are most other major fishery sectors that fish for Pacific cod. Rationalization typically refers to programs that limit access to certain fisheries to balance the interests of competing participants, while providing a means to address overarching management and conservation issues. There are no IFQ or cooperative allocations associated with any fixed gear component of the Pacific cod fishery. Therefore, no changes are required by section 305(i)(1)(B)(iv) to regulations governing the harvest of Pacific cod by hook-and-line catcher/processors, although this is one of the major groundfish CDQ fisheries.

Furthermore, NMFS interprets the phrase “including with respect to the harvest of non-target species” in section 305(i)(1)(B)(iv) to apply to species that may legally be retained and sold while directed fishing for halibut, groundfish, or crab CDQ. In the BSAI groundfish fisheries, any given amount of catch may be composed of target species, some bycatch or incidental catch species, and some prohibited species. BSAI fisheries management regulations

at § 679.2 define “harvesting or to harvest” as the catch and retention of any fish. The Magnuson-Stevens Act does not define “harvesting.”

Prohibited species may not be retained if caught while groundfish fishing in the BSAI, with the exception of those prohibited species that may be retained for donation to a food bank or are required to be retained for proper accounting. These types of prohibited species include salmon, as well as halibut delivered by catcher vessels using trawl gear to shoreside processors. Crab and herring are not part of the prohibited species donation program. Therefore, NMFS interprets the Magnuson-Stevens Act’s requirements at section 305(i)(1)(B)(iv) as not applying to regulations governing the catch of prohibited species in the CDQ Program.

NMFS considered the need to propose changes to the regulations that govern the regulation of crab CDQ harvest during its assessment of current regulations governing the CDQ fisheries. The crab CDQ fisheries are managed under the regulations developed for the Crab Rationalization (CR) Program, which was implemented in 2005 (70 FR 10174, March 2, 2005). The crab FMP defers many aspects of BSAI crab management to the State, including most aspects of the regulation of harvest of crab CDQ. The crab CDQ fishery occurs in conjunction with the crab IFQ fishery under comparable Federal and State regulations. NMFS has not identified any crab CDQ regulations that are more restrictive than those in effect for the crab IFQ fishery. Therefore, this action does not propose changes to Federal regulations governing the crab CDQ fisheries.

Amendment 80 to the groundfish FMP (Amendment 80) allocated non-pollock groundfish fisheries among fishing sectors, and included provisions that allow the formation of fisheries cooperatives (72 FR 52668, September 14, 2007). NMFS already has integrated the applicable portion of the groundfish CDQ fisheries into the catch monitoring and enforcement requirements that were implemented for non-AFA trawl catcher/processors in conjunction with the implementation of Amendment 80. “Non-AFA trawl catcher/processors” refers to a class of vessels that did not qualify to fish for pollock under the authority of the AFA. These are typically referred to as Amendment 80 vessels. Such vessels typically have been involved in fisheries for species such as Atka mackerel, Pacific ocean perch, flathead sole, Pacific cod, rock sole, and yellowfin sole (Amendment 80 species). Therefore, this action does not

propose any changes to Federal regulations governing the Amendment 80 species allocated to the CDQ Program or to groundfish CDQ fishing for Amendment 80 species.

This proposed rule would revise regulations in 50 CFR part 679 to be consistent with Magnuson-Stevens Act requirements for the regulation of harvest of the CDQ fisheries, as described previously. Regulations governing the harvest of halibut and sablefish IFQ, and the harvest of pollock under the AFA, are different from regulations governing the harvest of other non-CDQ groundfish. Therefore, the Magnuson-Stevens Act now requires NMFS to manage the CDQ fisheries for halibut, sablefish, and pollock differently than the more restrictive CDQ regulations that currently are in effect. Thus, NMFS proposes to separately identify CDQ fisheries and separate the fisheries management regulations associated with the halibut, sablefish, pollock, and groundfish CDQ fisheries. This, in turn, would allow NMFS to amend regulations for the halibut, sablefish, and pollock CDQ fisheries to align them with those regulations in place for the equivalent non-CDQ fisheries.

#### **Proposed Regulatory Amendments To Implement Regulation of Harvest Requirements**

The following is an overview of the proposed revisions to CDQ fisheries management regulations. Detailed explanations of, and rationales for, these proposed regulatory amendments are provided in following sections.

1. Add definitions of “sablefish CDQ fishing” and “pollock CDQ fishing” to provide a basis for establishing which fishery-specific regulations a vessel operator must comply with when participating in a particular CDQ fishery. The terms “halibut CDQ fishing” and “groundfish CDQ fishing” already are defined in regulation, but would be revised under this proposed rule. These proposed revisions are detailed in the *Definitions* section below.

2. Exclude sablefish CDQ from the definition of “license limitation groundfish,” which would, in turn, exempt vessel operators from the requirement to have a License Limitation Program (LLP) groundfish license while fishing for sablefish CDQ under the CDQ Program. This would be consistent with the exemption allowed for vessels fishing for sablefish IFQ, which occurs under the IFQ Program. This proposed revision is detailed in the *Definitions* section below.

3. Remove a requirement that CDQ groups annually submit a request to

NMFS to designate specific vessels as eligible to harvest groundfish CDQ on their behalf, as well as remove a prohibition against harvesting groundfish CDQ unless a vessel is designated as eligible to do so. These proposed revisions are detailed in the *Eligible Vessels* section below.

4. Revise CDQ catch monitoring and accounting requirements for the halibut, sablefish, and pollock CDQ fisheries to incorporate other applicable changes proposed by this action. This includes eliminating requirements that groundfish bycatch be retained for full catch accounting of all species caught by catcher vessels targeting halibut, sablefish, or pollock CDQ. These proposed revisions are detailed in the *Catch Accounting and Monitoring* section below.

5. Revise regulations to align observer coverage requirements for the sablefish CDQ, halibut CDQ, and pollock CDQ fisheries with comparable non-CDQ fisheries. These proposed revisions are detailed in the *Observer Coverage Requirements* section below.

In addition, there is a remove/add table at the end of the regulatory text portion of this proposed rule that portrays minor changes to wording or changes to cross-references. NMFS chose to propose some types of changes in the remove/add table because it is an efficient way to illustrate repetitive or simple changes. For example, the proposal to change the term “CDQ group number” to “CDQ number” affects multiple paragraphs of 50 CFR part 679.5, since this term is found in numerous locations in this section. The remove/add table clearly identifies the section and paragraph that is affected by each proposed change. The preamble refers the reader to the remove/add table whenever a proposed regulatory change is found there. All other regulatory changes are set forth in the proposed regulatory text following this preamble.

Revisions described below were specifically recommended by the Council in 2007 and are proposed under section 303(c) of the Magnuson-Stevens Act.

#### *Definitions*

This proposed rule would add or revise a number of definitions in § 679.2 associated with the CDQ Program. These proposed changes are based upon the Magnuson-Stevens Act requirement that CDQ harvests must be managed no more restrictively than BSAI fisheries managed with individual quotas or fishing cooperatives. Adding or refining definitions for different types of CDQ fishing would help distinguish which regulations apply to a given CDQ fishing

activity, and support the Council’s recommendations for this action. Subsequent sections of the preamble discuss proposed changes to (1) eligible vessel requirements, (2) catch monitoring and accounting, and (3) observer coverage requirements, as well as explain the rationale for these proposed changes to definitions.

Definitions of pollock CDQ fishing and sablefish CDQ fishing would be added to § 679.2. This would enable NMFS and vessel operators in applicable fisheries to distinguish which particular CDQ fishery a vessel is participating in and the corresponding CDQ-specific regulations with which a vessel operator must comply. Groundfish CDQ fishing currently is defined. Pollock and sablefish are encompassed within the existing definition of groundfish CDQ fishing, along with numerous other groundfish species. This proposed rule would separate sablefish CDQ and pollock CDQ from the definition of groundfish CDQ fishing. This rule also proposes to apply different catch accounting and observer requirements to the sablefish, pollock, and groundfish CDQ fisheries; the new definitions proposed here primarily are to support such changes.

The proposed definition of “pollock CDQ fishing” would be modeled on a definition in § 679.2 used to define “AI directed pollock fishery,” which links a particular fishing activity to a distinct program allocation. This action proposes to define pollock CDQ fishing in a similar manner. Thus, a vessel would be considered directed fishing for pollock CDQ if it reported that its pollock catch accrued towards a pollock CDQ allocation. In addition, a new prohibition would be added at § 679.7(d) to prohibit a vessel operator from retaining more than the maximum retainable amount of pollock unless the vessel operator was pollock CDQ fishing. This would assist in clarifying that a vessel not otherwise eligible to target pollock (in other words, an Amendment 80 vessel) may not catch unlimited amounts of pollock while it is nominally targeting for other types of groundfish. The annual Bering Sea pollock catch limit already is fully apportioned between other industry sectors.

The definition of “halibut CDQ fishing” would be revised to remove references to conditions associated with retention of combinations of halibut CDQ, halibut IFQ, and other groundfish species. Instead of defining whether a vessel operator is halibut CDQ fishing based on the proportions of halibut and groundfish species retained onboard, NMFS proposes to define halibut CDQ

fishing based on whether a vessel is retaining halibut CDQ and whether it meets the definition of either sablefish CDQ or groundfish CDQ fishing.

This proposed rule would revise the definition of "groundfish CDQ fishing" to remove pollock CDQ fishing and sablefish CDQ fishing from the definition. Those two types of fishing would each be defined separately. Additionally, the term "eligible vessel" would be removed from this definition, as CDQ eligible vessel requirements are proposed to be removed by this action. The revised definition of groundfish CDQ fishing primarily would apply to vessels using trawl gear fishing for groundfish species other than pollock and to vessels using fixed gear fishing for groundfish species other than sablefish.

This proposed rule would revise the definition of "license limitation groundfish" to exclude sablefish CDQ harvested with fixed gear. Such a revision would mean that vessels fishing for sablefish CDQ would no longer be required to possess an LLP groundfish license when they are directed fishing for sablefish CDQ. This is equivalent to the exception made for vessels that are sablefish IFQ fishing. Sablefish managed under the IFQ Program was exempted from being considered a license limitation groundfish because this species already was managed under a limited access program prior to the development of the LLP.

#### *Eligible Vessels*

Each CDQ group must designate which vessels may fish for the group's groundfish CDQ or halibut CDQ by annually requesting that NMFS assign specific vessels with CDQ eligibility status. This requirement applies to each vessel of any length that will be groundfish CDQ fishing, and to each vessel equal to or greater than 60 ft (18.3 m) length overall (LOA) that will be halibut CDQ fishing. This requirement originally was implemented to provide specific information about which vessels would be participating in groundfish CDQ fisheries. NMFS required CDQ groups to submit detailed operational information about such vessels as part of the implementation of the multispecies groundfish CDQ Program in 1998. This was intended to ensure that the CDQ groups and their associated vessels were complying with increased observer coverage and catch reporting requirements. The eligible vessel designation also provided a means for the NOAA Office for Law Enforcement and U.S. Coast Guard enforcement personnel to verify that a

vessel was authorized to participate in the CDQ fisheries.

As the groundfish CDQ fishery matured and stabilized between 1998 and 2003, the information submitted as part of the vessel eligibility process became unnecessary for management and enforcement. The information collected on the eligible vessels forms is available from other sources, such as observer data or NMFS fisheries permits data. In 2005, NMFS amended regulations governing the eligible vessel requirements to decrease the amount of information collected about each vessel and to remove the State from the administrative review process associated with vessel eligibility (70 FR 15010, March 24, 2005). Currently, vessel operators are required to maintain a copy of NMFS's eligibility approval onboard a vessel at all times while harvesting, transporting, or offloading groundfish CDQ. Permits are required to participate in the halibut IFQ, sablefish IFQ, and AFA pollock fisheries, but there are no requirements equivalent to the former CDQ eligible vessel requirements.

NMFS proposes to eliminate the CDQ eligible vessel requirements entirely, rather than just for the primary fisheries affected by this action. This includes the general requirement that a CDQ group must submit a request to NMFS for approval of a vessel as eligible to fish for CDQ allocations at § 679.32(c) and the specific eligibility information required to be submitted at § 679.5(n)(2). The U.S. Coast Guard, which is the enforcement agency most likely to board vessels at sea to verify a vessel's fishing status, has informed NMFS that it does not currently use information about a vessel's CDQ eligibility status for enforcement purposes. Instead, U.S. Coast Guard personnel use fisheries logbooks, required by NMFS, to determine if a vessel is CDQ fishing or is fishing under another management program.

Removal of the vessel eligibility requirements would eliminate the need for the prohibition at § 679.7(d)(4). This paragraph prohibits a vessel from harvesting groundfish CDQ on behalf of a CDQ group unless the vessel is listed as an eligible vessel for a CDQ group. The word "eligible" also would be removed from the term "eligible vessel" in prohibitions at § 679.7(d)(6) through (10), as is denoted in the remove/add table at the end of this proposed rule. Furthermore, § 679.7(f)(3)(ii), which prohibits the retention of sablefish unless certain permit conditions are met, would be revised to delete a cross-reference to § 679.32(c).

#### *Catch Monitoring and Accounting*

The proposed changes to CDQ catch monitoring and accounting regulations are based on the Council's recommendation to amend such regulations in order to comport with Magnuson-Stevens Act requirements for the CDQ Program. This recommendation is based on NMFS's comparison of applicable regulations governing the harvest of similar CDQ species and non-CDQ species. This includes an assessment of whether CDQ regulations, as compared to non-CDQ regulations, may be considered more restrictive in the context of relevant Magnuson-Stevens Act requirements, particularly to the degree that they either impose additional financial costs or operational requirements on CDQ fishery participants. Those CDQ-related regulations that were deemed more restrictive when compared to regulations governing IFQ or cooperative fisheries are proposed to be amended, per the Council's recommendation for this action. Such changes are intended to remove CDQ catch monitoring or reporting requirements beyond those in effect for non-CDQ fisheries for halibut and sablefish IFQ, as well as pollock harvested under the AFA. This should, in turn, decrease the operational restrictions, reporting complexities, and costs associated with additional observer coverage for participants in the sablefish, halibut, and pollock CDQ fisheries.

The CDQ Program's retention and catch reporting requirements, in conjunction with data from fisheries observers, allows NMFS to monitor the catch of the various CDQ species and prohibited species quota (PSQ) species categories on a timely, ongoing basis throughout the year. The original multispecies CDQ Program catch accounting design as implemented in 1998 stipulated that all groundfish CDQ and PSQ harvested by vessels participating in the groundfish CDQ fisheries must be accounted for in the allocations made to CDQ groups.

The CDQ catch accounting system was developed in the late 1990's and designed so that none of the groundfish or PSQ catch (except herring) made in the groundfish CDQ fisheries accrued to the non-CDQ TACs or PSC limits. Furthermore, groundfish CDQ accounting requirements were extended to the halibut CDQ fishery. Halibut CDQ 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, including retention of all groundfish CDQ by

catcher vessels. In contrast, bycatch or incidentally caught groundfish in the non-CDQ fisheries managed with IFQs or cooperatives accrue against an annual TAC limit, seasonal apportionments, and sector allocations (if applicable) for that species and not against allocations to the IFQ holders or cooperative. Furthermore, the retention of non-target catch generally is not required.

Such comprehensive retention and accounting requirements are not required in the fixed gear sablefish IFQ, halibut IFQ, AFA pollock, or Amendment 80 cooperative fisheries. These fisheries do not have requirements that all incidentally caught groundfish species be retained and accounted for against allocations of these species made to quota holders or cooperatives. One exception is that participants in the halibut and sablefish IFQ fisheries must retain and deliver all catch of Pacific cod and rockfish taken when IFQ halibut or IFQ sablefish are onboard (unless the Pacific cod and rockfish fisheries are closed to directed fishing). Another exception is that all catch of Amendment 80 species in the Amendment 80 cooperative fisheries accrues towards a cooperative's allocations, regardless of whether such catch is retained or not. With respect to the IFQ fisheries requirement to retain and deliver Pacific cod and rockfish, NMFS is not proposing to apply these retention and reporting requirements to the halibut and sablefish CDQ fisheries primarily because doing so would extend NMFS's Federal groundfish permit requirements to a relatively small number of halibut CDQ fishermen who are not currently required to retain groundfish. These fishermen deliver their catch to small halibut processing facilities that do not process groundfish. The Council concurred in NMFS's recommendation on this issue.

NMFS proposes to revise CDQ catch monitoring requirements for the fixed gear sablefish, halibut, and pollock CDQ fisheries at § 679.32 and other applicable sections of 50 CFR part 679 to align regulations with the retention and reporting requirements in place for IFQ fisheries or fisheries managed with cooperatives. These proposed amendments also are related to the changes in observer coverage requirements described under the next section titled "Observer Coverage Requirements." The specific changes proposed to CDQ catch monitoring requirements follow.

Paragraph § 679.32(a) would be revised to identify the specific fisheries that paragraph (a) applies to: The CDQ fisheries for fixed gear sablefish, pollock, and other groundfish species.

The halibut CDQ fishery no longer would be subject to groundfish retention for purposes of CDQ catch accounting, so this action proposes to remove the groundfish retention and catch monitoring requirements for the halibut CDQ fishery from § 679.32.

Additionally, this proposed rule would add to paragraph (a) a cross-reference to the regulations governing halibut CDQ catch accounting at § 679.42(c).

Paragraph § 679.32(b) would be revised to state that the halibut caught by vessels that are sablefish CDQ fishing with fixed gear may be exempted from accrual against the CDQ groups' halibut PSQ if such an exemption is granted for vessels fishing for sablefish IFQ during the annual groundfish harvest specifications process. This exemption process already exists for the sablefish IFQ fishery. This exemption is proposed for vessels sablefish CDQ fishing to comply with section 305(i)(1)(B)(iv) of the Magnuson-Stevens Act. In addition, the proposed rule would update cross-references in paragraph (b) associated with prohibitions in § 679.7(d) and with halibut PSC limits in § 679.21(e).

This proposed rule also would revise the catch accounting requirements in § 679.32(c) to distinguish between the different catch monitoring requirements for vessels participating in three CDQ fisheries categories: fixed gear sablefish, pollock, and other groundfish. These categories would be in proposed paragraphs (c)(1), (c)(2), and (c)(3), respectively. These revisions include (1) describing the other general regulatory requirements with which participants in these fisheries must comply, (2) identifying the data sources used for CDQ catch accounting, and (3) specifying the operational requirements in place for different vessel categories.

Existing catch monitoring requirements for the groundfish CDQ fisheries other than fixed gear sablefish CDQ and pollock CDQ would be retained, but reorganized in § 679.32(c)(3). These proposed changes combine elements of existing regulations at § 679.32(c) through (e) that are associated with groundfish CDQ catch monitoring and reporting requirements, including the provision for CDQ groups and their affiliated vessels to use an alternative fishing plan to document how they will obtain groundfish catch data by means other than NMFS's standard data sources. This action also proposes to move an element associated with alternative fishing plans to revised § 679.32(c)(3) from § 679.50(c)(4)(ii). The particular element is associated with limitations on an observer's duty hours, but NMFS determined that it is more suitable to

include that particular criterion with the balance of other, existing requirements for alternative fishing plans.

This proposed rule would add a requirement in revised § 679.32(c)(3) to require that operators of Amendment 80 catcher/processors using trawl gear to harvest groundfish CDQ comply with catch monitoring requirements in § 679.93(c). The monitoring requirements in § 679.93(c) were implemented as part of Amendment 80, as previously described. Operators of non-AFA trawl catcher/processors that are fishing in the BSAI must now adhere to the same catch monitoring standards, regardless of whether they are participating in CDQ, cooperative, or limited access fisheries.

Other proposed changes to § 679.32(c) include adding references in paragraphs (c)(2)(i)(B) through (F) to applicable observer coverage requirements at § 679.50(c)(4)(iii). In association with these changes, NMFS proposes to remove most occurrences of the qualifier "level 2" from the term "level 2 observer." This would make references to observer types more general, while the proposed addition of references to observer requirements at § 679.50(c)(4)(iii) would clarify the type of observer(s) required for each groundfish CDQ vessel category.

Paragraph § 679.32(d) would be revised to describe catch monitoring requirements by fishery category for shoreside processors and stationary floating processors. These changes support the primary purpose of this proposed action by removing regulatory requirements for the halibut, fixed gear sablefish, and pollock CDQ fisheries that are more restrictive than regulations in place for comparable non-CDQ fisheries. This paragraph would contain information about general requirements and specific requirements associated with deliveries of pollock CDQ and with deliveries of groundfish CDQ. Proposed new paragraph § 679.32(d)(1) would refer managers of seafood processors to other sections of 50 CFR part 679 associated with non-CDQ pollock delivery requirements. Proposed new paragraph § 679.32(d)(2) addresses the requirements for groundfish CDQ deliveries. This paragraph would retain the existing processor requirements in § 679.32(d). Furthermore, § 679.32(d)(2) is proposed to be revised to incorporate a cross-reference to observer coverage requirements at § 679.50(d)(5)(iii) and to remove three occurrences of the qualifier "level 2."

This rule proposes to remove paragraph § 679.32(e), except for paragraph (e)(3), as noted below. Paragraph (e) outlines the requirements

associated with groundfish CDQ recordkeeping and reporting requirements, including the data sources that will be used to determine CDQ and PSQ catch amounts. This paragraph also describes the data used to complete CDQ catch reports (submitted by CDQ groups) and CDQ delivery reports (submitted by shoreside processors taking deliveries of groundfish CDQ). These requirements are obsolete because NMFS no longer requires CDQ fisheries participants to submit these reports. The requirement to submit them was removed in the final rule implementing Amendment 80 (72 FR 52668, September 14, 2007). However, the corresponding regulatory change to remove references to these reports in § 679.32 was inadvertently excluded in the rulemaking prepared to implement Amendment 80.

CDQ reporting requirements have been incorporated into generally applicable reporting requirements described in § 679.5. The information that once was collected through the CDQ delivery report and the CDQ catch report is now available through observer data, weekly production reports, and the Interagency Electronic Reporting System used to monitor various Alaska commercial fisheries. Catch reporting mechanisms for Federal fisheries in Alaska have undergone significant changes since the original groundfish CDQ fisheries catch reporting requirements were implemented in 1998. NMFS no longer needs separate reports from the CDQ groups acknowledging the groundfish catch that will accrue against their allocations. NMFS has enhanced CDQ groups' ability to access their groundfish CDQ and PSQ balances directly from the NMFS catch accounting system. This allows the groups to continue to monitor the status of their CDQ account balances on a timely basis.

Paragraph (e)(3) of § 679.32 is proposed to be moved to revised § 679.32(c)(3)(ii)(G) to address the use of alternative methods of CDQ catch accounting. This would allow catcher/processors to continue to use "alternative fishing plans." In common practice, these plans allow a catcher/processor using longline gear to carry a single fisheries observer, rather than the two observers specified in regulation for this vessel category. Such plans typically contain performance standards that limit a vessel's fishing effort to the number of sets that can be sampled by a single observer. Vessel operators typically use alternative fishing plans to conduct CDQ fishing operations just prior to, and at the end of, the non-CDQ Pacific cod seasons. Once a non-CDQ

cod season opens, catcher/processor vessels using these plans may switch to non-CDQ cod fishing, which has lower observer coverage levels than required of catcher/processors operating in the Pacific cod CDQ fishery. Alternative fishing plans allow vessel operators to avoid the costs associated with carrying a second observer during non-CDQ fishing operations or returning to port to disembark a second observer.

NMFS also is proposing to remove § 679.32(f). This paragraph describes the groundfish CDQ catch retention and monitoring requirements that are applicable to participants in the halibut CDQ fishery. It also includes observer coverage requirements for the halibut CDQ fishery. The halibut IFQ fishery is not subject to comparable requirements; thus, this proposed rule would remove these requirements in order to ensure that the halibut CDQ fishery is not managed more restrictively than the halibut IFQ fishery, per the Magnuson-Stevens Act. The halibut CDQ fishery would continue to be subject to the general halibut IFQ landing and reporting requirements in § 679.5(l).

#### *Observer Coverage Requirements*

This proposed rule would revise observer coverage requirements for the CDQ fisheries affected by this action. Existing CDQ observer coverage requirements were developed to support the comprehensive CDQ catch retention and reporting requirements developed for the groundfish CDQ fisheries (including the sablefish CDQ and pollock CDQ fisheries). The observer coverage requirements for vessels fishing for groundfish CDQ or vessels greater than or equal to 60 ft (18.3 m) LOA that are halibut CDQ fishing are different than those required in comparable non-CDQ fisheries. This action would align observer coverage requirements for the halibut CDQ, sablefish CDQ, and pollock CDQ fisheries by amending regulations in § 679.50(c) and (d). This is necessary to ensure that these CDQ fisheries are not subject to additional observer coverage requirements than those that are in place for participants in the halibut and sablefish IFQ fisheries, as well as the non-CDQ pollock fishery. If implemented, such changes would decrease the operational restrictions, reporting complexities, and costs associated with additional observer coverage for participants in the sablefish, halibut, and pollock CDQ fisheries.

Section 679.50(c)(4) would be revised to separate groundfish CDQ observer requirements into three distinct fisheries categories (sablefish, pollock,

and groundfish). Each category would describe the applicable observer requirements by vessel type. Observer coverage requirements for vessels participating in the halibut CDQ fishery would be removed.

Observer coverage requirements for vessels sablefish CDQ fishing are proposed to be revised to match those in place for the sablefish IFQ fishery. A proposed, new paragraph (c)(4)(i) of § 679.50 would include a cross-reference to existing sablefish IFQ coverage requirements in § 679.50(c)(1) and (2). Those requirements are based on vessel length, gear type, the fishery category in which a vessel is operating, and the amount of time spent fishing for sablefish during a calendar quarter for those vessels in the 30 percent coverage category. For calculating the days fished per quarter, vessels would combine days fishing sablefish IFQ with days fishing sablefish CDQ.

Similarly, observer coverage requirements for the pollock CDQ fishery would be aligned with those in effect for the AFA pollock fishery by applying the non-CDQ pollock fishery's requirements to the pollock CDQ fishery. Existing observer requirements for both the CDQ and AFA pollock fisheries are almost identical, with the exception of observer coverage levels on trawl catcher vessels. Current regulations require 100 percent observer coverage on catcher vessels fishing for pollock CDQ. This action would revise regulations to base CDQ observer requirements for trawl catcher vessels on vessel length, as is required in the AFA pollock fishery.

In April 2009, the Council adopted Amendment 91 to the groundfish FMP to reduce Chinook salmon bycatch in the BS pollock fishery. Amendment 91 would establish caps on the amount of Chinook salmon that may be caught annually in the pollock fishery. If attained, directed fishing for pollock would be closed. In addition, Amendment 91 would allow industry participants to develop private-sector bycatch reduction incentive plans to assist in forestalling pollock fishery closures. The Council also recommended a suite of salmon bycatch monitoring requirements to improve estimates of Chinook salmon bycatch in the pollock fisheries. One element of these requirements would require all trawl catcher vessels directed fishing for pollock to carry an observer, regardless of vessel length. This would mean that trawl catcher vessels fishing for AFA pollock (or CDQ pollock) would have to carry at least one observer while directed fishing, which is the same requirement now borne by trawl catcher

vessels fishing for CDQ pollock. The Secretary of Commerce approved Amendment 91 to the groundfish FMP in May 2010. NMFS anticipates that regulations implementing the Chinook bycatch reduction provisions of Amendment 91 will be in effect in 2011.

This proposed rule also would eliminate observer requirements for vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing. Vessels that are halibut IFQ fishing are not required to carry observers. Therefore, paragraph (c)(4) of § 679.50 would be revised to remove references to observer requirements for vessels that are halibut CDQ fishing. Vessels that are greater than 60 ft (18.3 m) LOA that participate in the halibut CDQ fishery would no longer be required to carry an observer at any time.

NMFS is not proposing to change existing observer requirements for the groundfish CDQ fisheries that were not affected by Magnuson-Stevens Act requirements for the regulation of CDQ harvest. The proposed revisions to § 679.50(c)(4) would reorganize the paragraph by fishery category, but would retain existing observer requirements for the groundfish CDQ fisheries other than sablefish and pollock. Many of the remaining groundfish CDQ fisheries, such as flatfish and Atka mackerel caught with trawl gear, are now subject to the same observer and catch monitoring requirements that are required for the non-CDQ flatfish and Atka mackerel fisheries. This is due to the implementation of Amendment 80, which allocated BSAI non-pollock groundfish resources among fishing sectors and authorized the formation of harvesting cooperatives in the non-AFA trawl catcher/processor sector. That action applied identical monitoring and enforcement provisions to the non-CDQ and CDQ trawl fishing activities in this sector, as described earlier in this preamble.

In addition, this proposed rule would revise § 679.50(d)(5) to modify observer coverage requirements for shoreside processors. As with the proposed revision to vessel observer requirements described above, this paragraph would be separated into three fishery categories: fixed gear sablefish CDQ, pollock CDQ, and groundfish CDQ. Observer coverage requirements for the sablefish and pollock CDQ fisheries would be aligned with requirements in place for comparable non-CDQ fisheries. This proposed rule would retain the current requirement that each shoreside processor or stationary floating processor taking deliveries of

groundfish CDQ (other than pollock, or sablefish caught with fixed gear) have a least one observer present at all times while groundfish CDQ is being received or processed.

NMFS also proposes to revise § 679.50(c)(2)(iii) to incorporate sablefish CDQ into this paragraph. Currently, this paragraph only encompasses the sablefish IFQ fishery. However, sablefish IFQ and sablefish CDQ are often fished concurrently because it is operationally efficient for vessel operators to combine fishing for IFQ and CDQ sablefish on a single trip. As discussed previously, this rule proposes to include retained sablefish IFQ in the definition of sablefish CDQ. Integrating sablefish CDQ into the description of the sablefish fishery category in this paragraph would, for purposes of observer coverage requirements, allow vessel operators to participate in the sablefish IFQ and CDQ fisheries without having to meet separate observer requirements for each fishery.

#### **Other Revisions for Consistency With the Magnuson-Stevens Act**

In addition to the fisheries management regulatory amendments necessary to implement section 305(i)(1)(B)(iv), NMFS also proposes revising or removing other regulations in 50 CFR part 679 that are no longer consistent with section 305(i)(1) of the Magnuson-Stevens Act. These inconsistencies were created as a result of the previously described amendments to the Magnuson-Stevens Act made through the Coast Guard Act and the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006. NMFS also proposes updating and clarifying regulations and cross-references to support the proposed, primary regulatory amendments made by this action.

#### *Purpose of the CDQ Program*

The statement of the purpose of the CDQ Program at § 679.1(e) would be revised to remove inconsistencies with the purpose of the CDQ Program specified in section 305(i)(1)(A) of the Magnuson-Stevens Act. Rather than including the statement of purpose from the Magnuson-Stevens Act in 50 CFR part 679, the text of § 679.1(e) is generalized to be consistent with the format and content of the other paragraphs in this section and to direct the reader to the purpose specified in the Magnuson-Stevens Act. Additionally, the other paragraphs of § 679.1 reference those subparts of 50 CFR part 679 that contain the

regulations governing a particular fishery or program. Therefore, NMFS proposes revising § 679.1(e) to read “Regulations in this part govern the Western Alaska CDQ Program (see subparts A, B, C, D, and E of this part). The purpose of this program is specified in section 305(i)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act.”

#### *Community Development Plans (CDPs)*

A CDP is defined at § 679.2 as a business plan for the economic and social development of a western Alaska community or group of communities under the CDQ Program. Under § 679.30, the CDP is both an application for allocations of the CDQ and PSQ reserves and an on-going business plan required to be amended by the CDQ groups under certain circumstances. However, amendments to the Magnuson-Stevens Act under the Coast Guard Act removed both the authority and the need for the CDPs as applications for allocations among the CDQ groups and as the primary tool for oversight of the CDQ Program by NMFS and the State.

Section 305(i)(1)(I) of the Magnuson-Stevens Act states the following:

(I) SECRETARIAL APPROVAL NOT REQUIRED.—Notwithstanding any other provision of law or regulation thereunder, the approval by the Secretary of a community development plan, or an amendment thereof, under the program is not required.

NMFS interprets this provision as prohibiting NMFS from requiring approval of CDPs and amendments to CDPs. In addition, CDPs are no longer needed as periodic applications for allocations of CDQ reserves among the CDQ groups because section 305(i)(1)(C) of the Magnuson-Stevens Act establishes the percentage allocations of groundfish, halibut, and crab among the CDQ groups as the percentage allocations in effect on March 1, 2006. A portion of these percentage allocations may be adjusted every 10 years starting in 2012 under the provisions of section 305(i)(1)(H). Therefore, NMFS proposes to remove the following regulations that are no longer consistent with the provisions of sections 305(i)(1)(I) and 305(i)(1)(C): (1) regulations at § 679.30(a) through § 679.30(d) that require submission, review, and approval of proposed CDPs; (2) regulations at § 679.30(g) related to monitoring of CDPs; and (3) regulations at § 679.30(h) related to suspension and termination of a CDP. Furthermore, NMFS proposes to delete from § 679.43(a) a reference associated with appealing initial administrative decisions made under § 679.30(d).

In addition, this proposed rule also would delete paragraph (d)(3) of § 679.7, which relates to community participation in the CDQ Program. This prohibition refers to a term (CDP) that would no longer be applicable to CDQ Program management. Similarly, NMFS proposes to delete § 679.7(d)(19), which is associated with complying with the requirements of a CDP.

This rule also proposes to revise or remove several definitions in § 679.2 associated with CDPs. The definition of "CDQ allocation" would be revised to remove a reference to the term CDP, since that term is proposed to be removed. The definition for "CDQ project" would be removed because this term is associated with requirements for the CDP in § 679.30. Finally, the definition of "Qualified applicant" is proposed to be removed because this term refers to applicants for CDQ and PSQ allocations under an allocation process described in § 679.30. This term is no longer in use and is not consistent with the Magnuson-Stevens Act.

On August 30, 2006, NMFS notified the State and the CDQ groups that it was suspending enforcement of regulations at 50 CFR part 679 related to the CDPs and the CDQ allocation process because of the inconsistencies with the Magnuson-Stevens Act. This notification and its attachments contain more detailed information about the requirements that are proposed to be removed from 50 CFR part 679 through this proposed rule. A copy of the letter is available at <http://www.alaskafisheries.noaa.gov/cdq/default.htm> or from NMFS (See ADDRESSES).

#### *CDQ Eligible Communities*

The Magnuson-Stevens Act now specifically identifies the communities and entities eligible for the CDQ Program. Previously, communities were determined to be eligible based on specific criteria contained in regulation. This proposed rule would revise the definition of "CDQ group" in § 679.2 to reference 16 U.S.C. 1855(i)(1)(D), which identifies the villages and associated groups that are eligible for the CDQ Program. Similarly, this proposed rule would revise the definition of "eligible community" (for purposes of the CDQ Program) in § 679.2 to incorporate a cross-reference to 16 U.S.C.

1855(i)(1)(D) and to Table 7 of 50 CFR part 679. Table 7 also would be revised to include the CDQ groups and communities that are listed in 16 U.S.C. 1855(i)(1)(D) as a public convenience.

NMFS notes that, although the Magnuson-Stevens Act uses the term "entity" or "entities" in association with

the managing organizations associated with specific groups of CDQ eligible communities, NMFS does not propose to amend regulations that contain the commonly used and accepted "CDQ group" or "CDQ groups" to replace it with the terms "CDQ entity" or "CDQ entities." Besides being used in applicable Federal regulations, the term "CDQ group" has been commonly used since 1992 in association with general CDQ Program administration and by the public. NMFS does not believe that adopting the term CDQ entity or entities would enhance CDQ Program administration or that such terminology would be readily adopted by the public.

This proposed rule would revise the definition of "CDQ community" in § 680.2 to reference the list of communities eligible for the CDQ Program to incorporate a cross-reference to 16 U.S.C. 1855(i)(1)(D) and Table 7 to 50 CFR part 679. The current definition references the communities eligible under subpart C of 50 CFR part 679. If subpart C of 50 CFR part 679 is revised as proposed in this action, it will no longer include regulations about communities eligible for the CDQ Program. The definition of "CDQ group" in § 680.2 similarly would be revised to reference 16 U.S.C. 1855(i)(1)(D) and Table 7 to 50 CFR part 679. These changes correspond to the revisions proposed for comparable definitions in § 679.2.

#### *Allocations and Transfers*

The proposed rule would revise § 679.31 to consolidate regulations associated with (1) the establishment of CDQ and PSQ reserves, (2) the allocation of CDQ and PSQ reserves among CDQ groups, and (3) the implementation of quota transfers between CDQ groups. These proposed changes would make the regulations that are associated with the creation, distribution, and use of the fisheries resources allocated to the CDQ Program more clear and functional. The changes encompass many revisions to this section, as described in the following paragraphs.

This proposed rule would revise both the title and the introductory paragraph to § 679.31. The title would be revised to reflect that this section contains regulations governing CDQ and PSQ reserves, allocations, and transfers, rather than just CDQ and PSQ reserves. The introductory paragraph that refers to allocations to a CDQ group in accordance with NMFS-approved CDPs and the requirement that no more than 33 percent of each CDQ reserve be allocated to any one group with an approved CDP would be removed

because they are not consistent with the Magnuson-Stevens Act. NMFS no longer makes CDQ allocations based on approved CDPs. The Magnuson-Stevens Act now contains requirements governing the percentage allocation of the CDQ reserves and any allocation adjustments that may be made in the future.

Paragraph (a)(2) of § 679.31 would be revised to remove phrases associated with CDPs and eligible communities, since these terms are now inconsistent with the Magnuson-Stevens Act; to remove an erroneous cross-reference within this paragraph; and to remove a definition of "proximate to" that would become obsolete if the other proposed changes in this paragraph are made.

Paragraph (b) would be added to § 679.31 to add language describing how CDQ and PSQ reserves are allocated among CDQ groups. Paragraph (b)(1) would state that the groundfish, halibut, and crab CDQ reserves would be allocated among the CDQ groups on the basis of the CDQ percentage allocations specified in section 305(i)(1)(C) of the Magnuson-Stevens Act, unless modified under section 305(i)(1)(H) of that act. Section 305(i)(1)(H) provides for a decennial review of the CDQ groups' performance and the possibility of an adjustment of up to 10 percent of each CDQ reserve allocated to each CDQ group. Regulations governing the decennial review and allocation adjustment process will be addressed in a future rulemaking. Proposed paragraph (b)(2) describes the allocation of nontarget groundfish species among CDQ groups by the CDQ administrative panel.

Furthermore, this proposed rule would add paragraph (b)(3) to § 679.31 to describe how annual allocations of PSQ are allocated among CDQ groups. These allocations are based on NMFS's determination about PSQ percentage allocations that were included in an August 31, 2006, **Federal Register** notice (71 FR 51804). This proposed paragraph would subsequently require that any future change in the percentage allocations of PSQ among the CDQ groups be done by regulatory amendment.

The proposed rule would revise requirements related to transfers of annual CDQ allocations at § 679.30(e)(1) to be consistent with section 305(i)(1)(C) of the Magnuson-Stevens Act. The proposed rule also would move the remaining transfer regulations from § 679.30(e)(1) to consolidate them with other regulations related to CDQ allocations at § 679.31(c).

The CDQ transfer regulations currently state that "NMFS will not

approve transfers to cover overages of CDQ or PSQ.” However, section 305(i)(1)(C) of the Magnuson-Stevens Act now requires that “Voluntary transfers by and among eligible entities shall be allowed, whether before or after harvesting.” NMFS interprets this requirement as applying only to those species allocated to the CDQ Program under section 305(i)(1), which are the species that support a directed fishery in the BSAI area. Species allocated to the CDQ Program under the Magnuson-Stevens Act do not include the prohibited species of halibut, crab, and salmon that also are allocated as PSQ to the CDQ Program and among the CDQ groups. The CDQ Program historically has been annually allocated amounts of prohibited species to account for the catch of such species in the groundfish CDQ target fisheries.

In 2005, prior to the Coast Guard Act and the revisions to the Magnuson-Stevens Act, the Council approved an action to modify elements of the CDQ Program. This included provisions to (1) only allocate target groundfish species to individual CDQ groups, (2) require NMFS to manage non-target species at the program level, rather than through individual allocations, and (3) allow post-delivery transfers of groundfish CDQ or halibut PSQ between CDQ groups to address in-season harvest overages. NMFS commenced rulemaking to implement these changes, but that effort was suspended due to the associated changes in the Magnuson-Stevens Act.

In conjunction with the proposed change to allow post-delivery transfers of groundfish CDQ, this proposed rule would incorporate the Council’s recommendation to allow post-delivery transfers of halibut PSQ. This would provide CDQ groups the opportunity to work cooperatively among themselves to address future halibut PSQ overages. CDQ groups would still be prohibited from exceeding their annual halibut PSQ, but this measure would allow opportunities for CDQ groups to avoid such infractions. This parallels recent actions NMFS has taken to implement provisions for post-delivery transfers in other major Alaska fisheries, such as the Amendment 80 and Rockfish Program fisheries.

NMFS also proposes to remove § 679.30(e)(2), which contains requirements for transfers of percentage allocations of CDQ and PSQ between CDQ groups. These regulations are different from the regulations in paragraph (e)(1) that govern the transfer of the annual amounts of CDQ or PSQ allocated to each CDQ group. Annual quota amounts are derived by

multiplying each annual CDQ reserve and PSQ reserve by the corresponding percentage allocation that has been established for each CDQ group. Section 305(i)(1)(C) of the Magnuson-Stevens Act now specifies the percentage allocations of groundfish, halibut, and crab CDQ in effect for each CDQ group. Thus, it is not consistent with this statutory requirement to continue to allow the CDQ groups to transfer their permanent percentage allocations among other CDQ groups. In addition, transfers of CDQ and PSQ percentage allocations are made through approval of amendments to the CDPs. As described above, section 305(i)(1)(e)(I) of the Magnuson-Stevens Act no longer allows NMFS to require approval of amendments to the CDP. Therefore, NMFS is proposing to remove all current regulations associated with approval of the CDP or amendments to the CDP. This would include the regulations at § 679.30(e)(2) related to amendments to transfer CDQ and PSQ percentage allocations.

#### Administrative Changes

##### *AI Chinook Salmon Prohibited Species Allocation*

This rule would revise regulations associated with allocating AI Chinook salmon PSC to the CDQ Program. Specifically, it would correct an error made when § 679.21(e) was restructured and revised as part of overlapping regulatory revisions. A final rule implementing Amendment 85 to the groundfish FMP (72 FR 50788, September 4, 2007) modified the allocation of the BSAI Pacific cod TAC among various harvest sectors. That action also made a suite of associated regulatory revisions, including a rearrangement of portions of § 679.21(e) to improve the organization of that section. Concurrently, Amendment 80 made other revisions to § 679.21, including increasing the CDQ Program allocations of crab PSC, halibut PSC, and non-Chinook salmon PSC.

When paragraph (e) was restructured, a reference to AI Chinook salmon was mistakenly omitted from § 679.21(e)(3)(i)(A)(3)(i). That paragraph specifies that the CDQ Program will receive 7.5 percent of the BS Chinook salmon PSC limit set forth in paragraph (e)(1)(vi). It should also refer to the AI Chinook salmon PSC limit at (e)(1)(viii), as the CDQ Program receives an allocation of the BS and the AI Chinook salmon PSC limits. Two separate Chinook salmon PSC limits were established by an action that separated the AI pollock fishery from the BS pollock fishery (70 FR 9856, March 1,

2005). This proposed rule would correct the mistaken deletion of the reference to the AI Chinook salmon PSC limit in describing the allocation of Chinook salmon PSC to the CDQ Program.

##### *CDQ Group Responsibilities*

Paragraph (f) of § 679.30, which contains a list of CDQ group responsibilities, is proposed to be removed because these responsibilities are specified elsewhere in regulations, are duplicative, or are so general that they cannot effectively be enforced. It is not necessary for NMFS to require the CDQ groups to direct and supervise all activities of the managing organization, maintain the ability to communicate with all vessels fishing on their behalf, or monitor the catch of CDQ or PSQ. Regulations elsewhere in 50 CFR part 679 contain specific requirements for recordkeeping, reporting, catch monitoring, and catch accounting that provide the information needed to manage the groundfish and halibut CDQ fisheries. For example, requirements to submit various reports about fishing activities and to not exceed CDQ or PSQ allocations already are included in §§ 679.5 and 679.7.

##### *Clarifications and Corrections*

This proposed rule also would implement other revisions to §§ 679.2, 679.7, and 679.24 to clarify definitions, clarify terms, and delete obsolete prohibitions and cross-references, as follows:

1. In § 679.2, the proposed rule would revise the definition of “PSQ reserve” to replace “a percentage” with “the amount,” which would align this definition with the commonly understood definition of this term. Additionally, cross references in this paragraph to other sections of 50 CFR part 679 would be corrected.

2. In § 679.2, the proposed rule would revise the definition of “CDQ group number” to remove “group.” NMFS proposes simply to use the phrase “CDQ number” to refer to the NMFS-issued identification numbers that are used to track each distinct CDQ group’s permits, allocations, and catch. This change would align this definition with the term that already is used in common practice (*i.e.*, CDQ number). Additionally, cross references to other sections of 50 CFR part 679 would be corrected, per the remove/add table at the end of this rule.

3. In § 679.7, the proposed rule would delete prohibitions at (d)(21) and (d)(22). These prohibitions are related to reporting requirements for the CDQ catch and delivery reports, formerly located at § 679.5(n), which were

removed by the final rule implementing Amendment 80. Both prohibitions are associated with CDQ reporting requirements that CDQ groups once had to comply with. CDQ groups no longer are required to estimate or submit the catch information described in these two prohibitions, which renders them functionally obsolete. Catch reports now are submitted by vessel operators or seafood processors.

4. In § 679.22, the proposed rule would revise paragraph (h) to update a cross-reference to prohibitions in § 679.7(d). This is associated with the proposed revisions to § 679.7(d), as previously described.

5. In § 679.24, the proposed rule would revise paragraph (b)(1)(ii) to remove the clause "except as provided in paragraph (c)(4)(ii) of this section." Paragraph (c)(4) is associated with gear restrictions in the BSAI sablefish fisheries; it was revised by a final rule published May 19, 2008 (73 FR 28733). That action removed paragraph (c)(4)(ii), which was associated with a longline pot gear closure in the BS during the month of June. The proposed change to paragraph (b)(1)(ii) would correct the inadvertent retention of the cross-reference to a now non-existent paragraph.

6. In §§ 679.5, 679.7, 679.21, 679.26, 679.27, 679.28, 679.50, 679.84, and 679.93, the proposed rule would replace the term "NMFS-certified observer" with "observer." The changes are detailed in the remove/add table at the end of the regulatory text portion of this proposed rule. This would ensure that the term observer is used consistently throughout 50 CFR part 679, and that the term is aligned with the definition of observer in § 679.2.

#### Classification

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the BSAI groundfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this

section in the preamble and in the SUMMARY section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (*see ADDRESSES*).

This action proposes alternatives that would amend regulations governing the harvest of select CDQ fisheries, per requirements of the Magnuson-Stevens Act. The Coast Guard Act of 2006 amended section 305(i)(1) of the Magnuson-Stevens Act by replacing all of the existing language in this section with new language. This substantially altered many components of the CDQ Program, including the oversight roles of the Federal and State governments, CDQ allocations and the allocation process, and fisheries management requirements. This action addresses specific fishery management provisions of the Magnuson-Stevens Act and proposes revisions to certain CDQ fisheries management regulations. The Magnuson-Stevens Act requires that the harvest of CDQ allocations be regulated no more restrictively than what is required for participants in applicable fishing sectors managed with individual fishing quotas (IFQ) or cooperatives.

The entities directly regulated by this action are the six CDQ groups that participate in the halibut, sablefish, groundfish, and pollock CDQ fisheries in the BSAI. CDQ groups are considered to be small entities under the RFA's categorization of small, non-profit organizations. This action is expected to reduce the costs associated with various aspects of participating in these CDQ fisheries. These include costs associated with different CDQ fisheries regulatory requirements governing: (1) Fisheries observer coverage levels, (2) catch retention and accounting, (3) vessel eligibility designation, and (4) licensing.

All six CDQ groups annually are allocated groundfish CDQ, halibut CDQ, and crab CDQ. These groups participate, either directly or indirectly, in the commercial harvest of these allocations. CDQ groups receive royalties from the successful harvest of CDQ by commercial fishing companies, as well as access to employment and training opportunities for their communities' residents. Royalties and income from CDQ harvesting activities are used to fund economic development projects in CDQ communities. In 2005, the CDQ groups received approximately \$61 million in royalties from the harvest of CDQ allocations. Participants in the CDQ fisheries affected by this action would no longer be subject to regulations that are more costly, complex, or burdensome than those that apply to comparable IFQ fisheries or fisheries managed with cooperatives.

Thus, this action is not expected to have an adverse economic impact on the small entities affected by this action.

NMFS evaluated three alternatives associated with this action. Alternative 1, the status quo, would maintain different fisheries management regulations for the halibut, fixed gear sablefish, and pollock CDQ fisheries. Each of these fisheries has a comparable IFQ or cooperative fishery. However, due to the different policies and objectives associated with the original development of the regulations governing the CDQ fisheries, CDQ harvest regulations sometimes differed from those in place for the non-CDQ fisheries associated with this action. Maintaining existing regulations associated with the CDQ fisheries that are more restrictive than those in place for comparable IFQ and cooperative fisheries would not comply with the Magnuson-Stevens Act.

Alternative 2, the preferred alternative, would revise CDQ fisheries management regulations in 50 CFR part 679 to align them with regulations that govern fisheries managed with IFQs and fisheries managed with cooperatives. Proposed regulatory revisions include (1) separating fixed gear sablefish CDQ and pollock CDQ from regulations associated with the other groundfish CDQ fisheries, (2) exempting participants in the sablefish CDQ fishery from having to have a license limitation program groundfish license by excluding fixed gear sablefish CDQ from the definition of "license limitation species," (3) removing a requirement that CDQ groups annually submit a request to NMFS to designate specific vessels as eligible to harvest groundfish CDQ on their behalf, (4) revising CDQ catch monitoring requirements to incorporate changes to the basis for CDQ catch accounting, based on adjusting CDQ observer coverage requirements for the halibut, sablefish, and pollock CDQ fisheries, and (5) revising regulations to align observer coverage requirements for the sablefish CDQ, halibut CDQ, and pollock CDQ fisheries with comparable non-CDQ fisheries. On the basis of the best available information, this preferred alternative imposes the minimum adverse economic impact on directly regulated small entities, while achieving the objectives of the regulatory action, among all the alternatives available to the agency. The preferred alternative incorporates regulatory revisions that reduce the potential economic and operational burden on small entities.

Alternative 3 would amend regulations to fully integrate sablefish CDQ into the sablefish IFQ fisheries

management system. It also would make the same general changes proposed for Alternative 2 (described in the preceding section). Sablefish CDQ currently is managed in conjunction with all other groundfish CDQ fisheries. In contrast, halibut CDQ is managed in conjunction with the halibut IFQ fisheries, and is thus subject to IFQ-related regulations. Alternative 3 would (1) require CDQ groups to obtain sablefish CDQ permits prior to conducting directed fishing for sablefish, (2) incorporate sablefish CDQ into the IFQ recordkeeping and reporting requirements and make IFQ prohibitions applicable to the sablefish CDQ fishery, and (3) incorporate the sablefish CDQ fishery into IFQ regulations associated with quota transfers and catch accounting.

Both Alternatives 2 and 3 would meet the requirement of the Magnuson-Stevens Act that CDQ fisheries be managed no more restrictively than fisheries managed with IFQs or harvesting cooperatives by matching regulations as closely as possible for relevant CDQ and non-CDQ fisheries. In the case of Alternative 3, the sablefish CDQ fishery would be fully integrated into both the regulations and the administrative structure in place for the sablefish IFQ fishery.

Alternative 2 was selected as the preferred alternative primarily based on the potential changes that each alternative would bring to the fixed gear sablefish CDQ fishery. NMFS believes that Alternative 2 would result in the least disruptive change to the CDQ groups and CDQ fisheries, while meeting the regulation of harvest requirements in the Magnuson-Stevens Act. Alternative 2 would amend regulations for the CDQ fisheries affected by this action to match regulations in place for most comparable non-CDQ fisheries, but would not make as many changes to the program as Alternative 3. Alternative 2 would not integrate the sablefish CDQ fishery into the sablefish IFQ program. CDQ groups would not be subject to sablefish CDQ permitting requirements and additional IFQ-related reporting requirements, nor would NMFS have to implement such requirements. Furthermore, retaining fixed gear sablefish CDQ under the comprehensive groundfish CDQ accounting and management system would make it easier for NMFS to monitor the catch and transfer of the multiple categories of sablefish CDQ allocated to the CDQ Program and CDQ groups.

NMFS is not aware of any additional alternatives to those considered that would accomplish the objectives of the

Magnuson-Stevens Act and other applicable statutes that would minimize the economic impact of the proposed rule on small entities.

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

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under control number 0648-0269. However, these approved PRA requirements would be removed from the collection with publication of the final rule. Public reporting burden per response is estimated at: Four hours for each Alternative Fishing Plan; one hour for CDQ vessel eligibility request; 520 hours for a community development plan (CDP); 20 hours for an annual budget report; eight hours for an annual budget reconciliation report; 40 hours for a substantial amendment to a CDP; eight hours for a technical amendment to a CDP; two minutes for prior notice to observers of CDQ catch aboard a vessel; and two minutes for prior notice to observers by shoreside processors and stationary floating processors of offloading schedule of each CDQ delivery. All requirements except the Alternative Fishing Plan, the two minutes for prior notice to observers of CDQ catch aboard a vessel, and the two minutes for prior notice to observers by shoreside processors and stationary floating processors of offloading schedule of each CDQ delivery would be removed from the collection with publication of the final rule.

Response times include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to NMFS (*see ADDRESSES*), and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

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

#### List of Subjects in 50 CFR Parts 679 and 680

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: July 7, 2010.

**Eric C. Schwaab**,  
Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons stated in the preamble, NMFS proposes to amend 50 CFR parts 679 and 680 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.*, 3631 *et seq.*; Pub. L. 108-447.

2. In § 679.1, revise paragraph (e) to read as follows:

##### § 679.1 Purpose and scope.

\* \* \* \* \*

(e) *Western Alaska Community Development Quota (CDQ) Program.* Regulations in this part govern the Western Alaska CDQ Program (*see* subparts A, B, C, D, and E of this part). The purpose of the program is specified in 16 U.S.C. 1855(i)(1)(A).

\* \* \* \* \*

3. In § 679.2,  
a. Remove the definitions for “CDQ group number”, “CDQ project”, “Community Development Plan”, “Eligible vessel”, “Managing organization”, and “Qualified applicant”,

b. Revise the definitions for “CDQ allocation”, “CDQ group”, “CDQ Program”, paragraph (1) of the definition for “Eligible community”, and the definitions for “Groundfish CDQ fishing”, “Halibut CDQ fishing”, “License limitation groundfish”, “PSQ allocation”, “PSQ reserve”, and

c. Add definitions for “CDQ number”, “Pollock CDQ fishing”, and “Sablefish CDQ fishing” in alphabetical order to read as follows:

##### § 679.2 Definitions.

\* \* \* \* \*

*CDQ allocation* means a percentage of a CDQ reserve specified under § 679.31 that is assigned to a CDQ group.

*CDQ group* means an entity identified as eligible for the CDQ Program under 16 U.S.C. 1855(i)(1)(D). CDQ groups are listed in Table 7 to this part.

*CDQ number* means a number assigned to a CDQ group by NMFS that must be recorded and is required in all logbooks and reports submitted by vessels harvesting CDQ or processors taking deliveries of CDQ.

*CDQ Program* means the Western Alaska Community Development Quota Program.

\* \* \* \* \*

Eligible community means: (1) For purposes of the CDQ Program, a community identified as eligible for the CDQ Program under 16 U.S.C. 1855(i)(1)(D). Eligible communities are listed in Table 7 to this part.

Groundfish CDQ fishing means fishing that results in the retention of any groundfish CDQ species, but that does not meet the definition of pollock CDQ fishing, sablefish CDQ fishing, or halibut CDQ fishing.

Halibut CDQ fishing means using fixed gear, retaining halibut CDQ, and not retaining groundfish over the maximum retainable amounts specified in § 679.20(e) and Table 11 to this part.

License limitation groundfish means target species and the "other species" category, specified annually pursuant to § 679.20(a)(2), except that demersal shelf rockfish east of 140° W longitude, sablefish managed under the IFQ program, sablefish managed under the

fixed gear sablefish CDQ reserve, and pollock allocated to the Aleutian Islands directed pollock fishery and harvested by vessels 60 ft (18.3 m) LOA or less, are not considered license limitation groundfish.

Pollock CDQ fishing means directed fishing for pollock in the BS or AI under a pollock allocation to the CDQ Program authorized at § 679.31(a) and accruing pollock catch against a pollock CDQ allocation.

PSQ allocation means a percentage of a PSQ reserve specified under § 679.31 that is assigned to a CDQ group.

PSQ reserve means the amount of a prohibited species catch limit established under § 679.21(e) that has been allocated to the groundfish CDQ Program under § 679.21(e)(3)(i) and (e)(4)(i).

Sablefish CDQ fishing means fishing using fixed gear, retaining sablefish CDQ, and that results in the retained

catch of sablefish CDQ plus sablefish IFQ being greater than the retained catch of any other groundfish species or species group.

4. In § 679.4, revise paragraph (e)(1)(i) to read as follows:

§ 679.4 Permits.

- (e) \* \* \* (1) \* \* \*

(i) The CDQ group, the operator of the vessel, the manager of a shoreside processor or stationary floating processor, and the Registered Buyer must comply with the requirements of this paragraph (e) for the catch of CDQ halibut.

- 5. In § 679.5, a. Revise the heading of paragraph (n), b. Remove paragraph (n)(2), and c. Redesignate paragraphs according to the following table.

Table with 2 columns: Redesignate paragraph(s) and As paragraph(s). Rows include (n)(1)(i), (n)(1)(ii), (n)(1)(ii)(A) and (B), (n)(1)(iii), and (n)(1)(iii)(A) and (B).

The revision reads as follows: § 679.5 Recordkeeping and reporting (R&R).

(n) CDQ and PSQ transfers. 6. In § 679.7, remove paragraphs (d)(3), (d)(4), (d)(21), (d)(22), (d)(24),

redesignate paragraphs according to the following table, add paragraph (d)(18), and revise paragraph (f)(3)(ii).

Table with 2 columns: Redesignate paragraph(s) and As paragraph(s). Rows include (d)(5) through (d)(12), (d)(15), (d)(17) through (d)(20), (d)(23), and (d)(25).

The revision and addition reads as follows:

§ 679.7 Prohibitions.

(d) \* \* \* (18) For the operator of a vessel fishing on behalf of a CDQ group to retain more than the maximum retainable amount of pollock established under § 679.20(e) unless the pollock harvested by that vessel accrues against a CDQ group's pollock CDQ allocation. (f) \* \* \* (3) \* \* \* (ii) Sablefish. Retain sablefish caught with fixed gear without a valid IFQ permit, and if using a hired master,

without an IFQ hired master permit in the name of an individual aboard, unless fishing on behalf of a CDQ group.

7. In § 679.21, revise paragraph (e)(3)(i)(A)(3)(i) to read as follows:

§ 679.21 Prohibited species bycatch management.

- (e) \* \* \* (3) \* \* \* (i) \* \* \* (A) \* \* \* (3) \* \* \*

(i) Chinook salmon. 7.5 percent of the PSC limits set forth in paragraphs (e)(1)(vi) and (viii) of this section.

8. In § 679.22, revise paragraph (h) to read as follows:

§ 679.22 Closures.

(h) CDQ fisheries closures. See § 679.7(d)(4) through (d)(8) for time and area closures that apply to the CDQ fisheries once salmon and crab PSQ amounts have been reached.

9. In § 679.24, revise paragraph (b)(1)(ii) to read as follows:

**§ 679.24 Gear limitations.**

\* \* \* \* \*

(b) \* \* \*  
(1) \* \* \*

(ii) While directed fishing for sablefish in the Bering Sea subarea.

\* \* \* \* \*

10. Remove and reserve § 679.30.

11. Revise § 679.31 to read as follows:

**§ 679.31 CDQ and PSQ reserves, allocations, and transfers.**(a) *CDQ and PSQ reserves.*—(1) *Groundfish CDQ reserves.* See § 679.20(b)(1)(ii).(2) *Halibut CDQ reserve.* (i) NMFS will annually withhold from the IFQ allocation the proportions of the halibut catch limit that are specified in paragraph (a)(2)(ii) of this section for use as a CDQ reserve.

(ii) The proportions of the halibut catch limit annually withheld for the halibut CDQ program, exclusive of issued QS, are as follows for each IPHC regulatory area (see Figure 15 to this part):

(A) *Area 4B.* In IPHC regulatory area 4B, 20 percent of the annual halibut quota shall be apportioned to a CDQ reserve.(B) *Area 4C.* In IPHC regulatory area 4C, 50 percent of the annual halibut quota shall be apportioned to a CDQ reserve.(C) *Area 4D.* In IPHC regulatory area 4D, 30 percent of the annual halibut quota shall be apportioned to a CDQ reserve.(D) *Area 4E.* In IPHC regulatory area 4E, 100 percent of the annual halibut quota shall be apportioned to a CDQ reserve. A fishing trip limit of 10,000 lb (4.54 mt) applies to halibut CDQ harvested through September 1.(3) *Crab CDQ reserves.* Crab CDQ reserves for crab species governed by the Crab Rationalization Program are specified at § 680.40(a)(1) of this chapter. For Norton Sound red king crab, 7.5 percent of the guideline harvest level specified by the State of Alaska is allocated to the crab CDQ reserve.(4) *PSQ reserve.* (See § 679.21(e)(3)(i)(A) and (e)(4)(i)(A).)(b) *Allocations of CDQ and PSQ among the CDQ groups.*—(1) *Annual allocations of groundfish, halibut, and crab CDQ reserves among the CDQ groups.* The CDQ reserves in paragraphs (a)(1) through (a)(3) of this section and § 679.20(b)(1)(ii) shall be allocated among the CDQ groups based on the CDQ percentage allocations required under 16 U.S.C. 1855(i)(1)(C), unless modified under 16 U.S.C. 1855(i)(1)(H). A portion of the groundfish CDQ

reserves will be allocated according to paragraph (b)(2) of this section.

(2) *Annual allocations of nontarget groundfish species among the CDQ groups.* Seven-tenths of one percent of each of the annual TACs allocated as groundfish CDQ reserves under § 679.20(b)(1)(ii)(C) and (D), with the exception of the trawl gear sablefish CDQ reserves, shall be allocated among the CDQ groups by the panel established in section 305(i)(1)(G) of the Magnuson-Stevens Act.(3) *Annual allocations of PSQ reserves among the CDQ groups.* The annual PSQ reserves shall be allocated among the CDQ groups based on the percentage allocations approved by NMFS on August 8, 2005. These percentage allocations are described and listed in a notice published in the **Federal Register** on August 31, 2006 (71 FR 51804).(c) *Transfers.* CDQ groups may request that NMFS transfer CDQ or PSQ from one group to another group by each group submitting a completed transfer request as described in § 679.5(n)(1). NMFS will approve the transfer request if the CDQ group transferring quota to another CDQ group has sufficient quota available for transfer. If NMFS approves the request, NMFS will make the requested transfer(s) by decreasing the account balance of the CDQ group from which the CDQ or PSQ species is transferred and by increasing the account balance of the CDQ group receiving the transferred CDQ or PSQ species. The PSQ will be transferred as of the date NMFS approves the transfer request and is effective only for the remainder of the calendar year in which the transfer occurs.

12. Revise § 679.32 to read as follows:

**§ 679.32 CDQ fisheries monitoring and catch accounting.**(a) *Applicability.* This section contains requirements for CDQ groups, vessel operators, and managers of processors that harvest or process fixed gear sablefish CDQ, pollock CDQ, or groundfish CDQ as defined in § 679.2. Regulations governing the catch accounting of halibut CDQ are at § 679.42(c).(b) *PSQ catch.* Time and area closures required once a CDQ group has reached its salmon PSQ or crab PSQ are listed in § 679.7(d)(4) through (d)(8). The catch of salmon or crab by vessels using other than trawl gear does not accrue to the PSQ for these species. The discard of halibut by vessels using pot gear, jig gear, or hook-and-line gear to harvest sablefish CDQ will not accrue to the halibut PSQ if this bycatch has beenexempted from the halibut PSC limit under § 679.21(e)(4)(ii) in the annual BSAI specifications published in the **Federal Register**.(c) *Fisheries monitoring requirements and catch accounting sources for vessels sablefish, pollock, or groundfish CDQ fishing.*—(1) *Sablefish CDQ fishing with fixed gear.* NMFS will use the following data sources to account for catch made by vessels sablefish CDQ fishing with fixed gear:(i) *Sablefish CDQ.* NMFS will use the same information sources that are used to debit sablefish IFQ accounts (see § 679.42(c)(2)) to debit fixed gear sablefish CDQ accounts. This information must be reported through standard reporting requirements in § 679.5(a).(ii) *Groundfish CDQ.* NMFS will use the catch information submitted under standard reporting requirements in § 679.5 to debit any other groundfish CDQ species caught while sablefish CDQ fishing from applicable groundfish CDQ accounts.(2) *Pollock CDQ fishing.*—(i) *Operational requirements for catcher/processors and motherships.* Operators of catcher/processors directed fishing for pollock CDQ and motherships taking deliveries of codends from catcher vessels directed fishing for pollock must comply with the following:

(A) Comply with the observer coverage requirements at § 679.50(c)(5)(i)(A).

(B) Notify the observers of CDQ catch before CDQ catch is brought onboard the vessel and notify the observers of the CDQ group and CDQ number associated with the CDQ catch.

(C) Comply with the catch weighing and observer sampling station requirements at § 679.63(a).

(ii) *Data sources used for CDQ catch accounting.*—(A) *Catcher/processors and motherships.* NMFS will use observer data as the basis to debit pollock CDQ, groundfish CDQ, and PSQ account balances.(B) *Catcher vessels delivering to shoreside processors.* NMFS will use the catch information submitted under standard reporting requirements in § 679.5 to debit pollock CDQ, other groundfish CDQ species, and PSQ caught while pollock CDQ fishing from applicable CDQ account balances.(3) *Groundfish CDQ fishing.*—(i) *Operational requirements.*—(A) *Catcher vessels without an observer.* Operators of catcher vessels in this category must comply with one of the following requirements:

(1) Catcher vessels less than 60 ft (18.3 m) LOA must retain all groundfish CDQ species, halibut CDQ, and salmon

PSQ until they are delivered to a processor that meets the requirements of paragraph (d) of this section, unless retention of groundfish CDQ species is not authorized under § 679.4; discard of the groundfish CDQ species is required under subpart B of this part; or, in waters within the State of Alaska, discard is required by the State of Alaska.

(2) Catcher vessels delivering unsorted codends to motherships must retain all CDQ and PSQ species and deliver them to a mothership that meets the requirements of paragraph (c)(3)(i)(D) of this section.

(B) *Catcher vessels with an observer using trawl gear and delivering to shoreside processors.* Operators of vessels in this category must comply with all of the following requirements:

(1) Comply with the observer coverage requirements at § 679.50(c)(4)(iii)(E).

(2) Retain all CDQ species and salmon PSQ until they are delivered to a processor that meets the requirements of paragraph (d) of this section unless retention of groundfish CDQ species is not authorized under § 679.4 of this part; discard of the groundfish CDQ species is required under subpart B of this part; or, in waters within the State of Alaska, discard is required by laws of the State of Alaska.

(3) Retain all halibut and crab PSQ in a bin or other location until it is counted and sampled by the observer.

(4) Provide space on the deck of the vessel for the observer to sort and store catch samples and a place from which to hang the observer sampling scale.

(C) *Catcher/processors using trawl gear.* Operators of vessels in this category must comply with the following requirements:

(1) Comply with the observer coverage requirements at § 679.50(c)(4)(iii)(A).

(2) Notify the observers of CDQ catch before CDQ catch is brought onboard the vessel and notify the observers of the CDQ group and CDQ number associated with the CDQ catch.

(3) Comply with the catch monitoring requirements at § 679.93(c).

(D) *Motherships taking deliveries of unsorted codends.* Operators of vessels in this category must comply with the following requirements:

(1) Comply with the observer coverage requirements at § 679.50(c)(4)(iii)(B).

(2) Notify the observers of CDQ catch before CDQ catch is brought onboard the vessel and notify the observers of the CDQ group and CDQ number associated with the CDQ catch.

(3) Provide an observer sampling station as described at § 679.28(d).

(4) The operator of a mothership taking deliveries of unsorted codends

from catcher vessels must weigh all catch on a scale that complies with the requirements of § 679.28(b). Catch must not be sorted before it is weighed, unless a provision for doing so is approved by NMFS for the vessel. Each CDQ haul must be sampled by an observer for species composition and the vessel operator must allow observers to use any scale approved by NMFS to weigh partial CDQ haul samples.

(E) *Observed catcher vessels using nontrawl gear.* Operators of vessels in this category must retain all CDQ species until they are delivered to a processor that meets the requirements of paragraph (d) of this section unless retention of groundfish CDQ species is not authorized under § 679.4 of this part, discard of the groundfish CDQ or PSQ species is required under subpart B of this part, or, in waters within the State of Alaska, discard is required by laws of the State of Alaska. All of the halibut PSQ must be counted by the observer obtained in compliance with § 679.50(c)(4)(iii)(E), and sampled for length or average weight.

(F) *Catcher/processors using nontrawl gear.* Each CDQ set on a vessel using nontrawl gear must be sampled by an observer obtained in compliance with § 679.50(c)(4)(iii)(C) or (D) for species composition and average weight.

(ii) *Data sources used for CDQ catch accounting.* NMFS will use the following sources to account for the catch of groundfish CDQ and PSQ species caught by vessels groundfish CDQ fishing.

(A) *Catcher vessels less than 60 ft (18.3 m) LOA.* The weight or numbers of all CDQ and PSQ species will be obtained from the CDQ delivery information submitted by processors to NMFS in accordance with paragraph (d) of this section.

(B) *Catcher vessels delivering unsorted codends.* The weight and numbers of groundfish CDQ (including pollock) and PSQ species will be determined by applying the species composition sampling data collected for each CDQ haul by the observer on the mothership to the total weight of each CDQ haul as determined by weighing all catch from each CDQ haul on a scale approved under § 679.28(b).

(C) *Observed catcher vessels using trawl gear.* The estimated weight of halibut and numbers of crab PSQ discarded at sea will be determined by using the observer's sample data. The weight or numbers of all landed groundfish CDQ and salmon PSQ will be derived from the delivery information submitted through the eLandings system, as required at § 679.5(e).

(D) *Catcher/processors and motherships using trawl gear.* The weight and numbers of CDQ and PSQ species will be determined by applying the observer's species composition sampling data for each CDQ haul to the total weight of the CDQ haul as determined by weighing all catch from each CDQ haul on a scale certified under § 679.28(b).

(E) *Observed catcher vessels using nontrawl gear.* The weight of halibut PSQ discarded at sea will be determined by using the observer's sample data. The weight or numbers of all landed groundfish CDQ and salmon PSQ will be derived from the delivery information submitted through the eLandings system, as required at § 679.5(e).

(F) *Catcher/processors using nontrawl gear.* The weight of halibut PSQ and all groundfish CDQ species, except sablefish, will be determined by applying the observer's species composition sampling data to the estimate of total catch weight, if any CDQ species are discarded at sea. Sablefish CDQ caught with fixed gear is accounted for as described in paragraph (c)(1) of this section.

(G) *Alternative fishing plan for catcher/processors.* A CDQ group may propose the use of an alternative method, such as using only one observer where normally two would be required, sorting and weighing of all catch by species on processor vessels, or using larger sample sizes than could be collected by one observer by submitting an alternative fishing plan to NMFS. NMFS will review the alternative fishing plan and approve it or notify the qualified applicant in writing if the proposed alternative does not meet the requirements of such a plan.

(1) *Alternative fishing plan requirements.* (i) The alternative proposed must provide equivalent or better estimates than use of the NMFS standard data source would provide and the estimates must be independently verifiable.

(ii) Each haul or set on an observed vessel must be able to be sampled by an observer for species composition.

(iii) Any proposal to sort catch before it is weighed must ensure that the sorting and weighing process will be monitored by an observer.

(iv) The time required for the level 2 observer to complete sampling, data recording, and data communication duties must not exceed 12 hours in each 24-hour period and the level 2 observer must not be required to sample more than 9 hours in each 24-hour period. NMFS will not approve an alternative fishing plan that would require the

observer to divide a 12-hour shift into shifts of less than 6 hours.

(2) *Alternative fishing plan distribution and validity.* The CDQ group must provide a copy of the NMFS-approved alternative fishing plan to the operator of the approved vessel. The vessel operator must maintain the plan onboard the vessel at all times while it is operating under the alternative fishing plan. Alternative fishing plans are valid for the remainder of the calendar year in which they are approved. Alternatives to the requirement for a certified scale or an observer sampling station will not be approved.

(d) *Monitoring requirements for shoreside processors and stationary floating processors.*—(1) *Requirements for processors taking deliveries of pollock CDQ.* (i) *Catch weighing.* Managers of shoreside processors or stationary floating processors taking deliveries of pollock CDQ must comply with the requirements at § 679.63(c).

(ii) *Catch monitoring and control plan.* Managers of AFA inshore processors or stationary floating processors taking deliveries of pollock CDQ must follow an approved catch monitoring and control plan as described at § 679.28(g).

(2) *Requirements for processors taking deliveries of groundfish CDQ.* Managers of shoreside processors and stationary floating processors taking deliveries of groundfish CDQ must comply with the following requirements:

(i) Comply with observer coverage requirements at § 679.50(d)(5)(iii) of this part.

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

(iii) *CDQ and PSQ by weight.* Sort and weigh on a scale approved by the State of Alaska under § 679.28(c) all groundfish and halibut CDQ or PSQ by species or species group.

(iv) *PSQ by number.* Sort and count all salmon and crab PSQ.

(v) *CDQ and PSQ sorting and weighing.* Sorting and weighing of CDQ and PSQ must be monitored by an observer.

13. In § 679.43, paragraph (a) is revised to read as follows:

**§ 679.43 Determinations and appeals.**

(a) *General.* This section describes the procedure for appealing initial administrative determinations made in

this title under parts 300, 679, 680, and subpart E of part 300.

\* \* \* \* \*

14. In § 679.50, paragraphs (c)(2)(iii), (c)(4), and (d)(5) are revised to read as follows:

**§ 679.50 Groundfish Observer Program.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(iii) *Sablefish fishery.* In a retained catch of IFQ and CDQ sablefish that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (c)(2).

\* \* \* \* \*

(4) *Fixed gear sablefish CDQ, pollock CDQ, and groundfish CDQ fisheries.* The owner or operator of a vessel fishing for sablefish CDQ with fixed gear, pollock CDQ fishing, or groundfish CDQ fishing as defined in § 679.2 must comply with the following observer coverage requirements while transporting (catcher vessel only), harvesting, processing, or taking delivery of CDQ or PSQ species.

(i) *Fixed gear sablefish CDQ fishery.* Catcher vessels and catcher/processor vessels equal to or greater than 60 ft (18.3 m) LOA participating in the fixed gear sablefish CDQ fishery must comply with the observer coverage requirements in paragraphs (c)(1)(iv) through (viii) and (c)(2)(iii) of this section.

(ii) *Pollock CDQ fishery.* (A) A catcher/processor that is pollock CDQ fishing or mothership taking deliveries from catcher vessels that are pollock CDQ fishing must comply with the observer coverage and workload requirements in paragraph (c)(5) of this section.

(B) A catcher vessel that is pollock CDQ fishing must comply with the observer coverage requirements in paragraph (c)(1) of this section.

(iii) *Groundfish CDQ fisheries*—(A) *Catcher/processors using trawl gear.* A catcher/processor not listed in § 679.4(l)(2)(i) using trawl gear and groundfish CDQ fishing, except catcher/processors directed fishing for pollock CDQ, must comply with the observer coverage requirements at paragraph (c)(6)(i) of this section and the catch monitoring requirements in § 679.93(c).

(B) *Motherships.* A mothership that receives groundfish CDQ species from catcher vessels using trawl gear to participate in a directed fishery for CDQ groundfish species must have at least two level 2 observers as described at paragraphs (j)(1)(v)(D) and (E) of this section aboard the vessel, at least one of

whom must be certified as a lead level 2 observer.

(C) *Catcher/processors using hook-and-line gear.* A catcher/processor using hook-and-line gear to directed fish for groundfish CDQ species must have at least two level 2 observers as described at paragraphs (j)(1)(v)(D) and (E) of this section aboard the vessel, unless NMFS approves an alternative fishing plan under § 679.32(c)(3) authorizing the vessel to carry only one lead level 2 observer. At least one of the level 2 observers must be certified as a lead level 2 observer.

(D) *Catcher/processors using pot gear.* A catcher/processor using pot gear to directed fish for groundfish CDQ species must have at least one lead level 2 observer as described at paragraphs (j)(1)(v)(D) and (E) of this section aboard the vessel.

(E) *Catcher vessels.* A catcher vessel equal to or greater than 60 ft (18.3 m) LOA using any gear to directed fish for groundfish CDQ species, except a catcher vessel using trawl gear that delivers only unsorted codends to a mothership or catcher/processor, must have at least one level 2 observer as described at paragraph (j)(1)(v)(D) of this section aboard the vessel.

(F) *Limitations.* The time required for the level 2 observer to complete sampling, data recording, and data communication duties shall not exceed 12 hours in each 24-hour period, and, the level 2 observer is required to sample no more than 9 hours in each 24-hour period.

\* \* \* \* \*

(d) \* \* \*

(5) *Accepts deliveries of fixed gear sablefish CDQ, pollock CDQ, and groundfish CDQ* as defined in § 679.2 must comply with the following observer coverage requirements.

(i) *Fixed gear sablefish CDQ fishery.* Shoreside processors or stationary floating processors taking delivery of fixed gear sablefish CDQ must comply with the observer coverage requirements in paragraphs (d)(1) and (d)(2) of this section.

(ii) *Pollock CDQ fishery.* Each shoreside processor or stationary floating processor taking delivery of pollock CDQ must comply with the observer coverage requirements and duty restrictions in paragraph (d)(6) of this section.

(iii) *Groundfish CDQ fisheries.* Each shoreside processor or stationary floating processor taking deliveries of groundfish CDQ must have at least one level 2 observer as described at paragraph (j)(1)(v)(D) of this section present at all times while groundfish CDQ is being received or processed.

(iv) *Observer working hours.* The time required for the level 2 observer to complete sampling, data recording, and data communication duties may not exceed 12 hours in each 24-hour period, and the level 2 observer is required to

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

\* \* \* \* \*

**§§ 679.2, 679.5, 679.7, 679.21, 679.26, 679.27, 679.28, 679.50, 679.84, and 679.93 [Amended]**

15. At each of the locations shown in the “Location” column of the following

table, remove the phrase indicated in the “Remove” column and replace it with the phrase indicated in the “Add” column for the number of times indicated in the “Frequency” column.

Location	Remove	Add	Frequency
§ 679.2 definition of “CDQ reserve”	set aside for purposes of.	allocated to	1
§ 679.2 definition of “Fixed gear sablefish CDQ reserve”	§ 679.20(b)(1)(iii)(B). See also § 679.31.	§ 679.20(b)(1)(ii)(B)	1
§ 679.2 definition of “Halibut CDQ reserve”	§ 679.31(b)	§ 679.31(a)(2)	1
§ 679.5(a)(7)(x)(E)	CDQ group number	CDQ number	1
§ 679.5(a)(7)(xv) Table	CDQ group number	CDQ number	1
§ 679.5(a)(14)(iv) Table	CDQ group number	CDQ number	2
§ 679.5(c)(1)(ii)(H)(1)	CDQ group number	CDQ number	1
§ 679.5(c)(3)(v)(F) and (c)(4)(v)(F)	certified observer(s)	observer(s)	2
§ 679.5(c)(6)(v)(E)	certified observer(s)	observer(s)	1
§ 679.5(n)	CDQ group number	CDQ number	2
§ 679.7(c)(1)	NMFS-certified observer	observer	1
§ 679.21(c)(2)(iii) and (c)(5)	NMFS-certified observer	observer	1
§ 679.21(c)(4)	NMFS-certified observer	observer	2
§ 679.26(c)(1)	NMFS-certified observer	observer	1
§ 679.27(j)(5)(ii)	NMFS-certified observer	observer	1
§ 679.28(c)(4)(v)(D) and (g)(7)(viii)	NMFS-certified observer	observer	1
§ 679.28(g)(7)(vii)	NMFS-certified observers.	observers	1
§ 679.50(c)(1)(x), (c)(4)(i)(B), (c)(5)(i)(A), (c)(5)(i)(B), (c)(5)(i)(C), (c)(6)(i) introductory text, (c)(7)(i)(A) introductory text, (c)(7)(i)(B) introductory text, (c)(7)(i)(C), (d)(6)(i), (d)(7)(i), and (g)(1)(iii)(A).	NMFS-certified observers.	observers	1
§ 679.50(c)(6)(ii), (c)(7)(i)(F)(i), (c)(7)(i)(F)(ii)(A) introductory text, (c)(7)(i)(F)(ii)(B) introductory text, (c)(7)(i)(F)(ii)(C), and (d)(7)(i).	NMFS-certified observer	observer	1
§ 679.50(d)(6)(i)	NMFS certified observer	observer	1
§ 679.50(j)(1)(v)(D) and (j)(3)(iv)	certified observer	observer	1
§ 679.84(c)(1) and (f)(2)	NMFS certified observer	observer	1
§ 679.84(d)(1)	NMFS certified observer	observer	2
§ 679.93(c)(1)	NMFS certified observer	observer	1
§ 679.93(d)(1)	NMFS certified observer	observer	2

16. Table 7 to part 679 is revised to read as follows:

**TABLE 7 TO PART 679—COMMUNITY DEVELOPMENT QUOTA GROUPS AND COMMUNITIES ELIGIBLE TO PARTICIPATE IN THE CDQ PROGRAM**

- Aleutian Pribilof Island Community Development Association*
- Akutan
- Atka
- False Pass
- Nelson Lagoon
- Nikolski
- St. George
- Bristol Bay Economic Development Corporation*
- Aleknagik
- Clark’s Point
- Dillingham
- Egegik
- Ekuik
- Ekwok
- King Salmon/Savonoski
- Levelock
- Manokotak
- Naknek

**TABLE 7 TO PART 679—COMMUNITY DEVELOPMENT QUOTA GROUPS AND COMMUNITIES ELIGIBLE TO PARTICIPATE IN THE CDQ PROGRAM—Continued**

- Pilot Point
- Port Heiden
- Portage Creek
- South Naknek
- Togiak
- Twin Hills
- Ugashik
- Central Bering Sea Fishermen’s Association*
- St. Paul
- Coastal Villages Region Fund*
- Chefornak
- Chevak
- Eek
- Goodnews Bay
- Hooper Bay
- Kipnuk
- Kongiganak
- Kwigillingok
- Mekoryuk
- Napakiak
- Napaskiak
- Newtok

**TABLE 7 TO PART 679—COMMUNITY DEVELOPMENT QUOTA GROUPS AND COMMUNITIES ELIGIBLE TO PARTICIPATE IN THE CDQ PROGRAM—Continued**

- Nightmute
- Oscarville
- Platinum
- Quinhagak
- Scammon Bay
- Toksook Bay
- Tuntutuliak
- Tununak
- Norton Sound Economic Development Corporation*
- Brevig Mission
- Diomedea
- Elim
- Gambell
- Golovin
- Koyuk
- Nome
- Saint Michael
- Savoonga
- Shaktolik
- Stebbins
- Teller

TABLE 7 TO PART 679—COMMUNITY DEVELOPMENT QUOTA GROUPS AND COMMUNITIES ELIGIBLE TO PARTICIPATE IN THE CDQ PROGRAM—Continued

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Unalakleet
Wales
White Mountain
<i>Yukon Delta Fisheries Development Association</i>
Alakanuk
Emmonak
Grayling
Kotlik
Mountain Village
Nunam Iqua

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**PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

17. The authority citation for part 680 continues to read as follows:

**Authority:** 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

18. In § 680.2, revise the definitions for “CDQ community” and “CDQ group” to read as follows:

**§ 680.2 Definitions.**

\* \* \* \* \*

*CDQ community* means a community identified as eligible for the CDQ Program under 16 U.S.C. 1855(i)(1)(A).

CDQ communities are listed in Table 7 to 50 CFR part 679.

*CDQ group* means an entity identified as eligible for the CDQ Program under 16 U.S.C. 1855(i)(1)(A). CDQ groups are listed in Table 7 to 50 CFR part 679.

\* \* \* \* \*

[FR Doc. 2010–16936 Filed 7–12–10; 8:45 am]

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