

have resulted in a decrease in revenues to individual vessels.

Processors

As of mid-2003, there were 9 processors that participated in the surfclam and ocean quahog fisheries, plus 10 companies that bought ocean quahogs directly from vessels from within the State of Maine. Of the nine processors, approximately six are responsible for the vast majority of purchases in the ex-vessel market and sale of processed clam products in appropriate wholesale markets. Impacts to surfclam and ocean quahog processors would most likely mirror the impacts of the various quotas to vessels as discussed above. Revenues earned by processors would be derived from the wholesale market for clam products, and since a large number of substitute products (i.e., other food products) are available, the demand for processed clam products is likely to be price-dependent.

Allocation Holders

In 2003, surfclam allocation holders totaled 102, while 63 firms or individuals held ocean quahog allocation. If the recommended quotas are accepted, i.e., a slight increase of 4.6 percent for surfclams, an 11.1-percent increase for ocean quahogs, and no change from the 2003 quota for Maine mahogany ocean quahogs, it is likely that impacts to allocation holders or buyers would be minimal. Theoretically, increases in quota would most likely benefit those who purchase quota (through lower prices (values)) and negatively impact sellers of quota because of reduction in value. Decreases in quota would most likely have an opposite effect.

Reporting and Recordkeeping Requirements

This proposed rule would not impose any new reporting, recordkeeping, or other compliance requirements. Therefore, the costs of compliance would remain unchanged.

Authority: 16 U.S.C. 1801 *et. seq.*

Dated: October 17, 2003.

Rebecca Lent,

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

[FR Doc. 03-26676 Filed 10-21-03; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031009255-3255-01; I.D. 092503A]

RIN 0648-AQ88

Fisheries of the Exclusive Economic Zone Off Alaska; Revision to the Management of "Other Species" Community Development Quota

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would modify the management of the "other species" Community Development Quota (CDQ) reserve by eliminating specific allocations of "other species" to individual CDQ managing organizations (CDQ groups) and instead allow NMFS to manage the "other species" CDQ reserve with the general limitations used to manage the catch of non-CDQ groundfish in the Bering Sea and Aleutian Islands management area (BSAI). This action also would eliminate the CDQ non-specific reserve and make other changes to improve the clarity and consistency of CDQ Program regulations. This action is necessary to improve NMFS' ability to effectively administer the CDQ Program. It is intended to further the goals and objectives of the North Pacific Fishery Management Council (Council) with respect to this program.

DATES: Comments must be received by November 6, 2003.

ADDRESSES: Comments may be sent to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall, or delivered to room 420 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments may also be sent via facsimile (fax) to 907-586-7557. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT:

Obren Davis, 907-586-7228 or Obren.Davis@noaa.gov.

SUPPLEMENTARY INFORMATION: The groundfish fisheries in the exclusive

economic zone (EEZ) of the BSAI are managed under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The Council prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

Management Background and Need for Action

The CDQ Program allocates groundfish, prohibited species, crab, and Pacific halibut to six CDQ groups representing 65 western Alaska communities. With limited exceptions, NMFS allocates 7.5 percent of each BSAI groundfish Total Allowable Catch (TAC) category to a CDQ reserve for that TAC category. Each CDQ reserve is further apportioned among the six CDQ groups. The purpose of the CDQ Program is to provide the means for starting or supporting commercial fisheries business activities that will result in ongoing, regionally based, fisheries-related economic benefits for residents of participating communities. CDQ groups use the proceeds derived from the harvest of CDQ allocations to fund a variety of fisheries-related projects and provide training and educational opportunities to residents of participating communities.

The CDQ Program began in 1992 with the allocation of 7.5 percent of the BSAI pollock TAC. Allocations of sablefish and halibut were added in 1995. The Council recommended expanding the CDQ Program in 1995 and NMFS implemented the multispecies CDQ Program in 1998, combining the existing pollock, halibut, and fixed gear sablefish CDQ fisheries with additional allocations of a variety of crab, groundfish, and prohibited species. The pollock CDQ allocation increased to 10 percent of the BSAI pollock TAC in 1999 under the American Fisheries Act (Public Law 105-277). Management of crab CDQ is delegated to the State of Alaska and will not be mentioned hereafter.

As part of its original design, the multispecies CDQ Program required a higher level of accountability of allocated species than any other Alaska groundfish fishery that NMFS was then managing. Other limited access programs in place at the time, including the existing CDQ fisheries and the fixed gear halibut and sablefish Individual Fishing Quota fisheries, were target fishery-based programs that did not

include individual quotas for all TAC and prohibited species catch (PSC) species that were caught in those fisheries. In other words, the catch of target species in these programs was not constrained by any additional limits on the catch of incidentally caught or prohibited species.

Under the multispecies CDQ Program, each CDQ group is allocated a percentage of the groundfish CDQ and prohibited species quota (PSQ) reserves and each group is prohibited from exceeding any of its CDQ allocations or halibut PSQ allocation. Allocation of the CDQ and PSQ reserves among the six CDQ groups results in about 200 different quotas that have to be managed at the CDQ group level. CDQ groups have identified the strict accounting requirements and prohibition against exceeding a specific CDQ, particularly in regards to the "other species" CDQ species category, as unnecessarily constraining to the complete prosecution of their target fisheries. The "other species" complex is comprised of various species of sharks, skates, sculpins, and octopi. These species are incidentally caught with CDQ target species such as pollock, Pacific cod, sablefish, Atka mackerel, and a variety of flatfish species. Exceeding any CDQ allocation results in an enforcement action against a CDQ group, which may include monetary or other penalties. To avoid exceeding their "other species" allocations, CDQ groups may have to modify their fishing practices by fishing in new or different locations or ceasing to fish for some target species. Failing to completely harvest CDQ target species allocations has an economic impact on CDQ groups and the CDQ communities when revenues are foregone, which may adversely affect the accomplishment of projects intended to foster economic development in western Alaska communities.

The management of the "other species" category has differed from almost every other groundfish CDQ species category since the inception of the groundfish CDQ Program. During the development of the program, NMFS recognized that the catch of some non-target species, such as arrowtooth flounder and "other species," could prevent CDQ groups from fully harvesting their allocations of CDQ target species. To address this issue, NMFS created the CDQ non-specific reserve. This reserve provides an in-season management tool that CDQ groups may use to augment the initial allocations of arrowtooth flounder and "other species" CDQ that they receive each year. It was developed to provide CDQ groups with some degree of

flexibility to avoid having their target fisheries constrained by the catch of incidentally caught species such as "other species." In brief, the CDQ non-specific reserve allows a group to convert up to 15 percent of its annual allocation of arrowtooth flounder CDQ into "other species" CDQ or vice versa. The utility of this reserve is directly affected by the size of the arrowtooth flounder and "other species" annual TACs. For example, the smaller the arrowtooth flounder TAC, the smaller the arrowtooth flounder CDQ reserve and subsequent CDQ allocations, which in turn yields smaller contributions to the CDQ non-specific reserve.

The CDQ non-specific reserve appeared to function as originally envisioned during the first few years of the groundfish CDQ Program. However, this reserve has not provided CDQ groups with the catch accounting flexibility expected of it due to unforeseen factors associated with the annual BSAI groundfish specifications process. CDQ groups identified shortcomings with the CDQ non-specific reserve in 2001. The Council requested that NMFS increase the amount of arrowtooth flounder apportioned to each group's CDQ non-specific reserve from 15 percent to 50 percent in both 2001 and 2002 in order to provide CDQ groups with additional amounts of "other species" CDQ in those years. NMFS implemented these changes via emergency rules associated with the annual BSAI groundfish specifications for each of those years. This augmented the amount of "other species" available to CDQ groups in 2001 and 2002. In 2003, the amount of arrowtooth flounder apportioned to each CDQ group's non-specific reserve was not increased. Also, the arrowtooth flounder TAC decreased from 16,000 mt in 2002 to 12,000 mt in 2003. The combination of these two events decreased the amount of arrowtooth flounder that CDQ groups have available to release from their non-specific reserve to their "other species" allocations in 2003.

CDQ group representatives requested relief from the current "other species" management structure from the Council at its February 2003 meeting. In turn, the Council requested that NMFS prepare an analysis addressing the management of "other species" CDQ at the CDQ reserve level, rather than allocating the "other species" CDQ reserve to individual CDQ groups. Neither the Council nor NMFS considers the modification of percentage contributions to the CDQ non-specific reserve to be a viable, long-term solution that would address issues associated with the non-specific reserve or the

amount of "other species" available to CDQ groups.

As described in the EA/RIR/IRFA prepared for this action (see **ADDRESSES**), neither the "other species" CDQ reserve nor individual allocations of "other species" have been exceeded by CDQ groups in the last several years. CDQ groups also have not caught all of their target species allocations, with the exception of pollock. However, CDQ groups have informed NMFS that they consider the incomplete harvest of some target species in the past, such as Pacific cod, to be directly related to efforts made to minimize the catch of "other species." They believe that the current prohibition against exceeding their individual "other species" CDQ allocations has forced them to alter standard fishing practices and constrained them from fully prosecuting their CDQ target species allocations. NMFS cannot corroborate that the current management of the "other species" CDQ category is the primary reason that CDQ groups have not fully harvested some CDQ target species in recent years. However, NMFS estimates that an insufficient amount of "other species" CDQ is available to meet the potential catch of "other species" if all of the CDQ target fisheries were fully prosecuted during a year. Were CDQ groups to fully harvest each of their CDQ target allocations, they would likely exceed the amount available in the annual "other species" CDQ reserve.

In April 2003, following review of the EA/RIR/IRFA prepared for this action and public testimony, the Council took final action and recommended a regulatory amendment to modify how the "other species" CDQ reserve is allocated and managed. Specifically, the Council requested that this species category no longer be allocated to individual CDQ groups. Instead, the harvest of "other species" CDQ would be managed at the CDQ reserve level by applying management measures used for non-CDQ groundfish fisheries. The Council also recommended that the CDQ non-specific reserve be eliminated. Eliminating individual group allocations of "other species" would remove the need for the CDQ non-specific reserve, as it is designed to function at the individual group level, not at the CDQ reserve level.

The Council's recommended revision to the management of "other species" CDQ is a departure from the original approach to managing the CDQ fisheries, which involved allocation of all CDQ and PSQ reserves to individual CDQ groups and strict accountability by the CDQ groups for catch of these species. NMFS explained this original

management approach in the proposed and final rules for the multispecies CDQ Program (62 FR 43866, August 15, 1997; 63 FR 30381, June 4, 1998). At that time, keeping catch in the CDQ fisheries strictly within the CDQ and halibut PSQ reserve amounts, and accounting for all catch in all CDQ fisheries against CDQ group quotas was considered a more important goal of the program than the full harvest of all target species.

The Council recognized that the original management and catch accounting structure developed for the groundfish CDQ Program may not be appropriate to apply to this species category. It noted that managing the "other species" CDQ at the individual CDQ group level may preclude the successful attainment of overall CDQ Program goals. This action would reflect a divergence from the original management philosophy for the CDQ fishery with respect to the management of "other species" CDQ. Management measures used in the non-CDQ fisheries, such as directed fishing closures or placing species on "prohibited species catch" status, would be used to manage the "other species" CDQ reserve, rather than individual allocations to CDQ groups.

The Council also recognized that managing "other species" at the CDQ reserve level could result in the CDQ fisheries catching more "other species" than are in the "other species" CDQ reserve, because "other species" CDQ catch would no longer be constrained by fixed allocations, but by more general management measures. NMFS expects that management of the "other species" CDQ allocation at the CDQ reserve level would not, on its own, result in achievement of the "other species" TAC, Acceptable Biological Catch (ABC), or Overfishing Level (OFL) in the future. An examination of the non-CDQ and CDQ "other species" allocation and catch levels from 1999–2002 illustrates that the combined catch in the CDQ and non-CDQ fisheries was less than the annual TAC, ABC, and OFL. Even if the catch of "other species" in the CDQ fisheries increased if CDQ groups increase their catch of CDQ target species, NMFS does not expect that this increase would contribute significantly to any future potential for attainment of the "other species" TAC. Thus, this action is not expected to cause early closures of non-CDQ fisheries or negatively impact non-CDQ fishermen.

This change in management would, however, have the potential to increase the economic value of the CDQ fisheries by increasing the harvest of target species. The Council considered the social and economic benefits of this

action and the likelihood that this action would not negatively affect management of the "other species" quota category or cause limitations on the non-CDQ fisheries. The Council determined that the social, economic, and conservation benefits associated with this action provide adequate justification to deviate from the original management philosophy for strict quota accountability in the CDQ fisheries.

NMFS also supports implementing the change in "other species" CDQ management because this change should have a positive economic impact on western Alaska communities at a time when adequate "other species" resources are available for both the non-CDQ and CDQ fisheries. Any incomplete harvest of allocated CDQ species that results from the current prohibition against exceeding an individual CDQ group's "other species" allocation results in foregone economic opportunities. CDQ groups and their member communities benefit from their CDQ allocations via the royalty income received from the harvest of such allocations. This income is used to fund fisheries-related investments, local economic development projects, and training and educational programs. CDQ fishing operations also employ residents of CDQ communities in a variety of different positions. Fishing industry partners affiliated with CDQ groups consider their CDQ fishing operations an important component of their aggregate fishing activities, because such operations provide them with access to additional fishery resources and revenues.

Description of Action

This action would modify the management of the "other species" CDQ reserve and amend regulations to distinguish between the management of those groundfish CDQ reserves that are allocated to CDQ groups and those that are not. It would rescind the "other species" CDQ percentage allocations issued to individual CDQ groups in January 2003, thereby superceding the Alaska Regional Administrator's 2003–2005 allocation decision specific to the "other species" CDQ category. The "other species" CDQ reserve would still be established annually, but would no longer be allocated to CDQ groups. All catch of "other species" in the groundfish CDQ fisheries would accrue towards this reserve, rather than towards specific allocations to individual CDQ groups. NMFS would manage the "other species" CDQ reserve with management measures in § 679.20(d). Under these measures, NMFS would issue a directed fishery

closure applicable to "other species" CDQ at the beginning of each year. This would limit the retention of "other species" in the groundfish CDQ fisheries to specified maximum retainable amounts established in regulations at § 679.20(e) and (f). This limitation would minimize the likelihood that the available amount of "other species" CDQ would be reached in the groundfish CDQ fisheries. It would still allow some retention of skates, which are part of the "other species" category, by those CDQ vessels wishing to retain them. Additionally, NMFS would monitor the catch of "other species" in the CDQ fisheries and require that "other species" be treated in the same manner as a prohibited species if the CDQ reserve for "other species" were reached. If this occurred, retention of "other species" in the groundfish CDQ fisheries would be prohibited. Further fishing restrictions would occur if the aggregate catch of "other species" in both the CDQ and non-CDQ fisheries approach the annual OFL for "other species." If this were to occur, NMFS would specify limitations or prohibitions designed to prevent overfishing of this species group.

In addition to modifying the management of the "other species" CDQ reserve, this action would eliminate the CDQ non-specific reserve. Discontinuing the allocation of the "other species" CDQ reserve among individual CDQ groups would remove the need for the CDQ non-specific reserve, as arrowtooth flounder would be the only remaining CDQ category contributing to this reserve. If the CDQ non-specific reserve mechanism were retained, NMFS would apportion 15 percent of each CDQ group's annual arrowtooth flounder CDQ allocation to a group's CDQ non-specific reserve. The only CDQ species category that a group could release its non-specific reserve back to would be arrowtooth flounder, because an "other species" CDQ allocation would no longer be available to contribute to, or receive amounts from, a group's CDQ non-specific reserve. Thus, modifying the management of "other species" CDQ would mean that the CDQ non-specific reserve becomes non-beneficial to CDQ groups.

This action also would revise certain definitions associated with the CDQ Program in order to clarify their meaning within the context of both the groundfish CDQ allocation process and CDQ fisheries management. Current headings and definitions associated with the terms CDQ, CDQ species, PSQ, and PSQ species do not accurately portray the intended definitions and

common usage for such terms. Revisions to these definitions would distinguish among terms associated with apportionments that are derived from larger BSAI catch limits (CDQ reserves and PSQ reserves), acronyms associated with the actual amount of a reserve allocated to individual CDQ groups (CDQ and PSQ), and terms associated with biological categorization and catch accounting (CDQ species and PSQ species). Revising these definitions also would clarify CDQ catch monitoring and accounting requirements, as well as in-season management actions specific to the CDQ fisheries.

The proposed rule would revise the definition of CDQ species so that it refers only to those species allocated among the CDQ groups. The definition currently reads: "CDQ species means any species or species group that has been assigned to a CDQ reserve under § 679.31." This action would change the definition to read: "CDQ species means any species or species group that is allocated from a CDQ reserve to a CDQ group." The term "CDQ species" is used

primarily in § 679.32 to provide instructions for some of the catch accounting regulations that apply to species that are allocated among the CDQ groups. This proposed rule would not directly change any of the CDQ catch accounting requirements in § 679.32. However, because some of the requirements apply to "CDQ species," the revised definition of "CDQ species" would indirectly change these catch accounting requirements to exclude "other species." The only significant change that would occur would be that operators of catcher vessels required under § 679.32(c) to retain CDQ species until delivered to a shoreside processor or floating processor would no longer be required to retain species in the "other species" category (sharks, skates, sculpins, and octopi). The catch of "other species" by these catcher vessels, for purposes of managing the CDQ reserve, could be adequately monitored through the same methods used to estimate catch in the non-CDQ fisheries. These methods include landed catch reports from processors through

shoreside logbooks or weekly production reports and observer data for "other species" catch by vessels with an observer onboard.

This action also would revise the headings of other definitions associated with the CDQ Program. Three definitions beginning with "community development quota" would be revised to use the acronym CDQ in the definitions' heading rather than the full term. These revisions would make the format of these three definitions similar to the format of other defined terms starting with the acronym CDQ. Similar definitions would be grouped together alphabetically, rather than be separated by a variety of non-CDQ related definitions. This change, along with the previously mentioned changes to other definitions, would increase the clarity and consistency of defined terms and offer NMFS and the public greater efficiency when referencing CDQ Program definitions. The proposed revisions to definitions are summarized in Table 1.

TABLE 1. PROPOSED CHANGES TO CDQ AND PSQ DEFINITIONS.

Definition	From	To
Revise § 679.2, heading and definition for "community development quota."	Community Development Quota (CDQ) means the amount of a CDQ species established under § 679.31 that is allocated to the CDQ program..	CDQ means community development quota and is the amount of a CDQ reserve that is allocated to a CDQ group.
Revise § 679.2, heading for definition of "CDQ Program."	Community Development Quota Program (CDQ Program) means the Western Alaska Community Development Quota Program implemented under subpart C of this part..	CDQ Program means the Western Alaska Community Development Quota Program implemented under subpart C of this part.
Revise § 679.2, heading for definition of "CDQ reserve."	Community Development Quota reserve (CDQ reserve) means a percentage of a total allowable catch for groundfish, a percentage of a catch limit for halibut, or percentage of a guideline harvest level for crab that has been set aside for purposes of the CDQ program..	CDQ reserve means a percentage of each groundfish total allowable catch limit established under § 679.20(b)(1)(iii), a percentage of a catch limit for halibut, or a percentage of a guideline harvest level for crab that has been set aside for purposes of the CDQ Program.
Revise § 679.2, definition for "CDQ species." ..	CDQ species means any species or species group that has been assigned to a CDQ reserve under § 679.31..	CDQ species means any species or species group that is allocated from a CDQ reserve to a CDQ group.
Revise § 679.2, heading and definition for "prohibited species quota."	Prohibited species quota (PSQ) means the amount of a prohibited species catch limit established under § 679.21(e)(1) and (e)(2) that is allocated to the groundfish CDQ program under § 679.21(e)(1)(i) and (e)(2)(ii)..	PSQ means prohibited species quota and is the amount of a PSQ reserve that is allocated to a CDQ group.
Revise § 679.2, definition for "PSQ reserve." ...	Not currently defined.	PSQ reserve means the percentage of a prohibited species catch limit established under § 679.21(e)(1) and (e)(2) that is allocated to the groundfish CDQ program under § 679.21(e)(1)(i) and (e)(2)(ii).
Revise § 679.2, definition for "PSQ species." ...	PSQ species means any species that has been assigned to a PSQ reserve under § 679.21(e)(1)(i) and (e)(2)(ii) for purposes of the CDQ program. See also § 679.31(d)..	PSQ species means any species or species group that has been allocated from a PSQ reserve to a CDQ group.

This proposed rule also would amend the introductory paragraph that discusses CDQ reserves, a prohibition relating to calculating maximum

retainable amounts of CDQ catch, and regulations explaining CDQ catch monitoring and accounting in order to consistently use terms defined in

§ 679.2. It would clarify how NMFS would manage groundfish CDQ reserves allocated among CDQ groups, including how NMFS would reconcile changes to

allocated CDQ reserve categories that result from any TAC category changes made during the annual BSAI harvest specifications process. CDQ and PSQ percentage allocations are approved for a fixed period, typically three years. The species or management areas comprising TAC categories can change annually for biological or management reasons. This action would allow NMFS to apply the approved percentage allocations for a given CDQ reserve category to any derivative CDQ reserve category that results from modifications made to TAC categories during the annual specifications process. For example, if the Council recommended, and NMFS approved, splitting an individual species out of the "other flatfish" TAC category, then NMFS would use the CDQ percentage allocations approved for "other flatfish" to allocate the new species category among CDQ groups for the remainder of a CDQ allocation cycle. This would ensure that annual CDQ allocations match annual TAC categories. Doing so would allow NMFS to more effectively administer, manage, and account for annual CDQ reserves and allocations should annual TAC categories be changed during an allocation cycle. Out of approximately 30 groundfish CDQ reserve categories, six reserve categories currently exist that could be split into subsidiary species or species groups and eight reserve categories that could be split into different management areas. This action also would revise a prohibition against using groundfish caught while CDQ fishing to calculate retainable amounts of non-CDQ species to clarify that groundfish accruing against a CDQ reserve, rather than CDQ species, may not be used as a basis species in such calculations.

Classification

The Assistant Administrator for Fisheries, National Marine Fisheries Service, determined that this proposed rule is consistent with the Magnuson-Stevens Act and other applicable laws.

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

An Initial Regulatory Flexibility Analysis (IRFA) was prepared to evaluate the impacts of this action on directly regulated small entities in compliance with the requirements of Section 603 of the Regulatory Flexibility Act. The reasons for the action, its objectives, and its legal basis have been described earlier in the preamble to this action.

For the proposed action, the small regulated entities include the six CDQ groups participating in the western

Alaska CDQ Program. The preferred alternative does not appear to have adverse impacts on small entities because it would relieve a constraint that prevents CDQ groups from successfully harvesting portions of their annual CDQ allocations. The preferred alternative would modify the management of the "other species" CDQ reserve to discontinue allocating this reserve to CDQ groups. The objective of this proposed action is to facilitate greater success in harvesting royalty-generating CDQ target species. This is a beneficial impact.

Modifying the percentage contribution to the CDQ non-specific reserve was one of five alternatives initially considered as a means to modify the management of the "other species" CDQ reserve. Two alternatives were analyzed in detail. The first was a no action alternative that would continue to allocate the "other species" CDQ reserve to CDQ groups and the second alternative would allow NMFS to manage this reserve, rather than allocating it to CDQ groups. Three alternatives were considered by NMFS but not carried forward for further analysis based on a preliminary assessment of whether they were actually viable or not. The first rejected alternative would increase the percentage contribution from the arrowtooth flounder CDQ reserve to the non-specific CDQ reserve, thereby indirectly increasing the amount of "other species" available to CDQ groups. However, this percentage would be difficult to calculate accurately, as its efficacy would be affected by variables arising during future BSAI groundfish specifications processes. It is also possible that this alternative would lead to an arrowtooth flounder CDQ reserve that is insufficient to account for the catch of that particular species in CDQ fisheries, thereby shifting an accounting problem from one species category to another.

The second rejected alternative would be to not allocate "other species" to the CDQ Program. This would be contrary to the Magnuson-Stevens Act, which requires the Council and NMFS to allocate a percentage of the TAC of each Bering Sea fishery to the CDQ Program. The third rejected alternative would increase the amount of the annual "other species" TAC that is allocated to the "other species" CDQ reserve. Conversely, the amount of "other species" apportioned to the non-CDQ fisheries would decrease. This would require a determination of an "other species" apportionment between fishery components that would be difficult to accurately calculate and that could

introduce an element of controversy to this action. The Council did not request an expanded analysis of the additional three potential alternatives that were presented to them. Instead it chose to focus its deliberations on the two primary alternatives considered in the analysis.

The status quo is the alternative to the preferred action. The status quo would not lead to a modification of the management of the "other species" CDQ reserve. CDQ groups would still receive individual allocations of "other species" CDQ and be subject to a prohibition against exceeding a CDQ, including "other species" CDQ. The status quo was rejected because it would not relieve a constraint against the complete harvest of CDQ target species, would not accomplish the objective of this action, and because it would have a relatively adverse impact on small entities.

This regulation would not impose new recordkeeping or reporting requirements on the regulated small entities. The analysis for this action did not reveal any Federal rules that duplicate, overlap or conflict with the proposed action.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: October 16, 2003.

Rebecca Lent,

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

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

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31, 113 Stat. 57; 16 U.S.C. 1540(f).

2. In § 679.2, the definitions for "Community Development Quota," "Community Development Quota Program," "Community Development Quota reserve," and "prohibited species quota" are removed; the definitions for "CDQ," "CDQ Program," "CDQ reserve," "PSQ," and "PSQ reserve" are added in alphabetical order; and, the definitions for "CDQ species" and "PSQ species" are revised to read as follows:

§ 679.2 Definitions.

* * * * *

CDQ means community development quota and is the amount of a CDQ reserve that is allocated to a CDQ group.

* * * * *

CDQ Program means the Western Alaska Community Development Quota Program implemented under subpart C of this part.

* * * * *

CDQ reserve means a percentage of each groundfish total allowable catch limit established under § 679.20(b)(1)(iii), a percentage of a catch limit for halibut, or a percentage of a guideline harvest level for crab that has been set aside for purposes of the CDQ Program.

CDQ species means any species or species group that is allocated from a CDQ reserve to a CDQ group.

* * * * *

PSQ means prohibited species quota and is the amount of a PSQ reserve that is allocated to a CDQ group.

* * * * *

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

PSQ species means any species or species group that has been allocated from a PSQ reserve to a CDQ group.

* * * * *

3. In § 679.7, paragraph (d)(16) is revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(d) * * *

(16) Use any groundfish accruing against a CDQ reserve as a basis species for calculating retainable amounts of non-CDQ species under § 679.20.

* * * * *

4. In § 679.31, the introductory paragraph is revised and paragraph (f) is revised to read as follows:

§ 679.31 CDQ Reserves.

Portions of the CDQ and PSQ reserves for each subarea or district may be allocated for the exclusive use of CDQ groups in accordance with CDPs approved by the Governor in consultation with the Council and approved by NMFS. NMFS will allocate no more than 33 percent of each CDQ reserve to any one group with an approved CDP.

* * * * *

(f) *Management of the Groundfish CDQ Reserves.* (1) *Groundfish CDQ reserves allocated among CDQ groups.*

(i) Except as limited by paragraph (f)(2) of this section, the groundfish CDQ reserves are apportioned among CDQ groups using percentage allocations approved by NMFS under § 679.30(d).

(ii) If the groundfish harvest specifications required by § 679.20(c) change the species comprising a TAC category or change a TAC category by combining or splitting management areas, then the CDQ percentage allocations approved by NMFS for the original TAC category will apply to any new categories.

(iii) A CDQ group is prohibited by 679.7(d)(5) from exceeding an annual groundfish CDQ amount allocated to it.

(iv) NMFS may specify limitations or prohibitions to prevent overfishing of any BSAI groundfish species, including measures specific to groundfish CDQ species allocated among CDQ groups (see § 679.20(d)(3)).

(2) *Groundfish CDQ reserves not allocated among CDQ groups.*

(i) The “other species” CDQ reserve, or individual species that comprise the “other species” CDQ reserve, will not be allocated among CDQ groups.

(ii) Groundfish CDQ reserves not allocated among CDQ groups will be managed at the CDQ reserve level under general limitations at § 679.20(d).

5. In § 679.32, paragraph (c)(1)(i) is revised to read as follows:

§ 679.32 Groundfish and halibut CDQ catch monitoring.

* * * * *

(c) * * *

(1) *Catcher vessels without an observer.*

(i) *Operators of catcher vessels less than 60 ft (18.3 m) LOA* must retain all groundfish CDQ species, halibut CDQ, and salmon PSQ until it is delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) 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 the State of Alaska.

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