

vertical separation between control point or ground level and the center of the radiating portion of the antenna of any units so used does not exceed 8 meters (approximately 25 feet). This frequency is available for assignment as follows:

(i) To persons furnishing commercial air transportation service or, pursuant to § 90.179, to an entity furnishing radio communications service to persons so engaged, for stations located on or near the airports listed in paragraph (c)(61)(iv) of this section. Stations will be authorized on a primary basis and may be used only in connection with servicing and supplying of aircraft. Operation on this frequency is limited to a maximum effective radiated power (ERP) of 40 watts at locations within 16 km (approximately 10 miles) of the coordinates of the listed airports.

(ii) To stations in the Industrial/Business Pool for secondary use at locations 80 km (approximately 50 miles) or more from the coordinates of the listed airports. Operation will be limited to a maximum ERP of 120 watts. Wide area operation will not be permitted. The area of normal, day-to-day operations will be described in the application.

(iii) To stations in the Industrial/Business Pool for secondary use at locations greater than 16 km (approximately 10 miles) but less than 80 km (approximately 50 miles) from the coordinates of the listed airports. Operation will be limited to a maximum ERP of 6 watts. Use of this frequency is restricted to the confines of an industrial complex or manufacturing yard area. Stations licensed prior to April 25, 2005, may continue to operate with facilities authorized as of that date.

(iv) Stations operating on the frequencies subject to the provisions of § 90.35(b)(69) will be limited to a maximum output power of 2 watts until January 30, 2006, which is thirty days after the December 31, 2005 lifting of the freeze on the filing of high powered applications for 12.5 kHz offset channels in the 460–470 MHz band.

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 041110318–5055–02; I.D. 110504E]

RIN 0648–AS00

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

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule to revise regulations governing the Western Alaska Community Development Quota (CDQ) Program. These regulatory amendments will simplify the processes for making quota transfers, for authorizing vessels as eligible to participate in the CDQ fisheries, and for obtaining approval of alternative fishing plans. This action is necessary to improve NMFS's ability to effectively administer the CDQ Program. It is intended to further the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP).

**DATES:** Effective April 25, 2005.

**ADDRESSES:** Copies of the Categorical Exclusion and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained by mail from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Durall, or from the NMFS Alaska Region website at [www.fakr.noaa.gov](http://www.fakr.noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 907–586–7228 or [obren.davis@noaa.gov](mailto:obren.davis@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands Area (BSAI) are managed under the BSAI FMP. The North Pacific Fishery Management Council (Council) prepared the BSAI FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations governing the BSAI FMP appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

## Background and Need for Action

The existing management background and explanation of the need for this action were described in the preamble to the proposed rule published in the **Federal Register** on November 26, 2004 (69 FR 68865). In summary, the Council recommended simplifying certain administrative processes associated with CDQ transfers, prohibited species quota (PSQ) transfers, and alternative fishing plans (collectively, Issue 8) as part of its comprehensive recommendation for the eight separate issues comprising Amendment 71 to the BSAI FMP. This action will implement the particular changes recommended for Issue 8, as well as associated changes to the eligible vessel approval process that NMFS has determined are related in nature and scope to the Council's recommendations for alternative fishing plans.

## Elements of this Rule

This rule will make the following revisions to CDQ Program regulations at 50 CFR part 679:

1. Revise § 679.30(e) to allow CDQ groups to transfer groundfish CDQ and halibut CDQ by submitting transfer requests directly to NMFS and to remove the requirement that these transfers be made through amendments to CDQ groups' community development plans (CDPs). CDQ transfer requests will no longer have to be submitted to the State of Alaska (State) for review before being submitted to NMFS.

2. Revise § 679.30(e) to allow CDQ groups to transfer prohibited species quota (PSQ) by submitting transfer requests directly to NMFS and to remove the requirement that these transfers be made through amendments to the CDPs. PSQ transfer requests will no longer have to be submitted to the State for review before being submitted to NMFS. In addition, this action will allow the transfer of PSQ during any month of the year and allow transfers of PSQ without an associated transfer of CDQ. The CDQ and PSQ transfer process will become an in-season management function of NMFS.

3. Remove the requirements at § 679.30(a) that fishing plan forms and a list of eligible vessels be included in a group's CDP. Vessel eligibility requirements are added to redesignated and revised § 679.32(c) to require that: CDQ groups request and obtain eligibility approval from NMFS for all vessels groundfish CDQ fishing and for vessels equal to or greater than 60 feet (18.3 meters) length overall (LOA) that are halibut CDQ fishing before these

vessels participate in any CDQ fisheries; CDQ groups provide a copy of the NMFS-approved eligible vessel request to the vessel operator; vessel operators maintain a copy of the NMFS-approved request onboard the vessel at all times while harvesting, transporting, or offloading CDQ; and, CDQ groups must notify the vessel operator if the vessel is removed from eligibility to fish for CDQ. Vessel eligibility requirements and documentation are intended to provide a means for law enforcement personnel to verify whether vessels claiming to be participating in CDQ fisheries are eligible to do so, particularly if no other non-CDQ fisheries are open at a given time.

4. Remove the requirement at § 679.30(a) that a CDQ group obtain prior approval by the State and NMFS for all processors taking deliveries of groundfish CDQ.

5. Amend § 679.32(e) to allow CDQ groups to submit alternative fishing plans directly to NMFS rather than as amendments to a CDP. Such plans are used by CDQ groups to propose the use of different levels of observer coverage or different data sources for catch accounting than those required by regulation. An alternative fishing plan will be an attachment to an eligible vessel request. Additionally, CDQ groups will be required to provide a copy of the NMFS-approved alternative fishing plan to vessel operators who will be required to maintain a copy of the NMFS-approved alternative fishing plan onboard the vessel at all times while harvesting, transporting, or offloading CDQ.

6. Implement other minor revisions to the regulations at §§ 679.2, 679.5, 679.7, 679.22, 679.30, 679.32, and 679.50 to update wording, clarify definitions, and correct cross references in support of the primary regulatory amendments in this rule. The definitions for "CDQ group number" and "groundfish CDQ fishing" are revised to remove references to approval of eligible vessels and processors as part of a CDP. The definition for "CDQ representative" is revised to allow CDQ groups to authorize more than one staff person to sign and submit documents to NMFS. A new definition of "eligible vessel" is added to support the use of that term elsewhere in 50 CFR part 679.

7. Revise several paragraphs within §§ 679.7, 679.30, and 679.32 to remove requirements that a CDQ group must ensure its respective fishing and processing partners' compliance with regulations in 50 CFR part 679, as CDQ groups are not in a position to direct, control, or otherwise affect the

operations or action of their partners. Specific revisions include:

- In § 679.7, remove paragraph (d)(24) which states that it is unlawful for a CDQ group to fail to ensure that all vessels and processors listed as eligible on the CDQ group's approved CDP comply with all regulations in this part while fishing for CDQ.

- In § 679.30(a), remove the sentence in the middle of the paragraph that reads "In addition, the CDQ group is responsible to ensure that vessels and processors listed as eligible on the CDQ group's approved CDP comply with all requirements of this part while harvesting or processing CDQ species."

- In § 679.30, remove paragraph (f)(6) which states that the CDQ groups are responsible for ensuring compliance by the CDQ harvesting vessels and CDQ processors of the activities listed.

- In § 679.32(a), revise the paragraph to include a more general statement of applicability for the entire section. The individual paragraphs within the section will include the specific applicability of each topic to CDQ groups, vessel operators, and processors.

#### Response to Comments

NMFS received three separate comment letters, containing a total of six unique comments, regarding the proposed rule. The comments are summarized and responded to below.

*Comment 1:* The wholesale allowance of overfishing should not be allowed.

*Response:* This action modifies administrative processes associated with the management of the CDQ Program and does not make any revisions to the amount of fish authorized to be harvested. The program allocates specific amounts of CDQ to eligible recipients, who in turn must harvest such quota in compliance with strict catch monitoring and reporting standards. Currently, no Alaska groundfish species are considered by NMFS to be overfished.

*Comment 2:* Law enforcement personnel need to monitor the catch and landing of all fish, since commercial fishermen bring in at least three times as much as they are allowed to catch. Commercial fishermen are lawbreakers who have been overfishing per the Pew Report and the United Nations Report on Overfishing, which are incorporated into the comments from this commenter.

*Response:* NMFS disagrees with the commenter's assertion that groundfish fishers systematically under-report their catch. The recordkeeping and reporting requirements in Alaska groundfish fisheries are comprehensive, and NMFS and U.S. Coast Guard law enforcement

officers conduct numerous vessel boardings and seafood processor inspections each year. Catch and reporting violations occur, but are relatively infrequent. Such violations are prosecuted pursuant to the Magnuson-Stevens Act.

*Comment 3:* Marine sanctuaries should be established immediately and all vessels should be excluded from them.

*Response:* This action does not address the creation of marine sanctuaries. The concept of establishing marine reserves is explored in the draft environmental impact statement (EIS) for essential fish habitat, dated January 2004. Further information on this draft EIS may be found at the NMFS Alaska Region website at [www.fakr.noaa.gov](http://www.fakr.noaa.gov).

*Comment 4:* Regional fishery management councils do not meet the Federal Advisory Committee Act (FACA) rules of being balanced. Such councils are controlled by fishing profiteers, who dominate which quotas are allowed.

*Response:* This action does not address issues related to the membership of regional fishery management councils or the FACA. Furthermore, FACA does not apply to regional fishery management councils (16 U.S.C. 1852(i)(1)). Council members who are appointed by the Secretary must comply with financial disclosure requirements at 50 CFR 600.235(b) and are recused from voting on any Council decision that would have a significant and predictable effect on a financial interest disclosed in his or her report (50 CFR 600.235(c)).

*Comment 5:* Marine resources are not owned exclusively by commercial fishermen and the fish in the ocean belong to all U.S. citizens. Seals should have some fish to eat, too.

*Response:* This action does not make any revisions to the amount of fish that may be harvested. The groundfish fisheries off Alaska are managed within a structure of science-based conservation and management practices. NMFS limits the amount of fish that may be harvested in the groundfish fisheries off Alaska by setting annual catch limits based on the best scientific information available about each specific stock under consideration. In the course of considering both catch limits and regulatory changes, NMFS and the Council consider a broad range of alternatives to address biological, environmental, and economic concerns. This process also includes an examination of the potential impacts of alternatives on marine mammals, including seals.

*Comment 6:* We support the proposed changes. The proposed revisions will increase CDQ harvesting flexibility and decrease the administrative burden on the State of Alaska, NMFS, and the CDQ groups.

*Response:* NMFS agrees that these revisions will increase CDQ management flexibility and alleviate some portion of the management burden associated with submitting and reviewing CDQ and PSQ transfers, fishing plan forms, and alternative fishing plans.

### Changes from the Proposed Rule

No substantive changes are made in this final rule from the proposed rule.

### Classification

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

The NMFS prepared a final regulatory flexibility analysis (FRFA). The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action. A summary of the FRFA and how it addresses each of the requirements in 5 U.S.C. 604(a)(1)-(5) follows. A copy of this FRFA is available from NMFS (see **ADDRESSES**).

#### *Need for and Objectives of the Rule*

A description of the need for and objectives of this action is contained in the preamble to the proposed rule published in the **Federal Register** on November 26, 2004 (69 FR 68865), and in the preamble to this final rule.

#### *Summary of Significant Issues Raised in Public Comment*

None of the comments received specifically addressed the IRFA or the economic impacts of this action. Two letters of comments supporting the action were received from two CDQ groups, both of which are small entities under the RFA. The CDQ groups identified reduced reporting and administrative burdens, along with additional flexibility to maximize the harvest of target species, as the reasons for their support.

#### *Description and Estimate of Number of Small Entities to Which the Rule Will Apply*

The entities that will be directly regulated by this action are the 6 CDQ groups that represent the 65 western Alaska communities that currently participate in the CDQ Program, as well as the owners and operators of vessels

harvesting CDQ on behalf of the CDQ groups. The CDQ groups include: Aleutian Pribilof Island Community Development Association, Bristol Bay Economic Development Corporation, Central Bering Sea Fishermen's Association, Coastal Villages Region Fund, Norton Sound Economic Development Corporation, and Yukon Delta Fisheries Development Association. Each of these groups is organized as a not-for-profit entity and none is dominant in its field. Consequently, each is a small entity under the Regulatory Flexibility Act (RFA). Many of the 83 vessels and at least 3 of the 10 shoreside processors participating in the groundfish CDQ fisheries are small entities.

#### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

All of this action's primary regulatory revisions are related to recordkeeping and reporting requirements. These requirements apply primarily to the CDQ groups, because these groups submit the CDQ and PSQ transfer request forms, the request for approval of an eligible vessel forms, and the alternative fishing plans to NMFS. The professional skills that are necessary to prepare and submit the forms required from a CDQ group and to provide a copy of the signed form and alternative fishing plan, if applicable, to vessel operators include: (1) the ability to read, write, and speak in English, (2) the ability to use computer and communications equipment, (3) knowledge of the CDQ group's fishing activities, including contractual arrangements with vessel operators and processing plants, and quota balances, and (4) the authority to sign and submit documents to NMFS on behalf of the CDQ group. These responsibilities generally are fulfilled by a member of the CDQ group's professional staff. The professional skills necessary for a vessel operator to maintain a copy of the signed authorization form and alternative fishing plan, if applicable, onboard the vessel include: (1) the ability to read or understand verbal instructions in English, and (2) the organizational skills necessary to receive a document from the CDQ group, maintain it in legible condition, and ensure it is accessible to U.S. Coast Guard or NMFS enforcement officers upon request.

#### *Steps Taken to Minimize Economic Impacts on Small Entities*

The FRFA evaluated two alternatives: (1) the status quo, and (2) the preferred alternative, which will modify certain

administrative processes associated with quota transfers, eligible vessels, and alternative fishing plans. As part of the assessment of the CDQ Program's administrative issues considered under Amendment 71 to the BSAI FMP, the Council, NMFS, and the State evaluated current recordkeeping and reporting requirements and identified several areas where requirements could be reduced. This provided a basis for the preferred alternative implemented by this action. NMFS believes that this alternative meets the objective of the recordkeeping and reporting requirements of the CDQ Program by appropriately balancing the requirements for conservation and management of the groundfish CDQ fisheries under the Magnuson-Stevens Act, with the requirements to minimize economic burdens under both the Magnuson-Stevens Act National Standard 7 (minimize costs and avoid unnecessary duplication) and the Paperwork Reduction Act (minimize the economic burden of recordkeeping and reporting requirements).

### Small Entity Compliance Guide

CDQ groups will be in compliance with this rule if they follow the revised submittal procedures for CDQ and PSQ transfers, eligible vessels, and alternative fishing plans. This includes: submitting both transfer requests and alternative fishing plans directly to NMFS; discontinuing the inclusion of fishing plan forms in CDPs; requesting approval from NMFS to designate vessels that are eligible to fish for CDQ; supplying vessel operators with copies of the NMFS-approved eligible vessel request form (and alternative fishing plans, if applicable); and, notifying vessel operators if their vessel's eligibility to fish for CDQ is removed. Vessel operators operating on behalf of CDQ groups will be in compliance with this rule if they maintain a legible copy of the NMFS-approved eligible vessel form (and alternative fishing plan, if applicable) aboard vessels while harvesting, transporting, or offloading CDQ. Copies of the final rule are available from NMFS (see **ADDRESSES**) and at the following website: [www.fakr.noaa.gov](http://www.fakr.noaa.gov).

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648-0269. Public reporting burden is estimated to average: 520 hours for a Community Development Plan; 40 hours for a Substantial Amendment; 8 hours for a Technical Amendment; 30 minutes for a CDQ or PSQ Transfer Request; 1 hour

for a Request for Approval of an Eligible Vessel; and 4 hours for an Alternative Fishing Plan. The estimated time to respond to each requirement includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and by e-mail to *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, and no person shall be subject to 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 Part 679**

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: March 17, 2005.

**Rebecca Lent,**

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

■ For the reasons set out in the preamble, 50 CFR part 679 is 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.*; 16 U.S.C. 1540(f); Pub. L. 105-277, Title II of Division C; Pub. L. 106-31, Sec. 3027; and Pub. L.106-554, Sec. 209.

■ 2. In § 679.2, revise the definitions for “CDQ group number,” “CDQ representative,” and “Groundfish CDQ fishing” and add the definition for “Eligible vessel,” in alphabetical order, to read as follows:

**§ 679.2 Definitions.**

\* \* \* \* \*

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

\* \* \* \* \*

*CDQ representative* means any individual who is authorized by a CDQ group to sign documents submitted to NMFS on behalf of the CDQ group.

\* \* \* \* \*

*Eligible vessel* means, for the purposes of the CDQ Program, a fishing vessel designated by a CDQ group to harvest part or all of its CDQ allocation and approved by NMFS under § 679.32(c).

\* \* \* \* \*

*Groundfish CDQ fishing* means fishing by an eligible vessel that results in the catch of any groundfish CDQ species, but that does not meet the definition of halibut CDQ fishing.

\* \* \* \* \*

■ 3. In § 679.5, add paragraphs (n)(3) and (n)(4) to read as follows:

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

\* \* \* \* \*

(n) \* \* \*

(3) *CDQ or PSQ transfer request—(i) Who must submit a CDQ or PSQ transfer request?* A CDQ group requesting transfer of CDQ or PSQ to or from another CDQ group must submit a completed CDQ or PSQ transfer request to NMFS.

(ii) *Information required—(A) Transferring CDQ group information.* For the group transferring CDQ, enter: the CDQ group name or initials; the CDQ group number as defined at § 679.2; and, the CDQ representative’s telephone number, fax number, printed name, and signature.

(B) *Receiving CDQ group information.* For the group receiving CDQ, enter: the CDQ group name or initials; the CDQ group number as defined at § 679.2; and, the CDQ representative’s telephone number, fax number, printed name, and signature.

(C) *CDQ amount transferred—(1) Species or Species Category.* For each species for which a transfer is being requested, enter the species name or species category.

(2) *Area.* Enter the management area associated with a species category, if applicable.

(3) *Amount transferred.* Specify the amount being transferred. For groundfish, specify transfer amounts to the nearest 0.001 mt. For halibut CDQ, specify the amount in pounds (net weight).

(D) *PSQ amount transferred—(1) Species or Species Category.* For each species for which a transfer is being requested, enter the species name or species category.

(2) *Crab zone.* For crab only, designate the appropriate zone for each PSQ being transferred, if applicable.

(3) *Amount transferred.* Specify the amount being transferred. For crab and salmon, specify transfer amounts in numbers of animals. For halibut, specify the amount to the nearest 0.001 mt.

(4) *Request for approval of an eligible vessel—(i) Who must submit a request for approval of an eligible vessel?* A CDQ group must submit a completed request for approval of an eligible vessel to NMFS for each vessel that will be groundfish CDQ fishing and for each vessel equal to or greater than 60 ft (18.3 m) LOA that will be halibut CDQ fishing. See § 679.32(c) for more information about this requirement.

(ii) *Information required—(A) Vessel information.* Enter the vessel name, Federal fisheries permit number, if applicable, ADF&G vessel registration number, and LOA. Indicate all the gear types that will be used to catch CDQ.

(B) *Vessel contact information.* Enter the name, mailing address, telephone number, and e-mail address (if available) of a contact person representing the vessel.

(C) *Method to determine CDQ and PSQ catch.* Select the method that will be used to determine CDQ and PSQ catch, either NMFS standard sources of data or an alternative method. If the selection is “NMFS standard sources of data,” select either “all trawl vessels greater than or equal to 60 ft (18.3 m) LOA using non-trawl gear” or “catcher vessels greater than or equal to 60 ft (18.3 m) LOA using non-trawl gear.” If the selection is “catcher vessels greater than or equal to 60 ft (18.3 m) LOA using non-trawl gear,” select either Option 1 or Option 2, described at § 679.32(e)(2)(iv). If an alternative method (fishing plan) is proposed, it must be attached to the request for approval of an eligible vessel.

(D) *Notice of submission and review.* Enter the name, telephone number, and fax number of the CDQ representative; the date submitted to NMFS; and signature of the CDQ representative.

\* \* \* \* \*

**§ 679.7 [Amended]**

■ 4. In § 679.7, remove paragraph (d)(24) and redesignate paragraph (d)(25) as (d)(24).

■ 5. In § 679.30, remove paragraphs (f)(6), and (g)(4)(iv)(H); redesignate paragraph (f)(7) as (f)(6); and revise paragraph (a) introductory text, paragraphs (a)(5), (e), (g)(4)(ii), and (g)(4)(iv)(G) to read as follows:

**§ 679.30 General CDQ regulations.**

(a) *Application procedure.* The CDQ program is a voluntary program. Allocations of CDQ and PSQ are made to CDQ groups and not to vessels or processors fishing under contract with any CDQ group. Any vessel or processor harvesting or processing CDQ or PSQ on behalf of a CDQ group must comply

with all other requirements of this part. Allocations of CDQ and PSQ are harvest privileges that expire upon the expiration of the CDP. When a CDP expires, further CDQ allocations are not implied or guaranteed, and a qualified applicant must re-apply for further allocations on a competitive basis with other qualified applicants. The CDQ allocations provide the means for CDQ groups to complete their CDQ projects. A qualified applicant may apply for CDQ and PSQ allocations by submitting a proposed CDP to the State during the CDQ application period that is announced by the State. A proposed CDP must include the following information:

\* \* \* \* \*

(5) *Harvesting plans.* A narrative description of how the CDQ group intends to harvest and process its CDQ allocations, including a description of the target fisheries, the types of vessels and processors that will be used, the locations and methods of processing, and the CDQ group's proposed partners.

\* \* \* \* \*

(e) *Transfers*—(1) *Transfer of annual CDQ and PSQ.* 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)(3). 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. NMFS will not approve transfers to cover overages of CDQ or PSQ. The CDQ or 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.

(2) *Transfer of CDQ and PSQ allocation.* CDQ groups may request that some or all of one group's CDQ or PSQ allocation, as defined at § 679.2, be transferred by NMFS to another group by each group filing an amendment to its respective CDP through the CDP substantial amendment process set forth at paragraph (g)(4) of this section. The CDQ or PSQ allocation will be transferred as of January 1 of the calendar year following the calendar year NMFS approves the amendments of both groups and is effective for the duration of the CDPs. Transfers of CDQ

and PSQ allocations must be in whole integer percentages.

\* \* \* \* \*

(g) \* \* \*

(4) \* \* \*

(ii) NMFS will notify the State in writing of the approval or disapproval of the amendment within 30 days of receipt of both the amendment and the State's recommendation. Once a substantial amendment is approved by NMFS, the amendment will be effective for the duration of the CDP.

\* \* \* \* \*

(iv) \* \* \*

(G) Any transfer of a CDQ allocation or a PSQ allocation.

\* \* \* \* \*

■ 6. In § 679.32, redesignate paragraph (d) as (e), and paragraph (c) as (d); revise paragraphs (a) and newly redesignated paragraph (e)(2) introductory text; and add new paragraphs (c) and (e)(3) to read as follows:

**§ 679.32 Groundfish and halibut CDQ catch monitoring.**

(a) *Applicability.* This section contains requirements for CDQ groups, operators of vessels, and managers of processors that harvest and/or process groundfish CDQ, including vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing.

\* \* \* \* \*

(c) *Vessels eligible for groundfish and halibut CDQ fisheries.* The following information must be provided by the CDQ group for all vessels that are groundfish CDQ fishing and all vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing.

(1) *Request for approval of an eligible vessel.* Prior to a vessel participating in the CDQ fishery, a CDQ group must submit to NMFS a completed request for approval of an eligible vessel as described at § 679.5(n)(4). NMFS will approve all vessels for which a completed request is submitted. Once approved, a vessel will remain eligible until December 31 of the last year in the current CDQ allocation cycle under § 679.30(d), or until the CDQ group removes the vessel from eligibility under paragraph (c)(2) of this section. A list of eligible vessels for each CDQ group will be publicly available from the Alaska Regional Office or on the NMFS website at <http://www.fakr.noaa.gov>. The CDQ group must provide a copy of the NMFS-approved eligible vessel request to the operator of the approved vessel. The vessel operator must maintain a copy of the eligible vessel request approved by NMFS onboard the vessel at all times

while harvesting, transporting, or offloading CDQ.

(2) *Removing a vessel from eligibility.* A CDQ group may remove a vessel from eligibility to harvest CDQ on its behalf by advising NMFS by letter of the removal. Removal of a vessel from eligibility to harvest CDQ will be effective on the date that NMFS approves the request and notifies the CDQ group of NMFS's approval. Upon receipt of notification of NMFS's approval, the CDQ group must notify the operator of the vessel of the vessel's removal from eligibility to harvest CDQ on behalf of the CDQ group.

\* \* \* \* \*

(e) \* \* \*

(2) *Verification of CDQ and PSQ catch reports.* CDQ groups may specify the sources of data listed below as the sources they will use to determine CDQ and PSQ catch on the CDQ catch report by specifying "NMFS standard sources of data" on their request for approval of an eligible vessel. In the case of a catcher vessel using nontrawl gear, the CDQ group must specify on their request for approval of an eligible vessel whether the vessel will be retaining all groundfish CDQ (Option 1) or discarding some groundfish CDQ species at sea (Option 2). CDQ species may be discarded at sea by these vessels only if the requirements of paragraph (d)(2)(ii)(B) of this section are met. NMFS will use the following sources to verify the CDQ catch reports, unless an alternative catch estimation procedure is approved by NMFS under paragraph (e)(3) of this section.

\* \* \* \* \*

(3) *Alternative methods for verification of CDQ and PSQ catch.* The method to be used to determine CDQ and PSQ catch for each vessel must be listed by a CDQ group on the request for approval of an eligible vessel. 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 attached to its request for approval of an eligible vessel. 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 listed under paragraphs (e)(3)(i) through (iv) of this section. The CDQ group must provide a copy of the approved alternative fishing plan to the operator of the approved vessel. A copy of the alternative fishing plan approved by NMFS must be maintained 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. NMFS will review the alternative fishing plan to determine if it meets all of the following 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; and

(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.

\* \* \* \* \*

**§§ 679.5, 679.7, 679.22, 679.32, and 679.50 [Amended]**

■ 7. In the table below, for each of the paragraphs shown under the “Paragraph” column, remove the phrase indicated under the “Remove” column and replace it with the phrase indicated under the “Add” column for the number of times indicated in the “Frequency” column.

Paragraph(s)	Remove	Add	Frequency
§ 679.5(n)(2)(iv) introductory text	(Option 1 in the CDP).	(Option 1 under § 679.32(d)(2)(ii)).	1
§ 679.5(n)(2)(v) introductory text	(Option 2 in the CDP).	(Option 2 under § 679.32(d)(2)(ii)).	1
§ 679.7(d)(4)	eligible vessel on an approved CDP for	eligible vessel for	1
§ 679.7(d)(6) through (10)	eligible vessel listed on an approved CDP, use	eligible vessel, use	1
§ 679.7(d)(11)	to an eligible processor listed on an approved CDP unless	to a processor unless	1
§ 679.7(d)(21)	approved in the CDP to	approved by NMFS to	1
§ 679.7(f)(3)(ii)	aboard, except as provided under an approved CDP.	aboard, unless fishing on behalf of a CDQ group and authorized under § 679.32(c).	1
§ 679.22(a)(5)(ii)	it is operating under a CDP approved by NMFS.	it is directed fishing for pollock CDQ.	1
Newly redesignated § 679.32(d)(1)(i)	paragraph (c)(3) or (c)(4) of this section,	paragraph (d)(3) or (d)(4) of this section,	1
Newly redesignated § 679.32(d)(1)(ii)	paragraph (c)(4) of this section.	paragraph (d)(4) of this section.	1
Newly redesignated § 679.32(d)(2)(i)(A)	paragraph (c)(3) or (c)(4) of this section	paragraph (d)(3) or (d)(4) of this section	1
Newly redesignated § 679.32(d)(2)(ii)(A)	paragraph (c)(3) or (c)(4) of this section	paragraph (d)(3) or (d)(4) of this section	1
Newly redesignated § 679.32(d)(4)(iv)	for the vessel in the CDP. Each	for the vessel. Each	1
Newly redesignated § 679.32(e)(2)(i)	the vessel, delivered to a shoreside processor listed as eligible in the CDP, and sorted and weighed in compliance with paragraph (c)(3) of this section.	the vessel until delivered to a processor, and sorted and weighed in compliance with paragraph (d)(3) of this section.	1
Newly redesignated § 679.32(e)(2)(iii)	processor listed as eligible in the CDP, and sorted and weighed in compliance with paragraph (c)(3) of this section.	processor, and sorted and weighed in compliance with paragraph (d)(3) of this section.	1
Newly redesignated § 679.32(e)(2)(iv)(A)	paragraph (c)(3) of this section	paragraph (d)(3) of this section	1
§ 679.32(f)(3)	paragraphs (b) through (d) of this section, including the retention of all groundfish CDQ, if option 1 under § 679.32(c)(2)(ii) is selected in the CDP. CDQ	paragraphs (b) through (e) of this section, including the retention of all groundfish CDQ, if Option 1 under § 679.32(d)(2)(ii) is selected. CDQ	1
§ 679.50(c)(4)(ii)	unless NMFS approves a CDP authorizing	unless NMFS approves an alternative fishing plan under § 679.32(e)(3) authorizing	1
§ 679.50(c)(4)(ii)	NMFS may approve a CDP authorizing	NMFS may approve an alternative fishing plan authorizing	1
§ 679.50(c)(4)(ii)	NMFS will not approve a CDP that	NMFS will not approve an alternative fishing plan that	1

Paragraph(s)	Remove	Add	Frequency
§ 679.50(c)(4)(v)(A)	described at § 679.32(c)(2)(ii)(A) for	described at § 679.32(d)(2)(ii)(A) for	1
§ 679.50(c)(4)(v)(B)	described at § 679.32(c)(2)(ii)(B) for	described at § 679.32(d)(2)(ii)(B) for	1
§ 679.50(d)(5)(ii)(B)	described at § 679.32(c)(2)(ii)(A) for	described at § 679.32(d)(2)(ii)(A) for	1
§ 679.50(d)(5)(ii)(C)	described at § 679.32(c)(2)(ii)(B) for	described at § 679.32(d)(2)(ii)(B) for	1

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