

SUPPLEMENTARY INFORMATION: On March 9, 1999 (64 FR 11724), we published a final rule amending the rollover warning label and owners' manual requirements for small and midsize utility vehicles (utility vehicles with a wheelbase of 110 inches or less).¹ The rule requires a new label that uses graphics, bright colors, and short bulleted text messages in place of the current, text-only warning label containing a paragraph of information. The rule also requires that additional information related to rollover risks be included in the owners' manuals of these utility vehicles. In addition, the final rule amended the air bag warning label requirements in Standard No. 208, Occupant crash protection, to allow the utility vehicle rollover warning label and the air bag warning label to be placed on the same side of the sun visor. The mandatory compliance date for the rule is September 1, 1999.

In our final rules, we normally discuss the issue of whether vehicles or equipment manufactured before the compliance date for new requirements may comply with those new requirements in lieu of complying with the existing requirements. However, in the rule establishing the upgraded requirements for the rollover warning label and owners' manual information requirements, we inadvertently omitted any discussion of early voluntary compliance. To correct that oversight, this document makes it clear that manufacturers of utility vehicles with a wheelbase of 110 inches or less may comply with the upgraded requirements in advance of the September 1, 1999, mandatory compliance date without violating any other provisions of 49 CFR 575.105, Vehicle rollover, 49 CFR 571.208, Occupant crash protection, or 49 U.S.C. 30101 *et seq.* (formerly the National Traffic and Motor Vehicle Safety Act). Any manufacturer choosing to comply with the new rule before September 1, 1999, must comply with the new rule in its entirety (i.e., they must comply with the new owners' manual information requirements as well as with the new, improved labeling requirements).

We find good cause to make voluntary compliance with the final rule published March 9, 1999 (64 FR 11724) effective upon publication of this document. This document does not

impose any additional responsibilities on any vehicle manufacturer. Instead, it corrects an oversight in the rule of March 9, 1999. This document merely clarifies that manufacturers which wish to produce rollover warning labels and owner's manuals that comply with the upgraded requirements of 49 CFR 575.105 and 49 CFR 571.208 before September 1, 1999, may do so.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

Issued on: April 20, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981221311-9096-02; I.D. 113098C]

RIN 0648-AL21

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

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

ACTION: Final rule.

SUMMARY: NMFS issues a Final Rule to amend the regulations governing the Western Alaska Community Development Quota (CDQ) Program. This action is necessary to define how halibut CDQ fishing will be managed in 1999 and thereafter and to remove or revise regulations governing groundfish and halibut CDQ fishing to make them consistent with the combination of the management regimes for the fixed gear halibut and sablefish CDQ fisheries, the pollock CDQ fisheries, and the multispecies (MS) groundfish CDQ fisheries starting in fishing year 1999. In addition, this action makes miscellaneous technical and editorial revisions to the groundfish CDQ regulations. This action is intended to further the objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Effective May 26, 1999 except that § 679.50 (c)(4)(i) through § 679.50 (c)(4)(iv), is effective April 26, 1999.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action may be obtained from National Marine Fisheries Service, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or by calling the Alaska Region, NMFS, at 907-586-7228.

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

SUPPLEMENTARY INFORMATION:

Management Background and Need for Action

NMFS manages fishing for groundfish by U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) according to the FMP. The North Pacific Fishery Management Council prepared the FMP under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels and implementing the FMP appear at 50 CFR parts 600 and 679. Regulations governing the 1999 halibut fishery were published in the **Federal Register** on March 19, 1999 (64 FR 13519).

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

A proposed rule was published in the **Federal Register** on February 8, 1999 (64 FR 6025). The public comment period on the proposed rule ended on March 10, 1999. See the proposed rule for a more detailed description of the regulatory amendments and the reasons for their implementation. NMFS received no comments on the proposed rule.

Changes From the Proposed Rule

The following changes are made from the regulatory text of the proposed rule:

1. The proposed rule would have exempted all operators of vessels less than 60 ft (18.3m) length overall (loa) while halibut CDQ fishing from the existing requirement to retain all groundfish CDQ species and deliver them to a processor; and, would have exempted managers of shoreside processors taking deliveries of

¹ "Utility vehicles" are defined in 49 CFR Part 575 as multipurpose passenger vehicles (other than those which are passenger car derivatives) with a wheelbase of 110 inches or less and with special features for off-road operation. 49 CFR 575.105. These vehicles (regardless of wheelbase) are commonly referred to as sport utility vehicles in the media.

groundfish caught by catcher vessels less than 60 ft (18.3 m) loa that had been halibut CDQ fishing from the existing requirement to report this groundfish on a CDQ delivery report. In addition, the proposed rule would not have counted groundfish caught by catcher vessels less than 60 ft (18.3 m) loa that had been halibut CDQ fishing against the CDQ group's CDQ allocations.

NMFS proposed the exemption because the cost of complying with these requirements for operators of vessels less than 60 ft (18.3 m) loa and, for managers of shoreside processors, would exceed the benefits that would be gained by tracking what are expected to be small amounts of retained groundfish. In addition, not accruing this incidental catch of groundfish against a CDQ group's CDQ allocation, and instead accruing it against the non-CDQ total allowable catch (TAC) specification, should not reduce the non-CDQ directed fisheries for the incidentally caught species.

NMFS believes that this justification remains valid and the final rule implements the proposed regulations for all groundfish, except sablefish, landed by vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing. Under existing regulations, shoreside processors are required to report this groundfish to NMFS on logbooks and weekly production reports and to the State of Alaska on fish tickets. This groundfish catch will accrue against the non-CDQ groundfish TAC limits. Although operators of vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing are not required to retain all groundfish CDQ species under the CDQ regulations, operators must comply with other regulations governing the open access fisheries for the specific species and area that may require retention of groundfish.

This final rule clarifies the accounting of sablefish CDQ caught by vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing. The BSAI fixed gear sablefish TACs are fully allocated to either Individual Fishing Quota (IFQ) or to CDQ fisheries. Therefore, unlike other groundfish caught by vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing, sablefish catch cannot accrue against a non-CDQ TAC. Therefore, proposed § 679.32(f)(3) is revised in the final rule to require that any sablefish CDQ retained while halibut CDQ fishing by vessels of any size (including those less than 60 ft (18.3 m) LOA) be reported by the shoreside processor on a CDQ delivery report.

2. The proposed rule included a new definition for "halibut CDQ fishing". A new definition is needed to distinguish

between vessels halibut CDQ fishing and vessels groundfish CDQ fishing in order to allow operators of vessels less than 60 ft (18.3 m) while halibut CDQ fishing, managers of shoreside processors taking deliveries from these vessels, and the CDQ representative to account for the groundfish caught by these vessel operators while halibut CDQ fishing in a different manner than that required for operators of vessels less than 60 ft (18.3 m) LOA while groundfish CDQ fishing.

The proposed definition is revised in the final rule to distinguish between halibut CDQ fishing by catcher vessels and by catcher/processors. For both catcher vessels and catcher/processors, the definition is revised to clarify that both retained halibut CDQ and retained halibut IFQ (rather than just retained halibut CDQ) will be considered in determining whether retained halibut represents the largest proportion of the retained catch. This clarification is necessary because vessel operators are allowed to retain halibut IFQ while halibut CDQ fishing, and this retained halibut should be included in the total amount of retained halibut for purposes of determining whether a vessel is halibut CDQ fishing or groundfish CDQ fishing.

For catcher vessels, the definition is also revised to clarify that the determination of whether halibut is the predominant retained species may be made at any time while the vessel is CDQ fishing, not just when the fish are delivered to the processor. This revision is necessary so NMFS Enforcement or the U.S. Coast Guard can determine whether a catcher vessel is halibut CDQ fishing or groundfish CDQ fishing while it is fishing. In addition, the requirement that the round weight equivalent of non-CDQ groundfish not exceed the maximum retainable bycatch (MRB) amounts for these species is applied only to catcher vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing. Catcher vessels equal to or greater than 60 ft (18.3 m) LOA and catcher/processors may not combine CDQ groundfish and non-CDQ groundfish in the same delivery (catcher vessel) or set (catcher/processor), and they must account for all groundfish caught while halibut CDQ fishing against the CDQ group's CDQ allocation for that species. Therefore, it is not necessary or appropriate to apply MRB amounts to these vessels while halibut CDQ fishing.

3. The definition of "groundfish CDQ fishing" is amended so that a vessel is either groundfish CDQ fishing or halibut CDQ fishing, but not both at the same time. In addition, NMFS is correcting

amendments to this definition that were made in the combined final rule and emergency interim rule that implemented Amendment 45 to the FMP and CDQ program-related requirements of the American Fisheries Act (64 FR 3877, January 26, 1999). NMFS intended to permanently amend the definition of groundfish CDQ fishing in the final rule for Amendment 45. However, because NMFS published a final rule and an emergency interim rule affecting this definition on the same day, the amendment to the definition of groundfish CDQ fishing was implemented under the emergency interim rule and is effective only through July 20, 1999. Furthermore, the groundfish CDQ fishing definition that was effective through December 31, 1998, was suspended rather than removed.

In this final rule, NMFS removes the definition of groundfish CDQ fishing that was suspended under the emergency interim rule because NMFS intended that this definition would be effective only through the end of 1998, and NMFS permanently implements a revised definition of groundfish CDQ fishing. The new definition of groundfish CDQ fishing states that "groundfish CDQ fishing means fishing by an eligible vessel listed on an approved CDP that results in the catch of any groundfish CDQ species, but that does not meet the definition of halibut CDQ fishing".

4. In § 679.32, NMFS removes paragraphs (a)(2), (a)(3), and (e), which expired on December 31, 1998. NMFS intended to remove these sections under the final rule and emergency interim rule for Amendment 45 to the FMP and the AFA. However, as discussed earlier, rather than being removed, these sections were suspended under the emergency interim rule. In this final rule, NMFS removes these sections and redesignates § 679.32(g) (regulations governing pollock CDQ fishing under the emergency interim rule) as § 679.32(e). Under the emergency interim rule, new § 679.32(e) will expire on July 20, 1999.

5. NMFS corrects a cross reference error in newly redesignated § 679.7(d)(20) (previously § 679.7(d)(21)). The requirements that apply to scales approved by the State of Alaska are at § 679.28(c) not § 679.28(b).

6. NMFS reinstates § 679.50 paragraphs (c)(4)(i) through (c)(4)(iv), which were inadvertently removed from the regulations under the final rule for Amendment 45 (64 FR 3877, January 26, 1999) due to an error in amendatory instruction number 8. This amendatory instruction should have revised only the

introductory paragraph to paragraph (c)(4) and should not have removed paragraphs (c)(4)(i) through (c)(4)(iv).

Compliance Guide for Small Entities

The Small Business Regulatory Enforcement Fairness Act requires NMFS to prepare a compliance guide that explains how small entities must comply with the regulations implemented in this final rule. Note that this compliance guide addresses only the specific regulatory changes implemented in this final rule and is not a complete description of all CDQ regulations in 50 CFR part 679 that affect these small entities.

The small entities affected by this rule are the six CDQ groups, the approximately 250 fishing vessel owners or operators who harvest halibut CDQ, and the approximately 20 processors or registered buyers who purchase halibut CDQ. See additional discussion of impacts in the Classification section and in the FRFA.

The CDQ group representative must obtain a halibut CDQ permit from NMFS each year. The CDQ group must ensure that a copy of the CDQ permit be onboard each vessel harvesting halibut CDQ on the CDQ groups behalf, and that each vessel operator that lands halibut CDQ on the CDQ group's behalf has a valid CDQ landing card onboard. In addition, the CDQ group representative must report on a CDQ catch report any groundfish CDQ harvested while halibut CDQ fishing with vessels equal to or greater than 60 ft (18.3 m) LOA and any sablefish CDQ retained with vessels of any size.

Individuals harvesting halibut CDQ must fish for halibut CDQ in compliance with the IFQ regulations and land halibut CDQ by or to a registered buyer who is required to submit a landing report under the IFQ regulations.

Halibut CDQ catch by vessels equal to or greater than 60 ft (18.3 m) LOA is not reported on the CDQ delivery report or CDQ catch report unless groundfish CDQ species also are landed. When groundfish CDQ species are landed with halibut CDQ catch by vessels equal to or greater than 60 ft (18.3 m) LOA, the weight of halibut CDQ and any halibut IFQ delivered at the same time and reported to Restricted Access Management (RAM) must also be reported on the CDQ delivery report and CDQ catch report in order to account for all catch in the delivery and to identify halibut CDQ, IFQ, and prohibited species quota (PSQ) separately.

In contrast to groundfish CDQ fishing, under this final rule, operators of catcher vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing are not

required to retain all groundfish CDQ species caught and deliver them to a shoreside processor. However, these vessel operators may be required to retain this groundfish under other regulations such as the IFQ program or the Improved Retention/Improved Utilization regulations. Registered buyers taking deliveries from these vessels are not required to have a CDQ observer to monitor deliveries. Except for sablefish CDQ, any groundfish catch retained onboard a catcher vessel less than 60 ft (18.3 m) LOA while halibut CDQ fishing and landed is not required to be reported by the manager of the shoreside processor on the CDQ delivery report and is not subtracted from the CDQ group's CDQ allocations. This groundfish catch accrues against the non-CDQ groundfish TAC limits. The vessel operator, IFQ cardholder, registered buyer, or manager of a shoreside processor, must report any sablefish retained while halibut CDQ fishing as either sablefish IFQ (under the IFQ regulations) or as sablefish CDQ. A shoreside processor must report the sablefish CDQ on a CDQ delivery report.

The catch accounting requirements for operators of catcher vessels equal to or greater than 60 ft (18.3 m) LOA and catcher/processors while groundfish CDQ fishing apply to the operators of these vessels while halibut CDQ fishing. These regulations accrue all groundfish CDQ catch against the CDQ group's groundfish CDQ allocations, and require catcher vessels to carry a CDQ observer, and for catcher/processors to carry two CDQ observers in order to monitor and verify the catch of groundfish CDQ species that accrue to the MS groundfish CDQs. In addition, the Community Development Plan (CDP) must specify which catcher vessels equal to or greater than 60 ft (18.3 m) LOA are going to (1) retain and deliver all groundfish CDQ species to a shoreside processor (Option 1 under § 679.32(c)(2)(ii)(A)), or (2) discard some groundfish CDQ species at sea (Option 2 under § 679.32(c)(2)(ii)(B)), in which case the owner or operator of the catcher vessel must provide an observer sampling station that complies with the requirements of § 679.28(d). The operator of the catcher vessels fishing under Option 2 still must comply with any other regulations that prohibit the discard of certain groundfish species which include, but are not limited to, Improved Retention/Improved Utilization and the IFQ Program, if any IFQ species also are onboard the vessel. Finally, shoreside processors are required to have deliveries by catcher vessels equal to or greater than 60 ft

(18.3 m) LOA monitored by a CDQ observer at the shoreside processor.

Classification

The Administrator, Alaska Region, NMFS, (Regional Administrator) determined that this final rule is necessary for the conservation and management of the groundfish and halibut fisheries of the BSAI. The Regional Administrator also determined that this final rule is consistent with the Magnuson-Stevens Act, the Northern Pacific Halibut Act of 1982, and other applicable laws.

The final rule has been determined to be not significant for purposes of E.O. 12866.

The collection-of-information requirements in this rule have been approved by OMB, OMB control number 0648-0269. The public reporting burden for this collection of information is estimated to average 2 hours for the owner of a catcher vessel to submit a request for an observer sampling station inspection and to maintain a copy of the observer sampling station inspection report on the vessel; 15 minutes for the manager of a shoreside processor to print and retain the scale print-out; 2 minutes for the manager of a shoreside processor to notify the CDQ observer prior to the delivery of CDQ catch; 1 hour for the manager of a shoreside processor to complete the CDQ delivery report; and 15 minutes for the CDQ group to complete the CDQ catch report.

Send comments regarding the burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

NMFS prepared an FRFA that describes the impact this final rule would have on small entities. A copy of this analysis is available from NMFS (see ADDRESSES). The analysis made the following conclusions with respect to impacts on small entities. All of the participants in the halibut CDQ fisheries are small entities, including the approximately 250 fishing vessel owners or operators who harvest halibut CDQ, the approximately 20 registered buyers who purchase halibut CDQ, the six CDQ groups who are allocated halibut CDQ, and the 56 western Alaska communities that are eligible for the CDQ program. All of these small entities incur some economic impact due to an increase in annual compliance costs as a result of recordkeeping and reporting requirements. For example, this final

rule requires the CDQ groups to incur costs associated with obtaining CDQ permits and submitting the CDQ catch reports. It also requires vessel operators and registered buyers to incur costs associated with CDQ landings reports as well as the requirement that owners or operators of vessel equal to or greater than 60 ft (18.3 m) LOA incur costs associated with the requirement to carry a CDQ observer.

NMFS has determined that a regulation has a significant economic impact for the purposes of the Regulatory Flexibility Act (RFA) if it is likely to result in more than a 5-percent decrease in annual gross revenues; annual compliance costs (e.g., annualized capital, operating, reporting) that increase total costs of production by more than 5 percent; compliance costs as a percent of sales that are 10 or more percent higher for small entities than compliance costs for large entities; capital costs of compliance that represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities; or is likely to result in 2 or more percent of the small entities affected being forced to cease business operations.

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

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

The final rule satisfies NMFS's fisheries management obligations in a manner consistent with the RFA by removing some requirements and compliance costs for small entities.

Specifically, it would remove the requirement that the CDQ groups (1) list in their CDPs the names of vessels less than 60 ft (18.3 m) LOA that conduct halibut CDQ fishing only and the processors taking deliveries from these vessels, and (2) submit technical amendments to their CDPs to add or remove these vessels and processors. NMFS also did not extend requirements that currently apply to vessels groundfish CDQ fishing to similar vessels while halibut CDQ fishing. Specifically, NMFS did not extend requirements for observers in shoreside processing plants that take deliveries from vessels less than 60 feet LOA who have been halibut CDQ fishing or requirements that these catcher vessels retain all groundfish species and report them under the MS groundfish CDQ reporting requirements.

This rule reinstates § 679.50 paragraphs (c)(4)(i) through (c)(4)(iv), which were inadvertently removed from the regulations under the final rule for Amendment 45 (64 FR 3877, January 26, 1999) due to an error in amendatory instruction number 8. This amendatory instruction should have revised only the introductory paragraph through paragraph (c)(4) and should not have removed paragraphs (c)(4)(i) through (c)(4)(iv). The Assistant Administrator for Fisheries, NMFS, finds for good cause under U.S.C. 553 (d)(3) that it would be contrary to the public interest to delay the effective date of the reinstatement of § 679.50 (c)(4)(i) through § 679.50 (c)(4)(iv). These sections must be effectively immediately to meet the catch monitoring and data collection goals of the FMP. Accordingly, § 679.50 (c)(4)(i) through § 679.50 (c)(4)(iv) is effective immediately upon the date of publication in the **Federal Register**.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: April 19, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

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

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

§ 679.2 Definitions.

* * * * *

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

* * * * *

Halibut CDQ fishing means the following:

(1) *Catcher vessel.* The following conditions are met at all times:

(i) Halibut CDQ is retained and the weight of halibut CDQ plus halibut IFQ onboard the vessel at any time represents the largest proportion of the retained catch in round weight equivalent onboard the vessel at that time, and

(ii) For catcher vessels less than 60 ft (18.3 m) LOA, the round weight equivalent of non-CDQ groundfish does not exceed the maximum retainable bycatch amounts for these species or species groups as established in § 679.20(e) and (f).

(2) *Catcher/processor.* Halibut CDQ is retained from a set and the weight of halibut CDQ plus halibut IFQ represents the largest proportion of the retained catch in round weight equivalent from that set.

* * * * *

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

* * * * *

3. In § 679.7, paragraphs (d)(20), (d)(22), and (d)(25) are removed; paragraphs (d)(21), (d)(23), (d)(24), (d)(26), and (d)(27) are redesignated as paragraphs (d)(20), (d)(21), (d)(22), (d)(24), and (d)(25); a new paragraph (d)(23) is added; and paragraphs (d)(4), (d)(11), (d)(15), (d)(19), newly redesignated paragraph (d)(20), paragraphs (f)(3), (f)(5), (f)(6), and (f)(10) are revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(d) * * *

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

* * * * *

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

* * * * *

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

* * * * *

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

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

* * * * *

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

* * * * *

(f) * * *

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

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

* * * * *

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

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

* * * * *

(10) Make an IFQ halibut, IFQ sablefish, or CDQ halibut landing other

than directly to (or by) a registered buyer.

* * * * *

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

§ 679.21 Prohibited species bycatch management.

* * * * *

(e) * * *

(2) * * *

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

* * * * *

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

§ 679.23 Seasons.

* * * * *

(e) * * *

(4) * * *

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

* * * * *

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

§ 679.30 General CDQ regulations.

(a) * * *

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

(i) *List of eligible vessels and processors—(A) Vessels—(1) Information required for all vessels*. A list of the name, Federal fisheries permit number (if applicable), ADF&G vessel number, LOA, gear type, and vessel type (catcher vessel, catcher/processor, or mothership). For each vessel, report only the gear types and vessel types that will be used while CDQ fishing. Any CDQ vessel that is exempt from the moratorium under § 679.4(c)(3)(v) must be identified as such.

(2) * * *

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

* * * * *

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

* * * * *

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

§ 679.31 CDQ reserves.

* * * * *

(d) * * *

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

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

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8. In § 679.32, paragraphs (a)(1), (c) introductory text, (c)(3)(i), (c)(3)(v), and (f) are revised, paragraphs (a)(2), (a)(3), and (e) are removed, paragraph (a)(4) is redesignated as paragraph (a)(2) and revised, and paragraph (g) is redesignated as paragraph (e) to read as follows:

§ 679.32 Groundfish and halibut CDQ catch monitoring.

(a) *Applicability*. (1) The CDQ group, the operator of a vessel groundfish CDQ fishing as defined at § 679.2, the operator of a catcher/processor halibut CDQ fishing as defined at § 679.2, the operator of a catcher vessel equal to or greater than 60 ft (18.3 m) LOA halibut CDQ fishing, the operator of a mothership taking deliveries from these vessels, and the manager of a shoreside processor taking deliveries from these vessels must comply with the requirements of paragraphs (b) through (d) of this section for all groundfish CDQ and PSQ. For the catch of halibut CDQ or for vessels halibut CDQ fishing, the CDQ group, the operator of the vessel, the shoreside processor, and the registered buyer must comply with the requirements of paragraph (f) of this section. In addition, the CDQ group is responsible for ensuring that vessels and processors listed as eligible on the CDQ group's approved CDP comply with all requirements of this section while harvesting or processing CDQ species.

(2) *Pollock CDQ (applicable through July 20, 1999)*. Requirements for the

accounting of pollock while CDQ fishing are at paragraph (e) of this section.

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

* * * * *

(3) * * *

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

* * * * *

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

* * * * *

(f) *Halibut CDQ—(1) Applicability.*

The CDQ group, the operator of the vessel, the manager of a shoreside processor, and the registered buyer must comply with the requirements of this paragraph (f) for the catch of halibut CDQ or while halibut CDQ fishing.

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

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

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

(iv) *Landings.* A person may land halibut CDQ only if he or she has a valid halibut CDQ card, and that person may

deliver halibut CDQ only to a person with a valid registered buyer permit. The person holding the halibut CDQ card and the registered buyer must comply with the requirements of § 679.5(l)(1) and (l)(2).

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

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

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

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

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

§ 679.50 Groundfish observer program (applicable through December 31, 2000).

* * * * *

(c) * * *

(4) *Groundfish and halibut CDQ fisheries.* The owner or operator of a vessel groundfish CDQ fishing or halibut CDQ fishing as defined at § 679.2 must comply with the following minimum observer coverage requirements each day that the vessel is used to harvest, transport, process, deliver, or take deliveries of CDQ or PSQ species. The time required for the CDQ observer to complete sampling, data recording, and data communication duties shall not exceed 12 hours in each 24-hour period, and, the CDQ observer is required to sample no more than 9 hours in each 24-hour period.

(i) *Motherships or catcher/processors using trawl gear.* A mothership or catcher/processor using trawl gear must have at least two CDQ observers as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessel, at least one of whom must be certified as a lead CDQ observer.

(ii) *Catcher/processors using hook-and-line gear.* A catcher/processor using hook-and-line gear must have at least two CDQ observers as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessels, unless NMFS approves a CDP authorizing the vessel to carry only one lead CDQ observer. At least one of the CDQ observers must be certified as a lead CDQ observer. NMFS may approve a CDP authorizing the vessel to carry only one lead CDQ observer if the CDQ group supplies vessel logbook or observer data that demonstrates that one CDQ observer can sample each CDQ set for species composition in one 12-hour shift per fishing day. NMFS will not approve a CDP that would require the observer to divide a 12-hour shift into shifts of less than 6 hours.

(iii) *Catcher/processors using pot gear.* A catcher/processor using pot gear must have at least one lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section aboard the vessel.

(iv) *Catcher vessel.* A catcher vessel equal to or greater than 60 ft (18.3 m), except a catcher vessel that delivers only unsorted codends to a processor or another vessel, must have at least one lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section aboard the vessel.

* * * * *

(d) * * *

(4) *Groundfish and halibut CDQ fisheries.* Each shoreside processor required to have a Federal processor

permit under § 679.4(f) and taking deliveries of CDQ or PSQ from vessels groundfish CDQ fishing as defined at § 679.2 or taking deliveries from vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing must have at least one lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section present at all times while CDQ is being received or processed. The time required for the CDQ observer to complete sampling, data recording, and data communication duties shall not exceed 12 hours in each 24-hour period, and the CDQ observer is required to sample no more than 9 hours in each 24-hour period.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 100698A]

RIN 0648-AL40

Fisheries of the Exclusive Economic Zone Off Alaska; Amendments for Addressing Essential Fish Habitat (EFH) Requirements

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

ACTION: Notification of approval of fishery management plan amendments.

SUMMARY: NMFS announces approval of the following fishery management plan (FMP) amendments: Amendment 55 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Amendment 55 to the FMP for Groundfish of the Gulf of Alaska; Amendment 8 to the FMP for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands; Amendment 5 to the FMP for Scallop Fisheries off Alaska; and Amendment 5 to the FMP for the Salmon Fisheries in the Exclusive Economic Zone (EEZ) off the Coast of Alaska (Amendments 55/55/8/5/5). These amendments describe and identify EFH in Alaska, and risks to that habitat, for groundfish, scallops, salmon, and king and Tanner crabs.

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Federal agencies must consult with NMFS,

acting for the Secretary of Commerce (Secretary), on any activity, or proposed activity, authorized, funded, or undertaken, that may adversely affect EFH. This action is necessary to promote the protection and conservation of habitat used by FMP species at crucial stages of their life cycles. It is intended to promote the goals and objectives of these FMPs.

DATES: The amendments were approved on January 20, 1999.

ADDRESSES: Copies of Amendments 55/55/8/5/5 and the environmental assessment (EA) prepared for the amendments are available from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501-2252; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Cindy Hartmann, 907-586-7312, or Nina Mollett, 907-586-7492.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and the Gulf of Alaska under the FMPs for groundfish in their respective management areas. With Federal oversight, the State of Alaska (State) manages the commercial king crab and Tanner crab fisheries in the BSAI, and the scallop and salmon fisheries off Alaska, under the FMPs for those fisheries. The North Pacific Fishery Management Council (Council) prepared these FMPs in accordance with the Magnuson-Stevens Act. Regulations implementing the FMPs appear at 50 CFR part 679. General regulations at 50 CFR part 600 also apply.

The following EFH reports, which are referenced in the amendments, are also available from the Council (see Addresses):

1. Essential Fish Habitat Report for the Groundfish Resources of the Bering Sea and Aleutian Islands, April 1, 1998.
2. Essential Fish Habitat Report for the Groundfish Resources of the Gulf of Alaska Region, April 1, 1998.
3. Essential Fish Habitat Report for the King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands, March 31, 1998.
4. Essential Fish Habitat Report for the Salmon Fisheries in the EEZ off the Coast of Alaska, March 31, 1998.
5. Essential Fish Habitat Report for the Scallop Fisheries off the Coast of Alaska, March 31, 1998.

A Notice of Availability (NOA) of Amendments 55/55/8/5/5, which described the proposed action and solicited comments from the public through December 21, 1998, was

published in the **Federal Register** on October 22, 1998 (63 FR 56601). Eleven letters were received within the 60-day comment period. They are summarized and responded to here.

After review of the amendments and comments received, the Administrator, Alaska Region, NMFS (Regional Administrator), determined that Amendments 55/55/8/5/5 are consistent with the Magnuson-Stevens Act and other applicable laws and approved the amendments on January 20, 1999. These FMP amendments became effective on approval. No regulatory changes are necessary to implement these FMP amendments.

Background

The Magnuson-Stevens Act mandates increased consideration of fish habitat in the process of managing and conserving the Nation's fisheries. Section 303(a)(7) of the Magnuson-Stevens Act requires all FMPs to describe and identify EFH, which it defines as "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity." In addition, FMPs must minimize adverse effects on EFH caused by fishing and identify other actions to conserve and enhance EFH.

As required by section 305(b) of the Magnuson-Stevens Act, NMFS published regulatory guidelines on December 19, 1997 (62 FR 66531, codified at 50 CFR part 600), to assist regional fishery management councils in their task of describing and identifying EFH, identifying adverse impacts on EFH, and identifying actions to conserve and enhance EFH. In accordance with these procedural guidelines, the Regional Administrator submitted draft EFH recommendations to the Council on April 3, 1998, for review and public comment. These draft recommendations were based on habitat assessment reports drafted by four technical teams, consisting of Federal and State biologists, working in cooperation with the Alaska Regional EFH Core Team, whose members were appointed by the NMFS Deputy Regional Administrator. NMFS submitted its final recommendations for the EFH amendments at the Council's June 1998 meeting. The Council adopted the recommended EFH amendments at that time. The Council submitted the amendments for Secretarial review on October 5, 1998. NMFS published an NOA for Amendments 55/55/8/5/5 on October 22, 1998 (63 FR 56601). The contents of the amendments were provided in the NOA and will not be repeated here. On January 20, 1999, the