

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