

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

Classification

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

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

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

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

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

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

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

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

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

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

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: October 16, 2003.

Rebecca Lent,

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

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

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

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

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

§ 679.2 Definitions.

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