

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No.]

RIN: 0648-BF05-X

**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: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would implement Amendment 109 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). If approved, this proposed rule would amend regulations governing the Western Alaska Community Development Quota (CDQ) Program to support increased participation in the groundfish CDQ fisheries (primarily Pacific cod) by catcher vessels less than or equal to 46 feet (ft) (14.0 meters (m)) length overall (LOA) using hook-and-line gear. Specifically, this proposed rule would exempt operators of registered catcher vessels greater than 32 ft (9.8 m) LOA and less than or equal to 46 ft LOA using hook-and-line gear from the requirement to obtain and carry a License Limitation Program license when groundfish CDQ fishing. The proposed rule also would

reduce observer coverage requirements for catcher vessels less than or equal to 46 ft LOA when groundfish CDQ fishing, and implement new in-season management and catch accounting requirements to properly account for the harvest of groundfish and halibut and the accrual of halibut prohibited species catch in these fisheries. In addition to the proposed regulations necessary to implement Amendment 109, NMFS proposes to remove a table in the regulations because it is no longer necessary. This action is intended to facilitate increased participation by residents of CDQ communities in the groundfish fisheries in the Bering Sea and Aleutian Islands Management Area, and to support economic development in western Alaska. This action is necessary to promote the goals of the CDQ Program, and to promote the goals and objectives of the FMP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws.

DATES: Submit comments on or before [*insert date 30 days after date of publication in the **FEDERAL REGISTER***].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2015-0060, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0060*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn:

Ellen Sebastian. Mail comments to P. O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis/Environmental Assessment (RIR/IRFA/EA) prepared for this action (collectively the “Analysis”) is available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; and by e-mail to OIRA_Submission@omb.eop.gov or faxed to 202-395-5806.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907-586-7389.

SUPPLEMENTARY INFORMATION:

Authority for Action

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

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention). The IPHC's regulations are subject to approval by the Secretary of State with concurrence of the Secretary of Commerce (Secretary). NMFS publishes the IPHC's regulations as annual management measures pursuant to 50 CFR 300.62.

The Halibut Act, at sections 773c(a) and (b), provides the Secretary with general responsibility to carry out the Convention and the Halibut Act. In adopting regulations that may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act, the Secretary is directed to consult with the Secretary of the department in which the U.S. Coast Guard is operating, currently the Department of Homeland Security.

The Halibut Act, at section 773c(c), also provides the Council with authority to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Regulations developed by the Council may be implemented by NMFS only after approval by the Secretary. The Council exercised this authority to allocate halibut to the CDQ Program as part of the Individual Fishing Quota (IFQ) Program for the commercial halibut and sablefish fisheries, codified at 50 CFR part 679, under the authority of section 773 of the Halibut Act and section 303(b) of the Magnuson-Stevens Act (16 U.S.C. 1853(b)).

The Council submitted Amendment 109 for review by the Secretary, and a notice of availability of Amendment 109 was published in the **Federal Register** on [INSERT DATE OF PUBLICATION OF THE NOTICE OF AVAILABILITY IN THE **FEDERAL REGISTER**], with comments invited through [INSERT DATE 60 DAYS AFTER THE PUBLICATION OF THE NOTICE OF AVAILABILITY IN THE **FEDERAL REGISTER**]. Comments may address Amendment 109 or this proposed rule, but must be received by [INSERT DATE 60 DAYS AFTER THE PUBLICATION OF THE NOTICE OF AVAILABILITY IN THE **FEDERAL REGISTER**] to be considered in the approval/disapproval decision on Amendment 109. All comments received by that date, whether specifically directed to Amendment 109, or to this proposed rule, will be considered in the approval/disapproval decision on Amendment 109.

Background

If approved, this proposed rule would amend regulations governing the CDQ Program to support increased participation in the groundfish CDQ fisheries (primarily

Pacific cod) by catcher vessels less than or equal to 46 ft LOA using hook-and-line gear. The proposed rule would exempt operators of registered catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA using hook-and-line gear to obtain and carry a License Limitation Program (LLP) license when groundfish CDQ fishing. This proposed rule also would reduce observer coverage requirements for catcher vessels less than or equal to 46 ft LOA when groundfish CDQ fishing and implement new in-season management and catch accounting requirements to properly account for the harvest of groundfish and halibut and the accrual of halibut prohibited species catch in these fisheries. This proposed rule is intended to facilitate increased participation by residents of CDQ communities in the BSAI groundfish CDQ fisheries and to support economic development in western Alaska. The proposed rule would benefit the six CDQ groups and the operators of the small hook-and-line catcher vessels that the CDQ groups authorize to fish on their behalf by reducing the costs of participating in the groundfish CDQ fisheries.

The following sections describe the fisheries and the current management programs affected by the proposed action: 1) Overview of the CDQ Program, 2) Regulatory Constraints to Local Small-Scale Groundfish CDQ Fisheries, 3) Need for the Proposed Action, and 4) The Proposed Rule.

Overview of the CDQ Program

The CDQ Program is an economic development program associated with federally managed fisheries in the BSAI. The purpose of the CDQ Program is to provide western Alaska communities with the opportunity to participate and invest in BSAI

fisheries, to support economic development in western Alaska, to alleviate poverty and provide economic and social benefits for residents of western Alaska, and to achieve sustainable and diversified local economies in western Alaska. Regulations establishing the CDQ Program were first implemented in 1992. Congress amended the Magnuson-Stevens Act in 1996 through the Sustainable Fisheries Act (Public Law 104-297) to include specific provisions governing the CDQ Program. There are 65 communities eligible to participate in the CDQ Program. Each community is represented by one of six CDQ groups. The 65 eligible communities and the CDQ groups that collectively represent these 65 communities are identified in the Magnuson-Stevens Act at section 305(i)(1)(D) and in Table 7 to 50 CFR part 679.

CDQ Program Halibut and Groundfish Fisheries

The CDQ Program is a catch share program that allocates a portion of the BSAI total allowable catch (TAC) for specific crab and groundfish species, a portion of the commercial catch limits assigned by the IPHC, and portions of certain prohibited species catch (PSC) limits to the CDQ Program. These amounts are then further allocated among the six CDQ groups as allocations that may be transferred among the CDQ groups (with the exception of Chinook salmon prohibited species quota (PSQ), which may be transferred to other authorized American Fisheries Act entities). The Magnuson-Stevens Act requires allocations to the CDQ Program of specific percentages of the “total allowable catch, guideline harvest level, or other annual catch limit ... in each directed fishery” of the BSAI annual catch limits (section 305(i)(1)(B)). The Magnuson-Stevens

Act also specifies the percentage allocations among the six CDQ groups (section 305(i)(1)(C)).

The CDQ Program allocates crab, groundfish, and halibut for harvest by the CDQ groups. The groundfish species allocated to the CDQ Program are pollock, Pacific cod, sablefish, yellowfin sole, Greenland turbot, arrowtooth flounder, rock sole, flathead sole, Pacific ocean perch, and Atka mackerel. A complete list of the amount of groundfish allocated to the CDQ Program can be found in the 2015 and 2016 annual harvest specifications final rule (80 FR 11919, March 5, 2015). The 2015 apportionments of crab, groundfish, and halibut to each CDQ group are listed in the annual CDQ Program allocation report at

<http://www.alaskafisheries.noaa.gov/cdq/allocations/annualmatrix2015.pdf>.

One of the most effective ways the CDQ groups can meet the purposes of the CDQ Program is to use the CDQ allocations to create local small-scale commercial fisheries. Local small-scale CDQ fisheries directly provide opportunities for residents of the CDQ communities to earn income from the sale of the commercially harvested fish. Residents of CDQ communities participate almost exclusively in local small-scale fisheries. For purposes of this preamble, “local small-scale” means CDQ fisheries prosecuted by catcher vessels that are less than or equal to 46 ft LOA, using hook-and-line gear, and homeported or operated from CDQ communities. Catcher vessels less than or equal to 46 ft LOA are commonly used in the CDQ halibut fishery as described later in this preamble.

Not all species can be easily or readily harvested in local small-scale fisheries. Many groundfish and crab species are only effectively harvested in large industrial-scale fisheries due to the gear required (e.g., trawl gear is required to effectively harvest pollock and most flatfish species; pot gear is required to effectively harvest crab) or due to the great distance of the fishery from most of the CDQ communities (e.g., Atka mackerel and Pacific ocean perch are primarily harvested in the Aleutian Islands at substantial distance from most CDQ communities).

Two species that are allocated to CDQ groups and that have been effectively harvested in local small-scale fisheries in the BSAI are halibut and Pacific cod. Both halibut and Pacific cod can be effectively harvested by small vessels using hook-and-line gear. Residents of CDQ communities commonly use hook-and-line gear because it is relatively inexpensive to purchase and maintain relative to other gear types such as trawl and pot gear, and can be operated on small vessels.

Currently, the majority of the local small-scale CDQ fisheries involve the harvest of the halibut CDQ allocations. By IPHC regulation, halibut must be harvested by hook-and-line gear. The halibut CDQ allocations typically are harvested by catcher vessels less than or equal to 46 ft LOA (14.0 m) using hook-and-line gear. As shown in Table 3-11 of the Analysis, the halibut CDQ fishing fleet ranged from 215 to 246 vessels from 2009 through 2013. Table 3-13 in the Analysis shows that in 2012 (the most recent year of complete data in the Analysis on the length of vessels harvesting halibut CDQ), 217 of the 239 catcher vessels fishing for halibut CDQ were less than or equal to 32 ft LOA, 9

were from 33 ft (10.1 m) LOA to 46 ft LOA, and only 13 vessels were greater than 46 ft LOA.

In recent years, the exploitable biomass of halibut in the BSAI has declined, particularly over the last four years. This has resulted in a declining halibut CDQ allocation as well. For example, the total halibut CDQ allocations were 2,128,000 pounds in 2011 and 797,080 pounds in 2015. The decrease in halibut CDQ allocations has resulted in decreasing opportunities for residents of CDQ communities to earn income important to themselves and their local economies. More information about the status of the halibut stock and halibut CDQ fisheries is in Sections 3.7 and 5.2 of the Analysis.

Pacific cod is an economically valuable groundfish species. It is valuable both to participants in the CDQ Program and those harvesting Pacific cod outside of the CDQ Program (i.e., participants in the non-CDQ fisheries). Pacific cod stocks have increased in abundance over the same period that halibut stocks have declined in abundance. In the BSAI, the overfishing level, acceptable biological catch, and subsequent TAC for Pacific cod have generally increased over the past 5 years. As of 2015, Pacific cod abundance is currently higher than at any time since 1995. The Pacific cod biomass is projected to maintain its relatively high abundance or possibly increase in 2016 and future years. More information about Pacific cod and the Pacific cod CDQ fisheries is in Section 3.6 and Section 5.1 of the Analysis.

In the non-CDQ Pacific cod fisheries, small hook-and-line catcher vessels have demonstrated an ability to harvest Pacific cod in the BSAI. For example, in 2014, five hook-and-line catcher vessels less than 60 ft (18.3 m) LOA harvested of over 2,000 mt of

Pacific cod in the non-CDQ Pacific cod fisheries in the Bering Sea (BS). (See Section 3.6.2 of the Analysis for additional detail on the non-CDQ Pacific cod fisheries.)

However, small catcher vessels have demonstrated very little current participation in the Pacific cod CDQ fisheries. As shown in Table 3-13 of the Analysis, of the approximately 240 catcher vessels fishing for halibut CDQ in 2012, only four of these catcher vessels harvested Pacific cod, and the amount harvested was very small (2 mt). Instead, the CDQ groups harvest most of their Pacific cod CDQ allocations with catcher/processors greater than 60 ft LOA using hook-and-line gear. These larger vessels can more efficiently harvest the CDQ allocations, can fish in the times and areas when and where Pacific cod are available, and can absorb the costs of the fisheries management and catch monitoring requirements associated with these fisheries. In addition, many of the CDQ groups own a portion of one or more hook-and-line catcher/processors, so in addition to receiving royalties for the lease of the Pacific cod CDQ, the CDQ group also earns a share of the profits from the catcher/processors. Finally, and most importantly for this proposed rule, there are regulatory constraints that limit the use of small catcher vessels in the groundfish CDQ fisheries. These constraints are described in more detail in the “LLP Requirements in the CDQ Fisheries” and “Observer Coverage Requirements in the CDQ Groundfish and Halibut Fisheries” sections of the preamble.

CDQ Program Prohibited Species Catch (PSC) Limits

In addition to allocations of groundfish, halibut, and crab for harvest, the CDQ groups also receive annual allocations of certain BSAI PSC limits to account for the catch of those prohibited species in the groundfish CDQ fisheries. Prohibited species may be

caught by a vessel when fishing for groundfish in the BSAI. A PSC limit is an apportioned, non-retainable amount of fish or crab provided to a groundfish fishery to limit the bycatch of that prohibited species in that particular groundfish fishery.

The CDQ Program receives annual allocations of the BSAI PSC limits for halibut, Chinook salmon, non-Chinook salmon, red king crab, *Chionoecetes (C.) opilio* crab, and *C. bairdi* crab. The annual allocation of a portion of a PSC limit to the CDQ Program is referred to as a PSQ reserve, and the annual allocation of the PSQ reserve among the CDQ groups is referred to as PSQ (see definitions for these terms at § 679.2).

The PSQ allocations in the CDQ Program are managed in the same manner as PSC limits in the non-CDQ fisheries. These requirements are described in regulations at §§ 679.32 and 679.7(d)(5). The halibut PSQs are transferable only among the CDQ groups. Operators of vessels groundfish fishing in the BSAI are prohibited from retaining Pacific halibut, unless the vessel operator is authorized to retain halibut CDQ or halibut IFQ. However, halibut often is incidentally caught when groundfish fishing because halibut can occur in the same areas and at the same time of year as the groundfish fisheries occur. The operator of a vessel engaged in directed fishing for groundfish in the BSAI must minimize catch of Pacific halibut prohibited species (see regulations at § 679.21(b)(2)). NMFS accrues estimates of halibut PSC to the halibut PSC limit or to a PSQ limit in all BSAI hook-and-line fisheries for Pacific cod, including the Pacific cod CDQ fisheries.

Regulatory Constraints to Local Small-Scale Groundfish CDQ Fisheries

There are two regulatory constraints that limit the ability for CDQ groups to develop local small-scale groundfish fisheries, and more specifically local small-scale Pacific cod CDQ fisheries. These are 1) LLP requirements in the CDQ fisheries, and 2) observer coverage requirements in the CDQ groundfish and halibut fisheries. These constraints are described in the following sections of the preamble.

LLP Requirements in the CDQ Fisheries

In 2000, NMFS established the LLP to limit the amount of fishing capacity relative to available fishery resources (63 FR 52642, October 1, 1998). The LLP limits the number, size, and specific operation of vessels fishing for groundfish in the BSAI, based on historical participation. With several exceptions noted below, a vessel is required to be named on an LLP license before it can be used to conduct directed fishing for “LLP groundfish” in the Gulf of Alaska or BSAI. LLP license requirements do not apply to vessels that directed fish only for halibut because halibut is not defined as an LLP groundfish species (see § 679.2). Vessels that are groundfish CDQ fishing in the BSAI are required to obtain and carry an LLP license (groundfish CDQ fishing is defined in § 679.2). LLP licenses are transferable. Vessel owners who were not initially issued an LLP license must obtain an LLP license through transfer from a current LLP license holder in order to directed fish for LLP groundfish.

There are three exceptions at § 679.4(k)(2) to the LLP license requirement that apply to vessels in the CDQ and non-CDQ fisheries in the BSAI:

- vessels that do not exceed 32 ft (9.8 m) LOA;

- vessels that do not exceed 60 ft (18.3 m) LOA and that are using jig gear (but no more than 5 jig machines, 1 line per machine, and 15 hooks per line); and
- certain vessels constructed for, and used exclusively in, CDQ fisheries.

NMFS assigns endorsements for specific areas (e.g., Bering Sea or Aleutian Islands), specific gear (e.g., non-trawl or trawl), and operation type (e.g., catcher vessel or catcher/processor) on LLP licenses. Each license has a maximum length overall (MLOA) designation that restricts the length of the vessel that can be named on that LLP license. In addition, most vessels directed fishing for Pacific cod must be named on an LLP license with a Pacific cod endorsement for the appropriate area, gear, and operation type. Catcher vessels less than 60 ft LOA are not required to have a Pacific cod endorsement on their LLP license to fish for Pacific cod in the BSAI.

Therefore, specific to this proposed rule, catcher vessels less than or equal to 32 ft LOA that are groundfish CDQ fishing are not required to have an LLP license. Catcher vessels greater than 32 ft LOA that are using hook-and-line gear and groundfish CDQ fishing must have an LLP license endorsed by area, gear, and operation type, and have the appropriate MLOA designation. However, catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA are not required to have a Pacific cod species endorsement on their LLP license. Additional information on the LLP is available in the final rule implementing the LLP (63 FR 52642, October 1, 1998), and in subsequent amendments to the LLP.

Observer Coverage Requirements in the CDQ Groundfish and Halibut Fisheries

The North Pacific Groundfish and Halibut Observer Program (Observer Program) provides the regulatory framework for NMFS-certified observers (observers) to collect information necessary for the conservation and management of the federally managed fisheries off Alaska. Regulations governing observer coverage (50 CFR part 679, subpart E) place all vessels and processors in the federally managed groundfish and halibut fisheries off Alaska into one of two observer coverage categories: 1) full observer coverage, and 2) partial observer coverage. Additional information about observer coverage requirements and the vessel operator's responsibilities when required to carry an observer can be found at § 679.51(e) and in the preamble to the final rule implementing the restructured Observer Program (77 FR 70062, November 21, 2012).

Any catcher vessel participating in a catch share program with transferable PSC allocations is assigned to the full observer coverage category when the vessel is participating in these catch share programs. As described in an earlier section of this preamble, the CDQ Program is a catch share program with transferable PSC allocations. Therefore, NMFS assigns catcher vessels that participate in CDQ fisheries in which the catch of halibut accrues to the CDQ group's transferable halibut PSQ to the full observer coverage category. Relevant to this proposed rule, catcher vessels groundfish CDQ fishing using hook-and-line gear, including those directed fishing for Pacific cod CDQ, are in the full observer coverage category because the discard of halibut by these vessels accrues to the CDQ group's halibut PSQ.

NMFS assigns catcher vessels halibut CDQ fishing or sablefish CDQ fishing with fixed gear to the partial observer coverage category, as are catcher vessels groundfish

CDQ fishing with pot or jig gear. These catcher vessels are required to have an observer on board the vessel if selected for observer coverage (see § 679.51(a)(1)). These catcher vessels are in the partial observer coverage category because the catch of prohibited species in these fisheries does not accrue to a PSQ.

Full observer coverage requirements can impose significant costs on the owners of vessels that are groundfish CDQ fishing, particularly owners of small vessels, such as those that are less than or equal to 46 ft LOA. Obtaining an observer for all groundfish CDQ fishing would likely be cost prohibitive for the CDQ groups and vessel owners given the revenue for these small vessels. Section 3.6.6.2 of the Analysis provides additional detail on the costs of placing observers on board small vessels in the BSAI.

Need for the Proposed Action

In October 2013, the Council received a proposal from the representatives of all six of the CDQ groups to revise certain Federal regulations that restrict the ability of fishermen in CDQ communities to harvest allocations of Pacific cod CDQ with small hook-and-line catcher vessels. In particular, representatives for the CDQ groups identified LLP license and full observer coverage regulations as limitations on the ability of CDQ community fishermen to retain Pacific cod CDQ when participating in the CDQ fisheries. In addition, the CDQ groups reported that recent declines in halibut CDQ allocations could prevent the CDQ Program from meeting its economic development objectives, and the ability to develop a local small-scale Pacific cod CDQ fishery would help to offset the lost halibut harvesting and processing opportunities in the CDQ

communities. In response, the Council reviewed and developed a series of analyses that resulted in this proposed action.

The Council recommended its preferred alternative in February 2015. The Council's preferred alternative would 1) exempt operators of registered catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA using hook-and-line gear from the requirement to obtain and carry an LLP license when groundfish CDQ fishing; 2) place catcher vessels less than or equal to 46 ft LOA using hook-and-line gear in the partial observer coverage category when they are groundfish CDQ fishing; 3) allow halibut caught by operators of catcher vessels less than or equal to 46 ft LOA using hook-and-line gear when groundfish CDQ fishing to accrue as either halibut CDQ, halibut IFQ, or halibut PSC, on a trip-by-trip basis; and 4) implement new in-season management and catch accounting procedures to properly account for the harvest of groundfish and halibut and the accrual of halibut PSC by operators of catcher vessels less than or equal to 46 ft LOA using hook-and-line gear when halibut or groundfish CDQ fishing. Additional details about the specific management measures NMFS proposes to implement the Council's preferred alternative are described below in the section titled "The Proposed Rule."

The Council's preferred alternative is intended to provide a regulatory structure for the harvest of groundfish CDQ that provides opportunities for the small catcher vessels that fish on behalf of a CDQ group to retain additional Pacific cod and other groundfish in the halibut CDQ fishery, or to develop separate Pacific cod or other groundfish CDQ fisheries without triggering LLP license and full observer coverage

requirements. The Council's preferred alternative also is intended to provide additional fishing opportunities to small catcher vessel operators in CDQ communities who have had reduced harvest opportunities due to lower halibut abundance and the resulting lower halibut CDQ allocations. This proposed action is intended to provide the regulatory flexibility necessary for the CDQ groups to develop diversified local small-scale halibut and groundfish fisheries.

LLP Exemption

The Council determined that a new LLP exemption for registered catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA using hook-and-line gear when groundfish CDQ fishing was necessary to encourage the retention and sale of groundfish CDQ in the halibut fisheries and to encourage the development of directed fisheries for groundfish CDQ by vessel operators delivering catch to processors located in CDQ communities. Exemption from the LLP would remove a barrier created by the lack of LLP licenses available for small hook-and-line catcher vessels fishing on behalf of a CDQ group. The Council determined and NMFS agrees that this limited exemption to the LLP license requirements would not undermine the objectives of the LLP because it would apply only to registered small catcher vessels when groundfish CDQ fishing. Because the CDQ groups receive specific harvest allocations, the Council determined and NMFS agrees that providing a limited exemption to these registered catcher vessels would not result in increased harvests overall in the BSAI groundfish fisheries, or contribute to a "race for fish" among fishery participants.

As noted earlier in this preamble, there are approximately 240 vessels that fish for halibut out of CDQ communities. Under current regulations, operators of vessels that are greater than 32 ft LOA are prohibited from also conducting directed fishing for CDQ groundfish or non-CDQ groundfish when they are halibut CDQ or halibut IFQ fishing unless they have an LLP license with the necessary endorsements. The Council recommended that the exemption apply only to catcher vessels that are less than or equal to 46 ft LOA because approximately 95 percent of the approximately 240 catcher vessels currently active in halibut CDQ fisheries are within this size class. In addition, the CDQ groups recommended the 46-ft-LOA threshold because the largest vessel that is owned by a resident of a CDQ community that participates in the halibut CDQ fisheries is 46 ft LOA. Therefore, although the Council recognized that there are catcher vessels greater than 46 ft LOA fishing for halibut CDQ that do not have LLPs, the focus of this proposed action is on the smaller vessels because those vessels generally are owned and operated by residents of the CDQ communities and fish out of those communities.

Nine of the approximately 240 catcher vessels that fish for halibut out of the CDQ communities are greater than 32 ft LOA and less than or equal to 46 ft LOA. Only two of these nine catcher vessels are already assigned LLP licenses. Currently, all of the LLP licenses with the appropriate MLOA, gear endorsement (i.e., non-trawl gear), and operation type (i.e., catcher vessel) that could be used on the seven catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA that do not have LLP licenses are assigned to other non-CDQ vessels actively fishing in the BSAI. Based on the information available, it does not appear that LLP licenses with the necessary

endorsements for these seven small vessels are available for transfer. Therefore, the exemption to LLP requirements for catcher vessels that are less than or equal to 46 ft LOA would provide additional groundfish harvest opportunities to the owners and operators of vessels based in CDQ communities. Additional detail on the limitations in obtaining an appropriately endorsed LLP license for the catcher vessels less than 46 ft LOA using hook-and-line gear is provided in Section 3.6.6.1 of the Analysis.

The Council also recommended that each CDQ group register any catcher vessel eligible for the LLP license exemption with NMFS in order for the exemption to apply. The CDQ vessel registration list would clearly identify those eligible vessels that are exempt from the LLP license requirements. It is important to note that the LLP license exemption would not apply until an eligible vessel is successfully registered by a CDQ group representative. The Council also recommended that an LLP exemption letter be issued to each vessel operator, and that each vessel operator maintain a legible copy of the LLP exemption letter on board the vessel at all times when fishing for groundfish CDQ. Maintaining a legible copy of the LLP exemption letter on board the vessel would provide documentation that the vessel is exempt from the LLP requirements, should the vessel be boarded by the U.S. Coast Guard or NMFS' Office of Law Enforcement. Although the CDQ vessel registration list of vessels eligible for the LLP exemption would be available on NMFS' website, vessel boardings can occur in areas with no access to the internet. In these cases, the LLP exemption letter would provide initial documentation that the vessel is exempt from the LLP, which could later be confirmed by checking the CDQ vessel registration list. More information about the CDQ vessel

registration system and the LLP exemption letter is in the section below titled “The Proposed Rule.”

Observer Coverage

The Council recommended placing the hook-and-line catcher vessels less than or equal to 46 ft LOA that are groundfish CDQ fishing in the partial observer coverage category to remove a significant financial and operational barrier to further development of the local small-scale groundfish CDQ fisheries. In making this recommendation, the Council recognized that it is likely that few CDQ small vessels would be required to carry an observer under the existing deployment strategy and deployment rates for vessel in the partial observer coverage category (see Section 3.12 of the Analysis for additional detail on observer deployment). However, the Council determined and NMFS agrees that the benefits that would come with increased participation in local small-scale groundfish CDQ fisheries would justify the moving these vessels from full observer coverage to partial observer coverage. Additionally, the Council and NMFS determined that NMFS could adequately account for harvests and discards in these local small-scale groundfish CDQ fisheries with certain modifications to the catch accounting procedures.

To establish effective catch accounting for hook-and-line catcher vessels less than or equal to 46 ft LOA that are groundfish CDQ fishing, the Council recommended that NMFS modify catch accounting procedures as described below in the “Catch Accounting and Fisheries Management” section of the preamble.

Catch Accounting and Fisheries Management

When the halibut fishery is open, the Council’s preferred alternative would allow the CDQ groups to decide on a trip-by-trip basis whether a groundfish CDQ fishing trip by a hook-and-line catcher vessel less than or equal to 46 ft LOA would be supported by halibut CDQ, halibut IFQ, or by halibut PSC. When the halibut fishery is closed, the CDQ groups could conduct groundfish CDQ fishing by hook-and-line catcher vessels less than or equal to 46 ft LOA supported by halibut PSC. The Council determined and NMFS agrees that the allowance for trip-by-trip accounting would provide the maximum flexibility for the CDQ groups and vessel operators to increase the harvest of Pacific cod CDQ as part of a halibut CDQ or halibut IFQ fishery, or as a separate Pacific cod fishery in which halibut PSC would accrue. This allowance is consistent with the purpose of the proposed action. NMFS would manage the removals of halibut and debit them from the proper account as described in “The Proposed Rule” section of this preamble.

Catch Accounting

The Council determined and NMFS agrees that the local small-scale groundfish CDQ fisheries would be managed by NMFS with in-season fishery closures and a separate component of a CDQ group’s halibut PSQ that would be called the “small catcher vessel halibut PSC limit.” The determination of whether halibut PSC would accrue to the small catcher vessel halibut PSC limit for the groundfish CDQ landing would depend on the presence or absence of halibut in the landing. As long as the halibut fishery is open and at least one halibut is reported as halibut CDQ or halibut IFQ in the groundfish CDQ landing, NMFS would not accrue any estimates of halibut PSC from this landing to the CDQ group’s small catcher vessel halibut PSC limit. When the halibut

fishery is closed, or if the halibut fishery is open and no halibut are reported in the landing, NMFS would accrue an estimate of halibut PSC to the CDQ group's small catcher vessel halibut PSC limit. Once a vessel operator retains one halibut, he or she would be required to retain all legal-size halibut caught for the remainder of that fishing trip as either halibut CDQ or halibut IFQ.

The Council and NMFS determined that establishing small catcher vessel halibut PSC limits for each CDQ group fishing with small hook-and-line catcher vessels would meet two important objectives. First, it would maintain the precedent the Council has set to require full observer coverage for any catcher vessels in catch share programs with transferable PSC allocations while allowing small hook-and-line catcher vessels to fish for groundfish CDQ without being subject to full observer coverage. Second, it would establish a method for assessing halibut PSC for the small hook-and-line catcher vessels based on the same methods used for other small hook-and-line catcher vessels active in the non-CDQ groundfish fisheries. More information about the management of the small vessel groundfish CDQ fisheries is in the section below titled "The Proposed Rule."

Under the Council's preferred alternative, all other regulations not specifically exempted or modified would continue to apply to the small hook-and-line catcher vessels when groundfish CDQ fishing. These include area closures and vessel monitoring system (VMS) requirements that apply to all hook-and-line catcher vessels directed fishing for CDQ and non-CDQ Pacific cod. Additional detail on regulations that are currently applicable to small hook-and-line catcher vessels is provided in Section 2.1 of the Analysis and is not repeated here.

The Proposed Rule

The following paragraphs describe the provisions of the proposed rule. The proposed rule would revise regulations at 50 CFR part 679 to implement Amendment 109 and the Council's preferred alternative to: 1) exempt registered catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA using hook-and-line gear from the requirement to obtain and carry an LLP license when groundfish CDQ fishing; 2) add fishery management and monitoring requirements for the small hook-and-line catcher vessels to § 679.32(c); and 3) place catcher vessels less than or equal to 46 ft LOA using hook-and-line gear into the partial observer coverage category when groundfish CDQ fishing. In addition to these changes, the proposed rule would remove an unnecessary cross reference table for observer coverage from § 679.51(f).

LLP Exemption

The current LLP exemptions are codified at § 679.4(k)(2). The proposed rule would add a new paragraph (vi) to § 679.4(k)(2) to establish a new LLP exemption for registered catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA using hook-and-line gear when groundfish CDQ fishing. The operators of catcher vessels eligible for the LLP exemption would not be required to obtain and carry an LLP license when they are groundfish CDQ fishing if certain vessel registration requirements are met prior to groundfish CDQ fishing.

The proposed rule would establish the requirements for the NMFS online CDQ vessel registration system ("the CDQ vessel registration system") at paragraph (m) of § 679.5. The CDQ group representative would be required to register each eligible catcher

vessel for exemption from the LLP license requirements through the CDQ vessel registration system. The CDQ group representative would be required to log into the CDQ vessel registration system using the CDQ group's existing NMFS ID and password and provide the information required on the computer screen. NMFS would add each vessel successfully registered to the CDQ vessel registration list on the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

The CDQ group representative could add eligible catcher vessels to the CDQ vessel registration list at any time during the groundfish fishing year (January 1 to December 31); there would be no deadline for vessel registration with NMFS. Because registered vessels would be required to have a legible copy of the LLP exemption letter described below on board the vessel before the vessel operator starts groundfish CDQ fishing, the CDQ group representative and the vessel operator would have to allow for sufficient time to complete the registration process prior to the start of groundfish CDQ fishing by the vessel.

With each successful registration, the CDQ vessel registration system would provide the CDQ group representative with an LLP exemption letter documenting that the vessel is eligible for the LLP exemption when groundfish CDQ fishing. The CDQ group representative would be responsible for providing a copy of the LLP exemption letter to the vessel operator. The vessel operator would be required to maintain a legible copy of the LLP exemption letter on board the named vessel at all times when that vessel is groundfish CDQ fishing. NMFS would not provide the LLP exemption letter directly to vessel operators.

The LLP exemption letter also would provide printable confirmation to the CDQ group of a successfully completed vessel registration. Once registered, a vessel would remain on the CDQ vessel registration list until removed by a CDQ group. The proposed rule does not include a requirement that the CDQ groups re-register vessels annually.

A CDQ group representative would have the ability to remove a vessel from the CDQ vessel registration list at any time by logging into the CDQ vessel registration system and following the applicable instructions. In removing a vessel from the CDQ vessel registration list, the CDQ group representative would be required to certify 1) that the vessel operator had been given notice by the CDQ group that the vessel was going to be removed from the list, and 2) that the vessel operator was not groundfish CDQ fishing at the time of removal. The CDQ vessel registration system would provide a printable confirmation that a vessel had been removed from the CDQ vessel registration list. Once a vessel is removed from the CDQ vessel registration list, that vessel would no longer be exempt from the LLP requirements, even if the operator was still in possession of the LLP exemption letter. The proposed rule would not require a CDQ group representative to remove registered vessels when they are participating in a non-CDQ fishery.

In order to receive the exemption from the LLP license requirements, both active registration through the CDQ vessel registration system and a legible copy of the LLP exemption letter on board the vessel would be required. To further clarify the vessel operator's responsibility, the proposed rule would add a new prohibition at § 679.7(d)(8) to prohibit the operator of a vessel eligible for the LLP exemption from conducting groundfish CDQ fishing without having a legible copy of the LLP exemption letter issued

to a CDQ group for that vessel on board the vessel. In addition, the proposed rule would add a new prohibition at § 679.7(d)(9) to prohibit a CDQ group representative from removing a vessel from the CDQ vessel registration list without first providing notice to the operator of the registered vessel that the vessel is being removed from the CDQ vessel registration list, or when the vessel is groundfish CDQ fishing.

Catch Accounting and Fishery Monitoring Requirements

The proposed rule would create a new paragraph (c)(3)(iii) in § 679.32 for the catch accounting and fishery monitoring requirements that would apply to catcher vessels less than or equal to 46 ft LOA using hook-and-line gear when groundfish CDQ fishing and to the CDQ groups authorizing these vessels. Current regulations at § 679.32(c)(3)(i)(D) and (c)(3)(ii)(D) would continue to apply to catcher vessels greater than 46 ft LOA using hook-and-line gear when groundfish CDQ fishing.

The proposed rule would establish catch accounting procedures that provide CDQ groups and vessel operators with the opportunity to retain halibut CDQ or halibut IFQ when groundfish CDQ fishing. If the vessel operator is relying on halibut CDQ from a CDQ group to support the retained catch of legal-size halibut during a fishing trip, the CDQ group would be required to provide adequate halibut CDQ to this vessel operator to account for all the legal-size halibut caught by the vessel during the entire fishing trip. A CDQ group's halibut PSQ would not be reduced if halibut is present in the landing. Landed halibut CDQ or halibut IFQ would accrue to the account balance of the permit holder identified by the processor in the landing report based on the permits held by the vessel operator or persons on board the vessel.

The operator of a hook-and-line catcher vessel less than or equal to 46 ft LOA who retains any halibut CDQ or halibut IFQ during the groundfish CDQ fishing trip would be required to retain all legal-size halibut caught during that fishing trip. The Council and NMFS determined that this regulatory provision is necessary to ensure proper accounting for halibut and to reduce halibut discards in the small vessel groundfish CDQ fishery. In this situation, NMFS would assume that the vessel operator retained all legal-size halibut and that the only halibut released from the fishing gear would be sub-legal-size halibut. NMFS would continue to account for sub-legal-size halibut as wastage associated with the halibut fishery and it would not accrue to any halibut PSC limit. Under the proposed rule, as long as at least one halibut was included in the groundfish CDQ landing, NMFS would not accrue any estimates of halibut PSC from the small vessel groundfish CDQ fisheries to the CDQ group's halibut PSQ or to any component of the BSAI halibut PSC limit.

If no halibut are included in a groundfish CDQ landing, NMFS would accrue an estimate of halibut PSC to the CDQ group's small catcher vessel halibut PSC limit (described below). NMFS would estimate the halibut PSC associated with these types of groundfish CDQ fishing trips using halibut PSC rates as calculated by NMFS, and apply the halibut PSC rates when halibut fishing is closed or when halibut fishing is open but no halibut are included in a landing.

Under the proposed rule, NMFS would create a new quota category available to each CDQ group called the "small catcher vessel halibut PSC limit." If a CDQ group wants to have a small hook-and-line catcher vessel groundfish CDQ fishery, the CDQ

group would be required to transfer halibut PSQ from its halibut PSQ to its small catcher vessel halibut PSC limit through a CDQ Transfer Request under § 679.5(n). CDQ groups that do not want to have a local small-scale groundfish CDQ fishery would not have to transfer any halibut PSQ to this account. Each CDQ group would, in collaboration with NMFS, decide the appropriate amount of halibut PSQ to transfer to the small catcher vessel halibut PSC limit based on the amount of groundfish CDQ it wanted to allocate to its small hook-and-line catcher vessel groundfish CDQ fishery and the expected use of halibut PSC in that fishery.

With the exception of sablefish CDQ fishing, which will continue to be managed under § 679.32(c)(1), the proposed rule would prohibit groundfish CDQ fishing by catcher vessels less than or equal to 46 ft LOA using hook-and-line gear unless NMFS publishes notification in the **Federal Register** authorizing a CDQ group to conduct such fishing. In deciding whether to authorize groundfish CDQ fishing by these vessels, NMFS would consider whether a CDQ group has sufficient halibut in its small catcher vessel halibut PSC limit to support groundfish CDQ fishing by these catcher vessels.

If NMFS determines that a CDQ group's small catcher vessel halibut PSC limit has been or will be reached, NMFS would issue a notice in the **Federal Register** prohibiting groundfish CDQ fishing by the small hook-and-line catcher vessels fishing for that CDQ group. NMFS would be responsible for issuing fishing closures to the small hook-and-line catcher vessel groundfish CDQ fisheries to maintain halibut PSC by these vessels within the small catcher vessel halibut PSC limit established by a CDQ group. NMFS would manage these fisheries to stay within the applicable CDQ groups' halibut

PSC amount to the best of its ability, and would manage the small hook-and-line catcher vessel groundfish CDQ fishery conservatively to ensure that these PSC limits are not exceeded.

Even with conservative management, it is possible that a small catcher vessel halibut PSC limit could be exceeded due to the high degree of variability in halibut PSC rates that can occur in hook-and-line fisheries. If NMFS is unable to close a CDQ group's small catcher vessel groundfish CDQ fishery before it exceeds the amount of halibut PSC allocated to the small catcher vessel halibut PSC limit, NMFS would not consider this a violation, and NMFS would not require the CDQ group to transfer an amount of halibut PSQ needed to cover the negative balance. However, the proposed rule would allow a CDQ group to voluntarily choose to transfer additional halibut PSQ to bring the balance of its small catcher vessel halibut PSC limit to zero.

If a CDQ group's small catcher vessel halibut PSC limit has a negative balance at the end of the groundfish fishing year (December 31), and if the CDQ group has remaining halibut PSQ on that date, NMFS would transfer an amount of halibut PSQ into the CDQ group's small catcher vessel halibut PSC limit to bring the balance of the small catcher vessel halibut PSC limit to zero. NMFS would make this administrative transfer only after all fishing by a CDQ group is completed for the year, after data from the fishing year is finalized, and if the CDQ group had sufficient remaining halibut PSQ.

The CDQ Program currently receives an allocation of 393 mt of halibut PSC, which is further allocated among the CDQ groups in annual halibut PSQ allocations to individual CDQ groups that range from 25 mt to 135 mt. Between 2010 and 2014, none

of the CDQ groups fully used their halibut PSQ, and all CDQ groups had remaining halibut PSQ at the end of the year. Therefore, NMFS has determined that, should an administrative transfer be warranted, a CDQ group will likely have sufficient halibut PSQ to accommodate the transfer. However, if a CDQ group does not have a sufficient amount of halibut PSQ to cover a negative balance in the CDQ group's small catcher vessel halibut PSC limit, NMFS would not undertake an administrative transfer and there would be no regulatory or compliance consequences to the CDQ group.

The proposed rule also would permit a CDQ group to transfer halibut from its small catcher vessel halibut PSC limit back to the CDQ group's halibut PSQ. In reviewing a request to transfer halibut from the small catcher vessel halibut PSC limit back to the CDQ group's halibut PSQ, NMFS would consider the status of CDQ fisheries through the end of the year and anticipated halibut PSC rates for any remaining groundfish CDQ fishing by vessels managed under the small catcher vessel halibut PSC limit for the requesting CDQ group.

Observer Coverage

The proposed rule would add paragraph (a)(1)(i)(D) to § 679.51 and revise § 679.51(a)(2)(i)(C)(2) to place catcher vessels less than or equal to 46 ft LOA that are using hook-and-line gear when groundfish CDQ fishing in the partial observer coverage category. This new paragraph is proposed as paragraph (a)(1)(i)(D) because a separate proposed rule implementing Amendment 112 to the FMP and Amendment 102 to the Fishery Management Plan for Groundfish of the Gulf of Alaska is proposing to add a new paragraph (a)(1)(i)(C) to § 679.51 (see 80 FR 81262; December 29, 2015).

Under current regulations, the owners or operators of vessels in the partial observer coverage category are placed in an observer selection pool based on the requirements of the Annual Deployment Plan (ADP). Since implementation of the ADP process in 2013, vessels less than 40 ft. (12.2 m) LOA have been placed in the “no selection pool.” These vessels are not required to carry observers or register fishing trips with NMFS. Vessels 40 ft LOA or greater are in the “trip selection pool” and must log all of their fishing trips in the Observer Declare and Deploy System (ODDS). This is an online system for registering fishing trips and receiving information about whether a particular trip is selected for observer coverage. If selected for observer coverage, the catcher vessel is required to carry an observer. Operators of vessels selected for observer coverage are required to comply with all vessel responsibilities in § 679.51(e)(1). More information about logging trips in ODDS is on the NMFS Alaska Region Web site under “Frequently Asked Questions” about the Observer Program (<http://alaskafisheries.noaa.gov/sustainablefisheries/observers/>).

Hook-and-line catcher vessels halibut CDQ fishing have been in the partial observer coverage category since 2013. Operators of vessels 40 ft LOA or greater have been logging halibut CDQ fishing trips and should be familiar with the requirements for partial observer coverage. Most of the small hook-and-line catcher vessels that are expected to participate in separate Pacific cod CDQ fisheries under the proposed action are owned or operated by people who have participated in the halibut CDQ fisheries (see Section 3.7 of the Analysis). Therefore, the requirements and procedures for partial observer coverage should be familiar to them. If a vessel operator retains groundfish

CDQ during a halibut CDQ fishing trip, no additional trips will need to be logged in ODDS. If a vessel operator makes separate fishing trips to target Pacific cod CDQ, the vessel operator would be required to log these new fishing trips in ODDS, and to carry an observer if selected to do so.

Other Regulatory Change

The proposed rule would remove the table in § 679.51(f). NMFS determined that this table no longer provides an easily readable reference to observer requirements in § 679.51. Therefore, NMFS proposes to remove the table.

Classification

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 109 to the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

Initial Regulatory Flexibility Analysis

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A further description of the action, why it is being considered, and the legal basis for this action are contained earlier in the preamble to this proposed rule. A copy of the IRFA is available from NMFS (see **ADDRESSES**). A summary of the analysis follows.

The proposed action would directly regulate two classes of small entities: 1) the six CDQ groups, which are non-profit corporations that represent the 65 western Alaska communities that are eligible to participate in the CDQ Program; and 2) the owners and operators of small hook-and-line catcher vessels who are authorized by a CDQ group to harvest groundfish or halibut CDQ allocations.

The RFA recognizes and defines three kinds of small entities: 1) small businesses, 2) small non-profit organizations, and 3) small government jurisdictions. The CDQ groups are considered small entities due to their status as non-profit corporations. According to Section 1.2.1 of the Analysis, the six CDQ groups had total revenues of approximately \$311.5 million in 2011, primarily from royalties on the lease of pollock CDQ allocations. Between 1992 and 2011, the CDQ groups accumulated net assets worth approximately \$803 million, including ownership of small local processing plants, catcher vessels, and catcher/processors that participate in the groundfish, crab, salmon, and halibut fisheries.

The Small Business Administration has established size standards for all major industry sectors in the United States. A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of \$20.5 million, for all its affiliated operations worldwide.

It is difficult to predict how many small hook-and-line catcher vessels may participate in the future under the proposed action because no catcher vessels less than or equal to 46 ft LOA using hook-and-line gear currently are conducting directed fishing for

groundfish CDQ. The best estimate of the upper bound of the number of future participants in the small catcher vessel Pacific cod CDQ fisheries is the maximum of 278 vessels less than or equal to 46 ft LOA that participated in the halibut CDQ fisheries from 2000 to 2013. NMFS assumes that all of the vessels that could be directly regulated by this action would be small entities based on estimated revenues of less than \$20.5 million for all vessels and their known affiliations.

The proposed action contains three new reporting and recordkeeping requirements that affect small entities. First, each CDQ group that authorizes catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA using hook-and-line gear to fish for groundfish CDQ with an exemption from the LLP would be required to register the vessel in an online CDQ vessel registration system developed and maintained by NMFS. All six CDQ groups would then be subject to the vessel registration requirement if they had vessels participating.

Second, operators of registered catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA using hook-and-line gear that would be exempt from the LLP license requirements would be required to maintain a legible copy of an LLP exemption letter on board the vessel at all times when groundfish CDQ fishing. The LLP exemption letter would be generated through the CDQ vessel registration system when a CDQ group registered an eligible vessel. Each CDQ group representative would be required to provide this letter to the vessel operator. All six CDQ groups and all vessel operators could be subject to this requirement.

Third, small catcher vessels fishing for groundfish CDQ under the proposed action would be placed in the partial observer coverage category. Vessels subject to observer coverage are determined annually through the Observer Program's Annual Deployment Plan (ADP). Since inception of the ADP process in 2013, vessels less than 40 ft. LOA have been placed in the "no selection pool" and have had no additional reporting or recordkeeping requirements. Vessels 40 ft LOA or greater are in the "trip selection pool" and must log all of their fishing trips in the Observer Declare and Deploy System (ODDS). This is an online system for registering fishing trips and receiving information about whether a particular trip is selected for observer coverage.

Vessels between 40 ft LOA and 46 ft LOA already log their halibut CDQ and halibut IFQ fishing trips in ODDS. Therefore, if these vessels are combining groundfish CDQ fishing with halibut CDQ or halibut IFQ fishing, they would not incur any additional reporting requirements associated with placement in the partial observer coverage category because the halibut trips already are in partial observer coverage. However, if any of these vessels starts fishing for groundfish CDQ separate from their halibut CDQ or halibut IFQ fishing trips, then those additional fishing trips would be required to be logged in ODDS. The cost of logging trips in ODDS would represent an additional cost associated with the new small catcher vessel groundfish CDQ fisheries.

The RFA requires identification of any significant alternatives to the proposed rule that accomplish the stated objectives of the proposed action, consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. As noted in the IRFA, the proposed action is expected to

create a net benefit for the directly regulated small entities. The benefits of the proposed action are expected to outweigh the reporting, recordkeeping, and other compliance costs described in the previous section.

The Council considered a status quo alternative (Alternative 1), and two action alternatives (Alternatives 2 and 3) to the preferred alternative (Alternative 4). Neither Alternative 2 nor 3 would have provided more benefits to the directed regulated small entities or reduced reporting, recordkeeping, or compliance costs more than the preferred alternative that would be implemented by this proposed rule.

Under Alternative 2, the maximum retainable amount (MRA) of Pacific cod in the halibut CDQ fisheries would have been increased so the operators of the small hook-and-line vessels could retain more Pacific cod when halibut CDQ fishing and still be considered directed fishing for halibut rather than directed fishing for Pacific cod. Alternative 2 was considered because the more costly LLP license requirements, observer coverage requirements, and VMS requirements do not apply to vessels halibut CDQ fishing in the BSAI (except that the VMS requirements apply to vessels halibut fishing in the Aleutian Islands). Increasing the MRAs for Pacific cod when halibut CDQ fishing would allow the small vessels to retain more Pacific cod without triggering requirements that apply to vessels directed fishing for Pacific cod. The Council did not select this alternative because the preferred alternative would accomplish a similar outcome to Alternative 2 without creating a situation where vessels with the same catch composition were defined as fishing for halibut in the CDQ fisheries and fishing for Pacific cod in the

non-CDQ fisheries. Alternative 2 would have increased monitoring and enforcement costs relative to the preferred alternative.

The Council also considered Alternative 3, which would have created a new type of LLP license specific to the small CDQ vessels. This approach was an alternative to providing an exemption to the LLP, as is proposed in the preferred alternative. However, this alternative would not necessarily have resulted in a reduction in reporting, recordkeeping, and compliance costs in comparison to the proposed action. Issuing a new CDQ LLP license would have required applications to NMFS and the issuance of a CDQ LLP license with certain conditions. Alternative 3 would have increased costs relative to the preferred alternative.

No relevant Federal rules have been identified that would duplicate or overlap with the proposed action.

Collection-of-Information Requirements

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. The information collections are presented by OMB control number.

OMB Control No. 0648-0269

Public reporting burden for CDQ Vessel Registration to add or remove vessels online that are exempt from the LLP license requirements is estimated to average five minutes per individual response and five minutes for maintenance of the LLP exemption letter on board a vessel that is groundfish CDQ fishing. The Groundfish/Halibut CDQ

and Prohibited Species Quota (PSQ) Transfer Request is mentioned in this proposed rule, but no changes occur in the individual response for each requirement.

OMB Control No. 0648-0318

The Observer Declare and Deploy System (ODDS) is mentioned in this proposed rule, but the individual response for each requirement is not changed.

OMB Control No. 0648-0334

The LLP license is mentioned in this proposed rule, but the individual response for each requirement is not changed.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above, and e-mail to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395-5806.

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, Reporting and recordkeeping requirements.

Dated:

For the 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 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108-447;

Pub. L. 111-281

2. In § 679.4, add paragraph (k)(2)(vi) to read as follows:

§ 679.4 Permits.

* * * * *

(k) * * *

(2) * * *

(vi) The operator of a catcher vessel that is greater than 32 ft (9.8 m) LOA, that does not exceed 46 ft (14.0 m) LOA, and that is registered by a CDQ group following the

procedures described in § 679.5(m) may use hook-and-line gear to conduct groundfish CDQ fishing without a groundfish license.

* * * * *

3. In § 679.5, add paragraph (m) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(m) *CDQ Vessel Registration—(1) Registration.* The representative for a CDQ group must register each vessel that is to receive the exemption from the LLP license requirements at § 679.4(k)(2)(vi) through the CDQ vessel registration system available on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov>). The CDQ group representative must log into the CDQ vessel registration system and provide the information required on the computer screen. NMFS will add each vessel successfully registered to the CDQ vessel registration list on the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

(2) *Responsibility.* The CDQ group representative must successfully complete vessel registration through the CDQ vessel registration system before the vessel may be used to conduct groundfish CDQ fishing under § 679.32(c)(3)(iii) without an LLP license. By using the CDQ group's NMFS ID and password and submitting the vessel registration request, the CDQ group representative certifies that all information is true, correct, and complete.

(3) *LLP exemption letter.* The CDQ vessel registration system will provide the CDQ group representative with an LLP exemption letter documenting that the registered

vessel is exempt from the LLP when groundfish CDQ fishing. The CDQ group representative must provide a copy of the LLP exemption letter to the operator of the registered vessel named in the LLP exemption letter. The operator of the registered vessel named in the LLP exemption letter must maintain a legible copy of the LLP exemption letter on board the registered vessel at all times when that vessel is groundfish CDQ fishing.

(4) *Removing a vessel from the CDQ vessel registration list.* A CDQ group representative may remove a vessel from the CDQ vessel registration system by logging into the online system and following the applicable instructions. A CDQ group representative may remove a registered vessel from the CDQ vessel registration list at any time but must certify at the time of removal that the vessel operator had been given notice by the CDQ group that the vessel is going to be removed from the list and that the vessel is not groundfish CDQ fishing at the time of removal. A vessel that is successfully removed from the CDQ vessel registration list is no longer exempt from the LLP requirements under § 679.4(k).

* * * * *

4. In § 679.7, add paragraphs (d)(8) and (9) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(d) * * *

(8) For an operator of a catcher vessel greater than 32 ft (9.8 m) LOA and less than or equal to 46 ft (14.0 m) LOA using hook-and-line gear and that is registered by a

CDQ group under § 679.5(m), to conduct groundfish CDQ fishing without a legible copy of the LLP exemption letter issued to a CDQ group for that vessel on board the vessel.

(9) For a CDQ group representative, to remove a vessel from the CDQ vessel registration list under § 679.5(m)(4) without first providing notice to the operator of the registered vessel that the vessel is being removed from the CDQ vessel registration list or when the vessel operator is groundfish CDQ fishing.

* * * * *

5. In § 679.32,

a. Add a new first sentence to paragraphs (c)(3)(i)(D) and (c)(3)(ii)(D); and

b. Add paragraph (c)(3)(iii) to read as follows:

§ 679.32 Groundfish and halibut CDQ catch monitoring.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(D) *Observed catcher vessels using nontrawl gear.* This paragraph applies to all observed catcher vessels using nontrawl gear, except those catcher vessels regulated under paragraph (c)(3)(iii) of this section. * * *

(ii) * * *

(D) *Observed catcher vessels using nontrawl gear.* This paragraph applies to all observed catcher vessels using nontrawl gear, except those catcher vessels regulated under paragraph (c)(3)(iii) of this section. * * *

(iii) *Groundfish CDQ fishing by catcher vessels less than or equal to 46 ft LOA using hook-and-line gear*—(A) *Applicability*. Regulations in this paragraph apply to the operators of catcher vessels less than or equal to 46 ft (14.0 m) LOA using hook-and-line gear when groundfish CDQ fishing and to the CDQ groups authorizing the operators of these vessels to harvest groundfish CDQ or halibut CDQ.

(B) *Halibut CDQ or halibut IFQ*. If any halibut CDQ or halibut IFQ are retained during a fishing trip on board a vessel described in paragraph (c)(3)(iii)(A) of this section, the following requirements apply:

(1) The vessel operator must retain all legal-size halibut caught during that entire fishing trip.

(2) The vessel operator must have sufficient halibut IFQ or halibut CDQ available to account for the catch of all legal-size halibut caught during the entire fishing trip.

(3) If the vessel operator is relying on halibut CDQ from a CDQ group to support the retained catch of legal-size halibut during a fishing trip, the CDQ group must provide adequate halibut CDQ to this vessel operator to account for all of the legal-size halibut caught by the vessel during the entire fishing trip.

(C) *Halibut PSC*. If halibut CDQ or halibut IFQ are not retained during a fishing trip on board a vessel described in paragraph (c)(3)(iii)(A) of this section, the following requirements apply:

(1) The vessel operator must discard all halibut caught during the fishing trip.

(2) *Small catcher vessel halibut PSC limit.* The CDQ group representative may transfer halibut from a CDQ group's halibut PSQ to its small catcher vessel halibut PSC limit. To do so, the CDQ representative must submit a transfer request using the procedures described in § 679.5(n). In reviewing a request to transfer halibut PSQ to a CDQ group's small catcher vessel halibut PSC limit, NMFS will consider whether the amount of halibut to be transferred to the small catcher vessel halibut PSC limit is sufficient to support groundfish CDQ fishing by the catcher vessels that the CDQ group plans to authorize to conduct groundfish CDQ fishing. The transfer is not effective until approved by NMFS. The CDQ group representative also may transfer halibut from a CDQ group's small catcher vessel halibut PSC limit back to its halibut PSQ by submitting a transfer request using the procedures described in § 679.5(n). In reviewing a request to transfer halibut from the small catcher vessel halibut PSC limit back to the CDQ group's halibut PSQ, NMFS will consider the status of CDQ fisheries through the end of the year and anticipated halibut PSC rates for any remaining groundfish CDQ fishing by vessels managed under the small catcher vessel halibut PSC limit for the requesting CDQ group.

(3) *Fishery closures.* Directed fishing for groundfish CDQ, except sablefish CDQ managed under paragraph (c)(1) of this section, by catcher vessels less than or equal to 46 ft LOA using hook-and-line gear is prohibited unless the Regional Administrator publishes notification in the **Federal Register** authorizing such directed fishing. In deciding whether to authorize directed fishing, NMFS will consider whether a CDQ group has sufficient halibut in its small catcher vessel halibut PSC limit to support

directed fishing for groundfish CDQ by these catcher vessels. Upon determining that a CDQ group's small catcher vessel halibut PSC limit has been or will be reached, the Regional Administrator will publish notification in the **Federal Register** prohibiting directed fishing for all groundfish CDQ species, except sablefish CDQ, by catcher vessels less than or equal to 46 ft LOA using hook-and-line gear fishing for that CDQ group. If the estimated halibut PSC by vessels described in paragraph (c)(3)(iii)(A) of this section exceeds the balance of the small catcher vessel halibut PSC limit on December 31 of any year, and if the CDQ group has remaining halibut PSQ on that date, NMFS will transfer an amount of halibut PSQ into the CDQ group's small catcher vessel halibut PSC limit to bring the balance of the small catcher vessel halibut PSC limit to zero. NMFS will make the determination about whether such an administrative transfer is necessary after data from the fishing year is finalized.

* * * * *

6. In § 679.51:

- a. Remove § 679.51 introductory text and paragraph (f);
- b. Add paragraph (a)(1)(i)(D); and
- c. Revise paragraph (a)(2)(i)(C)(2) to read as follows:

§ 679.51 Observer requirements for vessels and plants.

(a) * * *

(1) * * *

(i) * * *

(D) A catcher vessel less than or equal to 46 ft LOA using hook-and-line gear when groundfish CDQ fishing under § 679.32(c)(3)(iii).

* * * * *

(2) * * *

(i) * * *

(C) * * *

(2) Using trawl gear or hook-and-line gear when groundfish CDQ fishing (see § 679.2), except for catcher vessels less than or equal to 46 ft LOA using hook-and-line gear when groundfish CDQ fishing under § 679.32(c)(3)(iii); or

* * * * *

§§ 679.4 [Amended]

7. At each of the locations shown in the “Location” column, remove the phrase indicated in the “Remove” column and replace it with the phrase indicated in the “Add” column for the number of times indicated in the “Frequency” column.

Location	Remove	Add	Frequency
§ 679.4(k)(2)(iv)	license; or	license;	1
§ 679.4(k)(2)(v)	Area.	Area; or	1

/home/ec2-user/sec/disk/omb/icr/201604-0648-009/doc/63834201

R:\region\2016\Jan\63834201

Skelly 2/20/14

Sbibb 4/27/15; 7/19/15; 7/27/15;7/28/15;8/6/15;12/16/15;12/18/15;1/12/16

Gaberle 7/28/2015; 8/5/15; 12/11/15; 12/23/15; 1/8/16

odavis: May, June, July; 7/28/15

gmerrill: 8/1/15, 8/10/15, 8/11/15.

mfuruness 8/7/15

lsmoker; 12/4/15; 12/17/15

NMFS Edits: 12/23/15

llindeman 1/7/16