

the proportions of the halibut catch limit that are specified in paragraph (b) of this section for use as a CDQ reserve.

(2) Portions of the CDQ for each specified IPHC regulatory area may be allocated for the exclusive use of an eligible Western Alaska community or group of communities in accordance with a CDP approved by the Governor in consultation with the Council and approved by NMFS.

(3) The proportions of the halibut catch limit annually withheld for the halibut CDQ program, exclusive of issued QS, and the eligible communities for which they shall be made available are as follows for each IPHC regulatory area:

(i) *Area 4B.* In IPHC regulatory area 4B, 20 percent of the annual halibut quota shall be made available to eligible communities physically located in, or proximate to, this regulatory area.

(ii) *Area 4C.* In IPHC regulatory area 4C, 50 percent of the halibut quota shall be made available to eligible communities physically located in IPHC regulatory area 4C.

(iii) *Area 4D.* In IPHC regulatory area 4D, 30 percent of the annual halibut quota shall be made available to eligible communities located in, or proximate to, IPHC regulatory areas 4D and 4E.

(iv) *Area 4E.* In IPHC regulatory area 4E, 100 percent of the halibut quota shall be made available to eligible communities located in, or proximate to, IPHC regulatory area 4E. A fishing trip limit of 6,000 lb (2.7 mt) applies to halibut CDQ harvesting in IPHC regulatory area 4E.

(4) For the purposes of this section, “proximate to” an IPHC regulatory area means within 10 nm from the point where the boundary of the IPHC regulatory area intersects land.

(c) *Groundfish CDQ reserves.* (See § 679.20(b)(1)(iii))

(d) *Crab CDQ reserves.* King and Tanner crab species in the Bering Sea and Aleutian Islands Area that have a guideline harvest level specified by the State of Alaska that is available for commercial harvest are apportioned to a crab CDQ reserve as follows:

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

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

(3) For calendar year 1998 (applicable through December 31, 1998), 3.5 percent.

(e) *PSQ reserve.* (See § 679.21(e)(1)(i) and (e)(2)(ii)).

(f) *Reallocation of CDQ or PSQ reserves* (Applicable through December 31, 1998). If the Regional Administrator determines that any amount of a CDQ or PSQ reserve will not be used during the remainder of the 1998 fishing year, the Regional Administrator may reallocate any unused amount of the CDQ reserve back to the non-specified reserve established by § 679.20(b)(1)(ii) and may reallocate any unused amount of a PSQ reserve back to non-CDQ fisheries in proportion to those fisheries’ 1998 apportionment of PSC limits established by § 679.21.

(g) *Non-specific CDQ reserve.* Annually, NMFS will apportion 15 percent of each squid, arrowtooth flounder, and “other species” CDQ for each CDQ group to a non-specific CDQ reserve. A CDQ group’s non-specific CDQ reserve must be for the exclusive use of that CDQ group. A release from the non-specific CDQ reserve to the CDQ group’s squid, arrowtooth flounder, or “other species” CDQ is a technical amendment as described in § 679.30(g)(5). The technical amendment must be approved before harvests relying on CDQ transferred from the non-specific CDQ reserve may be conducted.

[63 FR 8361, Feb. 19, 1998, as amended at 63 FR 30407, June 4, 1998]

§ 679.32 Groundfish and halibut CDQ catch monitoring.

(a) *Applicability.* (1) The CDQ group and the operator or manager of a buying station, the operator of a vessel, and the manager of a shoreside processor must comply with the requirements of this section for all CDQ and PSQ caught while groundfish CDQ fishing as defined at § 679.2, with the exceptions listed in paragraphs (a)(2) and (a)(3) 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 fishing in 1998 (applicable through December 31, 1998)*. Regulations governing the catch of pollock CDQ while pollock CDQ fishing as defined in §679.2 in 1998 are in paragraph (e) of this section. The catch of pollock by vessels that are not pollock CDQ fishing as defined in §679.2 will not accrue against the pollock CDQ in 1998.

(3) *Fixed gear sablefish and halibut CDQ fishing in 1998 (applicable through December 31, 1998)*. Regulations governing the catch of sablefish and halibut CDQ by vessels using fixed gear in 1998 are in paragraph (f) of this section.

(b) *PSQ catch*. Time and area closures required once a CDQ group has reached its salmon PSQ or crab PSQ are listed in §679.7(d)(7) through (10). The catch of salmon or crab by vessels using other than trawl gear does not accrue to the PSQ for these species. The discard of halibut by vessels using pot or jig gear will not accrue to the halibut PSQ if this bycatch has been exempted from the halibut PSC limit under §679.21(e)(5) in the annual specifications published in the FEDERAL REGISTER.

(c) *Requirements for vessels and processors*. In addition to complying with the minimum observer coverage requirements at §679.50(c)(4), operators of vessels groundfish CDQ fishing and managers or operators of shoreside processing plants or buying stations taking deliveries from vessels groundfish CDQ fishing must comply with the following requirements:

(1) *Catcher vessels without an observer*.
 (i) Operators of catcher vessels less than 60 ft (18.29 m) LOA must retain all groundfish CDQ, halibut CDQ, and salmon PSQ until it is delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) of this section. All halibut PSQ and crab PSQ must be discarded at sea. Operators of catcher vessels using trawl gear must report the at-sea discards of halibut PSQ or crab PSQ on the CDQ delivery report. Operators of catcher vessels using nontrawl gear must report the at-sea discards of halibut PSQ on the CDQ delivery report, unless exempted from accounting for halibut PSQ under paragraph (b) of this section.

(ii) *Catcher vessels delivering unsorted codends*. Operators of catcher vessels

delivering unsorted codends to trawl catcher/processors or motherships must retain all CDQ and PSQ species and deliver them to a catcher/processor or mothership that meets the requirements of paragraph (c)(4) of this section.

(2) *Catcher vessels with observers*. Operators of catcher vessels equal to or greater than 60 ft (18.29 m) LOA must comply with the following requirements:

(i) *If using trawl gear, the vessel operator must:*

(A) Retain all CDQ species and salmon PSQ until they are delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) of this section;

(B) Retain all halibut and crab PSQ in a bin or other location until it is counted and sampled by a CDQ observer; and

(C) Provide space on the deck of the vessel for the CDQ observer to sort and store catch samples and a place from which to hang the observer sampling scale.

(ii) *If using nontrawl gear, the vessel operator must either:*

(A) *Option 1: Retain all CDQ species*. Retain all CDQ species until they are delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) of this section and have all of the halibut PSQ counted by the CDQ observer and sampled for length or average weight; or

(B) *Option 2: Discard some CDQ species at sea*. May discard some CDQ species at sea if the following requirements are met:

(1) *Observer sampling station*. The vessel owner provides an observer sampling station that complies with §679.28(d) so that the CDQ observer can accurately determine the average weight of discarded CDQ species. A valid observer sampling station inspection report described at §679.28(d)(8) must be on board the vessel at all times when a sampling station is required; and

(2) *Species composition*. Each CDQ set on vessels using hook-and-line gear is sampled for species composition by a CDQ observer.

(3) *Shoreside processors and buying stations*. The operator of a buying station

or the manager of a shoreside processor must comply with all of the following requirements:

(i) *Prior notice to observer of offloading schedule.* Notify the CDQ observer of the offloading schedule of each groundfish 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.

(ii) *CDQ and PSQ by weight.* Sort and weigh on a scale approved by the State of Alaska under §679.28(c) all groundfish and halibut CDQ or PSQ by species or species group.

(iii) *PSQ by number.* Sort and count all salmon and crab PSQ.

(iv) *CDQ and PSQ sorting and weighing.* Sorting and weighing of CDQ and PSQ must be monitored by a CDQ observer.

(v) *CDQ delivery report.* Submit a CDQ delivery report described at §679.5(n)(1) for each delivery from vessels groundfish CDQ fishing as defined at §679.2.

(4) *Catcher/processors and motherships.* The operator of a catcher/processor or a mothership must comply with the following requirements:

(i) *Prior notice to observer of CDQ catch.* Notify the CDQ observer(s) before CDQ catch is brought onboard the vessel and notify the CDQ observer(s) of the CDQ group and CDQ number associated with the CDQ catch.

(ii) *Observer sampling station.* Provide an observer sampling station as described at §679.28(d). A valid observer sampling station inspection report described at §679.28(d)(8) must be on board the vessel at all times when a sampling station is required.

(iii) *Catcher/processors using trawl gear and motherships.* The operator of a catcher/processor using trawl gear or of a mothership must weigh all catch on a scale that complies with the requirements of §679.28(b). A valid scale inspection report described at §679.28(b)(2) must be on board the vessel at all times when a scale is required. Catch from each CDQ haul must be weighed separately. Catch must not be sorted before it is weighed, unless a provision for doing so is approved by NMFS for the vessel in the CDP. Each CDQ haul must be sampled by a CDQ observer for species composition

and the vessel operator must allow CDQ observers to use any scale approved by NMFS to weigh partial CDQ haul samples.

(iv) *Catcher/processors using nontrawl gear.* Each CDQ set on a vessel using hook-and-line gear must be sampled by a CDQ observer for species composition and average weight.

(d) *Recordkeeping and reporting—(1) Catch record.* The operator or manager of a buying station and the manager of a shoreside processor must submit to NMFS the CDQ delivery report required in §679.5(n)(1). The CDQ representative must submit to NMFS the CDQ catch report required in §679.5(n)(2). Additionally, all other applicable requirements in §679.5 for groundfish fishing must be met.

(2) *Verification of CDQ and PSQ catch reports.* CDQ groups may specify the sources of data listed below as the sources they will use to determine CDQ and PSQ catch on the CDQ catch report by specifying “NMFS standard sources of data” in their CDP. In the case of a catcher vessel using nontrawl gear, the CDP must specify whether the vessel will be retaining all groundfish CDQ (Option 1) or discarding some groundfish CDQ species at sea (Option 2). CDQ species may be discarded at sea by these vessels only if the requirements of paragraph (c)(2)(ii)(B) of this section are met. NMFS will use the following sources to verify the CDQ catch reports, unless an alternative catch estimation procedure in the CDP is approved by NMFS under §679.30(a)(5)(ii).

(i) *Catcher vessels less than 60 ft (18.29 m) LOA.* The weight or numbers of all CDQ and PSQ species will be the same as the information on the CDQ delivery report if all CDQ species and salmon PSQ are retained on board the vessel, delivered to a shoreside processor listed as eligible in the CDP, and sorted and weighed in compliance with paragraph (c)(3) of this section.

(ii) *Catcher vessels delivering unsorted codends.* The weight and numbers of CDQ and PSQ species will be determined by applying the species composition sampling data collected for each CDQ haul by the CDQ observer on the mothership to the total weight of each CDQ haul as determined by weighing

all catch from each CDQ haul on a scale approved under §679.28(b).

(iii) *Observed catcher vessels using trawl gear.* The weight of halibut and numbers of crab PSQ discarded at sea will be determined by using the CDQ observer's sample data. The weight or numbers of all groundfish CDQ and salmon PSQ will be the same as the information submitted on the CDQ delivery report if all CDQ species and salmon PSQ are retained on board the vessel until delivered to a processor listed as eligible in the CDP, and sorted and weighed in compliance with paragraph (c)(3) of this section.

(iv) *Observed catcher vessels using nontrawl gear—(A) Option 1.* The weight of halibut PSQ discarded at sea will be determined by using the CDQ observer's sample data. The weight of all groundfish CDQ will be the same as the information submitted on the CDQ delivery report if all CDQ species are retained on board the vessel until delivered to a processor, and sorted and weighed in compliance with paragraph (c)(3) of this section (Option 1); or

(B) *Option 2.* The weight of halibut PSQ and all groundfish CDQ species will be determined by applying the CDQ observer's species composition sampling data to the estimate of total catch weight if any CDQ species are discarded at sea.

(v) *Catcher/processors using trawl gear and motherships.* The weight and numbers of CDQ and PSQ species will be determined by applying the CDQ observer's species composition sampling data for each CDQ haul to the total weight of the CDQ haul as determined by weighing all catch from each CDQ haul on a scale certified under §679.28(b).

(vi) *Catcher/processors using nontrawl gear.* The weight of halibut PSQ and all groundfish CDQ species will be determined by applying the CDQ observer's species composition sampling data to the estimate of total catch weight, if any CDQ species are discarded at sea.

(e) *Pollock CDQ (applicable through December 31, 1998)—(1) Applicability.* The owner or operator of a vessel pollock CDQ fishing as defined at §679.2 and the owner or operator of a processor taking deliveries from vessels pollock CDQ fishing must comply with the requirements of this paragraph (e).

(2) *Catch of non-pollock.* The catch of all non-pollock species for which a TAC or PSC limit is specified will accrue against the TACs and PSC limits for moratorium groundfish species. The owner or operator of a vessel that is pollock CDQ fishing and the owner or operator of a processor taking deliveries from vessels that are pollock CDQ fishing must comply with regulations governing maximum retainable by-catch amounts and prohibited species status in the moratorium groundfish fisheries at §679.20(d)(1)(iii).

(3) *Recordkeeping and reporting.* The CDQ representative, the operator or manager of a buying station, the operator of a vessel, and the manager of a shoreside processor must submit all applicable reports in §679.5, including the CDQ delivery report and the CDQ catch report. Catch from the pollock CDQ fisheries must be identified separately from catch in other CDQ fisheries on the CDQ catch report. Harvest of species other than pollock in the pollock CDQ fisheries must not be reported on the CDQ catch report.

(4) *Observer coverage.* Two observers are required on all catcher/processors and motherships harvesting, processing, or taking deliveries of pollock CDQ; one observer is required on all catcher vessels harvesting pollock CDQ; and one observer is required in a shoreside processing plant while pollock CDQ is being delivered, sorted, or processed.

(5) *Estimation of the weight of pollock CDQ—(i) Shoreside processors and buying stations.* All pollock CDQ delivered to a shoreside processor or buying station must be weighed on a scale approved by the State of Alaska under §679.28(c). The manager of each shoreside processor or buying station must notify the observer of the offloading schedule of each pollock CDQ delivery at least 1 hour prior to offloading to provide the observer an opportunity to monitor the weighing of the entire delivery.

(ii) *Motherships and catcher/processors.* Operators of motherships and catcher/processors must provide holding bins and comply with the operational requirements at §679.28(e) in order for volumetric estimates of total catch weight to be made.

(f) *Sablefish and halibut CDQ fisheries (applicable through December 31, 1998)*—

(1) *Applicability.* The owner or operator of a vessel or processor harvesting or accepting deliveries of fixed gear sablefish or halibut CDQ in 1998 must comply with the requirements of this paragraph (f).

(2) *Catch of other groundfish.* All groundfish for which a TAC is specified and all prohibited species caught while fixed gear sablefish and halibut CDQ fishing will accrue against the TACs and PSC limits for moratorium groundfish species. Regulations governing maximum retainable bycatch amounts and prohibited species status in the moratorium groundfish fisheries at § 679.20(d)(1)(iii) must be complied with while fixed gear sablefish and halibut CDQ fishing.

(3) *Permits.* The managing organization responsible for carrying out an approved CDP must have a halibut and/or sablefish CDQ permit issued by the Regional Administrator. A copy of the halibut and/or sablefish CDQ permit must be carried on any fishing vessel operated by, or for, the managing organization and be made available for inspection by an authorized officer. Such halibut and/or sablefish CDQ permit is non-transferable and is effective for the duration of the CDP or until revoked, suspended, or modified.

(4) *CDQ cards.* All individuals named on an approved CDP application must have a valid halibut and/or sablefish CDQ card issued by the Regional Administrator before landing any halibut and/or sablefish. Each halibut and/or sablefish CDQ card will identify a CDQ permit number and the individual authorized by the managing organization to land halibut and/or sablefish for debit against its CDQ allocation.

(5) *Alteration.* No person may alter, erase, or mutilate a halibut and/or sablefish CDQ permit, 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, or mutilated is invalid.

(6) *Landings.* Halibut and/or sablefish harvested pursuant to an approved CDP may be landed only by a person with a valid halibut and/or sablefish CDQ card, delivered only to a person

with a valid registered buyer permit, and reported in compliance with § 679.5(l)(1) and (l)(2).

(7) *Recordkeeping and reporting.* Vessels and processors with Federal fisheries or processor permits under § 679.4(f) must report all catch of groundfish, including sablefish CDQ, and prohibited species from the fixed gear sablefish and halibut CDQ fisheries on logbooks and weekly production reports required under § 679.5.

[63 FR 30407, June 4, 1998]

EFFECTIVE DATE NOTE: At 63 FR 30407, June 4, 1998, § 679.32 was revised. Paragraph 679.32(c)(4)(i) contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

Subpart D—Individual Fishing Quota Management Measures

§ 679.40 Sablefish and halibut QS.

The Regional Administrator shall annually divide the TAC of halibut and sablefish that is apportioned to the fixed gear fishery pursuant to the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of chapter III of this title and § 679.20, minus the CDQ reserve, among qualified halibut and sablefish quota share holders, respectively.

(a) *Initial allocation of QS—(1) General.* The Regional Administrator shall initially assign to qualified persons, on or after October 18, 1994, halibut and sablefish fixed gear fishery QS that are specific to IFQ regulatory areas and vessel categories. QS will be assigned as a block in the appropriate IFQ regulatory area and vessel category, if that QS would have resulted in an allocation of less than 20,000 lb (9 mt) of IFQ for halibut or sablefish based on the 1994 TAC for fixed gear in those fisheries for specific IFQ regulatory areas and the QS pools of those fisheries for specific IFQ regulatory areas as of October 17, 1994.

(2) *Qualified person.* (i) As used in this section, a “qualified person” means a “person,” as defined in § 679.2:

(A) That owned a vessel that made legal landings of halibut or sablefish, harvested with fixed gear, from any