

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director

DATE: January 27, 1999

SUBJECT: IFQ/CDQ Issues

ESTIMATED TIME
2 HOURS

ACTION REQUIRED

- (a) Receive status report on the NMFS Cost Recovery Fee Collection Program.
- (b) Receive status report of 1999 MSCDQ fisheries and review staff tasking of amendments.

BACKGROUND

(a) IFQ/CDO fee collection program

John Sproul will update the Council on the status of the cost recovery fee collection program (Item C(4)(a)). The IFQ Cost Recovery Plan implementation has been delayed recently due to higher priority activities by the Alaska Region. A proposal for the CDQ Cost Recovery Plan is scheduled for committee review by June 1999.

(b) MSCDO fisheries

Sally Bibb will provide a summary report of the 1998 CDQ fisheries. She will also present an overview of the halibut CDQ proposed rule. The proposed rule is scheduled to be published in the *Federal Register* prior to Council discussion on this issue, and the Council may wish to provide comments at this time.

Sally has also prepared a discussion paper of the five analyses for changes to the MS-CDQ program requested by the Council at the October 1998 meeting (Item C(4)(b)). One new proposal for analysis has also been submitted. Staff is seeking Council direction on prioritizing the preparation of these six analyses and procedures for new proposals, such as an annual call for proposals. The CDQ Committee has also reviewed the discussion paper and its recommendations for prioritizing the analyses will be presented at the meeting.

IFQ/CDQ Cost Recovery Plan: Status Report

Dr. John Sproul,
NMFS Alaska Region

IFQ Cost Recovery Plan

1. Implementation: Delayed
 - I. The IFQ Cost Recovery Plan implementation has been delayed recently due to higher priority regulatory mandates requiring immediate attention by NMFS Alaska Region (Region). These include the following issues:
 - A. American Fisheries Act (AFA) regulations
 - B. AFA changes to Inshore/Offshore 3
 - C. Steller Sea Lion emergency rules
 - III. The draft proposed rule describing the IFQ Cost Recovery Plan is complete and ready for agency review.
 - IV. The draft proposed recordkeeping and reporting forms for IFQ registered buyers and IFQ permit holders are complete and ready for agency review.
 - V. The Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (analysis) will be ready for agency review.
 - VI. The formal internal review by NMFS of the proposed rule and analysis is expected to be well underway by mid-February.
 - VII. The proposed rule should be available for public comment by April 1, 1999.
 - VIII. Implementation of the IFQ Cost Recovery Plan is expected to occur sometime during the middle of the 1999 IFQ season.
2. Region's response to three Council requests regarding IFQ fees dated 10/98
 - I.a. Council Request:

The Council requested NMFS staff work cooperatively with ADF&G, processors and fishermen to develop standardized fee collecting mechanism which will provide consistency between current fee collection program, the IFQ fee, CDQ program, and potential future fee programs.
 - I.b. Region's response:

Following the October 1998 Council meeting, over a period of several weeks, considerable discussion and consideration was given this Council request. At the culmination of these deliberations, the Acting Regional Administrator approved the agency moving forward with the proposed IFQ Cost Recovery Plan that establishes IFQ permit holders with the responsibility for collection (self-withholding) and submission of fees to NMFS.

IFQ Cost Recovery Plan: Continued

There are advantages and disadvantages associated with establish an IFQ Cost Recovery Plan that either imposes the burden of collection and submission of fees on either registered buyer, quota share holders, or permit holders. Implementing alternative strategies will allow for comparisons to evaluate real-world examples of different system when NMFS considers future cost recovery plans.

II.a. Council Request:

The Council requested NMFS incorporate a mechanism to reflect actual (as opposed to standardized) prices.

II.b. Region's Response:

The Region incorporated the essence of this request (use of actual prices) into the proposed IFQ Cost Recovery Plan by requiring IFQ permit holders to use actual ex-vessel value, when it exists, as a basis of determining their fee liability for IFQ landings.

III.a. Council Request:

The Council Requested NMFS incorporate an appeals process into the IFQ Cost Recovery Plan.

III.b. Region's Response:

The Region incorporated into the proposed IFQ Cost Recovery Plan the existing IFQ appeals process that utilizes the Office of Administrative Appeals.

CDQ Cost Recovery Plan

The CDQ and IFQ portions of last year's cost recovery initiative were separated by the Regional Administrator on June 2, 1998. Thereafter, the IFQ Cost Recovery initiative and the CDQ cost recovery initiative were on independent tracks for development and implementation. The IFQ Cost Recovery Plan was given priority.

In recent months NMFS staff in the Region have discussed attributes of a proposed CDQ Cost Recovery Plan. The Region intends to articulate these attributes in a proposal for review by the appropriate Council committees by June 1999. The CDQ Cost Recovery Plan proposal is expected to be complete by April. As that time approaches, Committee meetings shall be convened to provide the Region with comments from stakeholder representatives.

**Future FMP Amendments or Regulatory Amendments for the
Multispecies Community Development Quota Program
January 26, 1999**

The purpose of this document is to (1) update the Council on the progress of requests for regulatory analysis and amendments related to the CDQ program, and (2) request input on the priorities of the issues described in Part II.

**Part I. Rulemaking and analysis that must be completed by NMFS.
NMFS already is committed to completing these items.**

High Priorities for NMFS

• **Final rule for Management of Halibut CDQ Fisheries**

This final rule will implement regulations governing monitoring and reporting the catch of halibut CDQ by all vessels and the catch of groundfish by vessels halibut CDQ fishing. NMFS expects the proposed rule to be published by late January. The final rule must be published as soon as possible after the end of the comment period because the regulations are needed for the 1999 halibut CDQ fisheries.

• **Proposed and final rulemaking to implement AFA requirements**

The AFA increased the pollock CDQ allocation to 10% of the pollock TACs and exempted pollock bycatch from non-pollock CDQ fisheries from accruing against the pollock CDQ. NMFS published an emergency interim rule (64 FR 3877, January 26, 1999) to define directed fishing for pollock CDQ, to exempt pollock bycatch from CDQ accounting, and to remove squid from the CDQ Program to maximize the possibility that the pollock CDQ will be fully harvested. These emergency interim regulations must be implemented as permanent regulations by January 1, 2000 through proposed and final rulemaking. In addition, regulatory action will be needed to extend the emergency interim rule, which will expire on July 20, 1999.

• **Proposed revisions to observer sampling station and at-sea scales regulations**

This proposed rule would clarify and revise regulations affecting observer sampling stations and communication equipment requirements for vessels participating in CDQ fisheries, and revise at-sea scale requirements for vessels required to weigh catch. An analysis is being prepared and is scheduled to be published by June 1.

Part II. Analyses Requested by Council or Individuals. NMFS requests input on priorities for these issues to assist in staff tasking.

The following analyses were requested by the Council at its October 1998 meeting at the recommendation of the CDQ Implementation Committee. No significant work has been done yet on any of these analyses.

The following schedule would have to be met in order for any of these proposed regulatory amendment to be effective by January 1, 2000:

April, 1999	Initial review of analysis.
June, 1999	Final council action on proposal.
July 1, 1999	Start draft proposed rule through review process.
Sept. 1, 1999	Publish proposed rule.
Oct. 1, 1999	End of 30-day comment period on proposed rule.
Dec. 1, 1999	Publish final rule with 30-day delayed effective date.
Jan 1, 2000	Effective date of final rule.

A. Alternative CDQ quota management measures

The objective of these alternatives would be to allow the CDQ groups to more fully harvest their CDQ allocations. Currently, NMFS regulations prohibit the CDQ groups from exceeding any CDQ allocation or the halibut and crab prohibited species quotas. This requirement likely will result in the CDQ group's being unable to fully harvest quotas of ~~target species~~ because quotas of other groundfish CDQs or PSQs will be reached first. The strict quota accountability currently implemented may reduce the value of the CDQ allocations to the CDQ groups.

Section 305(i)(1)(C)(i) of the MSA (moratorium on increasing CDQ percentage allocation through October 1, 2001) does not allow NMFS to implement management measures that would allow the catch of any species or species group to exceed the percentage allocated to the CDQ program as a whole.

Requested alternatives to consider:

2. Status quo: No change in the current regulations governing CDQ and PSQ accountability.
3. Establish underage and/or overage provisions. The CDQ groups would be allowed to carry over underages or overages to the next fishing year.
4. Remove a species from the CDO program.

No allocation of a TAC would be made to the CDQ program. If a particular species is not allocated to the CDQ program then catch of the species by CDQ participants accrues against the open access TACs and would not constrain the CDQ group's fisheries.

NMFS has removed squid from the CDQ program under an emergency rule and will propose permanent removal of squid

to comply with AFA requirements.

Options:

- a. permanently remove species or species group,
 - b. develop framework so Council could decide annually whether to allocate a percentage of the species or species group to the CDQ program.
5. Pooling CDQ among CDQ groups: A percentage of a particular species group would continue to be allocated to the CDQ program, but some or all CDQ groups would pool their allocation of this species group. Any catch by CDQ vessels participating in the pool would accrue against the pooled CDQ reserve.

If the proposed regulatory amendments are not implemented, the CDQ groups will continue to be allocated CDQ and PSQ amounts and prohibited from exceeding those amounts during the year in which the allocations are made.

B. Reconsider observer coverage requirements for shoreside processors.

The Council requested that NMFS analyze an alternative that would base the observer coverage requirements for shoreside processors participating in the groundfish and halibut CDQ fisheries on the amount of groundfish production in a month, as is required for the open access fisheries.

NMFS regulations currently state:

§ 679.50(d)(4) Each shoreside processor required to have a Federal processor permit under § 679.4(f) and taking deliveries of CDQ or PSQ from vessels groundfish CDQ fishing as defined at § 679.2 must have at least one lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section present at all times while CDQ is being received or processed.

This proposal would revise NMFS regulations to state the following (based on current specifications for groundfish observers in shoreside plants):

Observer coverage for deliveries from vessels CDQ fishing are as follows, a shoreside processor that:

(1) Processes 1,000 mt or more in round-weight equivalent of groundfish during a calendar month is required to have one lead CDQ observer present at the facility each day it receives or processes groundfish CDQ during that month.

(2) Processes 500 mt to 1,000 mt in round-weight equivalent of groundfish during a calendar month is required to have one lead CDQ observer present at the facility at least 30

percent of the days it receives or processes groundfish CDQ during that month.

The following shoreside processors currently are eligible to receive deliveries of groundfish CDQ:

Atka Pride Seafoods - Atka
Puffin Seafoods - St. George
Peter Pan Seafoods - King Cove
Trident Seafoods - Akutan
Trident Seafoods - Sand Point
Trident Seafoods - St. Paul
Westward Seafoods - Dutch Harbor

This proposal would allow groundfish CDQ deliveries to Atka Pride and Puffin Seafoods without observer coverage. The other shoreside plants could have a CDQ observer present for some or all of its CDQ deliveries, depending on their overall groundfish production in the month of the CDQ delivery.

C. Clarify/reinstate the 6,000 pound halibut trip limit in Area 4E.

At its December 1994 meeting, the Council voted to remove the 6,000 pound halibut trip limit in Area 4E. NMFS removed the trip limit from the halibut regulations in 50 CFR 301, but did not remove reference to the trip limit in 50 CFR 679.31 (the CDQ regulations).

At its October 1998 meeting, the Council requested that NMFS prepare a regulatory amendment that would reinstate this trip limit. Due to the uncertain status of the regulation currently in § 679.31, NMFS believes that status of the trip limit should be reaffirmed through proposed and final rulemaking.

The following alternatives would be analyzed for the proposed rule:

Alternative 1: Status quo.

Do not change the current trip limit in regulation, although it is not clear whether this trip limit is enforceable due to Council and NMFS action in 1994 and 1995.

Alternative 2: Repeal the 6,000 pound trip limit for area 4E.

This alternative must be analyzed by NMFS to comply with the Regulatory Flexibility Act's requirement that we consider all reasonable alternatives that would minimize the impact of proposed regulations on small entities.

Alternative 3: Reinstate the 6,000 pound trip limit (Council recommendation).

CURRENT REGULATORY TEXT:

from § 679.31(b)(3)(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.

NMFS requests confirmation that the following proposed requirements reflect the Council's request at its October 1998 meeting:

DRAFT PROPOSED REGULATORY TEXT:

- A fishing trip limit of 6,000 lb (2.7 mt) of halibut CDQ will be in effect through September 1 of each year for IPHC regulatory area 4E.
- Any CDQ group unable to harvest its annual allocation of halibut CDQ in area 4E under the trip limit by August 15 of each year must notify the other CDQ groups eligible to harvest halibut CDQ in this area of the specific amount of halibut CDQ that is available for transfer, and must transfer this halibut CDQ if requested to do so.
- Any CDQ group accepting transfer of halibut CDQ in area 4E between August 15 and September 1 of each year must harvest this halibut CDQ by September 1 under the 6,000 lb trip limit.
- If no other CDQ group requests transfer of the unharvested halibut CDQ before September 1, the CDQ group may harvest its halibut CDQ in area 4E with no trip limit after September 1.

- If a CDQ group accepts a transfer of halibut CDQ between August 15 and September 1, but is unable to harvest this halibut CDQ before September 1 under the 6,000 pound trip limit, the unharvested halibut CDQ must be transferred back to the CDQ group who received the initial allocation, upon request of that original CDQ group. [This provision prevents a CDQ group from obtaining a transfer of halibut CDQ, then holding it until after September 1 to avoid the trip limit.]

Until the status of the 6,000 lb trip limit is clarified, it will be difficult for NMFS to enforce it.

D. Crab season start date.

The Council recommended that NMFS prepare a regulatory amendment to revise the crab CDQ reserve specifications to remove reference to the term ~~calendar year~~. This would allow the State to start crab CDQ fisheries at the beginning of the crab management year rather than the calendar year. NMFS will not bring this issue before the Council for review again prior to preparation of the proposed rule, unless requested to do so by the Council.

The following schedule would have to be met in order for this regulatory amendment to be effective by September 1, 1999:

April 1, 1999	Start draft proposed rule through review process.
May 15, 1999	Publish proposed rule.
July 15, 1999	End of 30-day comment period on proposed rule.
Aug. 1, 1999	Publish final rule with 30-day delayed effective date.
Sept 1, 1999	Effective date of final rule.

This proposal would have to receive the highest priority in order to be implemented on the schedule above.

E. CDQ trawl fisheries season start date.

This regulatory amendment would allow trawling for groundfish CDQ, except directed fishing for pollock CDQ, in the BSAI starting on January 1. The BSAI currently is closed to all trawling between January 1 and January 20. The proposed regulatory amendment would allow CDQ trawl fisheries for species such as flatfish, Atka mackerel, and cod to occur in the three weeks prior to the open access fisheries rather than occurring later in the year.

Requests from the CDQ participants, not yet considered by the Council:

F. Request to reconsider requirements for longline catcher vessels.

NMFS received a request from the owners of the F/V OCEAN HARVESTER to change our regulations to either:

- reduce the observer coverage requirements for catcher vessels equal to or greater than 60 ft LOA using longline gear, or
- allow vessels owned by CDQ groups and purchased prior to implementation of the MS groundfish CDQ regulations, to operate under the requirements that were in effect for the fixed gear halibut and sablefish CDQ fisheries (i.e. no observer coverage requirements in addition to those in effect for the general groundfish fisheries).

Current regulations governing catcher vessels equal to or greater than 60 ft LOA allow one of two choices for catch accounting. Option 1 is to retain all CDQ species and deliver them to a shoreside processing plant where they will be sorted and weighed. The processor's CDQ delivery report would be used to determine the catch of the delivered CDQ species. The observer's estimate would be used only for halibut prohibited species quota (PSQ) discarded at sea. Option 2 allows discards of CDQ species at sea, but requires that the observer's estimates be used for all CDQ and PSQ species. Information from the processor about landed catch weight would not be used for CDQ catch accounting because it would not account for the component of catch that was discarded at sea. In addition, Option 2 requires that the catcher vessel provide an observer sampling station, as is required for catcher/processors discarding CDQ species at sea and using observer's estimates for CDQ catch accounting.

At least one CDQ observer is required on catcher vessels 60 ft and greater LOA under both Option 1 and Option 2. The observer is required under Option 1 to estimate the weight of halibut PSQ discarded at sea and to verify that all CDQ species are retained and delivered to the shoreside processor. The observer is required under Option 2 to estimate the catch weight of all CDQ and PSQ species. In addition, the limitations on observer working hours may require more than one observer to meet the requirement that all CDQ sets be sampled for species composition, if the vessel retrieves gear 24-hours a day.

NMFS requests input on the priority of the following analyses or regulatory actions described in Part II of this summary. Place a number 1 through 6 in the first column next the name of the issue to indicate priority preferences:

Priority (1-6)	Issue from Part II
	A. Alternative CDQ quota management measures
	B. Observer coverage req. for shoreside plants
	C. 6,000 lb halibut trip limit in area 4E
	D. Crab season start date
	E. CDQ trawl fisheries season start date
	F. Observer coverage req. longline catcher vessels

1/25/99
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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

AGENDA C-4
FEBRUARY 1999
Supplemental

January 11, 1999

RECEIVED
JAN 15 1999
N.P.F.M.C.

Richard Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Dear Mr. Lauber:

NMFS published a notice in the Federal Register (64 FR 1539) today announcing approval of the State of Alaska's (State) recommendations for amendments to the 1998-2000 Multispecies (MS) Community Development Plans (CDPs) submitted by six Community Development Quota (CDQ) groups. These amendments add 1999 allocations for pollock, squid, arrowtooth flounder, "other species," chinook salmon prohibited species quota (PSQ), and non-chinook salmon PSQ. A copy of this notice is enclosed.

On November 19, 1998, NMFS received the State's recommendations that all of the proposed amendments to the MS CDPs, and the associated CDQ and PSQ allocation percentages for 1999, be approved. It acknowledged that current disagreements about the definition of a CDQ project remain unresolved. The State intends to conduct a comprehensive review of the CDQ Program to address this issue. Upon completion of this review, the State will make recommendations for regulatory amendments, if necessary.

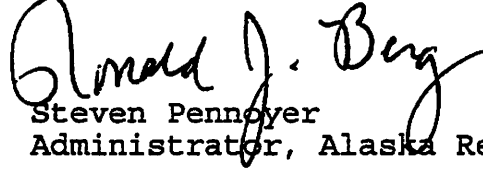
In approving the State's recommendations for the 1999 percentage allocations of pollock CDQ and other related bycatch species, we recognize that further clarification of our definition of a CDQ project is needed and that all of the CDPs must be reviewed to ensure that this definition is consistently applied. This type of review could not be conducted in time for us to make determinations and for the CDQ groups to revise and re-submit current CDPs prior to the start of the 1999 pollock CDQ fisheries. Therefore, we agreed to accept the State's recommendations that we approve the amendments to the 1998-2000 MS CDPs to add the percentage allocations of pollock and other associated bycatch species for 1999.

Prior to review of the next CDQ or PSQ allocation recommendations for 2000, we will review all current CDPs to determine whether CDQ investments are properly categorized as CDQ projects. The CDQ groups will be requested to amend their CDPs if necessary. In addition, we intend to consult with the North Pacific Fishery



Management Council and the State to determine whether proposed regulatory amendments are necessary to clarify our definition of a CDQ project.

Sincerely,



Steven Pennoyer
Administrator, Alaska Region

For

Enclosure

that the rule does not unduly burden the judicial system and meets the requirements of Sections 3(a) and 3(b)(2) of the Order.

The Office of Management and Budget has approved the collection of information contained in this final rule as required by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and has assigned clearance number 1018-0093 which expires on February 28, 2001. The Service will collect information through the use of the Service's form 3-200-45. The likely respondents will be sport hunters who wish to import trophies of polar bears taken while hunting in Canada. The Service will use the information to review permit applications and make decisions, according to criteria established in statutes and regulations, on the issuance or denial of permits. The applicant must respond to obtain a permit. A single response is required to obtain a benefit. The Service estimates the public reporting burden for this collection of information to vary from 15 minutes to 1.5 hours per response, with an average of 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The estimated number of likely respondents is less than 150, yielding a total annual reporting burden of 75 hours or less.

The Service prepared an Environmental Assessment (EA) on the final rule published in the *Federal Register* (62 FR 7302) on February 18, 1997, in accordance with the National Environmental Policy Act (NEPA) and concluded in a Finding of No Significant Impact (FONSI) based on a review and evaluation of the information contained within the EA that there would be no significant impact on the human environment as a result of this regulatory action and that the preparation of an environmental impact statement on this action is not required by Section 102(2) of NEPA or its implementing regulations. Based on the review of current information and comments received on the February 2, 1998, proposed rule, the Service has determined that this EA is still current. The FONSI has been revised to reflect the regulatory actions taken by the Service to approve the Lancaster Sound and Norwegian Bay polar bear populations for issuance of permits to import personal sport-hunted polar bear trophies. The issuance of individual marine mammal permits is categorically excluded under 516 DM6, Appendix 1.

The Service has evaluated possible effects on Federally recognized Tribes

and determined that there will be no adverse effects to any Tribe.

References Cited

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- USFWS (U.S. Fish and Wildlife Service). 1997. Importation of Polar Bear Trophies from Canada under the 1994 Amendments to the Marine Mammal Protection Act; Final Rule. 62 FR 7301. 31 pp.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Indians, Marine mammals, Oil and gas exploration, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, the Service hereby amends Part 18 of chapter I of Title 50 of the Code of Federal Regulations to read as follows:

PART 18—MARINE MAMMALS

1. The authority citation for part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Amend § 18.30 by revising paragraph (i)(1) introductory text to read as follows:

§ 18.30 Polar Bear sport-hunted trophy import permits.

* * * * *

(i) *Findings.* * * *

(1) We have determined that the Northwest Territories, Canada, has a monitored and enforced sport-hunting program that meets issuance criteria of paragraphs (d) (4) and (5) of this section for the following populations: Southern Beaufort Sea, Northern Beaufort Sea, Viscount Melville Sound (subject to the lifting of the moratorium in this population), Western Hudson Bay, M'Clintock Channel, Lancaster Sound, and Norwegian Bay, and that:

* * * * *
Dated: December 16, 1998.

Stephen C. Saunders,
Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99-473 Filed 1-8-99; 8:45 am]

BILLING CODE 4310-65-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 122898F]

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

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

ACTION: Approval of amendments to the 1998 through 2000 Multispecies Community Development Plans.

SUMMARY: NMFS announces the approval of recommendations made by the State of Alaska (State) for the amendments to the 1998 through 2000 Multispecies Community Development Plans (CDPs) under the Western Alaska Community Development Quota (CDQ) Program. This action is necessary to announce NMFS's decision to approve the State's recommendation and is intended to further the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Approval of the amendments to the CDPs and the 1999 CDQ and prohibited species quota (PSQ) allocations are effective January 11, 1999.

ADDRESSES: Copies of the findings made by NMFS in approving the State's recommendations may be obtained from the Alaska Region, National Marine

Fisheries Service, P.O. Box 21668,
Juneau, AK 99802, Attn: Lori Gravel.

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

SUPPLEMENTARY INFORMATION:

Background

The current pollock CDPs and pollock CDQ allocations expire on December 31, 1998. Under the regulations implementing the multispecies (MS) CDQ Program (63 FR 8356, February 19, 1998 and 63 FR 30381, June 4, 1998), pollock will be combined with the other groundfish species and managed under the MS CDQ regulations through the MS CDPs. NMFS initially approved the 1998 through 2000 MS CDPs on March 25, 1998, for Pacific halibut, fixed gear sablefish, and crab. Amendments to the 1998 through 2000 MS CDPs, which NMFS approved on September 16, 1998, added allocations for all groundfish species except pollock and fixed gear sablefish and for the prohibited species quotas. At that time, 1998 through 2000 allocation recommendations were approved for all groundfish and prohibited species, except arrowtooth flounder, squid, "other species," chinook salmon PSQ, and non-chinook salmon PSQ, which were approved for 1998 only. The State recommended that 1999 and 2000 allocation recommendations for these five CDQ and PSQ categories be made at the same time the allocation recommendations were made for pollock CDQ so that bycatch needs associated with the pollock CDQ and fixed gear sablefish CDQ, both of which are being integrated into the MS CDQ Program in 1999, could be addressed.

Eligible western Alaska communities submitted six applications for amendments to the MS CDPs for pollock and the related bycatch species to the

State under 50 CFR 679.30. The State conducted a public hearing on September 15, 1998, and consulted the North Pacific Fishery Management Council (Council) concerning the proposed amendments to the MS CDPs during the Council's October 1998 meeting. The Council concurred in the State's recommendations to NMFS. The State conducted a second public hearing on November 16, 1998, to discuss possible changes to its allocation recommendations as a result of the State's determination that one of the CDQ groups had not submitted a complete application.

NMFS received the State's recommended allocations of pollock CDQ and related bycatch species on November 19, 1998. These recommendations are for 1999 allocations only so that the State can assess the impact of the American Fisheries Act on the pollock CDQ fisheries prior to making pollock CDQ allocation recommendations for 2000. In reviewing the proposed amendments to the MS CDPs, the State determined that one of the CDQ groups had not included one of its CDQ investments as a CDQ project. Therefore, the State determined that only five of the six proposed CDP amendments were complete. However, the State is recommending that all of the proposed amendments to the MS CDPs, and the associated CDQ and PSQ allocation percentages for 1999, be approved. It acknowledges that current disagreements about the definition of a CDQ project remain unresolved. The State intends to conduct a comprehensive review of the CDQ Program to address this issue. Upon completion of this review, the State will make recommendations for regulatory amendments, if necessary.

In approving the State's recommendations for the 1999 percentage allocations of pollock CDQ and other related bycatch species CDQ and PSQ, NMFS recognizes that further clarification of the definition of a CDQ project is needed. NMFS further recognizes that all of the CDPs must be reviewed to ensure that this definition is consistently applied. This type of review cannot be conducted in time for NMFS to make determinations and for the CDQ groups to revise and re-submit current CDPs prior to the start of the 1999 pollock CDQ fisheries next month. Therefore, NMFS agrees to accept the State's recommendations that the amendments to the 1998 through 2000 MS CDPs be approved to add the percentage allocations of pollock and other associated bycatch species for 1999.

Prior to review of the next CDQ or PSQ allocation recommendations for 2000, NMFS will review all current CDPs to determine whether CDQ investments are properly categorized as CDQ projects. The CDQ groups will be requested to amend their CDPs if necessary. In addition, NMFS will consult with the Council and the State to determine whether proposed regulatory amendments are necessary to clarify the definition of a CDQ project.

NMFS is approving the State's recommended percentage allocation for squid in 1999. Although squid likely will be removed from the CDQ Program in 1999 under an emergency rule implementing the American Fisheries Act, approval of this percentage allocation is necessary so that it will be in place if the emergency rule expires.

The allocations to each CDQ group are presented in the table below. NMFS's findings regarding this decision are also available (see ADDRESSES).

SELECTED MULTISPECIES GROUND FISH AND PROHIBITED SPECIES COMMUNITY DEVELOPMENT QUOTA ALLOCATIONS FOR 1999

Species or Species Group	APICDA (percent)	BBEDC (percent)	CBSFA (percent)	CVRF (percent)	NSEDC (percent)	YDFDA (percent)
Pollock	16	21	5	22	22	14
Arrowtooth Flounder	18	21	9	16	16	20
Squid	16	21	5	22	22	14
Other Species	19	22	9	14	15	21
Chinook Salmon PSQ	16	21	5	22	22	14
Non-chinook Salmon PSQ	16	21	5	22	22	14

APICDA = Aleutian Pribilof Island Community Development Association
 BBEDC = Bristol Bay Economic Development Corporation
 CBSFA = Central Bering Sea Fishermen's Association
 CVRF = Coastal Villages Region Fund
 NSEDC = Norton Sound Economic Development Corporation
 YDFDA = Yukon Delta Fisheries Development Association
 PSQ = prohibited species quota

Dated: January 5, 1999.

Gary C. Matlock,

*Director, Office of Sustainable Fisheries,
 National Marine Fisheries Service.*

[FR Doc. 99-532 Filed 1-8-99; 8:45 am]

BILLING CODE 3510-22-P

Deep Sea Fishermen's Union of the Pacific

5215 Ballard Avenue N.W.
Seattle, Washington, 98107
Phone: (206) 783-2922

Fax: 783-5811



Established 1912

RECEIVED
JAN 25 1999
N.P.F.M.C

January 25, 1999

Steven Pennoyer, Administrator, Alaska Region
National Marine Fisheries Service
P. O. Box 21668
Juneau, AK., 99802-1668

Re: F/V Ocean Harvester Multi-species CDQ Observer Coverage

Karl Vedo, Owner/Operator of the longline vessel "Ocean Harvester" has had a head on collision with the observer sampling regulations that implement the multispecies CDQ program. Karl and his Deep Sea Fishermen's Union crew, is one of the few ice boats helping CDQ communities get involved in hook and line fisheries. This joint venture between Coastal Villages Fishing Cooperative and Karl Vedo was in place prior to the implementation of the MS CDQ Observer Plan. The fishery that this joint venture is involved with is a very small operation taking place out west in the Bering Sea/Aleutian Island area. The catches or trips are small in pounds 15-20,000 # and require high levels of investment in food, fuel, bait etc. The operation as it now exists, is very marginal with the added expense of 200% observer coverage now required. The downward trend in ex-vessel fish values has resulted in a revenue decline in the last two years of about 40%. This new coverage under MS CDQ will bankrupt this operation and eliminate the purpose for which CDQ's were developed.

I understand Mr. Vedo has asked for some type of exemption and has been informed that is not possible. I also understand a change would probably require a regulatory amendment, which would take too long to save this fish boat and its crewmen.

I am inquiring about the possibility of emergency action by the Regional Director to try within a short time, to remedy this unfortunate circumstance the F/V Ocean Harvester and her crew find themselves.

We solicit your assistance in resolving this issue.

Yours truly,

Gregg W. Thompson
Gregg W. Thompson,
President

GWT: rjd

Cc: NPFMC Voting Members

**FISHING VESSEL OWNERS' ASSOCIATION
INCORPORATED**

ROOM 232, WEST WALL BUILDING • 4005 20TH AVE. W.
SEATTLE, WASHINGTON 98199-1290

SINCE 1914

January 19, 1999

RECEIVED
JAN 25 1999
N.P.F.M.C.

Mr. Rick Lauber, Chairman
North Pacific Fisheries Management Council &
CDQ Implementation Team
605 W. 4th Ave., Suite 306
Anchorage, AK 99501-2252

Dear Chairman Lauber:

I am writing on behalf of one of our members, Mr. Karl Vedo, who owns the F/V Ocean Harvester. Mr. Vedo and the Coastal Villages Longline, Inc., are partners in the ownership of this vessel.

The vessel is an 85-foot catcher ice vessel. Karl fishes his Class B Halibut and Sablefish IFQs on the vessel. The vessel also harvests certain CDQ halibut and CDQ sablefish in the Bering Sea and delivers the fish into Dutch Harbor. I am enclosing correspondence between NMFS and the vessel owner regarding certain CDQ requirements that may affect the operation of this vessel.

It appears that new requirements may require the F/V Ocean Harvester to provide up to two observers full-time on this vessel. Additionally, because of other certain rules for space provided to the observer, 35% of the deck space may have to be allocated to the observers. The vessel apparently would not be allowed to haul gear if both observers were either sleeping or doing paperwork. Under normal fishing conditions, this vessel would fall in the 30% observer category with one observer. In fact, when the vessel is harvesting Mr. Vedo's personal Sablefish IFQs, that is the rule that applies.

We request that the CDQ Implementation Committee propose to the Council an amendment to the CDQ rules for catcher vessels that participate in CDQ operations, which would require observer rules for CDQ catcher vessels be the same as for regular IFQ fisheries for Sablefish and Halibut. We do not believe this will result in any additional accounting problems for CDQ species caught by a catcher vessel targeting Sablefish or Halibut as there are no product recovery rate concerns.

If relief cannot be developed for the F/V Ocean Harvester, it is doubtful if an ice-style vessel can be profitable with the cost of two observers. The deck space required for two

FAX
(206) 283-3341

LATITUDE: 47° 39' 36" NORTH

DIAL "A VESSEL"
(206) 283-7735

LONGITUDE: 120° 22' 58" WEST

Mr. Rick Lauber, Chairman
January 19, 1999
Page 2

observers would be prohibitive for the vessel. In fact, if the rule stays as it is, it is doubtful that catcher vessels (ice boats) can ever participate profitably in a CDQ fishery. The result will likely be all CDQ species will eventually be harvested by catcher processors that can provide the deck space for observers, and capture the market at a higher level, which helps pay the cost of observers.

From my own personal perspective, I believe the current observer requirement results in a conflict with the original intended purpose of CDQ Halibut & Sablefish program. That intent was to promote resident fishermen in Dutch, the Pribiloffs and Bristol Bay area to become vessel owners and catch these fish themselves. In part, that is what the F/V Ocean Harvester is all about. The vessel crew are Native Americans. Karl Vedo is also a Native American. It is my understanding that this is the only ice CDQ operation.

We request that some accommodation for the ice-style vessels, similar to the F/V Ocean Harvester, be provided. We recommend that the observer requirements for CDQ operations involving ice vessels be the same as for non-CDQ operations. In the case of the F/V Ocean Harvester, that would be 30% coverage.

Sincerely,



Robert D. Alverson
Manager

RDA:cb

Enclosures



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

January 5, 1999

RECEIVED
JAN - 8 1999
N.P.F.M.C

Richard Lauber, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

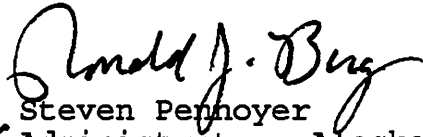
Dear Rick:

We received the attached letter from Karl Vedo and Robert Sundown, expressing concern that the observer coverage and observer sampling requirements of the Multispecies Community Development Quota (MS CDQ) Program will jeopardize continued participation of their vessel, the F/V OCEAN HARVESTER, in this program. The specific regulations that they are concerned about require all catcher vessels 60 feet (ft) and greater length overall (LOA) (1) to carry one CDQ observer (§679.50(c)(4)(iv)), and (2) that all CDQ sets on observed vessels be sampled for species composition (§679.32(c)(2)(ii)(B)(2)). Limitations on observer working hours may require more than one observer to meet the requirement that all CDQ sets be sampled for species composition.

Mr. Vedo and Mr. Sundown requested relief from these requirements by a change in our regulations that either would reduce the requirements or allow the F/V OCEAN HARVESTER to participate in the CDQ fisheries under regulations that governed the fixed gear sablefish fisheries prior to implementation of the MS CDQ Program, i.e., "grandfathering".

Although we denied their request for a waiver from our current MS CDQ regulations, we agreed to notify the Council of their request for a regulatory amendment. NMFS staff will report to the Council at its February 1999 meeting about proposed regulatory changes to the MS CDQ Program, including this request. The Council may wish to provide further direction to NMFS on the specific request by Mr. Vedo and Mr. Sundown at that time.

Sincerely,


Steven Pennoyer
For Administrator, Alaska Region

cc: Karl Vedo
Robert Sundown
Norm Cohen





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

January 5, 1999

Karl Vedo
Kokopelli Fisheries
8029 26th Avenue, N.W.
Seattle, Washington 98117

Robert Sundown
Coastal Villages Longline, Inc.
c/o Norm Cohen
204 N. Franklin St., Suite 1
Juneau, Alaska 99801

Dear Mr. Vedo and Mr. Sundown:

Thank you for your letter in which you seek relief for your vessel, the F/V OCEAN HARVESTER, from certain observer coverage and observer sampling regulations that implement the Multispecies Community Development Quota (MS CDQ) Program. These regulations specifically require (1) all catcher vessels 60 feet and greater in length overall (LOA) to carry one CDQ observer and (2) all CDQ sets on observed vessels be sampled for species composition. We cannot waive these regulations for your vessel. These regulations would have to be amended to change these requirements.


The MS CDQ Program allocates to the CDQ groups quotas for all groundfish species or species groups and for all prohibited species categories. Each CDQ group is responsible for managing and accounting for the catch of all groundfish CDQ species and prohibited species, including catch that occurs in the fixed gear sablefish CDQ fisheries. We have determined that the higher level of quota accountability required for the MS CDQ Program requires observer coverage for all vessels 60 ft and greater LOA and sampling of each set for species composition.

As you know, we have approved the fishing plan submitted by Coastal Villages Region Fund for the F/V OCEAN HARVESTER. In approving that plan, we understand that you have decided to retain all CDQ species and deliver them to a shoreside processing plant where they will be sorted and weighed. The observer is required to estimate the weight of halibut PSQ discarded at sea and to verify that all CDQ species are retained and delivered to the shoreside processor. The processor's CDQ delivery report would be used to determine the catch of the delivered CDQ species. The observer's estimate would be used only for halibut prohibited species quota (PSQ) discarded at sea.



Although we can not waive these requirements for your vessel, we will request the North Pacific Fishery Management Council to consider this issue. In addition, we encourage you to present your request for a regulatory amendment to the Council.

Sincerely,

For 
Steven Penoyer
Administrator, Alaska Region

cc: Norm Cohen

November 30, 1998

Steven Pennoyer, Regional Director
Alaska Region
National Marine Fisheries Service
P.O. Box 21668
Juneau, AK 99802

Dear Mr. Pennoyer:

I am writing to you concerning the problems with implementation of the Multi-Species CDQ program that Coastal Villages Longline, Inc. ("CVLI") and its partner, Karl Vedo, have determined will eliminate any chance that our vessel, the F/V Ocean Harvester, will have to remain viable. Based upon the vessel's participation in the CDQ program over the last four years, it is clear that this vessel, and likely the entire vessel class, cannot meet the observer requirements contained at 50 CFR 675.50(c)(4)(iv). We petition you for relief from this requirement, either through a change in the regulation or through grandfathering the vessel into the rules that were created when the vessel was purchased. We base this request on the following information.

When the halibut/sablefish CDQ program was developed, the regulations were written to be consistent with the regulations for the IFQ program. In regard to observers, this meant that vessels of the Ocean Harvester's class (77' - fixed gear) - Class B - had to meet the 30% observer coverage requirement. This meant that the budget for the vessel's operations had to include the cost of one observer for approximately three months of the year (season March 15-Nov. 15).

Based upon an understanding of these rules, the desire of CVLI and a current crew member to invest in the halibut/sablefish fixed gear fishery, and a desire to include this sector of the industry (longline ice boat) in the CDQ program, CVLI applied to the State of Alaska and the National Marine Fisheries Service ("NMFS") for approval to make the purchase. The investment was approved and the closing took place in February 1997. The vessel has now completed two years of fishing under a royalty agreement with Coastal Villages and two years under the auspices of Kokopelli Fisheries, LLC.

At the same time as the current owners were purchasing the vessel, NMFS began preparation of the Multi-Species CDQ regulations. During the regulatory review process, comments were included in the record requesting that longline catcher-vessels have the same observer rules as the IFQ fishing fleet. The comments were based upon the fact that vessels in this category are fishing in basically the same manner as they would be if they were fishing for IFQs only. In fact, the Ocean Harvester switches back and forth between CDQ and IFQ fishing during the season. (Comments 65 and 66). NMFS responded that the difference between the two fisheries is that in the IFQ situation the only fish that is counted is retained halibut and sablefish. While in the Multi-Species CDQ fishery not only is halibut and sablefish accounted for, but also other groundfish and prohibited species catch discarded at sea. This latter situation was stated as reason enough to require the extra observer coverage.

Since the time of the adoption of the regulation, many comments have been made to the Council and to NMFS requesting a change in the way that the fixed gear CDQ program is conducted; that is, to allow the use of halibut IFQ as retained bycatch in the fixed gear sablefish CDQ fishery. From a discussion with Sue Salverson, it appears that NMFS is prepared to make this change and allow halibut IFQ to be used as bycatch in the sablefish CDQ fishery. Not only will this reduce wasteage, but it also removes a major reason for an observer to be placed on board a longline catcher vessel in the first place, which is to account for prohibited species catch discarded at sea. Under these new rules, as long as the Ocean Harvester has sufficient halibut IFQ to cover any halibut bycatch in the sablefish CDQ fishery, there will be no need for an observer to record the amount of halibut discarded at sea, as there will be none. In the specific situation of the Ocean Harvester, there is sufficient halibut IFQs to cover bycatch in the sablefish fishery. If it turned out that there was insufficient halibut IFQs available, Kokopelli would commit to purchase halibut IFQs or sablefish CDQs to ensure that it had sufficient amounts to cover any bycatch in subsequent years.

With this justification for the 100% observer coverage no longer applicable, the remaining concern is with other groundfish that might be discarded at sea. We do not believe that this is a major issue. For any species that is subject to a CDQ allocation, there can be a requirement that all of the catch must be retained on board the vessel and weighed at the shoreplant, where a CDQ observer is stationed. Under the directed fishing regulations that have applied to this fishery since 1995, only a portion of this catch (e.g., turbot, thornyheads, etc.) can be retained. Under our proposal, all of the CDQ species would have to be retained. We believe that this will provide adequate accounting for all of the species of interest to NMFS.

Since the observer will not be weighing fish on board the vessel anyway, there is little for the observer to do on this type of vessel where the catch is brought to the shoreplant for weighing. We believe that there are plenty of incentives for the vessel to stay within the intent of the regulations. The other CDQ species have value that helps support the vessel's operations. As a result, there will be minimal discards at sea and even less for the observer to do. In fact, the only job the observer will have in this situation is to guard against other groundfish species discards.

However, the problem created by the regulations is not limited to 50 CFR 679.50(c)(4)(iv) and the requirement for one observer. In addition, there is a requirement in (c)(4) that the longest a CDQ observer can sample is 9 hours in a 24 hour day. While this may be reasonable for a catcher trawler where fishing may be restricted to the daylight hours, it does not make sense in this fishery. The Ocean Harvester fishes primarily in the Aleutian Islands area. Given the time it takes to travel to the fishing grounds and return requires that when it is on the fish it must work up to 20 hours @ day for it to operate economically. The effect of (c)(4) in its entirety is to require the vessel to carry not one, but two observers.

The costs of 100% observer coverage are prohibitive for a vessel with the capacity of the Ocean Harvester. A requirement for two observers would be just that much worse, even if there was a place to put the second observer, which there isn't. We calculate that if this requirement remains in place for this vessel that it will not be able to participate in the CDQ program. This is despite the fact that it was purchased just for this purpose, albeit, before the new regulatory requirements were known. It has become obvious why this is the only longline catcher vessel participating in the sablefish CDQ program. The answer is simple - no other owner could afford to enter the fishery. Consequently, this regulation only applies to one vessel.

We have asked several times for relief from the observer requirements. We are willing to ensure that there are sufficient halibut IFQs to cover any need for halibut bycatch in the sablefish CDQ fishery. We are willing to retain all CDQ species caught so that they can be weighed at the plant. We will try most anything to make the system work. However, we have become convinced that this vessel cannot operate under the observer requirements as they are written. We request relief from this requirement.

We appreciate your consideration of this request. If you have any questions, please contact either one of us at your convenience. The season starts on March 15, so there is time to fix the problem prior to the next fishing season.

Very truly yours,


Karl Vedo, Master
Kokopelli Fisheries, LLC


Robert Sundown, Manager
Coastal Villages Longline, Inc.

cc: John McNair, ADF&G

COASTAL VILLAGES LONGLINE, INC.PO Box 1166
Bethel Alaska 99559
(907)543-3813 * (907)543-3814

27 January, 1999

Richard Lauber, Chairman
North Pacific Fisheries Management Council
605 West 4th Avenue, Suite 306
ANCHORAGE AK 99501RECEIVED
JAN 27 1999
N.P.F.M.C.

Dear Richard,

A proposal is before you and the council to amend segments of the CDQ Multispecies regulations. Coastal Villages Longline, Inc. and its subsidiary Kokopelli LLC, formally requests relief from the CDQ Multispecies regulations adversely affecting the F/V Ocean Harvester, namely 1.) (§679.32 (c) (2) (ii) (B) (2)) which states a.) That all CDQ sets from observed vessels be sampled for species composition. 2.) (§679.50 (c) (4) (iv)) which states a.) That all catcher vessels 60 feet and greater length (LOA) to carry one CDQ observer. CVLI and its subsidiary requests relief in the form of grandfathering vessels of this class in this specific fishery to the 30% rule for observer coverage. We believe this allows the intent of the regulation to be satisfied without eliminating the F/V Ocean Harvester or any other vessel of its class in this specific fishery.

Coastal Villages Longline, Inc. believes in the intent of the above regulations which is to account for fish caught in the commercial fishery. With the current state of the regulation the practical result of these regulations is the F/V Ocean Harvester is going to have to have not only one, but two observers. Full sampling in the fishing efforts of the F/V Ocean Harvester exceed the "nine hours per day" an observer can sample. While this may be reasonable for a catcher trawler where fishing may be restricted to the daylight hours, it does not make sense in this fishery. The Ocean Harvester fishes primarily in the Aleutian Islands area. Given the time it takes to travel to the fishing grounds and return requires that when it is on the fish it must work up to 20 hours @ day for it to operate economically. The net effect in its entirety is to require the vessel to carry not one, but two observers.

The F/V Ocean Harvester is a 85 foot longlining iceboat owned by Kokopelli, LLC. Kokopelli, LLC in turn is owned by Coastal Villages Longline, Inc. and Karl Vedo. The F/V Ocean Harvester participates in the CDQ and IFQ Halibut & Sablefish fishery. When the halibut/sablefish CDQ program was developed, the regulations were written to be consistent with the regulations for the IFQ program. In regard to observers, this meant that vessels of the Ocean Harvester's class (77' - fixed gear) - Class B - had to meet the 30% observer coverage requirement. This meant that the budget for the vessel's operations had to include the cost of one observer for approximately three months of the year (season March 15-Nov. 15).

Based upon an understanding of these rules, the desire of CVLI and a current crew member to invest in the halibut/sablefish fixed gear fishery, and a desire to include this sector of the industry (longline ice boat) in the CDQ program. CVLI applied to the State of Alaska and the National Marine Fisheries Service ("NMFS") for approval to make the purchase. The investment was approved and the closing took place in February 1997. The vessel has now completed two years of fishing under a royalty agreement with Coastal Villages and two years under the auspices of Kokopelli Fisheries, LLC.

At the same time as the current owners were purchasing the vessel, NMFS began preparation of the Multi-Species CDQ regulations. During the regulatory review process, comments were included in the record requesting that longline catcher-vessels have the same observer rules as the IFQ fishing fleet. The comments were based upon the fact that vessels in this category are fishing in basically the same manner as they would be if they were fishing for IFQs only. In fact, the Ocean Harvester switches back and forth

between CDQ and IFQ fishing during the season. NMFS responded that the difference between the two fisheries is that in the IFQ situation the only fish that is counted is retained halibut and sablefish. While in the Multi-Species CDQ fishery not only is halibut and sablefish accounted for, but also other groundfish and prohibited species catch discarded at sea. This latter situation was stated as reason enough to require the extra observer coverage.

Since the time of the adoption of the regulation, many comments have been made to the Council and to NMFS requesting a changes in the way that the fixed gear CDQ program is conducted. The focus was to allow the use of halibut IFQ as retained bycatch in the fixed gear sablefish CDQ fishery. From a discussion with Sue Salverson, it appears that NMFS is prepared to make this change and allow halibut IFQ to be used as bycatch in the sablefish CDQ fishery. Not only will this reduce wastage, but it also removes a major reason for an observer to be placed on board a longline catcher vessel in the first place, which is to account for prohibited species catch discarded at sea. Under these new rules, as long as the Ocean Harvester has sufficient halibut IFQ to cover any halibut bycatch in the sablefish CDQ fishery, there will be no need for an observer to record the amount of halibut discarded at sea, as there will be none. In the specific situation of the Ocean Harvester, there is sufficient halibut IFQs to cover bycatch in the sablefish fishery. If it turned out that there was insufficient halibut IFQs available, Kokopelli would commit to purchase halibut IFQs or sablefish CDQs to ensure that it had sufficient amounts to cover any bycatch in subsequent years.

With this justification for the 100% observer coverage no longer applicable, the remaining concern is with other groundfish that might be discarded at sea. We do not believe that this is a major issue. For any species that is subject to a CDQ allocation, there can be a requirement that all of the catch must be retained on board the vessel and weighed at the shoreplant, where a CDQ observer is stationed. Under the directed fishing regulations that have applied to this fishery since 1995, only a portion of this catch (e.g., turbot, thornyheads, etc.) can be retained. Under our proposal, all of the CDQ species would have to be retained. We believe that this will provide adequate accounting for all of the species of interest to NMFS.

Since the observer will not be weighing fish on board the vessel anyway, there is little for the observer to do on this type of vessel where the catch is brought to the shoreplant for weighing. We believe that there are plenty of incentives for the vessel to stay within the intent of the regulations. The other CDQ species have value that helps support the vessel's operations. As a result, there will be minimal discards at sea and even less for the observer to do. In fact, the only job the observer will have in this situation is to guard against other groundfish species discards. There are no biological concerns for the directed fishery and the only possible biological concern may be with the bycatch of rockfish. For no other purposes, the intent of the regulations are to account for the fish.

The costs of 100% observer coverage are prohibitive for a vessel with the capacity of the Ocean Harvester. A requirement for two observers would be just that much worse, even if there was a place to put the second observer, which there isn't. We calculate that if this requirement remains in place for this vessel that it will not be able to participate in the CDQ program. This is despite the fact that it was purchased just for this purpose, albeit, before the new regulatory requirements were known. It has become obvious why this is the only longline catcher vessel participating in the sablefish CDQ program. The answer is simple - no other owner could afford to enter the fishery. Consequently, this regulation only applies to one vessel.

We have asked several times for relief from the observer requirements. We are willing to ensure that there are sufficient halibut IFQs to cover any need for halibut bycatch in the sablefish CDQ fishery. We are willing to retain all CDQ species caught so that they can be weighed at the plant. We will try most anything to make the system work. However, we have become convinced that this vessel cannot operate under the observer requirements as they are written. We request relief from this requirement.

Sincerely Yours,



Robert Sundown,
Business & Operations Manager, CVLI, Inc.

RECEIVED
JAN 27 1999
N.P.F.M.C.

1635 Whispering Pines Drive
Seaside, Oregon 97138
25 January 1999

Enforcement/IFQ Sub Committee
North Pacific Fishery Management Council
Anchorage, Alaska

Dear Committee Members:

I fish I.F.Q.'s in the Gulf of Alaska. Last year my vessel was boarded five times. I was boarded in Seward by the USCG and they spent over five hours unloading and checking weights of under 5,000 pounds of fish. I was also boarded by the I.P.H.C. who looked at the fish and fish logs taking approximately 30 minutes. I was again boarded by the I.P.H.C. in Hoonah where we stowed gear in readiness for the trip to our homeport in Oregon.

I was flown over and radio contacted by USCG helicopters twice from Hoonah to Ketchikan. Both times they approached our vessel very low from the stern which is very startling and could lead to accidents on deck.

During a brief two hour stop for fuel and medical supplies in Ketchikan I was boarded by a NMFSS officer. It was the end of the season and my hold was full of gear (i.e. seines, skiffs, etc.) and the boarding officer wanted me to remove the gear so he could check for fish. He checked the freezer, refrigerator, bait hold, bunking areas, and all storage boxes.

The amount of effort required to look for a small amount of fish that could be hidden in a 15 ton hold already containing a seine net and other gear is ludicrous. Boarding officers need to use more common sense in search situations. Some of them also need to be reminded that while looking for criminals, most of the people whose vessels they inspect are law abiding, tax paying citizens who deserve common courtesy.

A few years ago a large storm was predicted in the Gulf of Alaska. We were trying to catch the last of our Sablefish and we got boarded by a USGS cutter for a safety inspection even though I had a current safety sticker on the vessel. This

Inspection took some two hours during which the weather was coming up. When the boarding officers left my vessel they almost fell in the water due to their lack of understanding of the situation. We almost lost our 58' vessel due to the delay. No one prizes safety more highly than I do. I am pleased to have a USCG inspection each year on land to be sure that I have not missed anything. The USCG should have more respect for their own inspection teams and paper work and stop duplicating procedures under conditions that jeopardize their own safety and the safety of those they are supposed to protect. I think this comes from an over supply of inspectors. The USCG should be concentration on providing navigation aids, weather information (there is virtually no weather from the north end of Kodiak Island to past Icy bay) and stay ready to help when needed. That is the part of their service we applaud and take national pride in. Thank you for considering my experiences and ideas.

Sincerely



John A. Svensson

The CDQ Implementation Committee recommends the following priorities for the development of EA/RIRs by NMFS for changes to the MS-CDQ and halibut CDQ programs:

Priority (1-6)	Issue
3	A. Alternative CDQ quota management measures
1	B. Observer coverage req. for shoreside plants
4	C. 6,000 lb halibut trip limit in area 4E
5	D. Crab season start date
6	E. CDQ trawl fisheries season start date.
1	F. Observer coverage req. longline catcher vessels
2	New. CDQ Area 4D/E boundary

CDQ COMMITTEE
REGULATION AMENDMENT PRIORITIES

Please refer to the memo **Future FMP Amendments or Regulatory Amendments for the Multi-species Community Development Quota Program** dated January 26, 1999.

Issues Requiring Clear Council Direction and no Further Review

1. Observer Coverage Requirements. Two proposals identified for regulatory amendment (items B and F in Part II) deal with observer coverage requirements. In the Committee's opinion, the issues involved are similar to those leading to relaxation of observer coverage in the small boat halibut fisheries, namely excessive cost for a nominal increase in the precision of catch estimates. These call for clear Council direction, but should not require additional Council review. *The committee requests implementation as soon as possible.*

These proposals require immediate implementation due to the excessive financial burdens the current regulation places on some ongoing CDQ operations. Investments were made and the businesses have been operating successfully under the halibut/sablefish CDQ regulations. The current MS regulations make these investments uneconomic.

B. Observer coverage for shoreside plants

Proposed language in NMFS memo is adequate.

F. Observer coverage requirements for longline catcher vessels.

The Committee requests 100% coverage without restrictions on observer hours. Observer rules would be same as for 100% coverage on open access fleet.

Should the Council or NMFS determine that additional Council review is required, these would be top priority for implementation as soon as possible.

Analysis Requested by Council or Individuals.

The primary reason prioritization was requested by NMFS is the short time available for analysis of proposals. Preliminary analysis would need to be completed by the April Council meeting with final action in June in order to be implemented by Jan. 1, 2000.

PRIORITIES FOR IMPLEMENTATION BY JAN. 1, 2000

2. NEW ITEM – CDQ Permeable 4 D/E Boundary. Allow Area 4D CDQ halibut to be fished in Area 4E. This issue was raised at IPHC meeting in January. The IPHC has no biological objections, and referred the matter to the NPFMC as an allocation issue. All CDQ groups concur with this change.

The Committee proposes allowing 4D quota to be moved into and out of 4E by technical amendment. No 4E halibut may be moved to 4D. Quota

to the CDP.

could be differentiated by requiring groups to use their 4E quota first. Trip limits would apply to all quota fished in 4E. This would allow significant expansion of the small boat fishery in 4E by the four groups located there.

This item's high priority is predicated on its analysis not delaying analysis and implementation of item #3 following. If implementation of that item would be delayed, this item should be analyzed with #4.

It may also be possible to treat this proposal in a similar fashion to the changes in observer coverage in #1 above, requesting no further Council review and emergency implementation this year.

3. A. Alternative CDQ quota management measures. The Community recommends reducing the options analyzed for Jan. 1, 2000 implementation to three. Analysis of pooling and permanent exclusion of species from the CDQ program would be dropped. This should simplify the analysis considerably. The alternatives would be:

Status Quo

REVISED underage/ overage provisions. A simpler proposal is made – allow CDQ groups to trade unused CDQ at year's end to cover overages. No trading of PSQs is proposed. If sufficient unused quota were not obtained, the group going over would be in violation. If there were sufficient quota available, no violation would occur. No carry-forward of either underage or overage is proposed. This should alleviate any biological concerns or concerns that a group might not have quota the following year to cover an overage. CDQs are managed by NMFS after the fact on a group by group basis, rather than on-the-grounds in real-time on a vessel by vessel basis. This is significantly different than the IFQ program, and should raise no serious enforcement issues.

Develop frame-worked authority for the Council to remove or reinstate a CDQ species. The Council's October 1998 motion contained frame-working guidelines. Proceed with development of authority, using 'other species' as the example. Dropping permanent exclusion of a species should simplify analysis, as the Council could take into account changed circumstances that might make permanent exclusion undesirable.

FOR IMPLEMENTATION AFTER JAN. 1, 2000. PRIORITIZED IN ORDER OF DESIRABLE IMPLEMENTATION DATE AND DEGREE OF ANALYSIS REQUIRED.

4. C. Clarify/ reinstate 4E 6,000 lb. halibut trip limit. Target implementation by September 1, 2000. Minimal analysis
5. D. Crab season start date. This is primarily an issue of being able to harvest very large opilio quotas once CDQs reach 7.5%. This is unlikely to occur before 2001. High priority, but implementation can be delayed to Sept. 1, 2000, minimal analysis.
6. E. Trawl season start date. High priority for implementation by Jan. 1, 2001. More extensive analysis required.

Community Development Quota Program

I. 1998 Allocations and Catch

In 1998, the Community Development Quota (CDQ) fisheries for fixed gear halibut and sablefish, pollock, and multispecies (MS) groundfish were managed separately.

- Table 1 summarizes the 1998 catch and allocation for fixed gear halibut, fixed gear sablefish, and pollock for all CDQ groups combined.

- HALIBUT CDQ:

Overall, 94% of the halibut CDQ allocation was harvested in 1998.

Two CDQ groups, BBEDC and CVRF received allocations of halibut CDQ in area 4E. BBEDC was able to harvest 72% of their halibut CDQ and CVRF was able to harvest 55% of their halibut CDQ. NMFS received requests in August, 1998 to waive the 6,000 pound halibut trip limit in this area so that larger vessels could be used to harvest the remainder of the halibut CDQ. NMFS denied this waiver request and raised the issue of the trip limit at the October, 1998 Council meeting.

- FIXED GEAR SABLEFISH CDQ

Overall, 56% of the fixed gear sablefish CDQ allocations were harvested - 71% in the Aleutian Islands and 33% in the Bering Sea.

Two CDQ groups were unable to harvest any of their Bering Sea fixed gear sablefish CDQ allocation.

- POLLOCK CDQ

Nearly 100% of the pollock CDQ allocations were harvested.

- Fixed gear sablefish CDQ fishing and pollock CDQ fishing will be integrated into the multispecies groundfish CDQ fisheries in 1999.

Table 1. 1998 allocations and catch for the fixed gear halibut (net weight in pounds), fixed gear sablefish (round weight in pounds), and pollock CDQ (round weight in metric tons) fisheries.

Species/Area	Allocation	Catch	% Caught
Halibut			
4B	700,000	699,513	99+%
4C	795,000	789,355	99+%
4D	477,000	469,396	98%
4E	320,000	191,213	60%
Total halibut	2,292,000	2,149,477	94%
Sablefish			
BS	286,598	93,166	33%
AI	456,352	322,941	71%
Total sable.	742,950	416,107	56%
Pollock			
BS	83,250	83,078	99+%
AI	1,785	1,744	98%
Total pollock	85,035	84,822	99+%

MULTISPECIES GROUND FISH CDQ

- Fishing under the MS groundfish CDQ program was authorized to start on October 1, 1998. The first MS groundfish CDQ fishing occurred on November 5 for the trawl fisheries and November 30 for the longline fisheries.
 - Number of vessels and processors participating in the 1998 MS groundfish CDQ fisheries:
 - 6 trawl catcher/processors
 - 13 longline catcher/processors
 - 2 trawl catcher vessels
 - 1 shoreside processor
 - We received CDQ catch reports for 519 MS CDQ hauls, sets, or deliveries:
 - 296 were submitted electronically
 - 223 by faxWe hope to have nearly 100% electronic reporting in 1999.
 - Table 2 summarizes the 1998 catch and allocation for the MS groundfish CDQ fisheries.
 - The majority of MS groundfish CDQ allocations for 1998 were not harvested due to late opening date for the MS groundfish CDQ fisheries and the length of the open access fisheries for flatfish (trawl) and cod (longline).
 - All six CDQ groups reported some MS groundfish CDQ catch.
 - Percent of CDQ remaining ranges from:
 - 32% for Eastern AI Pacific Ocean perch (POP) to
 - Over 99% for yellowfin sole, rock sole, other flatfish, and some rockfish species groups.
- One overage occurred - the EAI POP CDQ was exceeded by 12.58 mt by one CDQ group (34% over the CDQ allocation of 36.8 mt).
- Catch by Gear
 - 37% of the 1998 MS groundfish CDQ catch was made with trawl gear (mainly Atka mackerel, flatfish, and rockfish).
 - 63% of the 1998 MS groundfish CDQ catch was made with longline gear (mainly Pacific cod, rockfish, and "other species").
 - Table 3 shows the 1999 groundfish and prohibited species allocations to each CDQ group.

Table 2.

MS CDQ/PSQ Catch To Date 1998

For All CDQ Groups Combined

Reflects CDQ Catch Reports received 10/01/98 through 01/25/99

National Marine Fisheries Service
Alaska Regional Office
Community Development Quota Program

	Amount Available	Catch To Date	Amount Remaining	Percent Remaining
CDQ Reserve Category				
BS Sablefish	49.000	14.812	34.188	69.77
AI Sablefish	26.000	7.720	18.280	70.31
Pacific Cod	15,750.000	2,154.026	13,595.974	86.32
WAI Atka Mackerel	2,025.000	369.075	1,655.925	81.77
CAI Atka Mackerel	1,680.000	180.692	1,499.308	89.24
EAI/BS Atka Mackerel	1,118.000	582.776	535.224	47.87
Yellowfin Sole	16,500.000	96.214	16,403.786	99.42
Rock Sole	7,500.000	19.007	7,480.993	99.75
BS Greenland Turbot	754.000	218.150	535.850	71.07
AI Greenland Turbot	371.000	27.229	343.771	92.66
Arrowtooth Flounder	1,020.000	395.260	624.740	61.25
Flathead Sole	7,500.000	182.844	7,317.156	97.56
Other Flatfish	6,708.000	19.705	6,688.295	99.71
BS Pacific Ocean Perch	105.000	0.013	104.987	99.99
WAI Pacific Ocean Perch	419.000	70.681	348.319	83.13
CAI Pacific Ocean Perch	259.000	20.663	238.337	92.02
EAI Pacific Ocean Perch	230.000	157.368	72.632	31.58
BS Other Red Rockfish	20.000	0.504	19.496	97.48
AI Sharpchin/Northern Rockfish	317.000	72.764	244.236	77.05
AI Shortraker/Rougheye Rockfish	72.000	5.327	66.673	92.60
BS Other Rockfish	28.000	4.140	23.860	85.21
AI Other Rockfish	51.000	5.419	45.581	89.37
Squid	125.800	1.963	123.837	98.44
Other Species	1,644.749	273.066	1,371.683	83.40
PSQ Reserve Category				
Zone 1 Red King Crab	7,500.000	28.000	7,472.000	99.63
Zone 1 Bairdi Tanner Crab	56,252.000	120.000	56,132.000	99.79
Zone 2 Bairdi Tanner Crab	157,500.000	745.000	156,755.000	99.53
Opilio Tanner Crab	349,051.000	2,284.000	346,767.000	99.35
Pacific Halibut	351.000	90.662	260.338	74.17
Chinook Salmon	3,600.000	0.000	3,600.000	100.00
Non-Chinook Salmon	3,152.000	0.000	3,152.000	100.00
Totals for CDQ Reserve Category (PSQs not included)	64,272.549	4,879.418	59,393.131	92.41

For Arrowtooth Flounder, Squid, and Other Species, the Amount Available reflects adjustments to initial allocation from transfers in and out of each CDQ group's Non-Specific Reserve.

For additional information on this report, contact:

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Table 3.

MS CDQ/PSQ Annual Allocation Matrix 1999

National Marine Fisheries Service
Alaska Regional Office
Community Development Quota Program



CDQ Group Allocations/Amounts

CDQ Reserve Category	APICDA		BBEDC		CBSFA		CVRP		NSEDC		YDFDA		Totals		
	Amount	%	Amt	%	Amt	%	Amt	%	Amt	%	Amt	%			
BS FG Sablefish	134.000	15	20.100	22	29.480	18	24.120	0	0.000	20	26.800	25	33.500	100	134.000
AI FG Sablefish	207.000	15	31.050	20	41.400	0	0.000	30	62.100	20	41.400	15	31.050	100	207.000
BS Sablefish	50.000	16	8.000	20	10.000	10	5.000	17	8.500	18	9.000	19	9.500	100	50.000
AI Sablefish	25.000	16	4.000	20	5.000	10	2.500	17	4.250	18	4.500	19	4.750	100	25.000
BS Pollock	99,200.000	16	15,872.000	21	20,832.000	5	4,960.000	22	21,824.000	22	21,824.000	14	13,888.000	100	99,200.000
AI Pollock	200.000	16	32.000	21	42.000	5	10.000	22	44.000	22	44.000	14	28.000	100	200.000
Bogoslof Pollock	100.000	16	16.000	21	21.000	5	5.000	22	22.000	22	22.000	14	14.000	100	100.000
Pacific Cod	13,275.000	16	2,124.000	20	2,655.000	10	1,327.500	17	2,256.750	18	2,389.500	19	2,522.250	100	13,275.000
WAI Atka Mackerel	2,025.000	20	405.000	17	344.250	10	202.500	17	344.250	16	324.000	20	405.000	100	2,025.000
CAI Atka Mackerel	1,680.000	20	336.000	17	285.600	10	168.000	17	285.600	16	268.800	20	336.000	100	1,680.000
EAI/BS Atka Mackerel	1,275.000	20	255.000	17	216.750	10	127.500	17	216.750	16	204.000	20	255.000	100	1,275.000
Yellowfin Sole	15,998.000	29	4,639.420	25	3,999.500	8	1,279.840	5	799.900	5	799.900	28	4,479.440	100	15,998.000
Rock Sole	9,000.000	10	900.000	20	1,800.000	10	900.000	20	1,800.000	20	1,800.000	20	1,800.000	100	9,000.000
BS Greenland Turbot	452.000	16	72.320	25	113.000	14	63.280	1	4.520	20	90.400	24	108.480	100	452.000
AI Greenland Turbot	222.000	18	39.960	18	39.960	5	11.100	14	31.080	26	57.720	19	42.180	100	222.000
Arrowtooth Flounder	10,076.000	18	1,541.628	21	1,798.566	9	770.814	16	1,370.336	16	1,370.336	20	1,712.920	100	8,564.600
Flathead Sole	5,797.000	20	1,159.400	20	1,159.400	10	579.700	15	869.550	15	869.550	20	1,159.400	100	5,797.000
Other Flatfish	11,550.000	20	2,310.000	20	2,310.000	10	1,155.000	15	1,732.500	15	1,732.500	20	2,310.000	100	11,550.000
BS Pacific Ocean Perch	105.000	20	21.000	17	17.850	10	10.500	17	17.850	16	16.800	20	21.000	100	105.000
WAI Pacific Ocean Perch	466.000	20	93.200	17	79.220	10	46.600	17	79.220	16	74.560	20	93.200	100	466.000
CAI Pacific Ocean Perch	288.000	20	57.600	17	48.960	10	28.800	17	48.960	16	46.080	20	57.600	100	288.000
EAI Pacific Ocean Perch	257.000	20	51.400	17	43.690	10	25.700	17	43.690	16	41.120	20	51.400	100	257.000
BS Other Red Rockfish	20.000	20	4.000	17	3.400	10	2.000	17	3.400	16	3.200	20	4.000	100	20.000
AI Sharpchin/Northern Rockfish	317.000	20	63.400	17	53.890	10	31.700	17	53.890	16	50.720	20	63.400	100	317.000
AI Shortraker/Rougheye Rockfish	72.000	17	12.240	20	14.400	9	6.480	17	12.240	18	12.960	19	13.680	100	72.000
BS Other Rockfish	27.000	16	4.320	20	5.400	8	2.160	18	4.860	19	5.130	19	5.130	100	27.000
AI Other Rockfish	51.000	16	8.160	20	10.200	8	4.080	18	9.180	19	9.690	19	9.690	100	51.000
Other Species	2,464.000	19	397.936	22	460.768	9	188.496	14	293.216	15	314.160	21	439.824	100	2,094.400

PSQ Reserve Category	Amount	%	Amt	%	Amt	%	Amt	%	Amt	%	Amt	%	Amount		
Zone 1 Red King Crab	15,000.000	19	2,850.000	21	3,150.000	9	1,350.000	15	2,250.000	15	2,250.000	21	3,150.000	100	15,000.000
Zone 1 Bairdi Tanner Crab	56,250.000	24	13,500.000	25	14,063.000	7	3,938.000	9	5,063.000	9	5,063.000	26	14,625.000	100	56,252.000
Zone 2 Bairdi Tanner Crab	140,850.000	24	33,804.000	25	35,213.000	7	9,860.000	9	12,677.000	9	12,677.000	26	36,621.000	100	140,852.000
Opilio Tanner Crab	337,500.000	26	87,750.000	23	77,625.000	9	30,375.000	8	27,000.000	8	27,000.000	26	87,750.000	100	337,500.000
Pacific Halibut	351.000	20	70.200	22	77.220	8	28.080	13	45.630	14	49.140	23	80.730	100	351.000
Chinook Salmon	3,600.000	16	576.000	21	756.000	5	180.000	22	792.000	22	792.000	14	504.000	100	3,600.000
Non-Chinook Salmon	3,150.000	16	504.000	21	662.000	5	158.000	22	693.000	22	693.000	14	441.000	100	3,151.000

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II. Use of Scales in the MS Groundfish CDQ Fisheries

- At-sea scales to weigh total catch installed and approved by NMFS on 22 trawl catcher/processors and 2 motherships.
- At-sea scales were used on 6 trawl catcher/processors in the 1998 MS groundfish CDQ fisheries:
 - 46 fishing days (scales were tested each day)
 - 172 hauls weighed on the scales
 - about 3,000 mt of groundfish.
- All scales were tested each day that CDQ catch was weighed and all scales weighed the test material to within 3% of its known weight.
 - Two scales had to be tested twice to achieve $\pm 3\%$ error (probably due to first test not being conducted correctly).
 - One scale failed right after CDQ fishing ceased and could not be repaired by the crew.

III. Changes to CDQ Regulations

A. American Fisheries Act

- Final rule implementing BSAI FMP Amendment 45 (permanent extension of the 7.5% allocation of pollock to CDQ) and an emergency rule implementing CDQ program-related parts of the AFA was published on January 26, 1999 (64 FR 3877).
- Increased pollock CDQ allocation to 10% of pollock TACs.
- Only pollock harvested in the directed fisheries for pollock CDQ will count against the pollock CDQ.
- Pollock harvested as bycatch in other groundfish CDQ fisheries does not accrue against the pollock CDQ.
- Directed fishing for pollock CDQ is defined as a haul by a catcher/processor or delivery by a catcher vessel in which pollock represents 40% or more of the weight of all groundfish in the haul or delivery.
- Squid is removed from the CDQ program because the 7.5% allocation of the squid TAC would have prevented full harvest of the 10% allocation of pollock CDQ.
- Emergency rule provisions will need to be permanently implemented through proposed and final rulemaking later in 1999.

B. Proposed rule for halibut CDQ fisheries

A proposed rule for regulations governing the halibut CDQ fisheries will be published in early February, 1999. The comment period will end about March 1 and the final rule will be needed to manage the 1999 halibut CDQ fisheries.

NMFS will propose:

- Halibut CDQ would continue to be reported under the IFQ Program regulations.
- CDQ and IFQ species may be harvested together in the same set.
- Remove requirement to list in the Community Development Plan the names of halibut CDQ cardholders and vessels < 60 ft LOA that would be halibut CDQ fishing only.
- Distinguish between halibut CDQ fishing and groundfish CDQ fishing. Halibut CDQ fishing means retained halibut CDQ represents the largest proportion of the catch by weight.
- For catch by vessels less than 60 ft LOA while halibut CDQ fishing:
 - The vessel would not be required to retain all groundfish bycatch (except IR/IU species).
 - The shoreside processor would not be required to have a CDQ observer monitor the delivery.
 - The groundfish bycatch would not accrue against the CDQ groups groundfish CDQ allocation (ability to accrue this bycatch against quotas requires catch accounting of the MS groundfish CDQ fisheries)
- For catch by vessels equal to or greater than 60 ft LOA while halibut CDQ fishing:

The vessel, shoreside processor, and CDQ group would be required to comply with all requirements of the MS groundfish CDQ fisheries for the size and type of vessel, in order to fully account for groundfish CDQ caught while halibut CDQ fishing. Requirements would include:

- carry CDQ observers on the vessels,
- provide a CDQ observer in the plant to monitor the delivery,
- submit CDQ delivery report and CDQ catch report,
- report groundfish bycatch against MS groundfish CDQ allocations of the group.

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Table 1. Number of vessels and shoreside processors, by CDQ group and category, approved in current Community Development Plans for groundfish CDQ fishing.

Vessel Category	APICDA	CVRF	YDFDA	BBEDC	CBSFA	NSEDC	Total
C/P - trawl	2	7	5	4	5	3	26
C/P - longline	4	0	4	3	?	5	16
Mothership	0	0	1	0	0	0	1
Catcher vessels							
>60 ft - trawl del. shoreplant	12	13	1 Lisa Marie	0	0	0	26
>60 ft - trawl unsorted codend	0	0	6	0	0	0	6
<60 ft - longline	12 (Atka Pride)	0	0	0	0	0	12
>60 ft - longline	2 Sand Island Lisa Marie	1 Ocean Harvester	1 Lisa Marie	0	0	0	3
Shoreplants	3 Trident Akutan Trident S.P. Atka Pride	2 Westward Arctic Ent.	2 Westward Peter Pan	0	0	0	

Table 2. Number of vessels and shoreside processors, by CDQ group and category, from 1998 landings of fixed gear sablefish and halibut CDQ in 1998.

Vessel Category	APICDA	CVRF	YDFDA	BBEDC	CBSFA	NSEDC	Total
Sablefish CDQ							
Catcher vessels							
<60 ft	2	0	0	0	0	0	
>60 ft	1 Sand Island	1 Ocean Harvester	3 Melissa Beth Heritage Lisa Marie	0	0	0	
Shoreplants	1 Westward	1 Westward	2 Unisea DH Westward	0	0	0	
Catcher/processors	0	0	0	1	0	1	
Halibut CDQ							
Catcher vessels							
<60 ft - longline	21	49	0	28	20	6	
>60 ft - longline	2 Heritage Lisa Marie	1 Ocean Harvester	1 Lisa Marie	1 Augustine	0	0	4
Shoreplants (>60ft)	1 Westward	1 Westward	1 Westward	1 Westward	0	0	
Catcher/processors	0	0	0	0	0	1	

Bob ALVERSON
C-4b

F/V Ocean Harvester CDQ Sablefish Fishery (Western Aleutians)

Average per trip pounds caught longlining in 1998 = 20,000 lbs. sold @ \$2.25

Gross Stock **\$45,000**

Gross Stock Expenses

3% Borough Tax (\$1,350)

Cargo Insurance (\$600)

Sub-Total **\$43,050**

Observer 21days (\$6,500)

Sub-Total **\$36,550**

CDQ Fee 17.5% (\$6,400)

Sub-Total **\$30,150**

Vessel Share 31% (\$9,000)

Sub-Total **\$21,150**

Trip Expense (\$10,000)

Sub-Total **\$11,150**

Crew Shares (6) (\$11,100)

Total Per-Trip Revenue **\$1,850**

F/V Ocean Harvester CDQ Halibut Fishery (Area 4D St. Mathew)

Average per trip pounds caught longlining in 1998 = 40,000 lbs. sold @ \$.95/lbs.

Gross Stock		\$38,000
Gross Stock Expenses		
3% Borough Tax	(\$1,140)	
Cargo Insurance	(\$400)	
Sub-Total		\$36,460
Observer 10 days	(\$3,500)	
Sub-Total		\$32,960
CDQ Fee 17.5%	(\$5,775)	
Sub-Total		\$27,195
Vessel Share 31%	(\$8,400)	
Sub-Total		\$18,795
Trip Expense	(\$8,000)	
Sub-Total		\$10,795
Crew Shares (6)	(\$10,600)	
Total Per-Trip Revenue		\$1,799

Mr. Steve Pennoyer
National Marine Fisheries Service
P.O. Box 21688
Juneau, AK 99802

February 1, 1999

Dear Mr. Pennoyer:

We are writing to express several concerns that have arisen with the implementation of new observer qualifications that NMFS has adopted for the MSCDQ program, and most particularly about an unexpected addition to those qualifications. Last fall when NMFS began implementing the new requirements we all expected some degree of start up problems including some difficulty in scheduling training. Having lived through that experience, we are increasingly concerned that some of the new requirements are going to severely limit the potential pool of qualified MSCDQ observers to the extent that contractors now fear that we will be unable to provide qualified observers, particularly lead observers, for MSCDQ operations.

Please be assured that we all support and understand the need for data quality in any program. We have all worked with NMFS and the North Pacific Fishery Observer Training Center to insure that the men and women we deploy will be capable of fulfilling the program's needs.

Here is an outline of the program requirements we are now required to use:

CDQ Observer Classification	Experience Requirements
All CDQ Observers	60 days observer data collection
Lead CDQ Observer On CP or Mothership using trawl gear	2 cruises and have sampled at least 100 hauls
Lead on CV using trawl gear	2 cruises and have sampled at least 50 hauls
Lead on non-trawl vessel	2 cruises of at least 10 days each sampled at least 60 sets
Lead in a shoreside plant	At least 30 days observer experience at a shoreside plant

These requirements received a great deal of comment during the comment period. We continue to raise many of the concerns expressed during that period, and disagree with NMFS assertion that contractors will be able to provide sufficient numbers of qualified MSCDQ observers. With the requirements listed above we believe that it is simply a matter of time before we will be

unable to supply required observers. This is particularly true if new programs like VBA and HMAP come on line with similar requirements.

Our most pressing concern at the moment is NMFS' desire to begin requiring that MSCDQ lead observers must also gain experience on at least two vessels which use gear of the type they will be observing in the role of lead MSCDQ observer. This was not part of the June 4, 1998 Federal Register Notice. Contractors learned of this potential change for the first time in Bill Karp's January 28, 1999 memo.

In this memo, NMFS states that this is "consistent with our perspective that lead MSCDQ observers should have gained experience aboard at least two vessels which use the gear of the type they will be observing as lead MSCDQ observers." This requirement would add yet another hurdle making it even more difficult to train and provide adequate numbers of experienced observers.

We anticipate that taken together these requirements could be counterproductive to the intent of the program, and may in fact lead to loss of data integrity. We are also very concerned that these requirements will add to the natural attrition rate in the observer corps, since it may well reduce observing opportunities.

Suppose an observer's first contract was on shoreside catcher vessels and the second contract was on a CP. That observer has completed two contracts and sampled 100 hauls on a CP and has become eligible to assume additional training to qualify as a lead observer. However, if this new requirement comes to pass, the observer would then have to complete a third contract to meet the new two vessel rule to be a lead on a CP.

As it stands now, the existing requirements limit an observer's ability to work on different types of vessels. Adding the "two vessel" requirement will only worsen this problem, and increase the amount of time it takes to qualify. Most people in any profession or job prefer a little variety. To limit or reduce an individual's opportunity often times leads to boredom and discontent.

Unfortunately, contractors will be forced to steer observers toward a specific gear type to ensure there are adequate numbers of MSCDQ trained observers available. This further restricts contractor's flexibility to respond to vessel coverage requirements and our ability to provide

observers with a variety of assignments. In an industry where last minute changes and uncertainties are more the norm than the exception, these requirements make it increasingly difficult for contractors to meet their obligations to observers, NMFS and industry.

We anticipate that costs will increase, unnecessarily and may become onerous due to these requirements. Because the fishing industry is dynamic, contractors must often respond quickly to requests for observer coverage, particularly with the significant changes stemming from the American Fisheries Act, MSCDQ, and the new Steller sea lion fishing zone changes.

Here is a scenario we fear will become all too common and all too expensive: The co-op catcher vessel and mothership fisheries are underway, the open access fishery is underway and a client decides to fish MSCDQ when the open access fishery closes. Each catcher vessel will require one MSCDQ observer that must be qualified as a lead MSCDQ observer. Motherships may require three observers if the mothership plans to process around the clock. This is necessary because under the new rules, MSCDQ observers are not allowed to sample more than 9 hours during any 24-hour period and are required to sample all hauls or sets on CPs or processors taking deliveries from vessels using trawl gear.

Until an adequate pool of gear-specific qualified lead MSCDQ observers exists, a series of rotations would need to happen within a limited time to make this happen. Let's say Joe (not qualified for MSCDQ training) will temporarily replace Jill (qualified for CV lead trawl gear and MSCDQ training) on the F/V Hurryup. Joe must brief (4 days) either in Seattle or Anchorage depending on NMFS' schedule, then fly out to Dutch Harbor, and finally out to the F/V Hurryup. Jill flies from the F/V Hurryup to Dutch, then on to Anchorage to debrief first, then to a 5 day MSCDQ training. Jill then flies back to Dutch and the F/V Hurryup and Joe returns to Dutch where, hopefully, he is redeployed. We estimate that this would cost nearly \$2000 in airfare alone for a single vessel. This is probably not an extreme example, nor is it likely to be the most costly.

Exacerbating these new rules is NMFS' new policy regarding zero 90-day extensions. This will force contractors to rotate observers earlier and more frequently. Predictably, costs will increase, and it is likely that observer incomes will decrease because of the reduced length of contracts.

While we support sound, scientific data collection and understand the difficulties inherent in any new program, we are extremely concerned that some of these requirements may well have the opposite impact on data integrity and observer morale. In addition, there is little doubt it makes it more difficult for contractors to our jobs and even less doubt that costs will drastically increase.

We therefore request that NMFS not proceed with implementing the requirement that a lead MSCDQ observer must have experience on 2 or more vessels of that gear type. We further request that NMFS rescind the gear specific requirements for lead observers.

Although operations and sampling methods differ with different gear types, once an observer is familiar with his duties, and knows his way around a boat, NMFS can train the observer to handle any sampling situation that comes along, even sampling situations and gear types not encountered before. It seems counterproductive to ratchet down, stratify, and limit an observer's ability to do a good job. Let's go a bit more slowly and look at this program after it has had a chance to get its feet on the ground. Please don't build unreasonable requirements into a program, which may well result in failure at a number of levels.

We would be happy to meet with you to discuss these concerns. Thank you for your consideration.

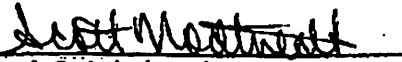
Respectfully,




Alaskan Observers, Inc.



Data Contractors, Inc.



Frank Orth & Associates



Saltwater Inc.

CC: Rick Lauber, Chairman NPFMC




1999 QS USE CAPS & VESSEL IFQ CAPS

Halibut QS Use Caps		
Applicable % of '96 QSP	Size of 1996 QSP	QS Use Cap
1% of 2C QSP	59,979,977 QS units	599,799 QS units
.5% of 2C, 3A, & 3B QSPs	300,564,647 QS units	1,502,823 QS units
1.5% of All Area 4 QSPs	33,002,937 QS units	495,044 QS units
Halibut Vessel IFQ		
Vessel Use Cap %	1999 IFQ TAC	Vessel Use Cap
1% of 2C IFQ TAC	10,490,000 net pounds	104,900 net pounds
.5% of All IFQ TAC	58,390,000 net pounds	291,950 net pounds
Sablefish QS Use Caps		
Applicable % of '99 QSP	Size of 1999 QSP	QS Use Cap
1% of SE QSP	65,967,848 QS units	659,678 QS units
1% of All QSPs	316,264,160 QS units	3,162,642 QS units
Sablefish Vessel IFQ		
Vessel Use Cap %	1999 IFQ TAC	Vessel Use Cap
1% of SE IFQ TAC	7,054,720 round pounds	70,547 round pounds
1% of All IFQ TAC	27,154,059 round pounds	271,541 round pounds

Notes and Explanations:

- QSP = Quota Share Pool or Pools; IFQ = Individual Fishing Quota; TAC = Total Allowable Catch.
- Halibut QS Use Caps were permanently established in February, 1997 using 1996 QS Pools.
- Vessel IFQ Caps are calculated on the IFQ TAC only; CDQ TACs are not included in the calculations.
- Halibut weights are expressed in net (headed and gutted) pounds, and sablefish weights are expressed in round pounds.

Verified: February 1, 1999


 Philip J. Smith, Administrator
 Restricted Access Management
 Alaska Region, NMFS



1999 QUOTA SHARE POOLS (QSPs) AND TOTAL ALLOW CATCHES (TACs)

1999 HALIBUT AND SABLEFISH QSPs AND IFQ TACs			
Species & Area	1999 Quota Share Pool (units)	1999 IFQ TAC (pounds)	Ratio (QS:IFQ)
Halibut 2C	59,551,257	10,490,000	5.667
3A	184,907,401	24,670,000	7.495
3B	53,903,791	13,370,000	4.032
4A	14,503,009	4,240,000	3.421
4B	9,284,774	3,184,000	2.916
4C	3,969,186	1,015,000	3.911
4D	4,869,276	1,421,000	3.427
4E	139,999	0	0
All Areas	331,128,693	58,390,000	
Sablefish SE	65,967,848	7,054,720	9.351
WY	53,207,225	4,023,395	13.224
CG	111,032,423	9,858,971	11.262
WG	35,951,012	3,209,898	11.200
AI	31,518,176	1,825,409	17.266
BS	18,587,476	1,181,666	15.730
All Areas	316,264,160	27,154,059	

Notes:

- The "ratio" displays the number of units of QS that yield one pound of 1999 IFQ.
- QS Pools include small amounts of QS in "Reserve" (QS that is yet to be issued) and QS that is "Restricted" (QS that has been issued, but which does not yield IFQ to its holder).
- TACs do not include pounds that have been set aside for the CDQ program.
- Halibut weights are displayed in net pounds, sablefish weights in round pounds.

Verified: February 1, 1999



Philip J. Smith, Administrator
Restricted Access Management
Alaska Region, NMFS