



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

January 19, 2012

MEMORANDUM FOR: The Record

FROM:

James W. Balsiger, Ph.D. *Robert O. Mecum*  
Administrator, Alaska Region

SUBJECT:

Categorical Exclusion (Revised) for the Final Rule to Revise Harvest Regulations Associated with the Western Alaska Community Development (CDQ) Program Fisheries (RIN 0648-AV33)

NOAA Administrative Order (NAO) 216-6, Environmental Review Procedures, requires all proposed agency actions to be reviewed with respect to potential impacts on the human environment. This memorandum summarizes the determination that certain elements of a proposed rule amending regulations associated with the CDQ Program at 50 CFR 679 and 680 are categorically excluded from the need to prepare an environmental assessment pursuant to National Environmental Policy Act (NEPA) review.

### Description of the Action

This action encompasses a broad suite of changes to regulations associated with the management of the CDQ Program. This program allocates fisheries resources to eligible western Alaska communities, with the objective of providing a means to increase economic development and employment opportunities in that region. The CDQ Program is described in the Programmatic Supplemental Environmental Impact Statement for the Alaska Groundfish Fisheries<sup>1</sup>. These regulatory revisions are associated with statutory changes made to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) in 2006.

This proposed action's primary objective is amending CDQ fisheries management regulations to ensure that they are no more restrictive than the regulations in effect for comparable individual fishing quota (IFQ) fisheries and fisheries managed with cooperatives. Affected fisheries include the halibut CDQ, fixed gear sablefish CDQ, and pollock CDQ fisheries. NMFS prepared

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<sup>1</sup> Programmatic Supplemental Environmental Impact Statement for the Alaska Groundfish Fisheries Implemented Under the Authority of the *Fishery Management Plans for the Groundfish Fishery of the Gulf of Alaska and the Groundfish of the Bering Sea and Aleutian Islands Area*, NMFS-Alaska Region, 2004.



an Environmental Assessment<sup>2</sup> for the proposed changes to CDQ fisheries management regulations, and such changes are not further discussed in this exclusion.

A secondary emphasis of this proposed action is amending regulations associated with the oversight and administration of the CDQ Program in order to make 50 CFR parts 679 and 680 consistent with the Magnuson-Stevens Act. These proposed amendments are the subject of this categorical exclusion.

## **Background**

In addition to the fisheries management regulatory amendments necessary to implement Magnuson-Stevens Act section 305(i)(1)(B)(iv), this action also proposes revising or removing other regulations in 50 CFR parts 679 and 680 that are no longer consistent with section 305(i)(1) of the Magnuson-Stevens Act. These inconsistencies were created as a result of the amendments to the Magnuson-Stevens Act made through the Coast Guard Act<sup>3</sup> and the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006<sup>4</sup>. These amendments made comprehensive changes to how NMFS administers the CDQ Program. NMFS has adopted many of these changes through policy determinations.

The revisions to the administrative elements included in this proposed action would align applicable federal regulations with the statutory requirements in the Magnuson-Stevens Act, as well as remove certain unenforceable regulations. The proposed revisions associated with Magnuson-Stevens Act consistency would

- revise the CDQ Program purpose statement in § 679.1,
- remove definitions of “CDQ project” and “qualified applicant” in § 679.2,
- revise the definition of “CDQ community” in §§ 679.2 and 680.2,
- remove a reference to community participation in the CDQ Program in § 679.7,
- remove all regulations in § 679.30 (except paragraph (e)(1) related to quota transfers, which would be relocated to § 679.31) because they are not consistent with requirements associated with CDQ allocations, the allocation adjustment process, and the submission and maintenance of community development plans,
- implement other revisions to §§ 679.2, 679.7, 679.21, 679.24, and 679.30 to remove obsolete regulations, correct errors, and clarify CDQ-related terminology, and,
- establish an application process for relief from more restrictive CDQ harvest regulations for vessels operating in a voluntary fishery cooperative.

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<sup>2</sup> CDQ Regulation of Harvest EA/RIR, NMFS 2010. See [http://alaskafisheries.noaa.gov/cdq/msa/regharv\\_eair07.pdf](http://alaskafisheries.noaa.gov/cdq/msa/regharv_eair07.pdf)

<sup>3</sup> Section 305(i)(1) of the Magnuson-Stevens Act was amended on July 11, 2006, by the Coast Guard and Maritime Transportation Act (Coast Guard Act) (Public Law 109-241). The Coast Guard Act revised all of the existing language in section 305(i)(1) with new language. The new requirements in section 305(i)(1) address all aspects of management and oversight of the CDQ Program.

<sup>4</sup> On January 12, 2007, the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Public Law 109-479) amended section 305(i)(1)(B)(ii) and (C) of the Magnuson-Stevens Act. Allocations of groundfish (other than pollock and sablefish) to the CDQ Program and among the CDQ groups were amended by this Act, as well as restrictions associated with the transfer of quotas among the CDQ groups.

**Effects of the Action**

This action would amend regulations associated with administrative elements of the CDQ Program. This would clarify which regulations are currently applicable to CDQ Program participants and also would enhance administrative efficiency with respect to regulatory relevance and compliance.

**Categorical Exclusion**

This action would not result in any changes to the human environment. As defined in Sections 505(b) and 6.03d.4 of NAO 216-6, the proposed action is of the Other Categories of Action Not Having Significant Environmental Impacts exclusion and for which any cumulative effects are negligible. As such, it is categorically excluded from the need to prepare an environmental assessment.

CC: AKR NEPA Coordinator  
NOAA NEPA Coordinator