

Draft for Council Review

Environmental Assessment/Regulatory Impact Review

for

**A Regulatory Amendment to Modify the Management of Community Development Quota
Groundfish Reserves in the Bering Sea and Aleutian Islands**

Date: May 2004

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Executive Summary

This Environmental Assessment/Regulatory Impact Review (EA/RIR) evaluates the impacts on the human environment, as well as benefits and costs, of a regulatory amendment to alter regulations governing the allocation and management of the groundfish Community Development Quota (CDQ) reserves. CDQ reserves are created annually and are managed as part of the CDQ Program, which allocates and administers Bering Sea and Aleutian Islands (BSAI) fisheries resources among eligible western Alaska communities to provide the means for starting or supporting commercial fisheries business activities that will result in ongoing, regionally based, fisheries-related economic benefits for residents of participating communities. The EA/RIR also evaluates the impacts of amending regulations to clarify how the National Marine Fisheries Service (NMFS) should manage CDQ reserves that do not have applicable, approved CDQ allocation percentages associated with them due to mismatches between approved, multi-year CDQ allocation percentages and species categories established for a given year.

The original program design and implementation of the multispecies instituted a system of strict quota accountability to both CDQ target and non-target species. CDQ managing organizations (CDQ groups) have identified this accountability as being a constraining factor that does not allow them to fully catch their CDQ target species. The North Pacific Fishery Management Council (Council) and NMFS have addressed this concern on a species by species basis to date, but NMFS is recommending that the Council consider alternatives to address this issue more comprehensively. This action examines alternatives that would amend the management of groundfish CDQ reserves to distinguish between CDQ target and non-target species. This action also would amend regulations to clarify how NMFS would incorporate changes to species categorization made during the annual BSAI groundfish specifications process with multi-year CDQ allocation percentages.

Alternatives considered:

Alternative 1: No action. Continue to establish CDQ reserves for every annual TAC category except squid. All CDQ reserves would be allocated among CDQ groups, with the exception of “other species.” The CDQ groups would continue to be prohibited from exceeding any of these CDQ allocations.

The no action alternative would not change the CDQ reserve management regime to differentiate whether particular CDQ reserves are allocated among CDQ groups. NMFS and the Council may have to respond to future requests from CDQ groups to modify the management of certain CDQ reserves on a case-by-case basis. Continuation of the existing CDQ allocation and catch accounting requirements could subject CDQ groups to the possibility that the catch of non-target CDQ allocations could limit their ability to catch all of their economically valuable target species. Additionally, this alternative would not amend regulations to clarify how NMFS would

manage CDQ reserves created by combining management areas or species categories, and for which NMFS had no applicable allocation percentages in place.

Alternative 2: Amend regulations to (1) allow the Council to recommend which CDQ reserves would be allocated among the CDQ groups each year as part of the annual BSAI groundfish specifications, and (2) clarify how NMFS would manage CDQ reserves based on new TAC categories created by joining existing TAC categories by species or area.

Under Alternative 2, the Council would recommend which CDQ reserves would be allocated among CDQ groups as part of the annual BSAI groundfish specifications process. CDQ groups would continue to be prohibited from exceeding any of the CDQ allocations made to the groups. Any species not allocated to groups would be managed at the CDQ reserve level by prohibiting directed fishing and limiting retention of species comprising unallocated CDQ reserves. This would control the catch of non-allocated species within the CDQ fisheries. It also would remove a potential constraint to CDQ groups by eliminating the possibility that one or more of their CDQ allocations would be inadequate to account for the catch of a given species during the course of directed fishing for CDQ target species. NMFS would instead monitor the aggregate catch of a non-allocated CDQ reserve and specify additional measures for the CDQ fisheries to control the catch of a such species within specified total allowable catch (TAC) and acceptable biological catch (ABC) limits, as needed. Additionally, Alternative 2 would amend regulations to clarify how NMFS would manage CDQ reserves based on new TAC categories created by joining existing TAC categories by species or area. This would be applicable to new CDQ reserve categories for which no applicable CDQ allocation percentages exist.

Alternative 3: Amend regulations to specify which TAC categories and associated CDQ reserves would be allocated among the CDQ groups. Any changes to this set of allocated CDQ reserves would have to be made by subsequent regulatory amendments. Regulations also would be amended to clarify how to manage CDQ reserves derived from new TAC categories created by joining existing TAC categories by species or area.

Alternative 3 would amend regulations to permanently identify which species categories would be allocated among CDQ groups each year. If Alternative 3 were selected, the Council would recommend which TAC categories and associated CDQ reserves to allocate among CDQ groups on a permanent basis. This alternative differs from Alternative 2 in that the Council would make a decision about which CDQ reserves to allocate among groups as part of its final recommendation for this action, rather than annually as would be done by amending the annual specifications process as described under Alternative 2. CDQ reserves allocated among CDQ groups would continue to be managed with existing regulations that prohibit exceeding specific CDQ allocations. Any species category not allocated among groups would be managed at the CDQ reserve level. NMFS would limit directed fishing and retention to control the catch of non-

allocated CDQ reserves within the CDQ fisheries with established fisheries management measures.

Stand Alone Option for Squid

This option would add squid to the suite of species allocated to the CDQ Program. Selection of this option could make the management of squid more consistent with the management of other BSAI species categories and the BSAI fishery management plan (FMP). It could be selected under either Alternative 2 or Alternative 3. In 1999, squid was removed from being a species allocated to the CDQ Program by Amendment 66 to the BSAI FMP. Concern that there would be inadequate squid available to account for the possible catch of squid in the pollock CDQ fisheries led the Council and NMFS to remove squid from the CDQ Program. Under this option, squid would be integrated back into the CDQ Program and a portion of the annual BSAI squid TAC would be allocated to the program as a squid CDQ reserve. If squid was not included in the suite of CDQ reserves that the Council identified would be allocated among CDQ groups, then squid would be managed by NMFS at the CDQ reserve level. Integrating squid back into the CDQ Program would require an amendment to the BSAI FMP.

1.0 PURPOSE AND NEED FOR THE ACTION

1.1 Introduction

This Environmental Assessment/Regulatory Impact Review Analysis (EA/RIR) analyzes alternatives for amending the methods through which Community Development Quota (CDQ) reserves are allocated and CDQ catch is managed in the Bering Sea and Aleutian Islands Area (BSAI) CDQ fisheries. This analysis is intended to address some of the fisheries management issues that have arisen during the tenure of the multispecies CDQ Program, which was implemented in 1998. The original multispecies CDQ regulations were developed by NMFS based on its understanding of the Council's expectations for quota accountability. The strict quota accountability requirements associated with the CDQ Program have given rise to issues associated with potential constraints on CDQ target fisheries due to insufficient individual allocations of non-target species.

These issues have been addressed through regulatory amendments, including emergency rulemaking, on a species-by-species basis. NMFS anticipates similar CDQ fisheries management issues will arise in the future. Modifying the allocation and management of non-target CDQ reserves could address this situation, and may allow CDQ groups to catch more of their annual CDQ target allocations. Additionally, the multi-year CDQ allocation percentages established for a given set of species categories are relatively inflexible in relationship to annual changes to Bering Sea and Aleutian Islands (BSAI) groundfish species categorization. Amending current regulations could provide a means to address both of these issues.

The purpose of the EA is to predict whether the impacts to the human environment resulting from amending the allocation and management of CDQ reserves by selecting and implementing either Alternative 2 or Alternative 3 would be significant. If the predicted impacts from the preferred alternatives are not significant, and one of these alternatives is chosen, no further analysis is required to comply with the requirements of the National Environmental Policy Act (NEPA). Section 5 addresses the purpose and need of the RIR.

1.2 Management Authority

The groundfish fisheries in the exclusive economic zone (EEZ) off Alaska are managed by the National Marine Fisheries Service (NMFS) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or MSA). The mission of NMFS is the stewardship of living marine resources for the benefit of the nation, through science-based conservation and management and the promotion of a healthy marine environment. The goals of this mission are: maintaining sustainable fisheries, recovering protected species, and protecting the living marine habitat. Guidance for achieving these goals is taken from relevant Federal legislation.

The groundfish fisheries of the BSAI are managed under a FMP approved by the Secretary of Commerce. The *Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area* (BSAI FMP) (NPFMC, 2002) was developed under the Magnuson-Stevens Act and other applicable authority to manage groundfish fisheries for optimal yield and to allocate catch limits among different fishery components, while preventing overfishing and conserving marine resources. The BSAI FMP was originally implemented in 1981 and has been amended over 70 times.

Actions taken to amend regulations governing the groundfish fisheries must meet the requirements of Federal laws and regulations. In addition to the Magnuson-Stevens Act, the most important of these are NEPA, the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), Executive Order (E.O.) 12866, and the Regulatory Flexibility Act (RFA).

NEPA and E.O. 12866 require a description of the purpose and need for the action as well as a description of alternative actions which may address the problem. This information is included in Sections 1.7 and 2 of this document, along with an overview of CDQ fisheries management. Sections 3 and 4 contain information on the affected environment and the expected direct or indirect effects of the alternatives on the environment, including potential impacts on fish habitat, marine mammals, and endangered species, as required by NEPA. It also includes a section analyzing the distinctions between the direct, indirect and cumulative effects of this action; and a conclusion analyzing the potential significance of the effects identified. Section 5 includes a RIR, which considers the economic impacts of the alternatives, as required by E.O. 12866. Section 6 addresses other applicable laws and requirements. The remaining sections include information about references, authors, contributors and consultants, as well as appendices.

1.3 CDQ Program Background

The CDQ Program allocates groundfish, prohibited species, crab, and Pacific halibut to six CDQ groups representing 65 western Alaska communities. With limited exceptions, NMFS allocates 7.5 percent of each BSAI groundfish Total Allowable Catch (TAC) category to a CDQ reserve for that TAC category. Seven and one-half percent of each prohibited species catch limit also is allocated to the program as prohibited species quota (PSQ). Each CDQ and PSQ reserve is further apportioned among the six CDQ groups. The purpose of the CDQ Program is to provide the means for starting or supporting commercial fisheries business activities that will result in ongoing, regionally based, fisheries-related economic benefits for residents of participating communities. CDQ groups use the proceeds derived from the catch of CDQ allocations to fund a variety of fisheries-related projects and provide training and educational opportunities to residents of participating communities.

The CDQ Program began in 1992 with the allocation of 7.5 percent of the BSAI pollock TAC to a pollock CDQ reserve. Allocations of sablefish and halibut were added in 1995. The Council recommended expanding the CDQ Program in 1995 and NMFS implemented the multispecies

CDQ Program in 1998, combining the existing pollock, halibut, and fixed gear sablefish CDQ fisheries with additional allocations of a variety of crab, groundfish, and prohibited species. The pollock CDQ allocation increased to ten percent of the BSAI pollock TAC in 1999 under the American Fisheries Act (AFA) (Pub.L. 105-277). Squid was removed from the suite of species allocated to the CDQ Program in 1999, as discussed in Section 1.6.

As part of its original design, the multispecies CDQ Program required a higher level of accountability of allocated species than any other Alaska groundfish fishery that NMFS was then managing. Other limited access programs in place at the time, including the existing CDQ fisheries and the fixed gear halibut and sablefish Individual Fishing Quota fisheries, were target fishery-based programs that did not include individual quotas for all TAC and prohibited species catch species that were caught in those fisheries. Under such programs, the catch of target species was not constrained by any additional limits on the catch of incidentally caught or prohibited species.

Under the multispecies CDQ Program, each CDQ group is allocated a percentage of the groundfish CDQ and prohibited species quota (PSQ) reserves through a competitive process. Each group is prohibited from exceeding any of its CDQ allocations or halibut PSQ allocation. Allocation of approximately 36 annual CDQ and PSQ reserves among the six CDQ groups results in about 200 different quotas that have to be managed at the CDQ group level. The allocative and catch accounting structure associated with the CDQ Program has given rise to two significant fisheries management issues. One issue is that strict catch accounting may constrain the groundfish CDQ fisheries' catch of CDQ target species and the second issue is that current CDQ allocative procedures and regulations lack flexibility to incorporate annual changes made to BSAI groundfish species categorization. These issues are further discussed in section 1.7.

1.4 Draft Problem Statement

The current goals and purpose of the CDQ Program are to allocate CDQ to eligible western Alaska communities to provide the means for starting and supporting commercial fisheries business activities that will result in an ongoing, regionally based, fisheries-related economy (50 CFR 679.1(e)). The original fishery management objectives developed for the program stipulate that the annual catch of CDQ must be managed to limit this catch to the amount of each CDQ reserve allocated to the program, that both target and non-target quota categories will be managed to the same degree of accountability, and that CDQ groups will be responsible for managing their quotas. Additionally, current regulations do not incorporate a means to adapt existing CDQ allocations to new species categories created during the annual BSAI groundfish specifications process.

The strict CDQ accounting requirements may constrain the complete catch of annual CDQ target species. NMFS developed current CDQ catch accounting and monitoring requirements based on its interpretation of the Council's guidance and intent for strict quota accountability for all species, either target or non-target, allocated to the CDQ Program. Additionally, the lack of

flexibility between the current multi-year CDQ allocation process and annual groundfish specifications process may contribute to allocative problems if species categories are modified on an annual basis. The problem, given the maturation of the CDQ Program, NMFS's experience with managing groundfish CDQ fisheries, and the increasing complexity of BSAI fisheries management, is that existing CDQ regulations may not be structured to allow CDQ groups to fully utilize their CDQ target allocations, nor do they allow NMFS to readily adapt annual BSAI TAC specifications changes to the annual CDQ allocation process. Review of this action by the Council, and possible Council action, may provide a means to address issues associated with CDQ fisheries management and align them with the overall goals and purpose of the CDQ Program.

1.5 The Harvest Specifications Process and Establishment of CDQ Reserves

Harvest specifications for the federal groundfish fisheries in the BSAI are set annually. These TAC specifications define upper catch limits for each subject calendar year. Recent scientific research and stock assessment information are included in annual Stock Assessment and Fishery Evaluation (SAFE) reports. The setting of harvest specifications includes a review of the most recent BSAI SAFE report by the Council and its advising committees, as well as recommendations from the public. The process involves considerations of biological, economic, and social factors associated with the BSAI groundfish fisheries. The total BSAI TAC is limited to an optimum yield (OY) ranging from 1.4 to 2 million metric tons, as described in the BSAI FMP (NPFMC 2002, Chapter 10), but the aggregate acceptable biological catch (ABC) of all species categories is usually much greater than the upper OY threshold. The Council makes harvest specifications recommendations for the forthcoming year, which NMFS then reviews and makes a determination about whether to submit to the Secretary of Commerce for approval.

The current specifications timeline involves publishing proposed TAC specifications in October prior to the completion of a given year's SAFE report, establishing interim specifications to provide a means to establish preliminary TAC amounts available to commercial fisheries on January 1, and having the Council recommend final specifications in December. Following NMFS review and approval, the final specifications are published in the Federal Register and are typically effective in February or March of a given year. These specifications are made for each managed species or species groups, which may be further apportioned by various combinations of management areas, management programs (such as the CDQ Program), processing components, seasons, vessel categories, and gear types. NMFS manages the catch of each annual TAC by opening and closing groundfish fisheries in accordance with regulations in 50 CFR part 679. Management of groundfish CDQ fisheries is different, in that CDQ groups bear the primary responsibility for monitoring and managing most of their individual quotas in order to stay within allocated amounts. NMFS also monitors each CDQ group's catch. If a CDQ group exceeds an allocation, NMFS forwards information about the event to the Office for Enforcement for further investigation.

Annual groundfish CDQ reserves are an extension of the groundfish specifications process. Once BSAI TAC category amounts are established, an initial TAC amount of 85 percent of proposed TAC is calculated for all species except pollock and fixed gear sablefish. The remaining 15 percent of annual TAC is equally split between the CDQ Program and a non-specified groundfish reserve. This is the basis for the annual 7.5 percent CDQ reserve, which is then apportioned among the TAC categories in place for a given year, based on the proportion each TAC category contributes to the overall annual 2 million metric ton (mt) BSAI TAC limit. The BS pollock and fixed gear sablefish TAC categories contribute 10 and 20 percent, respectively, to each associated CDQ reserve. CDQ reserves are allocated among CDQ groups based on allocation percentages recommended by the State and approved by NMFS. CDQ allocation percentages are established for three year cycles.

1.6 Current CDQ Fisheries Management and Catch Accounting

The existing CDQ fisheries management regime was developed by NMFS and is based on the Council's original 1995 motion for the multispecies CDQ Program, proposed and final rules implementing the program, as well as periodic consultations with the Council and implementation of various regulatory amendments associated with the program. The general CDQ fisheries management objectives encompass both the allocation and catch accounting of groundfish CDQ species. Original objectives include the requirement that NMFS must manage the CDQ fisheries so that the overall catch is limited to that amount allocated to the CDQ Program and that catch in the CDQ fisheries would not accrue to non-CDQ TAC or PSC amounts.

Furthermore, no distinction was to be made between quota categories, i.e. target or non-target species, so all quota categories would be managed with the same level of accounting. CDQ groups are prohibited from exceeding any groundfish, halibut, or crab CDQ allocations, as well as allocations of halibut PSQ. Groups are expected to monitor the catch of each of their annual allocations and take appropriate measures to not exceed allocated amounts, so NMFS does not actively manage the groundfish CDQ fisheries as it does other groundfish fishery components in the BSAI. The possibility that this level of accountability likely would result in the catch of non-target and PSQ limiting the catch of target species was noted during the development of the multispecies CDQ regulations. Table 1-1 lists the 2004 BSAI TAC categories by target and non-target categories. Target species are defined in the BSAI FMP, in part, as those species which are commercially important. For this analysis, target CDQ species are considered those species or species group for which a directed CDQ fishery occurs or for those species that CDQ groups have stated that could be targets.

Table 1-1. BSAI target and non-target species categories.

Target species categories		Non-target species categories	
Area, subarea, or district	Species	Area or subarea(s)	Species
BS	Pollock	AI	Pollock
BSAI	Pacific cod	Bogoslof	Pollock
BS and AI	Sablefish (fixed gear)	BSAI	Arrowtooth flounder
EAI, CAI, and WAI	Atka mackerel	BSAI	Northern rockfish
BSAI	Yellowfin sole	BSAI	Shorthead rockfish
BSAI	Rock sole	BSAI	Rougeye rockfish
BS and AI	Greenland turbot	BS and AI	Other rockfish
BSAI	Flathead sole	BS and AI	Sablefish (not gear specific)
BSAI	Other flatfish	BSAI	Other species (not allocated among CDQ groups)
BSAI	Alaska plaice	BSAI	Squid (not currently allocated to CDQ Program)
EAI/BS, CAI, and WAI	Pacific ocean perch		

Notes: BS means Bering Sea, AI means Aleutian Islands, EAI means eastern AI, CAI means central AI, and WAI means western AI.

The original CDQ allocation and program design did not incorporate a means to establish that the allocation percentages of non-target species would yield quota amounts that account for the potential catch of such species in target CDQ fisheries. NMFS acknowledged that the incidental catch of some species could be expected to constrain the groundfish CDQ fisheries during the development of the multispecies CDQ Program. Therefore, NMFS developed and implemented a “non-specific reserve” mechanism within the CDQ Program to mitigate the potential impact that the catch of some non-target species could have on target species. This reserve, established annually for each CDQ group, was applicable to several non-target species with TACs that had a significant buffer between TAC and ABC (squid, arrowtooth flounder, and “other species”). However, it was not applicable to all non-target species allocated to the program.

This non-specific reserve did not function as envisioned. The original concept was premised on placing a portion of each group’s allocation of squid, arrowtooth flounder, and “other species” in a reserve. Each group had its own reserve, and could transfer any portion or all of the reserve back in to one of the contributing species categories. This had the practical effect of allowing a group to increase its original allocation of a contributing species, such as “other species,” if it so

chose. However, squid was removed from the CDQ Program, and the TACs for arrowtooth flounder and “other species” decreased over time. This had the combined effect of decreasing each CDQ group’s non-specific reserve to the point that it was inadequate to address the anticipated annual catch of the two remaining species categories contributing it, particularly for “other species.” The process for creating and using the CDQ non-specific reserve was removed from regulations in 2003.

There has been a progression of changes to the allocation and management of certain groundfish CDQ species since the implementation of the multispecies CDQ Program. Two major changes stem from the passage of the AFA. First, this statute increased the allocation of pollock to the CDQ Program from 7.5 to 10 percent of the annual pollock TAC. This led to squid being removed from the program (66 *FR* 13672, March 7, 2001). Squid is predominantly caught in the pollock fishery, but the contribution from the squid TAC to the squid CDQ reserve did not increase with implementation of the AFA. The Council recommended that squid be removed from the CDQ Program after evaluating the potential that the squid CDQ reserve could be caught before the entire pollock CDQ reserve was caught, which would impact the economic success of CDQ groups and their development projects. Additionally, under the AFA, pollock caught in non-pollock CDQ directed fisheries no longer accrues towards the pollock CDQ reserve or groups’ pollock allocations, but to a pollock incidental catch allowance.

Finally, the Council recommended that the “other species” CDQ reserve not be allocated among CDQ groups, due to concerns that there was inadequate “other species” available to account for the catch of this species complex if all CDQ target species were fully prosecuted. CDQ groups believed that there was a potential that they would catch their individual allocations of “other species” before completely catching their target species. If this occurred, the CDQ groups would risk an overage and the enforcement action associated with it if they continued to fish for their target species and caught additional amounts of “other species.”

NMFS implemented this recommendation in 2003, concurrently with the recommendation to discontinue use of the CDQ non-specific reserve (68 *FR* 69974, December 16, 2003). The “other species” CDQ reserve is instead now managed by NMFS in conjunction with the catch of “other species” in the non-CDQ fisheries. “Other species” CDQ is closed to directed fishing. CDQ groups are subject to having this species category place on prohibited species status (no retention allowed) or other management measures if they catch in excess of their annual “other species” CDQ reserve. NMFS monitors the combined catch “other species” in the CDQ fisheries and is prepared to implement additional measures to contain the catch of this species category, although has not yet been necessary. Fisheries management measures are discussed in greater detail in Section 2.2.2.

1.7 Purpose and Need for this Action

The objectives of this proposed action are to develop a means to specify which CDQ reserves will be allocated among the CDQ groups and to provide a way to integrate changes made during

the annual BSAI groundfish specifications process into the multi-year CDQ allocation and management regime. These objectives are meant to increase NMFS's flexibility to more effectively manage the groundfish CDQ fisheries and to support the overall goals and purposes of the CDQ Program. This action is intended to clarify how both target and non-target groundfish CDQ reserves will be allocated and managed in the future, and avoid similar situations that occurred in the past, when CDQ fisheries management issues were addressed through emergency rulemaking.

1.7.1 Modify the process for allocating CDQ reserves

The first issue, as identified by the CDQ groups, is that the strict accounting requirements and prohibition against exceeding an annual CDQ amount is unnecessarily constraining the full harvest of CDQ target species. This was a particular issue for the CDQ groups with the "other species" TAC category, as described in Section 1.6.

A similar issue may arise with some of the other BSAI groundfish species categories in the future. Rockfish probably are the next best example of a situation where the catch of an incidental catch species could prevent the CDQ groups from fully catching their target species. Some of rockfish species groups have been split by species and management area in recent years to better manage the catch of individual rockfish species. However, splitting quota categories usually results in smaller TACs, smaller CDQ reserves, and smaller allocations to the individual CDQ groups.

Some of the rockfish TACs have gotten so small in recent years that individual CDQ groups could have been allocated less than a metric ton of a particular rockfish species. However, the Council took emergency action to address such situations during the specifications process in 2001 and 2002. In 2004, the combination of BS and AI subareas for shortraker, roughey, and northern rockfish eliminated this possibility, due to the larger TAC amounts (and CDQ reserves) established by combining these subareas. Rather than continuing to address the constraints that strict quota accountability places on the CDQ groups on a species by species basis as problems arise similar to what occurred with rockfish and "other species," NMFS is recommending that the Council consider addressing this issue proactively.

Table 1-1 lists target and non-target species groups. Non-target species include "other species" (no longer allocated among groups), arrowtooth flounder, five rockfish categories, squid (no longer allocated to the CDQ Program), AI pollock, and Bogoslof pollock. The two pollock categories currently are not an issue, as there is no directed fishing for pollock in either of these areas. By regulation, the CDQ Program does not receive allocations of either AI or Bogoslof pollock unless directed pollock fisheries are specified for either the AI or Bogoslof areas. Any pollock caught in these areas by CDQ fisheries accrues towards "incidental catch allowances" (ICA), which are accounting categories NMFS uses for both CDQ and non-CDQ fisheries. Pollock caught incidentally in CDQ directed fisheries besides the pollock fishery also accrue to an ICA. Additionally, many species can be both target and incidental catch species. For example,

Pacific cod may be caught incidentally in the directed pollock CDQ fishery. Thus, it is difficult to definitively categorize many species as only being a target or non-target species.

1.7.2 Reconcile annual specification changes with multi-year CDQ allocations

The second CDQ fisheries management issue addressed by this action is that there is a problem associated with the lack of flexibility between CDQ percentage allocations, which are fixed for a three year period, and annual changes to groundfish TAC categories. Percentage allocations among the CDQ groups are recommended by the State and approved by NMFS every three years on the basis of the groundfish quota categories in existence the year prior to the beginning of an allocation cycle. Appendix A displays the 2003-2005 CDQ allocations. The recommendations for these allocations were based on the TAC categories in effect in 2002. CDQ groups apply for CDQ allocations of groundfish target species, as well as allocations of non-target groundfish species they calculate is necessary to account for the catch of such species concurrently with target species.

During each annual specifications process, the Council may split or join groundfish species groups. This is usually done in response to changes to recent stock assessment data and biological information available for a particular groundfish species. Such changes typically do not reconcile with existing CDQ allocation percentages. These percentages are typically approved for a three year period, and are based on TAC categories in effect the year preceding the beginning of an allocation cycle. Recent changes to rockfish species categorization in the past several years has meant that certain CDQ species categories and percentage allocations did not match new BSAI rockfish categories. These changes to BSAI rockfish categories are displayed in Table 1-2. Both the Council and NMFS have taken action on a case-by-case basis to determine how to manage rockfish CDQ reserves that do not have applicable percentage allocations that can be applied to them. This includes retaining species categories from prior years solely for CDQ Program purposes, and not allocating select rockfish species categories among CDQ groups for the duration a CDQ allocation cycle, as occurred for the 2003-2005 CDQ allocations.

Table 1-2. TAC categorization for northern, shortraker, and rougheye rockfish, 2002-2004.

2002	2003	2004
BS other red rockfish (includes shortraker, rougheye, and northern rockfish) AI northern AI shortraker/rougheye	BS northern BS shortraker/rougheye AI northern AI shortraker/rougheye	BSAI northern BSAI shortraker BSAI rougheye

Note: The 2003-2005 CDQ percentage allocation requests are based on 2002 species categories.

When the Council splits a species group, NMFS can apply the percentage allocation approved for the original species group to the new quota categories. For example, when the Council split the “other flatfish” TAC category into two separate quota categories for “other flatfish” and Alaska

plaice in 2002, NMFS applied the percentage allocations previously approved for “other flatfish” to the new, individual allocations for Alaska plaice. However, if the Council joins two TAC categories by species or area, then NMFS may not have an approved percentage allocation to allocate the resultant CDQ reserve (which is based on the new TAC category) among the CDQ groups. Instead, NMFS must determine how to apply different ranges of allocation percentages to a combined quota category or how to best manage newly categorized CDQ reserves.

This problem could occur, for example, if there previously were separate quota categories for BS shortraker/rougheye and AI shortraker/rougheye rockfish which were then combined by area into one quota category for BSAI shortraker/rougheye. It could also happen if species groups were split and then recombined by separate management areas. This situation happened during the BSAI annual specifications process for 2004. The Council recommended three new rockfish species categories that encompassed four different TAC categories in place in 2003. NMFS could not readily apply any existing allocation percentages to the new rockfish CDQ reserves. Instead, NMFS chose to manage the associated CDQ reserves with management measures typically used in the non-CDQ fisheries, and not allocate them among CDQ groups in 2004. This was an extension of NMFS’s 2003 decision not to allocate BS northern rockfish and BS shortraker/rougheye rockfish among CDQ groups for lack of appropriate allocation percentages for these species categories.

Currently, there are approximately 16 species categories that are managed at the subarea level that theoretically could be combined into a combined BSAI category. Current management subareas include the BS, AI, as well as three AI districts. There currently are only two species categories that might readily be combined, as occurred with shortraker and rougheye rockfish in 2004. These include AI “other rockfish” and BS “other rockfish.” While such a possibility is unlikely, given the species involved and the current biological and management rationale for categorizing BSAI TAC species, there also is a possibility that existing BSAI species categories could be split by subarea, but then recombined into other variations in the future.

Instead of reconciling annual changes in BSAI species categorization with existing, longer term CDQ allocation percentages on an *ad hoc* basis, NMFS also is recommending that this issue be addressed by the Council. This could be accomplished by an amending regulations to clarify how NMFS addresses these situations, and is included as an element under both Alternative 2 and Alternative 3. Modifying regulations to allow NMFS latitude to respond to changes in annual BSAI species categorization would clarify NMFS’s course of action for applying annual CDQ allocation percentages to CDQ reserves, should such changes occur. Selection of Alternative 2, in which the Council would specify which CDQ reserves are allocated among CDQ groups, could partially resolve this situation since the Council could choose to not allocate reserves for which there are no allocation percentages. Currently, NMFS does not have a legal basis for determining how best to address allocating CDQ reserves for which there are no approved allocation percentages. Without appropriate regulatory guidance, NMFS is reluctant to allocate newly created reserve categories and then strictly enforce prohibitions against exceeding such allocations.

2.0 DESCRIPTION OF THE ALTERNATIVES

2.1 Alternative 1. No Action

Alternative 1: No action. Continue to establish CDQ reserves for every annual TAC category except squid. All CDQ reserves would be allocated among CDQ groups, with the exception of “other species.” The CDQ groups would continue to be prohibited from exceeding any of these CDQ allocations.

2.1.1 Retain current process for allocating CDQ reserves

The no action alternative would not change the CDQ reserve management regime to differentiate whether particular CDQ reserves are allocated among CDQ groups. Continuation of the existing CDQ allocation and catch accounting requirements could subject CDQ groups to the possibility that the catch of non-target CDQ allocations could limit their ability to catch all of their economically valuable target species. This potential is described in Section 1.7. Any constraints that affect the CDQ groups’ ability to catch all of their target species could in turn have an impact on their ability to carry out their various economic development projects in western Alaska, which is an important objective of the CDQ Program. This alternative would not change an existing regulatory provision that the “other species” CDQ reserve is not allocated among groups. It would perpetuate the strict accountability associated with the Council’s original CDQ fisheries management objectives for each CDQ reserve, although this policy has been relaxed in recent years with the modification of the management of squid and “other species.”

Under Alternative 1, CDQ groups would have to abide by regulations prohibiting the catch of more than an allocated CDQ or PSQ amount. If a group exceeds its annual allocation of a given species, it is subject to enforcement action. Since 1999, there have been several CDQ overages of both target and non-target species each year. CDQ groups are aware of the possibility that exceeding their individual allocations of non-target species may have an impact on the complete prosecution of their key target species, and lack of sufficient incidental catch species may curtail directed fishing for target CDQ species. Some management flexibility is available to CDQ groups, in that they may obtain transfers of additional amounts of non-target CDQ amounts from other CDQ groups, but only if other groups are willing to make such transfers. In situations where all groups think that they do not have adequate non-target allocations to account for their incidental catch of such species, they are reluctant to transfer quota.

Each year, CDQ groups internally allocate various amounts of groundfish target species to their harvesting partners, along with the amounts of non-target species that it calculates are needed to support the catch of non-target species being apportioned to each of these entities. CDQ groups may respond to actual incidental catch rates by making inseason adjustments to amounts apportioned among their different fisheries. Such apportionments and adjustments are weighted towards target species yielding the highest economic returns to CDQ groups, such as pollock and Pacific cod. Groups do not necessarily allocate the amounts of bycatch species that some fishing

partners calculate they need to account for the quantities of such species they will catch during the course of catching a group's target species, which may result in the partners choosing not to prosecute some or all of the CDQ available to them.

Under Alternative 1, no action, continuing to allocate all annual CDQ reserves to individual groups could constrain some directed fisheries if the amount of some CDQ allocations available to a group are less than the amount needed for the incidental catch of some non-target species in its directed fisheries. Determining the exact amount of each non-target CDQ species that would be needed to support the full utilization of each target CDQ fishery is difficult. There are a variety of factors that affect the amount of non-target species that would be needed to support each annual CDQ target fishery, including, but not limited to: the abundance of individual species; the amount of each target and non-target species allocated to the CDQ reserves; the gear type used to prosecute a given fishery; target species harvest timing and location; and, CDQ vessels' proficiency in avoiding the incidental catch of undesired species.

Appendix B contains the percent of each groundfish CDQ reserve caught from 1999 to 2002. In general, primary target species such as pollock, Pacific cod, and Atka mackerel are the most successfully caught species. The average catch rate for key target species over the past five years ranges from 75 percent for western AI Atka mackerel to 99 percent for BS pollock. Other target species such as yellowfin sole, rock sole, and Greenland turbot have not been as fully harvested. CDQ rock sole's average catch rate is 9 percent, while yellowfin sole has had an average catch rate of approximately 27 percent from 1999 to 2003. Groundfish target species, particularly pollock and Pacific cod, are the source of much of the royalties accruing to CDQ groups. The more successful that groups are at catching their target allocations, the better they are able to fund their CDQ projects. CDQ royalty information is discussed in further detail in Section 5.

Non-target CDQ species also have a range of average percentages caught from 1999 through 2003, ranging from 7 percent for AI sablefish to 81 percent for BS shortraker/roughey rockfish. From a conservation perspective, a CDQ group is more successful if it catches less of its non-target CDQ allocations than are available to it. However, CDQ groups have stated that they have forgone participation in some target fisheries to minimize the amount of non-target species they catch. This allows groups to stay within their allocated amounts of non-target species, but has an inverse effect on how successful they may be at catching all of their target CDQ allocations. Alternative 1 probably would perpetuate this situation.

2.1.2 Management of TAC categories for which no CDQ allocation percentages exist

Alternative 1 would not modify existing regulations to further clarify how NMFS would reconcile differences between allocated TAC categories and changes made to species categorization during the specifications process, particularly if categories were combined by management area. NMFS would continue to address such situations on a case-by-case basis, such as by opting to not allocate certain species categories among CDQ groups and instead managing unallocated reserves as a whole at the CDQ reserve level.

2.2 Alternative 2. Modify the annual groundfish specifications regulations

Alternative 2: Amend regulations to (1) allow the Council to recommend which CDQ reserves would be allocated among the CDQ groups each year as part of the annual BSAI groundfish specifications, and (2) clarify how NMFS would manage CDQ reserves based on new TAC categories created by joining existing TAC categories by species or area.

Under Alternative 2, the Council would recommend which CDQ reserves would be allocated among CDQ groups as part of the annual BSAI groundfish specifications process. CDQ groups would continue to be prohibited from exceeding any of the CDQ allocations made to the groups. Any species not allocated to groups would be managed at the CDQ reserve level by prohibiting directed fishing and limiting retention of species comprising unallocated CDQ reserves. This would control the catch of non-allocated species within the CDQ fisheries. It also would remove a potential constraint to CDQ groups by eliminating the possibility that a given allocation would be inadequate to account for the catch of a given species during the course of directed fishing for CDQ target species. Without a specific allocation to exceed, the prohibition against exceeding an allocation would not apply. NMFS would instead monitor the aggregate catch of a non-allocated CDQ reserve and specify additional measures for the CDQ fisheries to control the catch of a such species, as needed.

Selection of Alternative 2 could allow the CDQ fisheries to catch up to the amount available in a given non-allocated percent CDQ reserve, and could possibly catch in excess of the amount of a TAC currently apportioned to it. If this occurred, NMFS would assess the catch of such species in both the CDQ and non-CDQ fisheries and use management measures to contain the further catch of such species in the CDQ fisheries. This includes directed fishing closures, for which regulations specifying maximum retainable amounts of non-target species are applicable, or prohibiting retention of certain species all together. Such measures are discussed in Section 2.2.2.

2.2.1 Process for establishing which CDQ reserves should be allocated

Alternative 2 would offer the Council the ability to recommend which CDQ reserves should be allocated among CDQ groups. This would permit the Council to consider factors associated with the overall social and economic goals of the CDQ Program, as well as its conservation objectives for the BSAI groundfish fisheries, when deciding whether a particular reserve should be allocated among CDQ groups. Both the BSAI FMP (Section 10) and regulations governing the BSAI groundfish specifications (50 CFR 679.20(a)) contain provisions allowing the Council to incorporate socioeconomic considerations into its TAC recommendations each year.

Under this alternative, the Council could continue to specify that CDQ reserves for target species such as Pacific cod, pollock, yellowfin sole, and Atka mackerel be allocated among CDQ groups. Non-target CDQ reserves, such as arrowtooth flounder or rockfish species, could be allocated

among CDQ groups based on the Council's annual assessment about whether individual allocations of such species would be adequate to support the each CDQ group's catch of target species.

The preliminary decision about which CDQ reserves to allocate would have to be made when the Council reviews the proposed specifications for a given year. This usually occurs in October. NMFS or Council staff could categorize existing CDQ reserves as either being target or non-target species. CDQ allocation percentages could be applied to each proposed reserve to illustrate the potential amounts of each target and non-target species category that would be allocated among CDQ groups. The Council could then assess whether there was risk that some CDQ groups or CDQ target fisheries might be constrained by allocating particular CDQ reserves among groups, thus subjecting them to prohibitions against exceeding specific quotas. The Council also could consider the implications for non-CDQ fisheries if CDQ groups were not held to strict quotas for some species categories. Based on such information, as well as public comment, the Council could then select which CDQ reserve categories to allocate or not. NMFS would then include a list of allocated CDQ reserves in the proposed rule for the annual BSAI groundfish specifications.

A similar process would have to be repeated each December when the Council makes its final BSAI groundfish specifications recommendations. Since the final recommendations are based on additional information available from newly completed SAFE documents, TAC categories may change from those in the proposed specifications, with corresponding effects on CDQ reserve categories. If such changes occurred, the Council would have to incorporate them into its selection of which CDQ reserves to allocate or not. Those CDQ reserves selected to be allocated among CDQ groups could be listed in the annual BSAI specifications.

2.2.2 Implications for CDQ catch and quota monitoring

Under Alternative 2, NMFS would still require that CDQ groups report all groundfish species caught by vessels participating in groundfish CDQ fisheries. Such catch would either accrue towards individual CDQ group allocations or towards applicable CDQ reserves. NMFS would continue to monitor the catch of allocated CDQ reserves as reported by CDQ groups and enforce the existing prohibition against exceeding specific CDQ allocations. For those reserves not allocated, NMFS inseason management staff would have to monitor the combined catch of a given species category in the CDQ fisheries and determine when a CDQ reserve has been completely caught or has the potential to be. If a reserve was expected to be, or was reached, inseason management staff would then have to assess the implications of additional catch of such species on the remaining non-CDQ TAC and ABC amounts. This would shift some responsibility for monitoring groundfish catch in the CDQ fisheries from CDQ groups to NMFS.

NMFS routinely closes directed fishing for specified groundfish species in the non-CDQ fisheries component. These closures may be due to a TAC or directed fishing allowance for a particular species being reached, a fishery reaching a prohibited species catch allowance, or because of

concerns that a fishery may approach an overfishing level (OFL). When directed fishing for a species is closed, “maximum retainable amounts” of that species may still be retained onboard a vessel up to a specified percentage of other retained groundfish. When the catch of a species approaches its TAC, NMFS may place the species on “prohibited species” status. Subsequent catch of that species must be discarded. If the total amount caught approaches the OFL, then NMFS may close those directed fisheries which catch that species incidentally in order to prevent overfishing. More detailed information about catch monitoring and inseason fishery management is available in Section 2.5 of the *Draft Programmatic Supplemental Environmental Impact Statement* (Draft PSEIS) (NMFS 2003a).

Under Alternative 2, CDQ reserves not allocated among CDQ groups would be managed at the CDQ reserve level in conjunction with non-CDQ fisheries. This approach would be a hybrid of current NMFS management practices in the Alaska groundfish fishery. At the beginning of each year, all non-allocated CDQ reserves would be closed to directed fishing. All catch of non-allocated species in groundfish CDQ fisheries would accrue towards applicable CDQ reserves. This would help minimize the likelihood that the available amounts of non-allocated CDQ reserves would be reached during the prosecution of directed CDQ fisheries, since CDQ groups would not be able to target on species comprising such reserves.

Prohibiting directed fishing for non-allocated CDQ species would mean that any retained amounts of non-allocated CDQ species could not exceed a certain proportion of the amount of other retained CDQ species on board a vessel. The CDQ fishery would use the same maximum retainable percentage amounts that are specified in current regulations for the BSAI groundfish fishery. If an entire non-allocated CDQ reserve were caught, NMFS would place the species in that reserve on “prohibited species” status, thereby requiring any subsequent catch to be discarded. This acts as a mechanism to discourage targeting of such species. NMFS would then monitor the aggregate catch species in that particular category in both the CDQ and non-CDQ fisheries. Further fishery restrictions would not occur unless the TAC is reached or OFL were approached for this species complex is approached by the combined catch of both of these fishery components. If this did occur, both CDQ and non-CDQ fisheries would be subject to specified fisheries closures to minimize further catch of the species in question. For example, NMFS could select to close a particular CDQ directed fishery, such as hook-and-line Pacific cod, to minimize further catch of an incidental catch species, such as shorttraker rockfish.

This alternative would reduce the possibility that the catch of non-target species in the CDQ fisheries could constrain the catch of CDQ target species for one or more CDQ groups by elevating the accounting of non-allocated CDQ reserves to the CDQ reserve level. It potentially could even out disparities between a given group’s actual non-target species catch, anticipated needs, and annual allocations. The primary management of non-allocated species would be at the CDQ reserve level and secondary management of non-allocated species would be at the combined CDQ and non-CDQ aggregate catch level. The overall catch of non-allocated reserves would still be subject to existing controls associated with TAC, ABC, and OFL levels for non-allocated CDQ species.

Under the management regime described above, CDQ groups would not be individually constrained by the incidental catch of non-allocated species. However, each group's target fisheries could be impacted by the performance of other CDQ groups and the non-CDQ fisheries. If the amount available in a particular non-allocated CDQ reserve was reached due to the incidental catch amounts in CDQ fisheries conducted by a few CDQ groups, NMFS could put species in the reserve on "prohibited species" catch status. If catch in the CDQ fisheries, in combination with non-CDQ catch, resulted in the OFL being approached, NMFS could close select CDQ fisheries to minimize any further catch of the species of concern. All CDQ groups would be subject to the closure, regardless of whether they had actually caught all of their allocated target species affected by the closure. Thus, moving away from a regime of allocating all non-target species and managing some at the CDQ reserve level could subject each CDQ group to the actions of other CDQ groups or non-CDQ fisheries components.

2.2.3 Implications for non-CDQ fisheries

Under Alternative 2, a shift to a management regime in which the Council specified which CDQ reserves were allocated and NMFS assumed responsibility for managing non-allocated reserves could affect the non-CDQ fisheries components in the BSAI. If NMFS managed the non-allocated CDQ reserves to try contain the annual catch of each species to the amount allocated to the reserve, it would not necessarily limit the catch of non-allocated CDQ species to the amounts apportioned to each non-allocated CDQ reserve. For TAC categories with a substantial buffer between TAC and ABC, such as arrowtooth flounder, NMFS would be less likely to impose strict management measures on CDQ directed fisheries, even if the associated CDQ reserve was reached. In such situations, NMFS could manage the catch of a particular species to the overall TAC limit, rather than the apportionments between CDQ and non-CDQ fishery components.

For TAC categories with a small range between TAC and ABC, or if TAC was equal to ABC, fisheries management measures would have to be more stringent. If NMFS estimated that the non-CDQ fisheries would catch all of a given TAC, it would prohibit directed fishing or impose prohibited species catch limits to minimize the impact that catch by CDQ fisheries would have on non-CDQ fisheries. Such impacts could include earlier closures for select non-CDQ fisheries due to the actions of the CDQ fisheries. NMFS would contain the catch in the CDQ fisheries to the annual CDQ reserve established for that TAC category.

2.2.4 Management of TAC categories for which no CDQ allocation percentages exist

Additionally, Alternative 2 would amend regulations to clarify how NMFS would manage CDQ reserves based on new TAC categories created by joining existing TAC categories by species or area. This would be applicable to new CDQ reserve categories for which no applicable CDQ allocation percentages exist. For example, the Council recommended that three rockfish species (northern, shortraker, and rougheye) be managed at a combined BSAI level, rather than separate BS and AI management subareas for 2004. There are no applicable CDQ percentage allocations that apply to these new species categories. Selection of Alternative 2 would provide the means to

allow NMFS manage newly created CDQ reserves with standard fishery management measures. This element is more procedural than the element that would require the Council to specify which CDQ reserves to allocate among CDQ groups. It is meant to clarify regulations to further describe how to reconcile approved CDQ percentage allocations and revisions to annual groundfish TAC categories. This also is discussed in Section 1.7.2.

2.2.5 Impacts on CDQ allocation process

Alternative 2 would allow the Council discretion in choosing which annual CDQ reserves should be allocated among groups. NMFS would still require the State of Alaska to submit allocation recommendations for each TAC category. Certain allocation recommendations, once approved by NMFS, would not be used if the Council chose not to allocate particular CDQ reserves for a given year. Since neither the State or NMFS would know in advance which species categories the Council might choose to not allocate, NMFS believes it is necessary to have a complete range of CDQ allocation percentages available in order to be prepared to manage all CDQ reserves.

The State develops its CDQ allocation recommendations by examining CDQ groups' applications for CDQ and PSQ, as detailed in proposed Community Development Plans (CDP). The State's primary focus is developing recommendations for target species allocations. Non-target CDQ allocation recommendations are derived from CDQ target species recommendations. The State has developed a model it uses to calculate the amounts of non-target species that are required to support the catch of a given amount of target species. This model could still be used to develop non-target CDQ allocation recommendations.

2.3 Alternative 3. Amend NMFS regulations to specify which CDQ reserves would be allocated among CDQ groups

Alternative 3: Amend regulations to specify which TAC categories and associated CDQ reserves would be allocated among the CDQ groups. Any changes to this set of allocated CDQ reserves would have to be made by subsequent regulatory amendments. Regulations also would be amended to clarify how to manage CDQ reserves derived from new TAC categories created by joining existing TAC categories by species or area.

Alternative 3 would amend regulations to identify which species categories would be allocated among CDQ groups each year. If Alternative 3 were selected the Council would recommend which TAC categories and associated CDQ reserves to allocate among CDQ groups on a permanent basis. This alternative differs from Alternative 2 in that the Council would make a decision about which CDQ reserves to allocate among groups as part of its final recommendation for this action, rather than annually as would be done by amending the annual specifications process as described under Alternative 2. CDQ reserves allocated among CDQ groups would continue to be managed with existing regulations that prohibit exceeding specific CDQ allocations. Any species category not allocated among groups would be managed at the CDQ

reserve level. NMFS would limit directed fishing and retention to control the catch of unallocated CDQ reserves within the CDQ fisheries. Table 1-1 lists both target and non-target species and Appendix C lists each 2004 BSAI groundfish TAC category, including ABC and CDQ reserve amounts.

Alternative 3 could offer CDQ groups' additional flexibility for catching their CDQ target allocations. It would remove a constraint that some allocations of CDQ non-target species may not be adequate to account for the catch of such species during the course of catching CDQ target species. NMFS would instead monitor the aggregate catch of a non-allocated CDQ reserves and specify additional measures for the CDQ fisheries to control the catch of such species, as needed. The intended purpose of Alternative 3 is the same as that of Alternative 2, but it would identify which CDQ reserves to allocate among CDQ groups on a permanent, rather than periodic, basis.

2.3.1 Process for establishing which CDQ reserves should be allocated

Alternative 3 would allow the Council to recommend which CDQ reserves should be allocated among CDQ groups. This process probably would be similar to that described in Section 2.2.1. However, instead of doing this during each annual BSAI groundfish specifications process, the Council would take final action to identify which CDQ reserves to allocate among CDQ groups permanently. This would require assessing the overall social and economic goals of the CDQ Program and the desirability of adhering to a strict CDQ catch accounting regime. BSAI target and non-target species categories are described in Section 1.6 and Table 1-1. For Alternative 3, such categorization could be used as a basis to determine which CDQ reserves to allocate among groups. Reserves designated to be allocated would then be listed in regulations governing the BSAI groundfish CDQ fisheries.

Although Alternative 3 would designate which CDQ reserves would be allocated on a more permanent basis than would Alternative 2, it offers less flexibility for future changes. The Council or NMFS could determine that the suite of CDQ reserves specified to be allocated among groups needs to be adjusted for reasons associated with the annual SAFE and groundfish specifications process. Should Alternative 3 be chosen and implemented, any subsequent modifications to the list allocated CDQ reserves would have to go through a complete cycle of notice-and-comment rulemaking. This potentially would take over a year to accomplish. Alternative 3 would not allow the Council to consider the most recent information about all TAC categories and incorporate such information into its choice of which CDQ reserves are allocated among groups once it had adopted a suite of allocated CDQ reserves.

2.3.2 Management of non-allocated CDQ reserves

Should Alternative 3 be adopted and some CDQ reserves be specified to be allocated among CDQ groups, NMFS would begin managing non-allocated CDQ reserves with existing management measures as it now does for the "other species" CDQ reserve. This process is

described in Section 2.2.2. The effects of modifying which CDQ reserves are not allocated among CDQ groups and anticipated effects on non-CDQ fisheries are described in 2.2.3.

2.3.3 Impacts on the allocation process

Alternative 3 would allow the Council to choose which annual CDQ reserves should be allocated among groups. This would have a corresponding effect on the CDQ allocation process. If the Council chose Alternative 3 and specified a suite of CDQ reserves to allocate among CDQ groups, then non-allocated CDQ reserves would not require corresponding CDQ allocation percentages. NMFS would no longer require the State of Alaska to submit allocation recommendations for those TAC categories not allocated among CDQ groups during subsequent CDQ allocation cycles.

Under this alternative, CDQ groups would continue to be prohibited from exceeding any CDQ allocations made to the individual groups. Any species not allocated among CDQ groups would be managed at the CDQ reserve level by limited directed fishing and retention to control the catch of unallocated CDQ reserves. This would remove a potential constraint to CDQ groups, as described under Section 2.2.

2.3.4 Management of TAC categories for which no CDQ allocation percentages exist

Alternative 3 also would amend regulations to clarify how NMFS would manage CDQ reserves based on new TAC categories that could be created by joining existing TAC categories by species or area. This element of Alternative 3 also would clarify how NMFS would manage CDQ reserves based on new TAC categories that were created by joining existing TAC categories by species or area. This would be applicable to new CDQ reserve categories that the Council specified would be allocated among CDQ groups, but for which no applicable CDQ allocation percentages existed. It would allow NMFS to manage such CDQ reserves with general fishery management limitations. This issue is more procedural than the element that would require the Council to specify which CDQ reserves to allocate among CDQ groups, and is meant to bridge the gap between approved, multi-year CDQ percentage allocations and revisions to annual groundfish TAC categories. This element is further described in Section 2.2.4.

2.4 Stand Alone Option for Squid

This option would add squid to the suite of species allocated to the CDQ Program. It could be selected under either Alternative 2 or Alternative 3. In 1999, squid was removed from being a species allocated to the program by Amendment 66 to the BSAI FMP. Under the AFA, the allocation of pollock to the program increased to 10 percent of the annual BS pollock TAC, while the allocation of squid to the program remained at 7.5 percent of the BSAI squid TAC. Concern that there would be inadequate squid available to account for the possible catch of squid in the pollock CDQ fisheries led the Council and NMFS to remove squid from the CDQ Program. This was premised on the possibility that allocations of the squid CDQ reserve among

CDQ groups would not give groups adequate amounts of squid to account for the catch of this species in their pollock CDQ fisheries.

Under this option, squid would be integrated back into the CDQ Program and a portion of the annual BSAI squid TAC would be allocated to the program as a squid CDQ reserve. If squid was not included in the suite of CDQ reserves that would be allocated among CDQ groups, then squid would be managed at the CDQ reserve level. Integrating squid back into the CDQ Program would require an amendment to the BSAI FMP.

Amending regulations to allow the Council to select which CDQ reserves would be allocated among CDQ groups could encompass the original intent of removing squid from the CDQ Program. Under Alternative 2, the Council would be required to specify which species are allocated among CDQ groups during the annual specifications process. Under Alternative 3, the Council would recommend which CDQ reserves should be allocated among CDQ groups by amending regulations. The Council's choice of which reserves to allocate among CDQ groups could include the squid CDQ reserve. Either alternative includes a decision point that could include selecting the squid CDQ reserve to be allocated among CDQ groups or not. Incorporating squid back into suite of species allocated to the CDQ Program would be consistent with the MSA requirement that:

The North Pacific Council and the Secretary shall establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program.

Should the Council select either Alternative 2 or Alternative 3, selection of the option to incorporate squid back into the CDQ Program would make the allocation and management of squid consistent with other BSAI groundfish TACs, rather than excluding it from the program. All BSAI TAC species would be handled under the same process whereby the Council would choose which CDQ reserves to allocate among CDQ groups annually or on a permanent, one time basis. The Council could then assess whether to allocate the squid CDQ reserve among CDQ groups or not. If it was not allocated, NMFS would manage the squid reserve with the fishery management measures described in 2.2.2.

3.0 AFFECTED ENVIRONMENT

An environmental assessment (EA) is required by the National Environmental Policy Act of 1969 (NEPA) to determine whether the action considered will result in significant impact on the human environment. If the action is determined not to be significant based on an analysis of relevant considerations, the EA and resulting finding of no significant impact (FONSI) would be the final environmental documents required by NEPA. An environmental impact statement (EIS) must be prepared for major Federal actions significantly affecting the human environment.

An EA must include a brief discussion of the need for the proposal, the alternatives considered, the environmental impacts of the action and the alternatives, and list of document preparers. The purpose was discussed in Section 1, along with background information about the CDQ Program. Alternatives were presented in Section 2. The economic impacts of the alternatives are discussed in Section 5. This section discusses the status of environmental components of the BSAI. Section 4 addresses the environmental impacts of the alternatives, including impacts on essential fish habitat, threatened and endangered species, and marine mammals.

This section provides information directly applicable to the subject action and does not contain lengthy reviews of information that would be duplicative of that already contained in other documents. Detailed descriptions of the BSAI groundfish fishery may be found in a variety of public documents. These contain discussions or specific information pertaining to the groundfish CDQ fishery. Each of these are readily available in printed form or via the Internet at links given in the Section 9. These reports include:

Alaska Groundfish Fisheries Draft Programmatic Supplemental Environmental Impact Statement (NMFS 2003a). This document contains detailed fishery descriptions and statistics in Section 3.9, "Social and Economic Conditions."

EA/RIR/IRFA for Amendments 48/48 for the Process by Which Annual Harvest Specifications Are Established for Alaska Groundfish Fisheries (NMFS 2004).

EA/RIR/FRFA for a Regulatory Amendment to Modify the Management of "Other Species" Community Development Quota in the BSAI (NMFS 2003b).

Economic Status of the Groundfish Fisheries off Alaska, 2002 (Hiatt *et al.* 2003), which is an appendix of the annual *Stock Assessment and Fishery Evaluation Report for the Groundfish Resources of the BSAI*. The former document is produced by NMFS and updated annually. It summarizes a wide range of fishery information through the year 2002.

Steller Sea Lion Protection Measures Supplemental Environmental Impact Statement (NMFS 2001). This contains several sections with useful background information on the groundfish fishery (although the majority of information provided is focused on three important species - pollock, Pacific cod, and Atka mackerel). Section 3.12.2 provides extensive background

information on existing social institutions, patterns, and conditions in these fisheries and associated communities, Appendix C provides extensive information on fishery economics, and Appendix D provides extensive background information on groundfish markets.

Stock Assessment and Fishery Evaluation Report for the Groundfish Resources of the BSAI (NPFMC, 2003a). This report is published in three sections: Stock Assessment, Fishery Evaluation, and Ecosystems Considerations. It is produced by the BSAI Groundfish Plan Team each year on behalf of the Council.

3.1 Location of Groundfish Fisheries

The non-CDQ and CDQ groundfish fisheries occur in the north Pacific Ocean and Bering Sea within the U.S. EEZ, ranging from 50° N. to 65° N. The alternatives considered in this EA would affect groundfish fishing conducted under the CDQ Program. Detailed descriptions of all aspects of the BSAI groundfish fisheries are given in the Draft PSEIS (NMFS 2003a, Chapter 3). Groundfish CDQ fisheries are conducted by a subset of the vessels that currently conduct non-CDQ fishing operations in the various federal management areas in the Bering Sea and Aleutian Islands. This is described in more detail in Section 5.

3.2 Status of Managed Groundfish Species

Designated target groundfish species and species groups in the BSAI are walleye pollock, Pacific cod, yellowfin sole, Greenland turbot, arrowtooth flounder, rock sole, “other” flatfish, flathead sole, sablefish, Pacific ocean perch, “other” rockfish, Atka mackerel, squid, and “other species”. Stock status information is available in appendix A of the most recent SAFE report (NPFMC 2003a). For detailed life history, ecology, and fishery management information regarding groundfish stocks in the BSAI see Section 3.5. in the revised Draft PSEIS (NMFS 2003a).

As described in Section 1.5, harvest specifications for federal groundfish fisheries are set annually, and include establishing CDQ reserves. For those stocks where enough information is available, none are considered overfished or approaching an overfished condition. Most recently, the BSAI Plan Team met in November 2003 to finalize the SAFE report and to forward 2004 ABC and OFL recommendations to the Council for action at its December 2003 meeting. The 2004 ABC, OFL, TAC, and CDQ reserve amounts for the BSAI were specified in a final rule published February 27, 2004 (69 *FR* 9242). These are portrayed in Appendix C.

3.3 Status of Prohibited Species Stocks

Prohibited species taken incidentally in groundfish fisheries include: Pacific salmon (chinook, coho, sockeye, chum, and pink salmon), steelhead trout, Pacific halibut, Pacific herring, and Alaska king, Tanner, and snow crabs. In order to control incidental catch of prohibited species in the groundfish fisheries, the Council annually specifies halibut and other PSC limits in the BSAI. The CDQ Program is apportioned 7.5 percent of each PSC limit, except for herring. The status

of the prohibited species is detailed in Section 3.5.2 of the revised Draft PSEIS (NMFS 2003a) and in the annual SAFE reports. During catch sorting, these species or species groups are to be returned to the sea with a minimum of injury, except when their retention is required or allowed by other applicable law.

3.4 Status of Marine Habitat

Inclusively, all the marine waters and benthic substrates in the BSAI management areas comprise the habitat of all marine species. Additionally the adjacent marine waters outside the EEZ, adjacent State waters inside the EEZ, shoreline, freshwater inflows, and atmosphere above the waters, constitutes habitat for prey species, other life stages, and species that move in and out of, or interact with, the fisheries' target species, marine mammals, seabirds, and the ESA listed species. The Draft PSEIS assesses the impacts of the groundfish fisheries in the BSAI on such habitat, including a detailed discussion of gear impacts in section 3.6 (NMFS 2003a).

3.5 Status of Marine Mammal Populations

Marine mammals not listed under the ESA that may be present in the GOA and BSAI include cetaceans, [minke whale (*Balaenoptera acutorostrata*), killer whale (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), and the beaked whales (e.g., *Berardius bairdii* and *Mesoplodon spp.*)], as well as pinnipeds [northern fur seal (*Callorhinus ursinus*) and Pacific harbor seals (*Phoca vitulina*)], and the sea otter (*Enhydra lutris*). The sea otter has been identified as a candidate for listing under the Endangered Species Act and the U.S. Fish and Wildlife Service (USFWS) is conducting a formal review. Additional information concerning the endangered Steller sea lions is in Section 3.7. For further information on marine mammal population status, see Section 3.8 of the revised Draft PSEIS (NMFS 2003a).

3.6 Status of Threatened or Endangered Species

The Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq*; ESA), provides for the conservation of endangered and threatened species of fish, wildlife, and plants. The program is administered jointly by NMFS for most marine mammal species, marine and anadromous fish species, and marine plant species and by the U.S. Fish & Wildlife Service (USFWS) for bird species, and terrestrial and freshwater wildlife and plant species.

The designation of an ESA-listed species is based on the biological health of that species. The status determination is either threatened or endangered. Threatened species are those likely to become endangered in the foreseeable future [16 U.S.C. § 1532(20)]. Endangered species are those in danger of becoming extinct throughout all or a significant portion of their range [16 U.S.C. § 1532(20)]. Species can be listed as endangered without first being listed as threatened. The Secretary of Commerce, acting through NMFS, is authorized to list marine fish, plants, and mammals (except for walrus and sea otter) and anadromous fish species. The Secretary of the

Interior, acting through the USFWS, is authorized to list walrus and sea otter, seabirds, terrestrial plants and wildlife, and freshwater fish and plant species.

In addition to listing species under the ESA, the critical habitat of a newly listed species must be designated concurrent with its listing to the “maximum extent prudent and determinable” [16 U.S.C. § 1533(b)(1)(A)]. The ESA defines critical habitat as those specific areas that are essential to the conservation of a listed species and that may be in need of special consideration. Federal agencies are prohibited from undertaking actions that destroy or adversely modify designated critical habitat. Some species, primarily the cetaceans, which were listed in 1969 under the Endangered Species Conservation Act and carried forward as endangered under the ESA, have not received critical habitat designations.

Federal agencies have an affirmative mandate to conserve listed species. One assurance of this is that Federal actions, activities or authorizations (hereafter referred to as Federal actions) must be in compliance with the provisions of the ESA. Section 7 of the Act provides a mechanism for consultation by the Federal action agency with the appropriate expert agency (NMFS or USFWS). Informal consultations, resulting in letters of concurrence, are conducted for Federal actions that have no adverse effects on the listed species. Formal consultations, resulting in biological opinions, are conducted for Federal actions that may have an adverse effect on the listed species. Through the biological opinion, a determination is made as to whether the proposed action poses “jeopardy” or “no jeopardy” of extinction to the listed species. If the determination is that the action proposed (or ongoing) will cause jeopardy, reasonable and prudent alternatives may be suggested which, if implemented, would modify the action to no longer pose the jeopardy of extinction to the listed species. These reasonable and prudent alternatives must be incorporated into the Federal action if it is to proceed. A biological opinion with the conclusion of no jeopardy may contain a series of management measures intended to further reduce the negative impacts to the listed species. These management alternatives are advisory to the action agency [50 CFR 402.24(j)]. If a likelihood exists of any taking occurring during promulgation of the action, an incidental take statement may be appended to a biological opinion to provide for the amount of take that is expected to occur from normal promulgation of the action. An incidental take statement is not the equivalent of a permit to take.

Twenty-three species occurring in the GOA and/or BSAI groundfish management areas are currently listed as endangered or threatened under the ESA. These are listed in Table 3-1. The group includes great whales, pinnipeds, Pacific salmon and steelhead, two types of eiders, and an albatross.

Table 3-1. Species currently listed as endangered or threatened under the ESA and occurring in the BSAI groundfish management areas.

Common Name	Scientific Name	ESA Status
Northern Right Whale	<i>Balaena glacialis</i>	Endangered
Sei Whale	<i>Balaenoptera borealis</i>	Endangered
Blue Whale	<i>Balaenoptera musculus</i>	Endangered
Fin Whale	<i>Balaenoptera physalus</i>	Endangered
Humpback Whale	<i>Megaptera novaeangliae</i>	Endangered
Sperm Whale	<i>Physeter macrocephalus</i>	Endangered
Snake River Sockeye Salmon	<i>Onchorynchus nerka</i>	Endangered
Short-tailed Albatross	<i>Phoebastria albatrus</i>	Endangered
Steller Sea Lion (Western population)	<i>Eumetopias jubatus</i>	Endangered
Steller Sea Lion (Eastern population)	<i>Eumetopias jubatus</i>	Threatened
Snake River Fall Chinook Salmon	<i>Onchorynchus tshawytscha</i>	Threatened
Snake River Spring/Summer Chinook Salmon	<i>Onchorynchus tshawytscha</i>	Threatened
Puget Sound Chinook Salmon	<i>Onchorynchus tshawytscha</i>	Threatened
Lower Columbia River Chinook Salmon	<i>Onchorynchus tshawytscha</i>	Threatened
Upper Willamette River Chinook Salmon	<i>Onchorynchus tshawytscha</i>	Threatened
Upper Columbia River Spring Chinook Salmon	<i>Onchorynchus tshawytscha</i>	Endangered
Upper Columbia River Steelhead	<i>Onchorynchus mykiss</i>	Endangered
Snake River Basin Steelhead	<i>Onchorynchus mykiss</i>	Threatened
Lower Columbia River Steelhead	<i>Onchorynchus mykiss</i>	Threatened
Upper Willamette River Steelhead	<i>Onchorynchus mykiss</i>	Threatened
Middle Columbia River Steelhead	<i>Onchorynchus mykiss</i>	Threatened
Spectacled Eider	<i>Somateria fishcheri</i>	Threatened
Steller Eider	<i>Polysticta stelleri</i>	Threatened
Northern Sea Otter	<i>Enhydra lutris</i>	Candidate

Because groundfish and crab fisheries are Federally regulated activities, any negative effects of the fisheries on listed species or critical habitat and any takings that may occur are subject to ESA Section 7 consultations. NMFS initiates the consultation and the resulting biological opinions are issued to NMFS. The Council may be invited to participate in the compilation, review, and analysis of data used in the consultations. The determination of whether the action “is likely to jeopardize the continued existence of” endangered or threatened species or to result in the destruction or modification of critical habitat, however, is the responsibility of the appropriate agency (NMFS or USFWS). If the action is determined to result in jeopardy, the opinion includes reasonable and prudent measures that are necessary to alter the action so that jeopardy is avoided. Section 7 consultations have been done for all the species listed in Table 3-1, some individually and some as groups.

Steller sea lions

In 1990, NMFS designated the Steller sea lion as a threatened species under the ESA. NMFS reclassified Steller sea lions as two distinct population segments under the ESA in 1997. The Steller sea lion population segment west of 144° longitude (a line near Cape Suckling, Alaska) is listed as endangered; the remainder of the U.S. Steller sea lion population maintains the

threatened listing. Current protection measures for Steller sea lions were developed over the course of several years, beginning in 2000. The Final Supplemental Environmental Impact Statement for Steller Sea Lion Protection Measures (NMFS 2001, Section II, Appendix A), contains the most recent Biological Opinion on Steller Sea Lions, completed in October 2001.

A final rule promulgating Steller sea lion protection measures in the Bering Sea and Aleutian Islands was published January 2, 2003 (68 *FR* 204). It implements three general measures intended to protect Steller sea lions. These include: (1) temporal dispersion of fishing effort, (2) spatial dispersion of fishing effort, and (3) sufficient protection from fisheries competition for prey in waters adjacent to rookeries and important haulouts. These measures are focused on fisheries for three groundfish species that posed the most concern for competition with Steller sea lions for prey; the BSAI and GOA pollock and Pacific cod fisheries, and the BSAI Atka mackerel fishery.

ESA Listed Seabirds

Breeding and non-breeding seabird populations ranging into the BSAI include: northern fulmars, storm petrels, albatrosses, shearwaters, cormorants, gulls, kittiwakes, auklets, murrelets, puffins, eiders, and others. Three listed seabirds occur in the BSAI. Two are threatened: the Steller's eider and the spectacled eider. The short-tailed albatross is an endangered species. The current populations status, history of ESA Section 7 consultations, and NMFS action undertaken as a result of those consultations are described in section 3.7.1 of the Draft PSEIS (NMFS 2003a). The Draft PSEIS also contains information about the population biology and foraging ecology of these three listed species in sections 3.7.2 through 3.7.19.

The USFWS issued two biological opinions on the effects of the groundfish fisheries off Alaska on threatened and endangered seabird species in September 2003. Both opinions conclude that BSAI fishery actions are not likely to jeopardize the continued existence of these seabird species or result in the adverse modification of Steller's eider critical habitat. The USFWS also issued an incidental take statement for short-tailed albatross and Steller's eider. This statement describes the anticipated take of short-tailed albatross as a result of groundfish fishing activities regulated by NMFS. It also proscribes reasonable and prudent measures designed to minimize the incidental take of these species.

3.7 Ecosystem Considerations

Ecosystem considerations for the BSAI groundfish fisheries are explained in detail in *Ecosystem Considerations for 2004* (NMFS 2003b, Appendix C). That document provides updated information on biodiversity, essential fish habitats, consumptive and non-consumptive sustainable yields, and human considerations. This information is intended to be used in making ecosystem-based management decisions, such as establishing ABC and TAC levels.

3.8 The Human Environment

The operation of the groundfish fishery in the BSAI is described, by gear type, in the revised Draft PSEIS (NMFS 2003a, Appendix B) as well as the annual BSAI SAFE document. General background on the fisheries with regard to each species is given in the BSAI groundfish FMP (NPFMC 2002). CDQ fisheries are a subset of each BSAI groundfish component, such as pollock, Pacific cod, yellowfin sole, and Atka mackerel.

3.9 Fishery Participants

The CDQ fisheries are conducted by participants of BSAI non-CDQ fisheries components on behalf of the six CDQ groups. For detailed information on the fishery participants, including the numbers of vessels and processors participating in the CDQ fisheries, Section 5.6 of this analysis.

3.10 Economic Aspects of the Fishery

The most recent description of the economic aspects of the groundfish fishery is contained in the 2002 Economic SAFE report (NMFS 2003, Appendix D). This report, incorporated herein by reference, presents the economic status of groundfish fisheries off Alaska in terms of economic activity and outputs using estimates of catch, incidental catch, ex-vessel prices and value, the size and level of activity of the groundfish fleet, the weight and value of processed products, wholesale prices, exports, and cold storage holdings. The catch, fleet size, and activity data are for the fishing industry activities that are reflected in Weekly Production Reports, Observer Reports, fish tickets from processors who file Weekly Production Reports, and the annual survey of groundfish processors. Sections 5.7 of this EA/RIR contain additional information regarding the economics of the groundfish fisheries, including the CDQ component.

4.0 ENVIRONMENTAL EFFECTS

The environmental impacts generally associated with fishery management actions are effects resulting from (1) harvest of fish stocks which may result in changes in food availability to predators and scavengers, changes in the population structure of target fish stocks, and changes in the marine ecosystem community structure; (2) changes in the physical and biological structure of the marine environment as a result of fishing practices, e.g., effects of gear use and fish processing discards; and (3) entanglement/entrapment of non-target organisms in active or inactive fishing gear. A recent summary of the effects of the impacts associated with groundfish harvest on the biological environment are discussed in the final EA for the 2004 annual groundfish harvest specifications (NMFS 2004a) and the revised Draft PSEIS (NMFS 2003a) analyzes impacts of a range of management policies.

This section analyzes alternatives associated with implementing changes to the process by which CDQ reserves are allocated. An analysis of possible environmental impacts from each alternative and the stand-alone option follows.

4.1 Effects on Groundfish Species

The alternatives considered for this action are not expected to have a significant effect on Bering Sea groundfish stocks, as described by current TAC categories. The catch of both CDQ target and non-target species potentially could increase to the levels currently apportioned to the CDQ program. Currently most stocks in the BSAI are harvested at levels below established ABC and OFL levels. Many of the annual CDQ target reserves have historically not been completely caught, for a variety of reasons.

The No Action alternative would continue the regime of allocating each CDQ reserve among CDQ groups. This would be done without regard to whether allocations were considered target or non-target species or whether allocations to particular CDQ groups were adequate to account for the entire amount of non-target species that could be caught in a group's CDQ target fisheries if each target CDQ allocation were completely caught.

Alternative 2 would allow the Council to annually proscribe which CDQ reserves would be allocated among CDQ groups. This decision would occur during the development of annual BSAI groundfish specifications, based on the most recent scientific and social information available. It also would clarify how NMFS would manage new CDQ reserves if such reserves did not have applicable CDQ allocation percentages that could be applied to them.

Under this alternative, CDQ groups still would be restricted from catching more than the specific amounts of groundfish CDQ allocated to them. They would also be subject to any fishery management measures put in place by NMFS to control the catch of CDQ non-target species for a given species category, should such species not be allocated among the groups. NMFS's management of CDQ non-target species would be predicated on ensuring that the combined catch of a particular species category by both CDQ and non-CDQ fisheries did not exceed the annual TAC or ABC for that species.

Alternative 3 is similar to Alternative 2 in that it would allow the Council to select which CDQ reserves would be allocated among CDQ groups, but on a permanent basis by specifying which CDQ reserves would be allocated in regulation. Those CDQ reserves that were allocated among group would be subject to prohibitions against allocations being exceeded, while unallocated reserves would be administered with management measures used in the non-CDQ fisheries.

The option to incorporate squid back into the CDQ Program would add this species to the suite of TAC categories that potentially could be allocated among CDQ groups, under either Alternative 2 or Alternative 3. Both of these alternatives offers the Council a means to address issues about whether allocations of CDQ non-target species are adequate to successfully support the full prosecution of CDQ target species, which is the reason that squid originally was removed from the CDQ Program. Squid is caught in the CDQ fisheries, but currently is accounted for against the general BSAI squid TAC, rather than a squid CDQ reserve. Selection of this option

would integrate squid back into the CDQ fishery management regime. The catch of squid would still be subject to existing constraints associated with TAC, ABC, and OFL limits.

4.2 Effects on Prohibited Species

None of the alternatives or the option included in this action is likely to have an adverse effect on prohibited species. If either Alternative 2 or Alternative 3 were selected, the catch of CDQ target species could increase. This also could result in a proportional increase in the catch of prohibited species such as halibut or crab. However, neither alternative modifies the management of prohibited species in the BSAI or increases the amount of prohibited species allocated to the CDQ Program. CDQ fishery participants would continue to be subject to existing prohibited species catch restrictions, prohibitions, and area closures.

4.3 Effects on Seabirds, Marine Mammals, and Species Listed as Threatened or Endangered

The effects of the groundfish CDQ fisheries conducted under either Alternative 2, Alternative 3, or the stand-alone option to add squid back to the CDQ Program would not be expected to adversely affect seabirds, marine mammals, or species listed as threatened or endangered. Groundfish harvest effects on marine mammals and seabirds are discussed in section 4.5 of the Draft PSEIS (NMFS 2003a). Groundfish CDQ fisheries would still be subject to all applicable Steller sea lion protection measures, which disperse fishing effort over time and area. These fisheries also would continue to be subject to seabird avoidance measures specified in NMFS regulations.

None of the alternatives under consideration would affect the fisheries in a way not previously considered in Section 7 consultations. Therefore, none of the alternatives are expected to have a significant impact on endangered or threatened species, or their critical habitat.

4.4 Effects on Marine Benthic Habitat and Essential Fish Habitat

None of the alternatives considered for this action are expected to adversely affect marine benthic habitat or essential fish habitat in a manner or to an extent not already addressed in prior BSAI NEPA analyses, such as the Draft PSEIS (NMFS, 2003a). They would not change the gear types or general location of the fisheries in which groundfish CDQ are caught.

4.5 Social and Economic Consequences

The social and economic consequences of the alternatives considered for this action are described in Section 5, including a description of the fishery. Section 5.6 and 5.9 provides detailed descriptions of the fishing operations and communities that could be affected by this action. Section 5.9 summarizes the impacts of this action on fishing operations and communities.

4.6 Cumulative Effects

Cumulative effects are those combined effects on the quality of the human environment that result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what Federal or non-Federal agency or person undertakes such other actions (40 CFR 1508.7, 1508.25(a), and 1508.25(c)). Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. The concept behind cumulative effects analysis is to capture the total effects of many actions over time that would be missed by evaluating each action individually.

To avoid the piecemeal assessment of environmental impacts, cumulative effects were included in the 1978 Council on Environmental Quality (CEQ) regulations, which led to the development of the CEQs cumulative effects handbook (CEQ 1997) and Federal agency guidelines based on that handbook (e.g., EPA 1999). Although predictions of direct effects of individual proposed actions tend to be more certain, cumulative effects may have important consequences over the long-term. The goal of identifying potential cumulative effects is to provide for informed decisions that consider the total effects (direct, indirect, and cumulative) of alternative management actions.

The potential direct and indirect effects of the BSAI groundfish fisheries on target species are detailed in the revised Draft PSEIS (NMFS 2003a, Section 4.5 for the current management policy). Groundfish CDQ fisheries are a subcomponent of these fisheries. Direct effects include fishing mortality, changes in biomass, and spatial and temporal concentration of catch that may lead to a change in the population structure. Indirect effects include the changes in prey availability and changes in habitat suitability. Indirect effects are anticipated to occur with any of the alternatives or the option analyzed because the proposed action does not change overall fishing practices that indirectly affect prey availability and habitat suitability. Significance criteria are explained in Table 4.1-1 of the PSEIS (NMFS 2003a, appendix A). Potential direct effects are summarized below for each alternative.

A complete assessment of direct and indirect impacts of this action will be completed for the public review draft of this analysis.

4.6.1 Past, present, and reasonably foreseeable future actions

Past, present, and future actions have not yet been fully analyzed for this proposed action. A discussion of such actions will be completed for the public review draft of this analysis.

It is worthwhile to note that there are several federal actions under development that could amend the way in which groundfish specifications are established, fisheries are managed, and catch is accounted for in the BSAI groundfish fisheries. These would amend the BSAI FMP, and include Amendments 48, 79, 80a, and 80b. Amendment 48 proposes to revise the BSAI groundfish specifications process. Amendment 79 addresses minimum retention standards for select

groundfish species. Amendment 80a addresses BSAI sector allocations of groundfish. Amendment 80b considers the establishment of a non-AFA trawl catcher/processor cooperative program. Finally, the Council is developing another proposal which would modify the management of non-target BSAI species in the future.

4.7 Summary of Environmental Impacts and Conclusions

This section is incomplete and will be developed for the public review draft of this analysis.

5.0 REGULATORY IMPACT REVIEW

5.1 Introduction

This Regulatory Impact Review (RIR) examines the benefits and costs of alternatives to modify the fisheries management regime associated with the groundfish Community Development Quota (CDQ) Program. It is intended to address some of the fisheries management issues that have arisen during the tenure of the program, which was implemented in 1998. In particular, modifying the allocation and accounting of groundfish CDQ reserves may offer a means to increase the economic benefits accruing to participants in the CDQ Program.

5.2 What is a Regulatory Impact Review?

This RIR addresses the requirements of Presidential Executive Order (E.O.) 12866 (58 *FR* 51735; October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

5.3 Statutory Authority

The National Marine Fisheries Service (NMFS) manages the groundfish CDQ fisheries of the Bering Sea and Aleutian Islands management area (BSAI) in the Exclusive Economic Zone (EEZ) under the Fishery Management Plan (FMP) for that area. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations implement the FMP at 50 CFR part 679. General regulations that also pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

5.4 Purpose and Need for Action

The purpose and need for this action is discussed in Section 1 of the Environmental Assessment (EA) associated with this RIR. In summary, the strict quota accountability requirements associated with the CDQ program have been identified by CDQ groups as being unnecessarily constraining to the complete prosecution of CDQ target species. Such species provide valuable benefits to the western Alaska communities participating in the program. Modifying the allocation and management of non-target CDQ reserves could allow CDQ groups to experience a greater degree of success in harvesting their annual CDQ target allocations. CDQ groups are allocated certain percentages of each BSAI groundfish TAC. The complexity of the competitive CDQ allocation process may mean that some of the six CDQ groups participating in the program receive allocations of some bycatch species that are inadequate to fully account for the bycatch that could be expected to occur if a group's target CDQ species were fully caught. Other CDQ groups may receive allocations that are adequate or even in excess of the amount of non-target species that they actually require.

Additionally, the multi-year CDQ allocation percentages established for a given set of species categories are relatively inflexible in relationship to annual changes to BSAI groundfish species categorization. NMFS has identified this issue as being difficult to address on an annual basis without amending regulations to provide guidance on how to address potential conflicts between species categorization and CDQ allocation percentages.

5.5 Alternatives Considered

The three alternatives considered for this action have been described in detail in Section 2 of this analysis. This section summarizes those alternatives. They include a no action alternative, a second (Alternative 2) to modify the annual groundfish specifications process to allow the Council to designate which CDQ reserves should be allocated among CDQ groups, and a third (Alternative 3) to permanently list which CDQ reserves should be allocated among CDQ groups in regulation. A stand-alone option would incorporate squid back into the CDQ Program, and could be chosen to be implemented with either Alternative 2 or Alternative 3.

5.5.1 No action

Alternative 1, no action, would not change the CDQ reserve management regime to differentiate whether particular CDQ reserves are allocated among CDQ groups or not. Continuation of the existing CDQ allocation and catch accounting requirements could continue to subject CDQ groups to the possibility that the catch of non-target CDQ allocations could limit their ability to catch all of their economically valuable target species. Under this alternative, CDQ groups would have to abide by regulations prohibiting the catch of more than an allocated CDQ or PSQ amount. If a group exceeds its annual allocation of a given species, it is subject to both enforcement and legal action.

Any constraints that affect the CDQ groups' ability to catch all of their target species could in turn have an impact on their ability to carry out their various economic development projects in western Alaska, which is not supportive of the overall goals and purpose of the CDQ Program. The non-action alternative would perpetuate the strict accountability associated with the Council's original CDQ fisheries management objectives for each CDQ reserve, but would not be aligned with more recent Council recommendations for the management of both squid and "other species" CDQ. Some fisheries management flexibility currently is available to CDQ groups, in that they may obtain transfers of additional amounts of CDQ from other CDQ groups, but only if other groups are willing to make such transfers. In situations where all groups think that they do not have adequate non-target allocations to account for their incidental catch of such species, they may be reluctant to transfer quota.

5.5.2 Alternative 2. Modify the annual groundfish specifications regulations.

Alternative 2 would allow the Council to recommend which CDQ reserves would be allocated among CDQ groups as part of the annual BSAI groundfish specifications process. CDQ groups would continue to be prohibited from exceeding any of the CDQ allocations made to the groups. Any species not allocated to groups would be managed at the CDQ reserve level by limiting directed fishing and retention of species comprising unallocated CDQ reserves. This would control the catch of non-allocated species within the CDQ fisheries. It also would remove a potential constraint to CDQ groups by eliminating the possibility that a given allocation would be inadequate to account for the catch of a given species during the course of directed fishing for CDQ target species. Without a specific allocation to exceed, the prohibition against exceeding an allocation would not apply. NMFS would instead monitor the aggregate catch of a given non-allocated CDQ reserve and specify additional management measures for the CDQ fisheries to control the catch of a such species, as needed. This alternative is discussed in Section 2.2.

Additionally, as part of the proposed management regime for non-allocated CDQ reserves, each such reserve would be closed to directed fishing each year. This means that CDQ groups would not be able to target on species in a non-allocated reserve category should a fishery develop for such species. However, groups have not indicated an interest in developing fisheries for what they currently consider to be non-target species.

5.5.3 Alternative 3. Amend NMFS regulations to specify which CDQ reserves would be allocated among CDQ groups.

Alternative 3 would amend regulations to permanently identify which species categories would be allocated among CDQ groups. If Alternative 3 were selected, the Council would recommend which TAC categories and associated CDQ reserves to allocate among CDQ groups on a permanent basis. This alternative differs from Alternative 2 in that the Council would make a decision about which CDQ reserves to allocate among groups as part of its final recommendation for this action, rather than annually as would be done by amending the annual specifications process as described under Alternative 2. Alternative 3 could offer CDQ groups' additional flexibility for harvesting their CDQ target allocations. It would remove a constraint that some allocations of CDQ non-target species may not be adequate to account for the catch of such species that may occur during the course of catching CDQ target species. The intended purpose of Alternative 3 is the same as that of Alternative 2.

CDQ reserves allocated among CDQ groups would continue to be managed with existing regulations that prohibit exceeding specific CDQ allocations. Any species category not allocated among groups would be managed at the CDQ reserve level. NMFS would limit directed fishing and retention to control the catch of unallocated CDQ reserves within the CDQ fisheries. It would instead monitor the aggregate catch of a non-allocated CDQ reserve and specify additional measures for the CDQ fisheries to control the catch of a such species, as needed.

5.5.4 Stand alone option for squid.

This option would add squid to the suite of species allocated to the CDQ Program. It could be selected under either Alternative 2 or Alternative 3. In 1999, squid was removed from being a species allocated to the program by Amendment 66 to the BSAI FMP. The pollock CDQ apportionment increased to 10 percent of the annual BS pollock TAC under the AFA without a corresponding increase in the squid CDQ allocation. Concern that there would be inadequate squid available to account for the possible catch of squid in the pollock CDQ fisheries led the Council to recommend that squid no longer be allocated to the CDQ Program. This was premised on the possibility that allocations of the squid CDQ reserve among CDQ groups would not give groups adequate amounts of squid to account for the catch of this species in their pollock CDQ fisheries, thereby preventing them from fully catching their pollock.

Under this option, squid would be integrated back into the CDQ Program and a portion of the annual BSAI squid TAC would be allocated to the program as a squid CDQ reserve. If squid was not included in the suite of CDQ reserves that the Council required to be allocated among CDQ groups, then squid would be managed at the CDQ reserve level. Either Alternative 2 or Alternative 3 would amend regulations to allow the Council to choose which CDQ reserves, including squid, should allocated among CDQ groups.

5.6 Description of the Groundfish CDQ Fishery

General descriptions of the BSAI groundfish fishery, including social and economic components, may be found in the reports referenced in Section 3. The groundfish CDQ fishery is a component of the BSAI groundfish fishery. CDQ harvesting operations encompass a cross-section of the various target and gear specific fisheries in the BSAI and are woven into the larger fabric of the BSAI groundfish fishery. CDQ fishing may occur concurrently with the prosecution of a particular non-CDQ target fishery, as happens in the BS pollock fishery. It may also take place prior to or after a non-CDQ season, as occurs with the Pacific cod fishery. CDQ fisheries are not restricted to the full suite of seasons, gear apportionments, area closures, or seasonal prohibited species catch allowances as are non-CDQ fisheries. Hence, access to CDQ offers harvesters and processors preferred access to groundfish resources, a means to expand operations, and a way to make more efficient use of capacity. Between 41 and 59 vessels participated in groundfish CDQ fisheries each year between 1999 and 2003, as portrayed in Table 5-1. This includes catcher vessels, catcher-processors, and motherships using a variety of gear types.

Table 5-1. Vessel and processor participation in the groundfish CDQ fishery, 1999-2003.

	1999	2000	2001	2002	2003
Processors	5	5	5	3	4
Vessels	56	59	47	47	41

Source: NMFS CDQ catch report data.

Annual CDQ harvesting performance varies substantially, depending on target species. Species value is an important determinant of the level of CDQ fishing performance. However, there are other factors that impact the prosecution of CDQ fisheries. The closure status of non-CDQ fisheries may affect performance. For example, if the non-CDQ yellowfin sole fishery is open throughout a given year, vessel operators have little incentive to fish for yellowfin sole CDQ, since they would have to pay a royalty for such catch. Operational difficulties also impact CDQ fisheries, such as mechanical or fishing gear problems on vessels. Killer whale predation of sablefish caught on longline gear in the Bering Sea may sometime precludes the successful prosecution of that fishery. Additionally, the lack of availability of harvesting partners may contribute to the less than full harvest of some CDQ allocations.

The CDQ fisheries component has displayed a range of success in catching its CDQ target species. The highest valued CDQ species are most likely to be completely or nearly completely caught each year. Pollock and Pacific cod, two such species, have shown a high average catch rate during the years 1999 through 2003. The catch of other target species has been less successful. Lower valued species, such as flatfish, or species caught in fisheries that also experience relatively high catch rates of non-target species are not as completely harvested. Appendix B displays the average harvest level for CDQ target species and non-target species from 1999 through 2003.

5.7 Benefits

Since 1992, CDQ groups have entered into a variety of business relationships with established groundfish harvesting and processing companies. These agreements usually involve a fishing or processing company paying royalties for access to a group's quota. Such royalties are usually based on a fixed dollar rate per weight of quota harvested or a percentage of the sales price for a given species or their derivative products. Additionally, CDQ groups often negotiate agreements that specify that a given partner will provide employment, training opportunities, access to business expertise, and other benefits. Royalties gained from harvesting CDQ allocations have provided an income stream that has allowed CDQ groups to invest in a variety of fishery related businesses and assets. Direct investment in harvesting and processing companies has offered the CDQ groups additional leverage and opportunities in businesses directly involved with the BSAI groundfish fisheries. Royalties, as well as revenues subsequently derived from investments of royalties, provide the financial means to develop local coastal fisheries and affiliated operations.

Royalties accruing from the catch of CDQ allocations are significant. The initial pollock CDQ allocation in 1992 yielded \$13.2 million in royalties. In 2002, annual CDQ royalties exceeded \$46.3 million, of which \$39.6 million were pollock royalties. Royalties have steadily increased over the last decade. This increase in royalties over time stems from a variety of factors. The original pollock CDQ Program evolved into a multispecies CDQ Program encompassing a full suite of groundfish, halibut, and crab species. Higher pollock and cod TACs in recent years have meant correspondingly higher CDQ allocations. Investment in fishing vessels and companies have given CDQ groups leverage to negotiate higher royalty rates and access to additional dividends. Table 5-2 shows aggregate CDQ royalties for both pollock and all CDQ species (including groundfish, crab, and halibut) from 1999 to 2002.

Table 5-2. Annual CDQ royalties, 1999-2002.

	1999	2000	2001	2002
Pollock	\$25,918,992	\$32,996,456	\$36,721,924	\$39,609,795
All species	\$35,595,802	\$40,402,155	\$42,558,941	\$46,367,185

Source: State of Alaska, DCED 2003

The two groundfish species that yield the most royalty income to the CDQ Program are pollock and Pacific cod. In 2002, these two species accounted for 92 percent of total CDQ royalties. Two crab species, which are not associated with this action, accounted for 7 percent of total CDQ royalties. Aggregate royalties from the CDQ target species such of sablefish and turbot, Atka mackerel and Pacific ocean perch, flatfish, and Pacific halibut accounted for 1 percent of CDQ royalties, or approximately \$464,000. The CDQ fisheries have historically low catch rates for many of these species. Selection of either Alternative 2 or Alternative 3 may increase the possibility that additional amounts of CDQ target species could be harvested. Each alternative could eliminate the potential that a perceived or actual lack of CDQ non-target species would

thwart the harvest of allocated CDQ target species. Any increase in the average annual catch of CDQ target species could yield a proportionate increase in annual CDQ royalties.

5.8 Costs

If either Alternative 2 or Alternative 3 were implemented, the Council would identify which CDQ reserves would be allocated among CDQ groups. NMFS would have the responsibility for direct management of non-allocated CDQ reserves, and does not anticipate that managing the non-allocated CDQ reserves would impact the species comprising such reserves or the non-CDQ fisheries. The overall catch of non-allocated reserves would still be subject to current management restrictions associated with the TAC, ABC, and OFL limits. Thus, there does not appear to be any adverse biological impacts associated with this action.

There are administrative costs associated with both Alternative 2, Alternative 3, and the stand-alone option to add squid back to the CDQ Program. NMFS would have the primary responsibility for managing the catch of species in non-allocated CDQ reserves. NMFS inseason staff would have to spend additional time monitoring the CDQ fisheries. If the combined catch of non-allocated reserves by all fishery components approaches the ABC level, NMFS would determine whether additional management measures are necessary to limit further catch of a given species. This could include putting a particular species on prohibited species catch status or closing specific directed fisheries in the Bering Sea or Aleutian Islands, including CDQ fisheries. Such management measures would be predicated on the annual CDQ reserve, TAC, and ABC amounts available for a particular non-allocated reserve. These measures are typically implemented by noticing the public of a fishery change or closure in the Federal Register and in information bulletins disseminated to the public.

5.9 Impacts on CDQ Communities

There are currently 65 communities participating in the CDQ Program. The total population of these communities is approximately 27,000 people. These communities have aggregated into six different non-profit CDQ groups. These groups administer CDQ allocations and economic development projects for member communities. The six groups are: Aleutian Pribilof Island Development Corporation, Bristol Bay Economic Development Corporation, Central Bering Sea Fishermen's Association, Coastal Villages Region Fund, Norton Sound Economic Development Corporation, and Yukon Delta Fisheries Development Association. The Council and NMFS allocate a portion of the BSAI groundfish, prohibited species, halibut, and crab catch limits to these communities. The communities must use the proceeds derived from the harvest of CDQ allocations to start or support commercial fishery activities that will result in ongoing, regionally-based commercial fishery or related businesses, as well as fostering training and educational opportunities for local residents.

Alternative 1 would continue to allocate all groundfish CDQ reserves, except "other species," among individual groups. CDQ groups prepare Community Development Plans that detail the

projects and investments that they plan on undertaking on behalf of their communities. Each group prepares annual budgets and revenue forecasts based on a variety of income sources, including anticipated fishery royalties. Incomplete catch of a group's target species allocations due to constraints imposed by the current management protocols for allocated CDQ reserves could impose a cost on CDQ groups. Any incomplete catch of CDQ target species means that budgeted royalties may not be attained, with resulting impacts on investment in, and implementation, of CDQ projects. Adoption of Alternative 2 or Alternative 3 would provide a means for the Council specify which CDQ reserves were allocated, and provide a means to permit CDQ groups additional opportunities to catch more of their allocated target species.

5.10 Summary of the Benefits and Costs

The benefits and costs of the alternatives are summarized below. It has not been possible to monetize these benefits and costs. In the absence of collateral or external costs imposed on other parties, its reasonable to project a positive net social benefit from this action.

	Alternative 1	Alternative 2	Alternative 3
	<i>No action. Continue to allocate the "other species" CDQ reserve among each of the six CDQ groups.</i>	<i>Modify the annual groundfish specifications regulations to allow the Council to identify which CDQ reserves should be allocated among groups.</i>	<i>Amend regulations to permanently identify which species categories would be allocated among CDQ groups.</i>
Benefits	Baseline, no change in benefits.	<p>Individual CDQ groups, and their associated communities, would face reduced chance of losing royalties due incomplete catch of target species. CDQ target species catch would be less likely to be constrained by non-target species catch. CDQ partners also would face reduced probability of foregone profits. Since most royalties are generated in the pollock fishery, which has a low bycatch rate, this is likely to be a modest benefit.</p> <p>Annual CDQ allocation process simplified by elimination of individual allocations of some CDQ reserves. This is a minor benefit.</p> <p>Monitoring of CDQ catch by groups would be easier, as harvest managers would have fewer allocations to monitor. This is a minor benefit.</p>	<p>Same benefits as Alternative 2.</p> <p>Periodic CDQ allocation process simplified for State by decreasing number of allocations recommendations that need to be made.</p> <p>Same benefit as Alternative 2.</p>

Costs	Baseline, no change in costs.	<p>There is some risk that non-allocated CDQ reserve amounts would be exceeded, but NMFS would still manage overall catch to TAC and ABC limits.</p> <p>There are some administrative costs associated with this alternative. The Council would have to assess and designate which CDQ reserves to allocate among CDQ groups each year. NMFS would have to manage additional fisheries. The State would still have to recommend a full suite of CDQ allocations.</p>	<p>Same cost as Alternative 2.</p> <p>The Council would only have to identify which reserves to allocate once. NMFS would still have to directly manage additional fisheries each year.</p>
Net benefits	Baseline, no change in net benefits.	It has not been possible to monetize the benefits or costs of this action. However, the qualitative analysis suggests the net benefits of this action would be positive.	Same as Alternative 2.
E.O. 12866 significance	Does not appear to be significant.	Does not appear to be significant.	Does not appear to be significant.
Notes: Alternative 1 (no action) is the no action alternative and provides the baseline against which the costs and benefits for the action alternative have been estimated.			

5.11 Summary of E.O. 12866 Significance Criteria

A “significant regulatory action” under E.O. 12866 means any action that is likely to result in a rule that may:

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the executive order.

The combined value of CDQ royalties in 2002, the most recent year that complete CDQ royalty information is available, was approximately \$46.3 million. As noted in Section 5.8, pollock CDQ royalties accounted for \$39.6 million of this amount, or 86 percent of total royalties. Catch of other groundfish, crab, and halibut CDQ yielded the remainder of CDQ royalties. Historically, pollock CDQ has by far been the highest royalty generator for CDQ groups. The pollock CDQ fishery catches very small amounts of non-target species and would probably not be impacted by the alternatives considered in this action. Implementation of this action could positively impact the groundfish CDQ fishery, but the additional amount of CDQ royalties that CDQ groups might receive under this alternative is unknown. However, regulatory changes associated with this action do not appear to have the potential to result in “. . . an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs the environment, public health or safety, or State, local, or tribal governments or communities . . .”

NMFS has not identified any factors that would (a) “Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency”; (b) “Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof”; or (c) “Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the executive order.”

6.0 CONSISTENCY WITH OTHER APPLICABLE LAWS

This section is incomplete and will be finalized for the public review draft of this analysis.

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Appendix A. 2003-2005 CDQ allocations for groundfish and prohibited species.

Species or Species Group	Community Development Quota Group					
	APICDA	BBEDC	CBSFA	CVRF	NSEDC	YDFDA
Groundfish CDQ Species						
Bering Sea (BS) Pollock	14%	21%	5%	24%	22%	14%
Aleutian Islands (AI) Pollock	14%	21%	5%	24%	22%	14%
Bogoslof Pollock	14%	21%	5%	24%	22%	14%
Pacific Cod	15%	21%	9%	18%	18%	19%
BS Fixed Gear Sablefish	15%	20%	16%	0%	18%	31%
AI Fixed Gear Sablefish	14%	19%	3%	27%	23%	14%
BS Sablefish	21%	22%	9%	13%	13%	22%
AI Sablefish	26%	20%	8%	13%	12%	21%
WAI Atka Mackerel	30%	15%	8%	15%	14%	18%
CAI Atka Mackerel	30%	15%	8%	15%	14%	18%
EAI/BS Atka Mackerel	30%	15%	8%	15%	14%	18%
Yellowfin Sole	28%	24%	8%	6%	7%	27%
Rock Sole	24%	23%	8%	11%	11%	23%
BS Greenland Turbot	16%	20%	8%	17%	19%	20%
AI Greenland Turbot	17%	19%	7%	18%	20%	19%
Arrowtooth Flounder	22%	22%	9%	13%	12%	22%
Flathead Sole	20%	21%	9%	15%	15%	20%
Alaska Plaice	14%	21%	5%	24%	22%	14%
Other Flatfish	26%	24%	8%	8%	8%	26%
BS Pacific Ocean Perch	17%	21%	6%	21%	19%	16%
WAI Pacific Ocean Perch	30%	15%	8%	15%	14%	18%
CAI Pacific Ocean Perch	30%	15%	8%	15%	14%	18%
EAI Pacific Ocean Perch	30%	15%	8%	15%	14%	18%
BS Northern Rockfish	No allocations to CDQ groups.*					
BS Shortraker/Rougheye Rockfish	No allocations to CDQ groups.*					
AI Northern Rockfish	30%	15%	8%	15%	14%	18%
AI Shortraker/Rougheye Rockfish	22%	17%	8%	17%	17%	19%
BS Other Rockfish	21%	19%	7%	17%	17%	19%
AI Other Rockfish	21%	18%	8%	17%	17%	19%
Other Species	18%	21%	9%	16%	16%	20%
Prohibited Species						
Zone 1 Red King Crab	24%	21%	8%	12%	12%	23%
Zone 1 Bairdi Tanner Crab	26%	24%	8%	8%	8%	26%
Zone 2 Bairdi Tanner Crab	24%	23%	8%	11%	10%	24%
Opilio Tanner Crab	25%	24%	8%	10%	8%	25%
Pacific Halibut	22%	22%	9%	12%	12%	23%
Chinook Salmon	14%	21%	5%	24%	22%	14%
Non-chinook Salmon	14%	21%	5%	24%	22%	14%

* These species are managed at the CDQ reserve level and not as CDQ group specific allocations due to lack of appropriate CDQ allocation percentages to apply to these species categories.

Appendix B. Historical CDQ performance: percent harvested by year and species category.

Target species	1999	2000	2001	2002	2003	Average percent caught
BS Pollock	99.1	99.7	99.2	99.95	99.96	99.58
Pacific Cod	94.17	93.45	87.68	94.19	92.95	92.49
EAI/BS Atka Mackerel	91.43	96.89	88.77	77.49	87.15	88.35
CAI Atka Mackerel	48.91	97.56	97.91	89.14	96.69	86.04
WAI Pacific Ocean Perch	68.08	87.49	89.43	83.5	92.06	84.11
WAI Atka Mackerel	29.68	80.29	95.15	90.74	80.28	75.23
EAI Pacific Ocean Perch	62.05	71.55	74.28	64.3	94.53	73.34
CAI Pacific Ocean Perch	44.94	82	79.27	67.43	73.63	69.45
BS FG Sablefish	13.15	44.830	25.63	77.63	22.75	36.80
AI FG Sablefish	49.94	33.03	23.26	33.67	22.24	32.43
BS Greenland Turbot	41.72	52.31	6.25	13.07	23.78	27.43
Yellowfin Sole	12.62	2.37	2.15	30.57	88.58	27.26
AI Greenland Turbot	16.88	28.4	16.61	23.48	33.14	23.70
Alaska Plaice	n/a	n/a	n/a	15.18	24.55	19.87
Flathead Sole	12.48	11.11	7.42	24.76	26.15	16.38
Other Flatfish	3.76	1.28	1.66	24.85	39.38	14.19
Rock Sole	6.39	3.97	3.93	13.65	19.42	9.47
Non-target species						
BS Shortraker/rougheye	n/a	n/a	n/a	n/a	81.06	81.06
Other Species	91.12	69.25	65.27	80.18	96.17	80.40
AI Sharpchin/Northern	78.01	89.89	64.86	n/a	n/a	77.59
AI Northern Rockfish	n/a	n/a	n/a	67.62	62.62	65.12
AI Other Rockfish	53.13	70.51	34.7	62.6	21.77	48.54
BS Other Red Rockfish	47.93	50.86	29.71	19.02	n/a	36.88
AI Shortraker/Rougheye	38.57	53.45	25.15	20.64	40.51	35.66
Arrowtooth Flounder	9.11	3.42	16.85	49.16	48.54	25.42
BS Northern	n/a	n/a	n/a	n/a	25.17	25.17
BS Sablefish	26.83	11.13	6.32	38.03	5.69	17.60
BS Other Rockfish	23.51	24	7.01	7.36	5.51	13.48
BS Pacific Ocean Perch	32.91	0.52	6.34	4.61	14.2	11.72
AI Pollock	7.83	0	0	0	0	7.83
AI Sablefish	11.4	1.36	0.54	11.76	11.43	7.30
Bogoslof Pollock	0	0	0	0	0	0.00

Appendix C. 2004 BSAI OFL, ABC, TAC, ITAC, and CDQ Reserves.

[Amounts are in metric tons]

Species	Area	OFL	ABC	TAC	ITAC	CDQ reserve
Pollock	Bering Sea (BS)	2,740,000	2,560,000	1,492,000	1,342,800	149,200
	Aleutian Islands (AI)	52,600	39,400	1,000	1,000	.....
	Bogoslof District	39,600	2,570	50	50	.....
Pacific cod	BSAI	350,000	223,000	215,500	183,175	16,163
Sablefish	BS	4,020	3,000	2,900	2,393	399
	AI	4,620	3,450	3,100	2,519	523
Atka mackerel	Total	78,500	66,700	63,000	53,550	4,725
	Western AI	.....	24,360	20,660	17,561	1,550
	Central AI	.....	31,100	31,100	26,435	2,333
	Eastern AI/BS	.....	11,240	11,240	9,554	843
Yellowfin sole	BSAI	135,000	114,000	86,075	73,164	6,456
Rock sole	BSAI	166,000	139,000	41,000	34,850	3,075
Greenland turbot	Total	19,300	4,740	3,500	2,975	263
	BS	.....	3,162	2,700	2,295	203
	AI	.....	1,578	800	680	60
Arrowtooth flounder	BSAI	142,000	115,000	12,000	10,200	900
Flathead sole	BSAI	75,200	61,900	19,000	16,150	1,425
Other flatfish	BSAI	18,100	13,500	3,000	2,550	225
Alaska plaice	BSAI	258,000	203,000	10,000	8,500	750
Pacific ocean perch	BSAI	15,800	13,300	12,580	10,693	944
	BS	.....	2,128	1,408	1,197	106
	AI Total	.....	11,172	11,172	9,496	838
	Western AI	.....	5,187	5,187	4,409	389
	Central AI	.....	2,926	2,926	2,487	219
	Eastern AI	.....	3,059	3,059	2,600	229
Northern rockfish	BSAI	8,140	6,880	5,000	4,250	375
Shortraker rockfish	BSAI	701	526	526	447	39
Rougheye rockfish	BSAI	259	195	195	166	15
Other rockfish	BS	1,280	960	460	391	35
	AI	846	634	634	539	48
Squid	BSAI	2,620	1,970	1,275	1,084	96
Other species	BSAI	81,150	46,810	27,205	23,124	2,040
TOTAL		4,193,736	3,620,535	2,000,000	1,774,570	187,696