Council Motion on final action for BSAI Amendment 71 - CDQ Policy Amendment
June 7, 2002

The Council recommends that the following policy and administrative changes be made to the CDQ Program as defined by the following issues and alternatives.

Issue 1: Determine the process through which CDQ allocations are made

The Council adopts Alternative 2 (amended), to define the process in regulation, include an expanded State hearing and comment process, but no formal appeals process.

Issue 2: Periodic or long-term CDQ allocations

The Council adopts Alternative 2, Option 2, Suboption 1: Set fixed 3-year allocations with possible mid-cycle adjustments for extraordinary circumstances.

Alternative 2:	Establish a fixed allocation cycle in regulation.
Option 2:	3-year allocation cycle.
Suboption 1:	Allow the State to recommend reallocation of CDQ mid-cycle under extraordinary circumstances. Council and NMFS would have to approve the State's recommended reallocation.

Additionally, the Council recommends that the regulations must be revised to reflect that suspension or termination of the CDQ allocations would be an administrative determination by NMFS and that the CDQ groups involved would be allowed an opportunity to appeal NMFS's initial administrative determination on any changes in CDQ allocations. The Council also recommends removing the requirement to publish a notice in the Federal Register about suspension or termination of a CDQ allocation.

Issue 3: Role of government oversight

The Council adopts Alternative 2, amend the BSAI FMP to specify government oversight purposes as described in the analysis.

Alternative 2: Amend the BSAI FMP to specifically identify elements of the government's responsibility for administration and oversight of the economic development elements of the CDQ Program.

Government oversight of the CDQ Program and CDQ groups is limited by the following purposes:

1. Ensure community involvement in decision-making;
2. Detect and prevent misuse of assets through fraud, dishonesty, or conflict of interest;
3. Ensure that internal investment criteria and policies are established and followed;
4. Ensure that significant investments are the result of reasonable business decisions, i.e., made after due diligence and with sufficient information to make an informed investment decision;
5. Ensure that training, employment, and education benefits are being provided to the communities and residents; and
6. Ensure that the CDQ Program is providing benefits to each CDQ community and meeting the goals and purpose of the program.

Issue 4: CDQ allocation process: Types of quotas

The Council adopts Alternative 1 - no action.

Issue 5: CDQ allocation process - The evaluation criteria

The Council adopts Alternative 2 (amended), to publish the following criteria in NMFS regulations:

1. Number of participating communities, population, and economic condition.
2. A Community Development Plan that contains programs, projects, and milestones which show a well-thought out plan for investments, service programs, infrastructure, and regional or community economic development.
3. Past performance of the CDQ group in complying with program requirements and in carrying out its current plan for investments, service programs, infrastructure, and regional or community economic development.
4. Past performance of CDQ group governance, including: board training and participation; financial management; and community outreach.
5. A reasonable likelihood exists that a for-profit CDQ project will earn a financial return to the CDQ group.
6. Training, employment, and education benefits are being provided to residents of the eligible communities.
7. In areas of fisheries harvesting and processing, past performance of the CDQ group and proposed fishing plans in promoting conservation based fisheries by taking action that will minimize bycatch, provide for full retention and increased utilization of the fishery resource, and minimize impact to the essential fish habitats.
8. Proximity to the resource.
9. The extent to which the CDP will develop a sustainable fisheries-based economy.
10. For species identified as "incidental catch species" or "prohibited species," CDQ allocations may be related to the recommended target species allocations.

Issue 6: Extent of government oversight

The Council adopts Alternative 2 to clarify that government oversight extends to subsidiaries controlled by CDQ groups. To have effective management control or controlling interest in a company the ownership needs to be, at a minimum, 51%.

Issue 7: Allowable investments by CDQ groups: Fisheries-related projects

The Council adopts Alternative 3, amended Option 2, amended Suboption 1, and amended Supoption A.

> Alternative 3: Revise NMFS regulations to allow investments in non-fisheries related projects. The following option represents the annual maximum amount of investment in non-fisheries related projects. Each CDQ group may decide the appropriate mix of investments up to the maximum and any group may choose to invest less than the maximum.
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> Option 2 (amended): Allow each CDQ group to invest up to 20% of its previous year's pollock CDQ royalties.

Suboption 1 (amended): Require that any non-fisheries related investment be made in economic development projects in the region of Alaska represented by the CDQ groups and be self-sustaining. In-region extends to the borders of the 65 communities that participate in the CDQ Program.

Suboption A (amended): The goals and purpose of the CDQ Program are to allocate CDQ to qualified applicants representing eligible Western Alaska communities as the first priority, to provide the means for investing in, participating in, starting or supporting commercial fisheries business activities that will result in an on-going, regionally based fisheries economy and, as a second priority, to strengthen the non-fisheries related economy in the region. *(The intent of this statement is that fisheries-related projects will be given more weight in the allocation process than non-fisheries related projects.)*

Issue 8: Other CDQ Administrative Issues

The Council adopted Alternative 2, all three options.

Option 1: Allow CDQ groups to transfer quota by submitting a transfer request directly to NMFS.

Option 2: Allow NMFS to approve PSQ transfers directly, allow the transfer to PSQ during any month of the year, and allow PSQ transfer without an associated transfer of CDQ.

Option 3: CDQ groups would submit alternative fishing plans directly to NMFS.