

August 8, 2005

Larry Cotter
Aleutian Pribilof Island Community
Development Association
234 Gold Street
Juneau, Alaska 99081

CERTIFIED – RETURN RECEIPT
CERTIFIED NO: 7003-2260-0007-2185-3053

Robin Samuelson
Bristol Bay Economic
Development Corporation
P.O. Box 1464
Dillingham, Alaska 99576

CERTIFIED – RETURN RECEIPT
CERTIFIED NO: 7003-2260-0007-2185-3060

Phillip Lestenkof
Central Bering Sea
Fishermen's Association
P.O. Box 288
St. Paul, Alaska 99660

CERTIFIED – RETURN RECEIPT
CERTIFIED NO: 7003-2260-0007-2185-3077

Morgan Crow
Coastal Villages Region Fund
711 H Street, Suite 200
Anchorage, Alaska 99501-3461

CERTIFIED – RETURN RECEIPT
CERTIFIED NO: 7003-2260-0007-2185-1585

Eugene Asicksik
Norton Sound Economic
Development Corporation
420 L Street, Suite 310
Anchorage, Alaska 99501-1971

CERTIFIED – RETURN RECEIPT
CERTIFIED NO: 7003-2260-0007-2185-1592

Ragnar Alstrom
Yukon Delta Fisheries
Development Association
301 Calista Court, Suite C
Anchorage, Alaska 99518-3028

CERTIFIED – RETURN RECEIPT
CERTIFIED NO: 7003-2260-0007-2185-1608

Re: Extension of the 2003-2005 Community Development Plans and Community Development
Quota percentage allocations of groundfish, halibut, crab and prohibited species.

Dear Sirs:

This letter constitutes an initial administrative determination (IAD) to extend the National Marine Fisheries Service's (NMFS's) decision dated January 17, 2003, approving the 2003-2005 Community Development Plans (CDPs) and Community Development Quota (CDQ) percentage allocations of groundfish, halibut, crab and prohibited species to the Aleutian Pribilof Island Community Development Association (APICDA), the Bristol Bay Economic Development Corporation (BBEDC), the Central Bering Sea Fishermen's Association (CBSFA), the Coastal Villages Region Fund (CVRF), the Norton Sound Economic Development Corporation (NSEDC), and the Yukon Delta Fisheries Development Association (YDFDA). Specifically, this IAD removes the December 31, 2005, expiration date for both the CDPs and the CDQ percentage allocations of groundfish, halibut, crab and prohibited species approved for these six CDQ groups in the January 17, 2003 decision and extends the current CDPs and CDQ percentage allocations until December 31st of the year in which a final agency action that replaces these CDPs and CDQ percentage allocations with new CDPs and CDQ percentage allocations is issued by NMFS.

Factual background for the IAD

On January 17, 2003, NMFS approved the 2003-2005 CDPs and specific CDQ percentage allocations of groundfish, halibut, crab and prohibited species for APICDA, BBEDC, CBSFA, CVRF, NSEDC, and YDFDA (Appendix 1). In its decision, NMFS explicitly stated that the 2003-2005 CDPs and CDQ percentage allocations expire on December 31, 2005. Since the January 2003 decision, NMFS has approved modifications to both the CDPs and the percentage allocations approved on January 17, 2003. Substantial and technical amendments have been approved to all of the 2003-2005 CDPs under 50 CFR §679.30(g)(4) and (g)(5). In addition, NMFS removed through rulemaking the percentage allocations of "other species" CDQ among the six CDQ groups that were made under the January 17, 2003, decision (68 FR 69974; December 16, 2003) (Appendix 2).¹

In June 2003, NMFS informed the North Pacific Fishery Management Council (Council) that agency decisions on CDPs and CDQ percentage allocations are administrative adjudications that require an administrative appeals process prior to the issuance of a final agency decision. At the Council's October 2003 meeting, NMFS provided additional written information about the administrative appeals process which notified the Council, the CDQ groups, the State, and the public that the addition of the administrative appeals process would extend the length of time that it would take NMFS to complete its part of the CDQ allocation process (Appendix 3). During past allocation cycles, which did not include an administrative appeals process, it has taken NMFS up to three months from the date the State submitted its recommendations to the date NMFS issued a final decision. The October 2003 discussion paper prepared for the Council provided two options for the steps in an administrative appeals process. Option 1 was a four-month appeals process and Option 2 was a six-month appeals process. The Council recommended that NMFS use the six-month appeals process, which included more time for the

¹ As explained in the preamble to the final rule, the "other species" CDQ reserve is established annually and available for harvest by CDQ groups but it is not allocated in percentage amounts to each CDQ group (68 FR 69974 and 69975, December 16, 2003).

State to remedy deficiencies if any were identified by the Office of Administrative Appeals. The Council voted to recommend that NMFS use Option 2, which includes 60 days for NMFS to issue an IAD and a six-month administrative appeals process. Based on this schedule, at the April 2004 Council meeting, NMFS summarized an allocation schedule that NMFS and the State had agreed to that would result in the State submitting its allocation recommendations to NMFS on April 15, 2005 (see page 7 of Appendix 4). This submission date would provide NMFS the necessary 60 days to issue an IAD and six months for an administrative appeals process.

NMFS regulations at 50 CFR 679.30(a) state that "A qualified applicant may apply for CDQ and PSQ allocations by submitting a proposed CDP to the State during the CDQ application period that is announced by the State." On August 16, 2004, the State announced that the application period for the 2006-2008 CDQ allocations for groundfish, prohibited species, halibut and crab would be open between October 1, 2004, and November 1, 2004 (Appendix 5). On February 9, 2005, Edgar Blatchford, Commissioner of the Alaska Department of Commerce, Community, and Economic Development (State), sent a letter to each of the six CDQ groups informing them of the State's initial 2006-2008 CDQ percentage allocation recommendations for that CDQ group (Appendix 6). In these letters, Commissioner Blatchford wrote that the State had received CDPs from APICDA, BBEDC, CBSFA, CVRF, NSEDC, and YDFDA. Therefore, it is evident from these letters that each of the six CDQ groups submitted a CDP application to the State during the proscribed application period.

The State consulted with the Council about its initial allocation recommendations at the April 2005 Council meeting. On April 11, 2005, the Council sent a letter to Governor Murkowski (Governor) stating that it had concerns about "the way in which the program standards and evaluation criteria in State regulations are applied by the State CDQ Team in its evaluation of the Community Development Plans and development of the allocation recommendations...." (Appendix 7). The Council recommended that the State "establish a "blue ribbon" committee to review the CDQ program, and the process by which allocations are determined..." The State did not submit the 2006-2008 CDPs and CDQ percentage allocation recommendations to NMFS on April 15, 2005, as had been agreed to under the schedule discussed above.

On April 27, 2005 the Governor of Alaska established a Blue Ribbon CDQ Review Panel (Panel) to "conduct a thorough review of the CDQ program, including its regulations, investments, goals, timeline of allocations and state oversight" (Appendix 8). The Governor asked the Panel to report back to him within three months. In a letter dated May 26, 2005, to the Governor, Edward Rasmuson, Chairman of the Panel, requested that the State not submit its 2006-2008 CDQ allocation recommendations to NMFS until the Panel sends its findings and recommended changes to the Governor (Appendix 9). On May 31, 2005, Commissioner Blatchford wrote the following to all the CDQ groups:

Accordingly, I will be holding the 2006-2008 Multi-Species Community Development Quota (CDQ) allocation . . . in my office pending the completion of the Panel's report to the Governor. After reviewing the Panel's recommendations I will forward my final allocation recommendation to the Governor. (Appendix 10)

At a meeting of the Panel on June 16, 2005, Chairman Rasmuson stated that the Panel intends to provide its recommendations to the Governor by August 31, 2005 (Appendix 11, page 1).

NMFS has not yet received the State's 2006-2008 CDPs and CDQ percentage allocation recommendations for any of the six CDQ groups that applied for such allocations by the November 1, 2004, application deadline. Based on the May 31, 2005, letter from Commissioner Blatchford to the CDQ groups, the plans of the Panel, and the current date, NMFS will not receive the State's allocation recommendations in time to complete issuance of an IAD and to hold an administrative appeals process before the current CDPs and allocations expire on December 31, 2005.

Statutory and Regulatory Authority to Extend the 2003-2005 CDPs and CDQ Percentage Allocations

Although not specifically stated, the regulations at 50 CFR 679.30(d) provide NMFS with the authority to extend approved CDPs and CDQ percentage allocations. The authority to amend or modify a license is a corollary of an agency's power to grant that license. 2 AM. JUR. 2D *Administrative Law* § 251. Regulations at 50 CFR 679.30(d) provide NMFS with the regulatory authority to approve the State's CDP and CDQ percentage allocation recommendations, thus establishing NMFS' authority to grant a "license" under the Administrative Procedure Act (APA) as explained below. The regulatory authority to grant that license inherently includes the authority to modify it, such as extending its duration. Therefore, this IAD is authorized by NMFS regulations at 50 CFR 679.30(d).

Additionally, this action is authorized and required by the APA (5 U.S.C. 551 *et seq.*). In a memorandum dated September 3, 2003, to Chris Oliver, Executive Director of the Council, NOAA General Counsel advised that "the agency's approval of the State of Alaska's CDQ allocation recommendations pursuant to 50 CFR 679.30(d) constitutes "licensing" under the APA, and that an allocation resulting from this process authorizing a CDQ group to harvest CDQ species constitutes a "license." (Attachment 2 to Appendix 3) The APA defines "license" as including ". . . the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission". 5 U.S.C. 551(8). The APA also defines "licensing" as including an ". . . agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license." 5 U.S.C. 551(9).

Section 9(b) of the APA, 5 U.S.C. 558(c), delineates applicable procedures to be followed by Federal agencies engaged in licensing. The subsection contains three sentences, each applicable to a different aspect of the licensing process. The third sentence of the subsection applies to the renewal of licenses, and provides: "When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency." *Id.* Final agency action, in the context of CDQ allocations, does not occur until the agency has issued a final decision subsequent to an opportunity for affected CDQ groups to appeal the initial administrative decision.

In explaining the rationale for this provision, the following statement appears in *The Attorney General's Manual on the APA*: "It is only fair where a licensee has filed his application for a renewal or a new license in ample time prior to the expiration of his license, and where the application itself is sufficient, that his license should not expire until his application shall have been determined by the agency. In such a case the licensee has done everything that is within his power to do and he should not suffer if the agency has failed, for one reason or another, to consider his application prior to the lapse of this license." *Id.*, at 91-92, reprinted in *The Federal Administrative Sourcebook*, at 157-58 (2nd Ed. 1992).

Findings and Rationale for Extending the 2003-2005 CDPs and CDQ Percentage Allocations

Pursuant to 50 CFR 679.30(d) and section 9(b) of the APA, 5 U.S.C. 558(c), I have determined that the 2003-2005 CDPs and CDQ percentage allocations must continue in full force and effect as a matter of law until final agency action changing them. Given the factual and legal background provided above, I make the following findings and provide my rationale for those findings.

1. All six CDQ groups filed CDP applications for CDQ percentage allocations with the State in a timely manner. Given the fact that the State made initial allocation recommendations for each of the six CDQ groups with the February 9, 2005, letters, it is clear that each of the six CDQ groups submitted a CDP application to the State during the proscribed application period.
2. All six CDQ groups filed sufficiently complete CDP applications with the State for it to make initial percentage allocation recommendations. Given the fact that the State made initial allocation recommendations for each of the six CDQ groups with its February 9, 2005, letters, and said it reviewed the CDPs and required revisions to each CDP, it is clear that the State evaluated each of the CDQ groups' CDPs and their requests for CDQ percentage allocations and that the State determined that the CDP applications from each of the six CDQ groups were sufficiently complete that the State was able to develop initial CDQ percentage allocation recommendations for each CDQ group.
3. NMFS no longer has sufficient time to issue a final agency decision on the State's CDP and CDQ percentage allocation recommendations prior to the expiration of the 2003-2005 CDPs and CDQ percentage allocations. According to agency statements in October 2003, NMFS must have received the State's 2006-2008 CDP and CDQ percentage allocation recommendations by May 1, 2005, in order to have sufficient time to issue a final agency decision on the State's recommendations by December 31, 2005. Because the State has publicly announced that it will not submit its CDP and CDQ percentage allocation recommendations to NMFS before the Panel reports to the Governor, and that the Panel intends to report to the Governor by August 31, 2005, I find that there is insufficient time in which to issue a final agency decision on the State's 2006-2008 CDP and CDQ percentage allocation recommendations prior to the expiration of the 2003-2005 CDPs and CDQ percentage allocations.
4. This IAD extends the current CDPs and CDQ percentage allocations until December 31st of the year in which a final agency action that replaces these CDPs and CDQ percentage allocations

with new CDPs and CDQ percentage allocations is issued by NMFS. The BSAI groundfish fishing year begins on January 1st of each year. 50 CFR 679.23(a). Final agency action that replaces the current CDPs and CDQ percentage allocations with new CDPs and CDQ percentage allocations may be issued by NMFS at any time during the fishing year. It is highly likely that such a final agency action will not occur precisely at the start of the new fishing year, but will likely occur after CDQ fishing has commenced for the year and varying amounts of CDQ have been taken by each CDQ group. Because NMFS would be unable to ensure that each CDQ group harvested no more than the amount afforded to them under the new CDQ percentage allocations prior to final agency action approving those new percentage allocations, new CDQ percentage allocations can only be effective for the beginning of a fishing year.

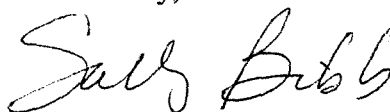
5. This IAD is limited to the removal of the expiration date in the January 17, 2003, decision. This IAD does not re-evaluate the substantive basis for the CDQ percentage allocations made by the January 17, 2003, decision. Substantive challenges to the CDQ percentage allocations that are extended by this IAD are outside of the scope of this IAD.

Conclusion

For the reasons provided above, I remove the December 31, 2005, expiration date for the CDPs and the CDQ percentage allocations of groundfish, halibut, crab and prohibited species to APICDA, BBEDC, CBSFA, CVRF, NSEDC, and YDFDA that were approved in the January 17, 2003, decision and extend the current CDPs and CDQ percentage allocations until December 31st of the year in which a final agency action that replaces these CDPs and CDQ percentage allocations with new CDPs and CDQ percentage allocations is issued by NMFS. The CDQ percentage allocations that are extended for each of the six CDQ group are provided in Attachment 1. This IAD becomes a final agency action on September 7, 2005, unless, before that date, it is appealed to the NMFS Office of Administrative Appeals. Any or all of the CDQ groups may appeal this IAD. Because 50 CFR 679.43(a) excludes IADs issued under §679.30(d) from the administrative appeals procedures at §679.43, any appeal of this IAD must be made in accordance with the enclosed administrative appeals procedure set forth in Attachment 2.

The appeal must be received by September 7, 2005. Please read Attachment 2 for a more detailed description of the procedures and rules that govern the appeal of this IAD. For additional information, you may contact the Office of Administrative Appeals by calling (907) 586-7258.

Sincerely,



Sally Bibb
CDQ Program Coordinator
Sustainable Fisheries Division

Attachments 1 and 2
Appendices 1 through 10

cc: William Noll, Commissioner
Alaska Department of Commerce, Community, and Economic Development
(with attachments and appendices)

Greg Cashen, CDQ Program Manager, ADCCED (with attachments and appendices)

NMFS Office of Administrative Appeals (with attachments and appendices)

North Pacific Fishery Management Council (with attachments, without appendices)

Attachment 1

Community Development Quota Allocations for Groundfish, Halibut, Crab and Prohibited Species That are Extended Under an Initial Administrative Determination Issued by NMFS on August 8, 2005

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%
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%
BS Northern Rockfish	Percentage allocations are not made to individual CDQ groups.*					
BS Shortraker/Rougheye Rockfish	Percentage allocations are not made to individual CDQ groups.*					
Other Species	Percentage allocations are not made to individual CDQ groups.*					
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%
Halibut CDQ						
Halibut Area 4B	100%	0%	0%	0%	0%	0%
Halibut Area 4C	15%	0%	85%	0%	0%	0%
Halibut Area 4D	0%	26%	0%	24%	30%	20%
Halibut Area 4E	0%	30%	0%	70%	0%	0%
Crab CDQ						
Bristol Bay Red King Crab	17%	19%	10%	18%	18%	18%
Norton Sound Red King Crab	0%	0%	0%	0%	50%	50%
Pribilof Red & Blue King Crab	0%	0%	100%	0%	0%	0%
St. Matthew Blue King Crab	50%	12%	0%	12%	14%	12%
Bering Sea C. Opilio Crab	8%	20%	20%	17%	18%	17%
Bering Sea C. Bairdi Crab	10%	19%	19%	17%	18%	17%

* These species will be managed at the CDQ reserve level and not as CDQ group specific allocations. (acronyms defined on following page)

Acronyms used in Attachment 1, the CDQ percentage allocation table.

APICDA = Aleutian Pribilof Island Community Development Association

BBEDC = Bristol Bay Economic Development Corporation

CBSFA = Central Bering Sea Fishermen's Association

CVRF = Coastal Villages Region Fund

NSEDC = Norton Sound Economic Development Corporation

YDFDA = Yukon Delta Fisheries Development Association

BS = Bering Sea

AI = Aleutian Islands

EAI = Eastern Aleutian Islands

CAI = Central Aleutian Islands

WAI = Western Aleutian Islands

Attachment 2

Administrative Appeals Process



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

August 3, 2005

MEMORANDUM FOR: Ed Hein, Chief Appeals Officer
Office of Administrative Appeals

FROM: *Sue Salverson*
for James W. Balsiger
Administrator, Alaska Region

SUBJECT: Administrative Appeals Process for the Initial Administrative
Determination to Extend the 2003-2005 Community Development
Plans and Community Development Quota Percentage Allocations
of Groundfish, Halibut, Crab and Prohibited Species

Attached is the administrative appeals procedure that Alaska Region staff from the Sustainable Fisheries Division, the Office of Administrative Appeals, and NOAA General Counsel developed as appropriate for appeals of an initial administrative determination to extend the 2003-2005 Community Development Plans and Community Development Quota percentage allocations of groundfish, halibut, crab and prohibited species. This procedure was developed because 50 CFR part 679, at §679.43(a), excludes IADs issued under §679.30(d) from the administrative appeals procedures at §679.43. Approval of community development plans and allocations of quota among CDQ groups are made under §679.30(d).

Attachment



Attachment

Administrative Process for an Appeal of the Initial Administrative Determination to Extend the 2003-2005 Community Development Plans and Community Development Quota Percentage Allocations of Groundfish, Halibut, Crab and Prohibited Species

Administrative Appeals Process

The following procedure will apply to any appeal of NMFS' initial administrative determination to extend the 2003-2005 Community Development Plans (CDPs) and Community Development Quota (CDQ) percentage allocations of groundfish, halibut, crab and prohibited species.

(a) Who may appeal

Any person whose interest is directly and adversely affected by the initial administrative determination may file a written appeal. For purposes of this appeals process, such persons will be referred to as "applicant" or "appellant."

(b) Submission of appeals

Appeals must be in writing and must be mailed to:

National Marine Fisheries Service
Office of Administrative Appeals (OAA)
P. O. Box 21668
Juneau, AK 99802-1668

or delivered to:

National Marine Fisheries Service
Attention: Appeals (OAA)
709 West 9th St., Room 453
Juneau, AK 99801

Appeals may be transmitted by facsimile to (907) 586-9361. Additional information about appeals may be obtained by calling (907) 586-7258, and by accessing Office of Administrative Appeals section of the NMFS Alaska Region website <http://www.fakr.noaa.gov>.

(c) Timing of appeals

(1) If an applicant appeals the initial administrative determination, the appeal must be filed not later than 30 days after the date the determination is issued.

(2) The time period within which an appeal may be filed begins to run on the date the initial administrative determination is issued. If the last day of the time period is a Saturday, Sunday, or Federal holiday, the time period will extend to the close of business on the next business day.

(d) Address of record

NMFS will establish as the address of record the address used by the applicant in initial correspondence to NMFS concerning the application. Notifications of all actions affecting the applicant after establishing an address of record will be mailed to that address, unless the applicant provides NMFS, in writing, with any changes to that address. NMFS bears no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS.

(e) Statement of reasons for appeals

Applicants must timely submit a full written statement in support of the appeal, including a concise statement of the reasons the initial administrative determination has a direct and adverse effect on the applicant and should be reversed or modified. If the applicant requests a hearing on any issue presented in the appeal, such request for hearing must be accompanied by a concise written statement raising genuine and substantial issues of adjudicative fact for resolution and a list of available and specifically identified reliable evidence upon which the factual issues can be resolved. The appellate officer will limit his/her review to the issues stated in the appeal; all issues not set out in the appeal will be waived.

(f) Hearings

The appellate officer will review the applicant's appeal and request for hearing, and has discretion to proceed as follows:

- (1) Deny the appeal;
- (2) Issue a decision on the merits of the appeal, if the record contains sufficient information on which to reach final judgment; or
- (3) Order that a hearing be conducted. The appellate officer may so order only if the appeal demonstrates the following:
 - (i) There is a genuine and substantial issue of adjudicative fact for resolution at a hearing. A hearing will not be ordered on issues of policy or law.
 - (ii) The factual issue can be resolved by available and specifically identified reliable evidence. A hearing will not be ordered on the basis of mere allegations or denials or general descriptions of positions and contentions.
 - (iii) The evidence described in the request for hearing, if established at hearing, would be adequate to justify resolution of the factual issue in the way sought by the applicant. A hearing will not be ordered if the evidence described is insufficient to justify the factual determination sought, even if accurate.
 - (iv) Resolution of the factual issue in the way sought by the applicant is adequate to justify the action requested. A hearing will not be ordered on factual issues that are not determinative with respect to the action requested.

(g) Types of hearings

If the appellate officer determines that a hearing should be held to resolve one or more genuine and substantial issues of adjudicative fact, he/she may order:

- (1) A written hearing, as provided in paragraph (1); or
- (2) An oral hearing, as provided in paragraph (m).

(h) Authority of the appellate officer

The appellate officer is vested with general authority to conduct all hearings in an orderly manner, including the authority to:

- (1) Administer oaths.
- (2) Call and question witnesses.
- (3) Issue a written decision based on the record.

(i) Evidence

All evidence that is relevant, material, reliable, and probative may be included in the record. Formal rules of evidence do not apply to hearings conducted under this appeals process.

(j) Appellate officers' decisions

The appellate officer will close the record and issue a decision after determining there is sufficient information to render a decision on the record of the proceedings and that all procedural requirements have been met. The decision must be based solely on the record of the proceedings. Except as provided in paragraph (n), an appellate officer's decision takes effect 30 days after it is issued and, upon taking effect, is the final agency action for purposes of judicial review.

(k) Disqualification of an appellate officer

- (1) The appellate officer will withdraw from an appeal at any time he/she deems himself/herself disqualified.
- (2) The appellate officer may withdraw from an appeal on an appellant's motion if:
 - (i) The motion is entered prior to the appellate officer's issuance of a decision; and
 - (ii) The appellant demonstrates that the appellate officer has a personal bias or any other basis for disqualification.
- (3) If the appellate officer denies a motion to withdraw, he/she will so rule on the record.

(l) Written hearing

(1) An appellate officer may order a written hearing under paragraph (g)(1) if he/she:

(i) Orders a hearing as provided in paragraph (f)(3); and

(ii) Determines that the issues to be resolved at hearing can be resolved by allowing the appellant to present written materials to support his/her position.

(2) After ordering a written hearing, the appellate officer will:

(i) Provide the appellant with notification that a written hearing has been ordered.

(ii) Provide the appellant with a statement of issues to be determined at hearing.

(iii) Provide the appellant with 30 days to file a written response. The appellant may also provide documentary evidence to support his/her position. The period to file a written response may be extended at the sole discretion of the appellate officer, if the appellant shows good cause for the extension.

(3) The appellate officer may, after reviewing the appellant's written response and documentary evidence:

(i) Order that an oral hearing be held, as provided in paragraph (g)(2), to resolve issues that cannot be resolved through the written hearing process;

(ii) Request supplementary evidence from the appellant before closing the record; or

(iii) Close the record.

(4) The appellate officer will close the record and issue a decision after determining that the information on the record is sufficient to render a decision.

(m) Oral hearing

(1) The appellate officer may order an oral hearing under paragraphs (g)(2) and (l)(3)(i) if he/she:

(i) Orders a hearing as provided in paragraph (f)(3); and

(ii) Determines that the issues to be resolved at hearing can best be resolved through the oral hearing process.

(2) After ordering an oral hearing, the appellate officer will:

(i) Provide the appellant with notification that an oral hearing has been ordered.

(ii) Provide the appellant with a statement of issues to be determined at hearing.

(iii) Provide the appellant with notification, at least 30 days in advance, of the place, date, and time of the oral hearing. Oral hearings will be held in Juneau, AK, at the prescribed date and time, unless the appellate officer determines, based upon good cause shown, that a different place, date, or time will better serve the interests of justice. A continuance of the oral hearing may be ordered at the sole discretion of the appellate officer if the appellant shows good cause for the continuance.

(3) The appellate officer may, either at his/her own discretion or on the motion of the appellant, order a pre-hearing conference, either in person or telephonically, to consider:

(i) The simplification of issues.

(ii) The possibility of obtaining stipulations, admissions of facts, and agreements to the introduction of documents.

(iii) The possibility of settlement or other means to facilitate resolution of the case.

(iv) Such other matters as may aid in the disposition of the proceedings.

(4) The appellate officer must provide the appellant with notification of a pre-hearing conference, if one is ordered, at least 30 days in advance of the conference. All action taken at the pre-hearing conference will be made part of the record.

(5) At the beginning of the oral hearing, the appellate officer may first seek to obtain stipulations as to material facts and the issues involved and may state any other issues on which he/she may wish to have evidence presented. Issues to be resolved at the hearing will be limited to those identified by the appellate officer as provided in paragraph (f)(3). The appellant will then be given an opportunity to present his/her case.

(6) During the oral hearing, the appellant has the right to present reliable and material oral or documentary evidence and to conduct such cross-examination as may be required in the interests of justice.

(7) After the conclusion of the oral hearing, the appellant may be given time by the appellate officer to submit any supplementary information that may assist in the resolution of the case.

(8) The appellate officer will close the record and issue a decision after determining that the information on the record is sufficient to render a decision.

(n) Review by the Regional Administrator

An appellate officer's decision is subject to review by the Regional Administrator, as provided in this paragraph (n).

(1) The Regional Administrator may affirm, reverse, modify, or remand the appellate officer's decision before the 30-day effective date of the decision provided in paragraph (j).

(2) The Regional Administrator may take any of these actions on or after the 30-day effective date by issuing a stay of the decision before the 30-day effective date. An action taken under paragraph (n)(1) takes effect immediately.

(3) The Regional Administrator must provide a written explanation why an appellate officer's decision has been reversed, modified, or remanded.

(4) The Regional Administrator must promptly notify the appellant(s) of any action taken under this paragraph (n).

(5) The Regional Administrator's decision to affirm, reverse, or modify an appellate officer's decision is a final agency action for purposes of judicial review.

Appendix 1

NMFS's Approval of the 2003-2005 CDPs and Percentage Allocations of
Groundfish, Prohibited Species, Halibut, and Crab, January 17, 2003



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

January 17, 2003

Jeffrey W. Bush, Deputy Commissioner
Alaska Department of Community
and Economic Development
P.O. Box 110800
Juneau, Alaska 99811-0800

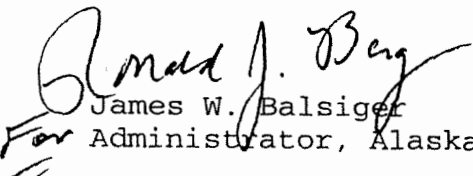
Dear Mr. Bush:

On October 15, 2002, the State of Alaska (State) submitted its recommendations for percentage allocations of groundfish, halibut, crab, and prohibited species under the Western Alaska Community Development Quota (CDQ) Program for 2003 through 2005. In addition, the State recommended approval of the Community Development Plans submitted for six CDQ groups, representing 65 western Alaska communities.

We have reviewed the State's recommendations and the CDPs according to regulations at 50 CFR Part 679. Attachment 2 describes these regulations, the information submitted by the State and the CDQ groups, and NMFS's findings and determinations.

With one exception, I approve the State's CDQ allocation recommendations for 2003 through 2005. I have disapproved the State's allocation recommendations for Bering Sea other red rockfish because this species group no longer is a valid quota category. NMFS's findings and determinations provide an explanation about how the rockfish species formerly in this quota category will be managed by NMFS without specific allocations to the CDQ groups. The CDQ allocations approved for 2003 through 2005 are shown in Attachment 1. These percentage allocations and the CDPs will expire on December 31, 2005.

Sincerely,


James W. Balsiger
For Administrator, Alaska Region

cc: CDQ groups
NPFMC



Attachment 1: 2003 - 2005 Community Development Quota
Allocations for Groundfish, Halibut, Crab 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%
Halibut CDQ						
Halibut Area 4B	100%	0%	0%	0%	0%	0%
Halibut Area 4C	15%	0%	85%	0%	0%	0%
Halibut Area 4D	0%	26%	0%	24%	30%	20%
Halibut Area 4E	0%	30%	0%	70%	0%	0%
Crab CDQ						
Bristol Bay Red King Crab	17%	19%	10%	18%	18%	18%
Norton Sound Red King Crab	0%	0%	0%	0%	50%	50%
Pribilof Red & Blue King Crab	0%	0%	100%	0%	0%	0%
St. Matthew Blue King Crab	50%	12%	0%	12%	14%	12%
Bering Sea C. Opilio Crab	8%	20%	20%	17%	18%	17%
Bering Sea C. Bairdi Crab	10%	19%	19%	17%	18%	17%

* These species will be managed at the CDQ reserve level and not as CDQ group specific allocations.

(acronyms defined on following page)

Acronyms used in 2003 - 2005 CDO allocation table

APICDA = Aleutian Pribilof Island Community Development Association

BBEDC = Bristol Bay Economic Development Corporation

CBSFA = Central Bering Sea Fishermen's Association

CVRF = Coastal Villages Region Fund

NSEDC = Norton Sound Economic Development Corporation

YDFDA = Yukon Delta Fisheries Development Association

BS = Bering Sea

AI = Aleutian Islands

EAI = Eastern Aleutian Islands

CAI = Central Aleutian Islands

WAI = Western Aleutian Islands

**Attachment 2: NMFS Findings Supporting Approval of the 2003-2005
Community Development Plans and Percentage Allocations of
Community Development Quota to the Six CDQ Groups**

The State of Alaska (State) submitted its recommendations for 2003-2005 Community Development Plans (CDPs) and Community Development Quota (CDQ) allocations to the National Marine Fisheries Service (NMFS) on October 15, 2002, for the following six CDQ groups:

- Aleutian Pribilof Island Community Development Association (APICDA)
- Bristol Bay Economic Development Corporation (BBEDC)
- Central Bering Sea Fishermen's Association (CBSFA)
- Coastal Villages Region Fund (CVRF)
- Norton Sound Economic Development Corporation (NSEDC)
- Yukon Delta Fisheries Development Association (YDFDA)

Regulatory Requirements

50 CFR Part 679 requires NMFS to review proposed CDPs and allocation recommendations submitted by the State and approve those that it determines meets all applicable requirements of 50 CFR Part 679.

The State of Alaska must meet the following requirements:

1. Announce a CDQ application period as required by §679.30(a).
2. Hold a public hearing as required by §679.30(b) to obtain comments on the proposed CDPs from all interested persons. The State must provide reasonable public notification of the hearing date and location. At the time of public notification of the hearing, the State must make available for public review all State materials pertinent to the hearing.
3. Consult with the North Pacific Fishery Management Council (Council) before the State submits its recommendations about the proposed CDPs to NMFS, as required by §679.30(c).
4. Transmit the proposed CDPs and its recommendations for approval of each of the proposed CDPs to NMFS, along with

the findings and the rationale for the recommendations, by October 15 of the year prior to the first year of the proposed CDP, as required by §679.30(d). In these findings, the State is required to determine that each proposed CDP meets all applicable requirements of 50 CFR Part 679.

Once NMFS receives the State's recommendations, NMFS must make determinations as to whether:

1. The State has followed the application procedures, public hearing requirement, and the Council consultation requirement in §679.30(a) through (c);
2. The CDPs contain all of the information required in §679.30(a) and the applicable definitions in §679.2;
3. The proposed CDPs are consistent with the purpose and scope of the CDQ Program as described at §679.1(e);
4. The communities represented by the CDPs meet the eligibility criteria in §679.2; and
5. The State provided NMFS with the findings and rationale for its CDP and allocation recommendations required in §679.30(d), and that the State's findings and rationale are reasonable.

50 CFR 679.30(d) provides the following requirements for NMFS:

NMFS will review the proposed CDPs and approve those that it determines meet all applicable requirements. NMFS shall approve or disapprove the State's recommendations within 45 days of their receipt. In the event of approval of the CDP, NMFS will notify the State in writing that the proposed CDP is approved by NMFS and is consistent with all requirements for CDPs. If NMFS finds that a proposed CDP does not comply with the requirements of this part, NMFS must so advise the State in writing, including the reasons thereof. The State may submit a revised proposed CDP along with revised recommendations for approval to NMFS.

Under regulations at §679.30(a), CDQ allocations are "harvest privileges that expire upon the expiration of the CDP. When a CDP expires, further CDQ allocations are not implied or guaranteed, and a qualified applicant must re-apply for further allocations on a competitive basis with other qualified applicants." The most recent CDQ allocations expired on December 31, 2002. In this document, NMFS is making determinations about

the State's allocation recommendations for all species allocated to the CDQ Program, including groundfish, prohibited species, halibut, and crab. However, most of the information submitted to NMFS to review by the State and the CDQ groups focused on the species for which the State is recommending a different allocation in 2003-2005 than was approved in 2001 and 2002. Consequently, NMFS's determinations focus primarily on the allocation recommendations for these species.

Standard of Review of the Proposed Community Development Plans and the State's Allocation Recommendations

NMFS's role in the CDQ Program allocations is defined by the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (groundfish FMP), the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (crab FMP), and regulations at 50 CFR Part 679 implementing the CDQ Program. The MSA requires that the Council and NMFS establish the CDQ Program and allocate a portion of the quotas from Bering Sea fisheries to the program. In addition, the MSA provides the criteria for communities to be eligible for the CDQ Program. However, the MSA does not specifically instruct the Secretary to allocate CDQ to eligible communities or to CDQ groups, nor does it contain requirements about how allocations of quota to the eligible communities should be made.

The groundfish FMP, developed by the Council in 1992, states that the CDQ Program is a joint program of the Secretary and the Governor of the State of Alaska. It also requires that portions of the quota allocated to the CDQ Program are to be released by NMFS to "eligible Alaska communities who submit a plan, approved by the Governor of Alaska, for its wise and appropriate use." The crab FMP provides for an allocation of crab to the CDQ Program and states that the "program will be patterned after the pollock CDQ program."

Regulations at 50 CFR Part 679 implementing the CDQ Program were developed by the Council based on recommendations by the State of Alaska. As intended by the FMPs, these regulations place the primary responsibility with the State of Alaska for CDQ allocations and day-to-day administration of the CDQ Program. Additionally, should NMFS determine that a regulatory requirement has not been met by the State or that the State's rationale is not reasonable or does not support the State's recommendations, NMFS is not provided the regulatory authority to implement its own allocations. The allocation recommendations must be returned to the State for further development or revision. For these

reasons, NMFS interprets its standard for reviewing State CDP and allocation recommendations as an abuse of discretion standard rather than an independent or de novo review of the record.

The role of NMFS in review and approval of the CDPs and the allocation of quota to the eligible communities is limited by regulatory design to conducting a careful inquiry of the record provided by the State for its recommendations and to determining whether the State considered relevant factors and articulated a satisfactory explanation for its action, including a rational connection between the facts found and the recommendations made by the State. NMFS must approve the State's recommendations if it finds that the State followed the requirements described in the regulations and provided a rationale that demonstrates that the State considered relevant factors and provided a reasonable explanation for its allocation recommendations given those factors.

Summary of the State's Allocation Recommendations

Tables summarizing the State's CDQ allocation recommendations and comparing these recommendations with past allocations and with the amount requested by the CDQ groups are in Attachment 3.

- Table 3.1 provides a comparison between the percentage allocations received by each group in 2001 and 2002 with the percentage allocations recommended by the State for 2003-2005.
- Table 3.2 provides a comparison between the percentage allocations requested by the CDQ groups in the CDP applications they submitted to the State on July 1, 2002 and the percentage allocations recommended by the State.

Comparison of CDQ allocations in 2001 and 2002 with the State's recommended percentage allocations for primary target species
(See Attachment 3, Table 3.1 for more detail):

APICDA

- 5% increase in area 4C halibut CDQ allocation from 10% to 15%.
- 1% decrease in Pacific cod allocation from 16% to 15%.
- 1% decrease in Aleutian Islands fixed gear sablefish allocation from 15% to 14%.
- 1% decrease in Bristol Bay red king crab from 18% to 17%.
- 2% decrease in Bering Sea *Chionoecetes opilio* tanner (opilio) crab from 10% to 8%.

BBEDC

- A 1% increase in Pacific cod from 20% to 21%.
- A 1% increase in Bristol Bay red king crab from 18% to 19%.
- A 1% increase in Bering Sea opilio crab from 19% to 20%.
- A 2% decrease in Bering Sea fixed gear sablefish.
- A 1% decrease in Aleutian Islands fixed gear sablefish.

CBSFA

- A 1% increase in pollock from 4% to 5%.
- A 3% increase in Aleutian Islands fixed gear sablefish from 0% to 3%.
- A 1% increase in Bering Sea opilio crab from 19% to 20%.
- A 1% decrease in Pacific cod from 10% to 9%.
- A 2% decrease in Bering Sea fixed gear sablefish from 18% to 16%.
- A 5% decrease in area 4C halibut from 90% to 85%.

CVRF

- A 1% increase in Pacific cod from 17% to 18%.
- A 3% decrease in Aleutian Islands fixed gear sablefish.

NSEDC

- a 1% decrease in pollock from 23% to 22%.
- A 3% increase in Aleutian Islands fixed gear sablefish from 20% to 23%.
- A 2% decrease in Bering Sea fixed gear sablefish from 10% to 18%.

YDFDA

- A 6% increase in Bering Sea fixed gear sablefish from 25% to 31%.
- A 1% decrease in Aleutian Islands fixed gear sablefish from 15% to 14%.

For the following quota categories, the State recommended the same allocations for all CDQ groups in 2003-2005 as were approved in 2001 and 2002:

Groundfish CDQ: Atka mackerel in all areas, yellowfin sole, rock sole, Pacific Ocean perch in all three districts of the Aleutian Islands, and Aleutian Islands northern rockfish.

Prohibited species: halibut, zone 1 *Chionoecetes bairdi* tanner (bairdi) crab.

Halibut CDQ: halibut 4B, halibut 4D, and halibut 4E.

Crab CDQ: Norton Sound red king crab, Pribilof red and blue king crab, St. Matthew blue king crab, and Bering Sea bairdi crab.

Comparison of allocations requested by the CDQ groups with the State's recommended allocations for 2003-2005

(See Attachment 3, Table 3.2 for more detail)

The CDQ groups are required to request CDQ allocations in their CDPs. In all cases, except two, the sum of the CDQ allocation requests by the six CDQ groups was greater than the amount of quota available to allocation. The two exceptions were halibut in area 4B and the Pribilof red and blue king crab. APICDA requested 100% of the area 4B halibut CDQ and no other CDQ groups requested any allocation of this quota category. By regulation at 50 CFR 679.31(b)(3), halibut CDQ must be allocated to eligible communities physically located in or proximate to the regulatory area. All of the CDQ communities located in or proximate to area 4B are members of APICDA. CBSFA requested 100% of the Pribilof Island red and blue king crab CDQ allocation and no other CDQ groups requested any allocation of this quota category. CBSFA represents the community of St. Paul in the Pribilof Islands.

In the following cases, the State recommended the same allocation for a CDQ group as the group requested in their proposed CDPs:¹

APICDA: Atka mackerel in all areas, Bering Sea Greenland turbot, flathead sole, Pacific Ocean perch in all districts of the Aleutian Islands, Zone 1 bairdi crab prohibited species quota (PSQ), and halibut in areas 4B and 4C.

BBEDC: Atka mackerel in all areas, yellowfin sole, rock sole, Pacific Ocean perch in all districts of the Aleutian Islands, Zone 2 bairdi crab PSQ.

¹This summary does not include the quota categories for which the CDQ groups requested 0% allocations and the State recommended 0% allocations. These comparisons can be found in Table 3.2.

CBSFA: Zone 1 red king crab PSQ, Zone 1 bairdi crab PSQ, halibut PSQ, non-chinook salmon PSQ, Pribilof Island red and blue king crab, and bairdi crab.

CVRF: Aleutian Islands fixed gear sablefish, Eastern Aleutian Islands/Bering Sea Atka mackerel, and halibut in area 4E.

YDFDA: Pacific cod, yellowfin sole, flathead sole, Pacific Ocean perch in all districts of the Aleutian Islands, Bering Sea other red rockfish, Aleutian Islands northern rockfish, other species, Zone 1 bairdi crab PSQ, halibut PSQ, and all crab quota categories.

In a number of cases, the State is recommending a higher allocation for a CDQ group than it requested. These examples are primarily incidentally caught species and prohibited species, for which the allocation recommendations are based on a bycatch model (described below), rather than on application of evaluation criteria. However, the State is recommending a higher percentage allocation of one target species allocation than was requested. YDFDA requested 25% of the Bering Sea fixed gear sablefish allocation and the State is recommending that it be allocated 31%. The reasons for this recommendation are discussed below in the section addressing the State's rationale. In all other cases, the State recommended lower percentage allocations than the CDQ groups requested, because the requested allocations add up to more than was available to allocate.

NMFS Determinations

1. **The State followed the application procedures, the public hearing requirement, and the Council consultation requirement in §679.30(a) through (c).**

Application process: In Appendix 2 to its October 15, 2002, recommendations, the State submitted two items to demonstrate its compliance with the requirement at §679.30(a) to announce a CDQ application period. The State submitted a copy of a letter dated March 22, 2002, to "dear interested party," announcing the release of the application packets for the 2003-2005 CDQ Program to all of the CDQ groups and stating that the deadline for receipt of the applications was July 1, 2002. The State also submitted a copy of a public notice published in the Anchorage Daily News on March 27, 2002, announcing that the application period was between April 1, 2002, and July 1, 2002. NMFS determines that the State complied with the application procedures set forth in §679.30(a) based on the information contained in Appendix 2 to its October 15, 2002, letter.

Public hearing: In Appendix 2 to its October 15, 2002, findings, the State submitted the following documents related to the public hearing:

(a) Documentation that a public notice announcing the August 27, 2002, public hearing was published in the Bristol Bay Times, Dutch Harbor Fisherman, Tundra Drums, Nome Nugget, and the Anchorage Daily News.

(b) A copy of an on-line public notice published by the State of Alaska on July 7, 2002, announcing the August 27, 2002, public hearing.

(b) A copy of a letter dated July 9, 2002, sent to each of the six CDQ groups by the State of Alaska announcing the public hearing.

(c) A copy of the sign-up sheet for attendance at the public hearing.

(d) A 67-page transcript of the August 27, 2002, public hearing in Anchorage, Alaska.

NMFS staff attended the public hearing and teleconference on August 27, 2002, in Anchorage, Alaska. Representatives from each of the six CDQ groups presented an approximately 15-minute overview of their CDP and answered questions from the State CDQ Team. No public comments were received via teleconference. One member of the public testified at the end of the hearing. His testimony is documented in the hearing transcript.

Based on the information submitted by the State and on NMFS staff attendance at the hearing, NMFS determines the State has met the public hearing requirements of §679.30(b).

Council consultation: In Appendix 4 to its October 15, 2002, findings, the State included a copy of a September 24, 2002, letter to David Benton, Chairman of the Council. The letter provided the State's recommendations for the 2003-2005 CDQ allocations. In addition, Jeff Bush, Deputy Commissioner of the State's Department of Community and Economic Development, consulted with the Council concerning the proposed CDPs and allocations on October 6, 2002, during the Council's October 2002 meeting. NMFS staff attended this meeting. Representatives of APICDA, CBSFA, and NSEDC testified during the public comment period. After discussion of the State's recommendations and public comment, the Council concurred with the State's recommendations through a motion that passed without objection.

Therefore, based on the information submitted by the State NMFS determines the State did meet the requirement at §679.30(c) to consult with the Council before transmitting its allocation recommendations to NMFS.

Additional Elements of the CDQ Allocation Process in 2002

In addition to the process requirements in 50 CFR Part 679, the State and NMFS implemented several additional elements to the CDQ allocation process in 2002. These additional elements provided (1) public release of the State's initial allocation recommendations about three weeks earlier than they had been released in prior allocation cycles, (2) an opportunity for the CDQ groups to comment in writing to the State on its initial allocation recommendations, (3) a written response by the State to these comments, (4) a copy of the CDQ groups' comments and the State's responses to those comments to the Council prior to the State's consultation with the Council, and (5) a structured opportunity for the CDQ groups to submit written comments to NMFS after the State submitted its recommendations to NMFS on October 15, 2002.

Elements (1) through (4) were added to the process to provide the CDQ groups, the Council, and the public several additional opportunities to comment on the State's allocation recommendations before the Council made recommendations about the allocations and before they were submitted to NMFS. In previous allocation cycles, the State's recommendations usually were made available less than a week before the Council meeting and the groups had very limited time to provide comments or additional information to decision makers. NMFS also added element (5), a 15-day comment period, so that all CDQ groups had a structured opportunity to submit comments for NMFS to consider during its review of the State's allocation recommendations. This comment period was announced to the groups by letter dated September 30, 2002. NMFS added this comment period because, during the last allocation cycle, some CDQ groups submitted comments to NMFS, but other groups were not aware that they could submit comments. This comment period was added to provide all groups an equal opportunity to submit comments to NMFS and to limit the comment period to early in NMFS's review process so that all comments could be adequately considered. NMFS summarizes the comments submitted to the State and NMFS in a following section. In addition, NMFS responds to the comments that are relevant to its review of the State's CDQ allocation recommendations.

2. The CDPs contain all of the information required in §679.30 and the applicable definitions in §679.2.

On pages 2 through 7 of its October 15, 2002, findings, the State determined that the proposed CDPs for the six CDQ groups contained all of the information required in §679.30(a). The State referred to checklists that are included in each proposed CDP to identify where the required information is located in the CDP. NMFS reviewed all of the proposed CDPs and prepared checklists to verify that all of the information required under §679.30(a) and relevant definitions at §679.2 is contained in the proposed CDPs. These checklists were added to NMFS's administrative record through a memorandum to the file dated January 17, 2003.

3. The proposed CDPs are consistent with the purpose and scope of the CDQ Program as described at §679.1(e).

NMFS reviewed the proposed CDPs to determine whether they describe CDQ projects that are consistent with the goals and purpose of the CDQ Program in 50 CFR 679.1(e):

The goals and purpose of the CDQ program are to allocate CDQ to eligible Western Alaska communities to provide the means for starting or supporting commercial fisheries business activities that will result in an ongoing, regionally based, fisheries-related economy.

The CDPs describe a variety of CDQ projects including investment in fishing vessels, processing vessels, shoreside processing plants, individual fishing quotas, fishing lodges, and infrastructure in the communities to support fishing businesses. The CDPs also describe funding of scholarships, vocational training, primary and secondary school curriculum development; and grants to local fishermen's organizations, local governments, and local schools. In addition, the CDPs describe administrative expenses associated with staff, the board of directors, community outreach, travel, and management of the CDQ group's fisheries and assets. NMFS determines that these CDQ projects and associated expenditures are consistent with the goals and purpose of the CDQ Program because they are either (1) direct investments related to commercial fishing businesses activities, (2) investments in education and training of CDQ region residents, or (3) costs associated with administration of the CDQ Program.²

²A determination that a CDP describes projects consistent with the goals and purpose of the CDQ Program does not

4. Until NMFS thoroughly examines the relevant information regarding eligibility for all communities currently listed in the CDPs, NMFS determines that the 65 communities represented by the CDPs are eligible to participate in the CDQ Program for the 2003-2005 allocation cycle.

50 CFR 679.30(1)(iv) requires that a CDP contain "[A] list of the participating communities. Each participating community must be listed in Table 7 to this part or meet the criteria for an eligible community under §679.2." The eligibility criteria in §679.2 follows:

Eligible community means (for purposes of the CDQ program) a community that is listed in Table 7 to this part or that meets all of the following requirements:

(1) The community is located within 50 nm from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the most western of the Aleutian Islands, or on an island within the Bering Sea. A community is not eligible if it is located on the GOA coast of the North Pacific Ocean, even if it is within 50 nm of the baseline of the Bering Sea.

(2) That is certified by the Secretary of the Interior pursuant to the Native Claims Settlement Act (Pub. L. 92-203) to be a native village.

(3) Whose residents conduct more than half of their current commercial or subsistence fishing effort in the waters of the BSAI.³

(4) That has not previously developed harvesting or processing capability sufficient to support substantial groundfish fisheries participation in the BSAI, unless the community can show that benefits from an approved CDP would be the only way to realize a return from previous investments. The community of Unalaska is excluded under this provision.

necessarily mean that the projects are implemented in a manner consistent with NMFS regulations. This issue is discussed in more detail in a later section of this document.

³BSAI is the Bering Sea and Aleutian Islands area.

To date, NMFS has determined that 65 communities are eligible for the CDQ Program. Fifty-six communities were recommended by the State as eligible communities when the CDQ Program was initially implemented on November 23, 1992 (57 FR 54936). At the recommendation of the Council, the community of Akutan was added in 1996 (61 FR 41744; August 12, 1996). These 57 communities determined eligible for the CDQ Program by rulemaking are listed on Table 7 to 50 CFR Part 679.⁴

On March 8, 1999, the State submitted to NMFS recommendations and supporting documentation about the eligibility of Ekwok, Grayling, Levelock, Mountain Village, Napakiak, Napaskiak, Oscarville, and Portage Creek. The State initially identified these additional communities as eligible after a review initiated by a letter from a resident of Levelock, Alaska, who contended that Levelock did meet the location criteria contained in NMFS's 1992 final rule. In its March 8, 1999, letter to NMFS, the State recommended that these eight communities be determined eligible communities under the CDQ Program.

Through a letter dated April 19, 1999, NMFS agreed with the State's recommendations and determined that the eight communities were eligible for the CDQ Program. These eight communities have been considered eligible for the CDQ Program since that date. The communities were added to the CDPs by substantial amendments approved by the State and NMFS in June 1999. The eight communities also were included in the CDPs and CDQ allocations recommended by the State and approved by NMFS for the 2000 pollock CDQ allocations and the 2001-2002 multispecies CDQ allocations.

On October 31, 2000, APICDA submitted a letter to NMFS challenging the State's 2001 and 2002 CDQ allocations. One aspect of this challenge related to community eligibility. APICDA contended that some of the communities considered eligible by the State and NMFS did not meet the regulatory eligibility criterion of having residents who "conduct more than half of their current commercial or subsistence fishing effort in the waters of the BSAI." APICDA raised two concerns about this eligibility criterion. First, it asked whether the term "current" required the communities to continue to meet this

⁴There are 56 separate entries for eligible communities on Table 7 to 50 Part CFR 679, one of which is "Pilot Point/Ugashik". Because Pilot Point and Ugashik are two separate, populated communities, NMFS considers that there are 57 CDQ communities listed on Table 7.

requirement to remain eligible for the CDQ Program. Second, it opined that the State and NMFS incorrectly determined that some communities were eligible based on this criterion. APICDA also raised these questions in 2002 during public comment to the Council on Amendment 71 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Area.

NMFS addressed APICDA's comments in its January 30, 2001,⁵ decision to approve the State's CDQ allocation recommendations for 2001 and 2002 as follows:

At this time, NMFS determines that the question about eligible communities raised by APICDA is not a valid basis for disapproving the State's 2001-2002 CDQ allocation recommendations. NMFS has approved the State's recommendations that 65 communities are eligible for the CDQ Program. The CDPs were developed on the assumption that this determination was correctly made. No new information has been presented to either the State or NMFS that demonstrates that any specific community is ineligible based on that criterion. Therefore, the State's current assertion to NMFS (findings, 10/16/00, page 3) that all of the communities represented by the proposed CDPs are eligible for the CDQ Program was made on the basis of the best information available to the State at the time it reviewed the proposed CDPs. If further investigation of the concerns raised by APICDA indicates that some communities do not meet the eligibility criteria, removal of these communities from the CDQ Program can be considered at that time.

None of the CDQ groups challenged the eligibility status of any of the 65 CDQ communities in their written comments to the State or NMFS regarding the State's 2003-2005 CDQ allocation recommendations. The State didn't submit evaluation of community eligibility requirements, but recommended that all 65 communities are eligible for the 2003-2005 allocation cycle as all are on Table 7 to 50 CFR Part 679 or meet the eligibility criteria at §679.2 (page 2 of the State's findings).

Table 2.1 shows the communities represented by each of the six CDQ groups in the CDPs submitted to NMFS by the State on October 15, 2002. NMFS considered the eligibility status of these communities during review of the State's 2003-2005 CDQ allocation

⁵Decision memorandum from James W. Balsiger to Penelope D. Dalton, dated January 17, 2001. William Hogarth concurred with this decision on January 30, 2001.

Table 2.1. Communities listed as eligible for the CDQ Program in six Community Development Plans submitted by the State to NMFS on October 15, 2002.

Aleutian Pribilof Island Community Development Association (APICDA)

Akutan
Atka
False Pass
Nelson Lagoon
Nikolski
Saint George

Bristol Bay Economic Development Corporation (BBEDC)

Aleknagik
Clark's Point
Dillingham
Egegik
Ekuk
Ekwok *
Levelock *
Manokotak
Naknek
Pilot Point
Port Heiden
Portage Creek *
South Naknek
Sovonoski/King Salmon
Togiak
Twin Hills
Ugashik

Central Bering Sea Fishermen's Association (CBSFA)

Saint Paul

Coastal Villages Region Fund (CVRF)

Chefornak
Chevak
Eek
Goodnews Bay
Hooper Bay
Kipnuk
Kongiganak
Kwigillingok
Mekoryuk
Napakiak *
Napaskiak *
Newtok
Nightmute
Oscarville *
Platinum

Quinhagak
Scammon Bay
Toksook Bay
Tuntutuliak
Tununak

Norton Sound Economic Development Corporation (NSEDC)

Brevig Mission
Diomedes
Elim
Gambell
Golovin
Koyuk
Nome
Saint Michael
Savoonga
Shaktoolik
Stebbins
Teller
Unalakleet
Wales
White Mountain

Yukon Delta Fisheries Development Association (YDFDA)

Alakanuk
Emmonak
Grayling *
Kotlik
Mountain Village *
Nunam Iqua (Sheldon Point)

* indicates communities that were determined eligible by NMFS on April 19, 1999, but are not listed on Table 7 to 50 CFR Part 679.

recommendations. NMFS determined that the 57 communities listed in CDPs submitted by the six CDQ groups that also are listed on Table 7 of 50 CFR Part 679 are eligible communities for purposes of the CDQ Program. These communities meet the requirements of §679.30(a)(1)(iv) and §679.2 by the fact that they are listed on Table 7 of 50 CFR Part 679.

Eight of the communities listed in CDPs submitted by three of the CDQ groups are not listed in Table 7 of 50 CFR Part 679. These communities and CDQ groups are:

Ekwok (BBEDC)
Levelock (BBEDC)
Portage Creek (BBEDC)
Napaskiak (CVRF)
Napakiak (CVRF)
Oscarville (CVRF)
Grayling (YDFDA)
Mountain Village (YDFDA)

The eligibility of these communities is based on information submitted to NMFS by the State on March 8, 1999, and NMFS's decision to accept these recommendations dated April 19, 1999. NMFS has determined that, because these eight communities are not listed on Table 7 to 50 CFR Part 679, and in light of questions raised about their eligibility status, NMFS should review the basis of its April 19, 1999, decision that these communities are eligible for the CDQ Program.

Review of the recommendations submitted by the State on March 8, 1999, indicates two deficiencies with the State's submission. First, the State did not evaluate the eligibility criteria as written in NMFS regulations. Second, evidence submitted by the State indicates that some of these communities may not meet the eligibility requirements as written in NMFS regulations.

NMFS's primary concern with the State's recommendations is related to criterion three, which requires that an eligible CDQ community consist of residents who "conduct more than half of their current commercial or subsistence fishing effort in the waters of the BSAI." When reviewing the eligibility status of these eight communities, the State, rather than applying the criterion related to fishing effort in the waters of the BSAI, actually applied the following criterion: "reliance on fishing and fishery resources," (page 3 of March 8, 1999 letter to NMFS). The State's recommendations provided the following explanation: "...the state believes the intent of this criteria [sic] is to restrict access into the CDQ program to those communities that

are traditionally reliant on fishing or fishery resource...intent was to make the previously unattainable groundfish fishery available to fishermen of western Alaska....substantial evidence was gathered regarding these communities reliance on fishing and fisheries resources."

The criterion of reliance on fishing and fisheries resources is much broader than the criterion in NMFS regulations that requires that the residents of eligible communities conduct more than half of their current commercial or subsistence fishing effort in the waters of the BSAI. In addition, evidence submitted by the State to support its recommendations indicates that some of the communities probably do not meet the eligibility criterion in NMFS regulations. Specifically, based on the information submitted by the State, residents of Grayling, Mountain Village, Napakiak, Napaskiak, and Oscarville probably do not conduct 50 percent or more of their commercial or subsistence fishing effort in the waters of the BSAI. For the communities of Ekwok, Levelock, and Portage Creek (in Bristol Bay), the information submitted by the State suggests that most of the subsistence fishing effort by residents occurs in the rivers, rather than in the waters of the BSAI, but that more than 50 percent of the commercial fishing effort occurred in waters of the BSAI. Because the criterion in question requires only that half of the commercial or subsistence fishing effort occurs in the waters of the BSAI, the information submitted by the State indicates that Ekwok, Levelock, and Portage Creek probably meet the eligibility criterion in NMFS regulations.

Although NMFS's review of the information submitted by the State in March 1999 indicates that some communities may not be eligible, NMFS lacks all of the information necessary to conclude definitively that these communities are ineligible to participate in the CDQ Program. If a community were determined ineligible for the CDQ Program, it would not be allowed to be listed in a CDP. The CDQ Program provides many valuable benefits to its member communities that would not necessarily be available to ineligible communities. Furthermore, the State asserted in its recommendations that the disqualification of any or all of the eight communities would not affect the State's allocation recommendations for 2003-2005 (page 2 of the State's findings). Therefore, until NMFS thoroughly examines the relevant information regarding eligibility for all communities currently listed in the CDPs, NMFS determines that the 65 communities represented by the CDPs are eligible to participate in the CDQ Program for the 2003-2005 allocation cycle.

NMFS intends to develop an analysis that examines the eligibility status of the eight communities added to the CDQ Program in 1999, as well as the consistency of NMFS regulations with the 1996 amendments to the MSA, and a review of the eligibility of all 65 communities relative to the MSA eligibility criteria. The MSA was amended in 1996 and community eligibility criteria for the CDQ Program were statutorily prescribed by Congress. Although the regulatory provisions at 679.2 and 679.30(a)(1)(iv) make communities on Table 7 automatically eligible for the CDQ Program, the statutory criteria set forth at 16 U.S.C. 1855(i)(1)(B) do not automatically make eligible those communities listed on Table 7 of 50 CFR Part 679, but rather appears to require that all communities must meet all of the eligibility criteria set forth in 16 U.S.C. 1855(i)(1)(B)(i)-(vi).

NMFS will consult with the Council, the CDQ groups, and the individual communities in development of the analysis. NMFS anticipates that the analysis will form the basis for rulemaking. If a final rule is approved, NMFS will determine what effect, if any, changes in the eligible communities will have on CDQ allocations. However, NMFS notes that no revisions were made to CDQ allocations mid-cycle when the eight communities were added to the CDQ Program in 1999.

5. The State provided NMFS with the findings and rationale that support its CDP and allocation recommendations.

This section provides a description of the findings and rationale that support the State's allocation recommendations, a summary of the comments received from the CDQ groups, and NMFS's determinations about the State's recommendations.

The State's Findings and Rationale

The State provided findings and rationale for the 2003-2005 allocation recommendations in its October 15, 2002, letter and appendices (starting on page 11 of its findings). The State developed its allocation recommendations based on the information submitted in the proposed CDPs, on past performance of the CDQ groups, and on application of program standards and evaluation criteria in State regulations at 6 AAC 93.017 and 6 AAC 93.040(b). A copy of the State regulations is in Appendix 7 to the State's recommendations. A copy of the specific program standards and evaluation criteria used by the State as the basis for its recommendations also is in Attachment 4 of this document.

The program standards and evaluation criteria considered by the State included population and economic conditions in the communities; the degree to which the CDQ group has supported and developed local fisheries, invested in fisheries-based infrastructure in the eligible communities, developed training, education, and job opportunities for local residents; and the degree to which the CDQ group has invested in fish harvesting and processing businesses outside of the community. The State also considered the degree of oversight and involvement by the board of directors, whether the board of directors sought community input in developing the CDP, how the proposed CDP will benefit individual communities, the ability of the CDQ group to negotiate with partners, the CDQ group's compliance record, the conduct of the CDQ fisheries, and the groups' ability to manage CDQ fisheries within allocated quotas. In addition, the State considered consistency with the goals and purpose of the CDQ Program as defined by 50 CFR 679.1(e).

The State distinguished between the process it used to develop allocation recommendations for the primary target species from the allocation recommendations for incidental catch and prohibited species. The primary target species that the State focused on are pollock, Pacific cod, opilio crab, Bristol Bay red king crab, and halibut. Atka mackerel, yellowfin sole, and rock sole also are considered target species by the CDQ groups. However, the State did not recommend changes in allocations of these species as compared with the 2001 and 2002 allocations. Therefore, the State's specific comments on the CDQ allocation recommendations apply primarily to pollock, Pacific cod, opilio crab, Bristol Bay red king crab, and halibut.

On page 10 of the State's findings, the State provided the following explanation for the percentage allocation recommendations for the remaining species groups: "all other changes to the 2003-2005 allocation recommendations were computed by the state's formula-based bycatch matrix that relied on CDQ group harvest statistics."

On pages 11 through 24 of its October 15, 2002, findings, the State provided a series of statements describing its findings about each CDQ group's past performance or plans in the CDP relative to the specific program standards and evaluation criteria the State considered in making its 2003-2005 allocation recommendations. The State provided additional information about its findings in a scorecard and attached comments in Appendix 1 to the State's findings. The scorecard was developed by the State to provide additional information about its CDQ allocation

recommendations for the target species, thus providing more "transparency" to the State's decision-making process.

The State explained the scorecard as follows:

Scores were given to each group in each category on a scale of 1 to 10. However, because of the differing characteristics of each group, individual categories were weighted separately and cumulative scores were not issued. Each group also received confidential comments compiled from the state team members providing more details about the scores. There is no direct link between the scorecards and allocations, though the scorecards serve as a tool to help the state and the groups identify and recognize problems and issues affecting each group. (October 15, 2002 letter, page 11)

Through the scorecard, the State categorized the program standards and evaluation criteria in its regulations into the following six categories: (1) population and economic need, (2) Community Development Plan achievement, (3) community, regional, and statewide benefits, (4) community outreach and involvement, (5) management effectiveness, and (6) CDQ program standards. These categories include all nine of the CDQ program standards at 6 AAC 93.017 and all twenty of the evaluation criteria at 6 AAC 93.040(b).

The following summary describes the State's findings with respect to these evaluation categories and its allocation recommendations of the primary target species. The summary is provided to demonstrate that the scorecard categories represent the program standards and evaluation criteria in State regulations, that the State considered all of these program standards and evaluation criteria, and that there is a consistent relationship between the scores assigned by the State and the written findings supporting those scores. This summary does not include a discussion of every element of the State's findings and rationale described in its October 15, 2002, letter and appendices.

Population and economic need: This category of the scorecard is related to the first of the State's evaluation criteria listed in 6 AAC 93.040(b). Table 2.2 summarizes the information considered by the State in its findings on this evaluation criterion and the score assigned to each CDQ group.

Table 2.2 Summary of the State's findings about population and economic need for each CDQ group and the score assigned by the State.

CDQ Group	Score (rank)	% of CDQ Region Population (rank)	Other Economic Factors (rank of median household income)
APICDA	4.3 (5)	2% (5)	Lowest % workforce unemployed Relatively high income and low poverty rate Median household income is third highest in program (3)
BBEDC	7.3 (3)	22% (3)	Median household income is fourth highest in the program (4) Lowest poverty and unemployment rates
CBSFA	4.3 (5)	2% (5)	Median household income is highest in the program (1)
CVRF	10 (1)	30% (2)	Median household income lowest in the program (6) 20% unemployment rate
NSEDC	9 (2)	32% (1)	Median household income is the second highest in the program (2) Fairly high economic needs, particularly outside of Nome
YDFDA	6.7 (4)	12% (4)	Median household income is the 2 nd lowest in program (5) highest unemployment rate; poorest region with highest per capita of younger population in U.S.

Note: when numbers are equal for two CDQ groups, the same rank is assigned to each group.

Community Development Plan Achievement: This category includes the evaluation criteria at 6 AAC 93.040(b)(2), (16), and (17) which are related to the group's transition plan, the objectives that the CDQ group describes in its milestones, whether these objectives are realistic, and the allocation necessary to achieve these objectives.

CVRF received the highest score (9), followed by BBEDC (8.3), NSEDC (7.3), YDFDA (7), CBSFA (4.7), and APICDA (4.3). The State assigned CVRF the highest score in the category of CDP achievement based on its past history of achieving its milestones, the strength of its investment guidelines, the excellent return on its investment in American Seafoods, and its excellent plan for a transition to self sufficiency. BBEDC was credited with achieving milestones set in past CDPs, strong investment guidelines, and an excellent plan for a transition to self sufficiency. The State noted that NSEDC has strong investment guidelines in its CDP, and "has been successful employing and training a high number of residents." With respect to YDFDA, the State cited the success of its sablefish pot fishing operations, the good returns on its pollock investment, and the fact that YDFDA had "achieved a majority of its milestones in the current CDP." With respect to CBSFA, the State noted the promise of the proposed multispecies processing facility for St. Paul that is described in its CDP and the high returns on its investment in American Seafoods. However, the State remains concerned about the failures of CBSFA's past investments in crab catcher vessels and that its "overall achievement needs improvement." With respect to APICDA, the State noted the success of Atka Pride Seafoods. However, the low score for APICDA was assigned due primarily to significant financial losses in several of its other major investments and the conclusion that APICDA's milestones "show few measurable goals that will realistically benefit the people of the region."

Community, regional, and statewide benefits: This category includes program standards and evaluation criteria related to whether the "CDP provides fisheries related social and economic benefits, including employment and training programs," to the CDQ communities and the State. On its scorecard summary, the State listed the seven evaluation criteria from 6 AAC 93.040(b) and the four program standards from 6 AAC 93.017 that are included in this category.

APICDA (7.3) and CBSFA (7.3) received the highest scores in this category, followed by NSEDC (6.3) and CVRF (6.3), YDFDA (5.7), and BBEDC (5.3). APICDA was credited with the success of Atka Pride Seafoods, its focus on local infrastructure development,

the success of its offshore investments, good local employment, and high earnings per employee. However, the State was concerned with the need for better coordination of CDQ projects in the Pribilof Islands with St. Paul and the fact that APICDA's headquarters in Juneau results in few benefits to the APICDA region's economy from staff salaries. In scoring CBSFA, the State cited the promise of its multispecies project, the potential for its harbor development project, and the success of its local halibut fishery. However, the State also commented negatively about CBSFA's lack of coordination on Pribilof Islands issues with APICDA and the community of St. George. With regards to CVRF, the State noted the success of its halibut and salmon buying stations in the region and its excellent employment programs. NSEDC was credited with the many contributions it had made to Nome's economy and its strong employment, scholarship, and training programs. The State noted YDFDA's strong employment, scholarship, and training record. Finally, BBEDC's score was related to the contribution that its headquarter's office in Dillingham provides to the local economy, its success in training local residents, and its assistance in the salmon disaster.

Community outreach and involvement: This category includes evaluation criteria in 6 AAC 93.040(b) related to whether the CDQ group has "developed an effective outreach program to keep participating communities fully informed about CDQ activities and to facilitate community involvement throughout the CDP cycle." On its scorecard summary, the State listed the seven specific evaluation criteria from 6 AAC 93.040(b) that are included in this category.

The highest score for this category was given to CBSFA (8), followed by YDFDA (7.3) NSEDC (7), BBEDC (6.7), CVRF (6.3), and APICDA (5.7). CBSFA received the highest score in this category due to its headquarters in the community of St. Paul and its excellent newsletter and annual report. YDFDA also was credited with staff that are active in the region, community visits, good local recruitment, and a quarterly newsletter sent to all households. The State noted that the majority of NSEDC's staff was located in Anchorage, but that its staff was active in the region, attendance at community meetings was high, NSEDC prepared the best annual report, and provided it to all residents. BBEDC was credited for the personal outreach achieved by staff located in the region. The State credited APICDA with its successful annual outreach conference, but expressed concern that APICDA did not hold meetings in the region.

Management effectiveness: This category includes evaluation criteria in 6 AAC 93 related to board training and participation, sound business principles, exercise of due diligence, and effective management of CDQ allocations. On its scorecard summary, the State listed the seven evaluation criteria from 6 AAC 93.040(b) that are included in this category.

The highest score for this category was given to CVRF (8), followed by BBEDC (7), NSEDC (6.7), YDFDA (6.7), APICDA (5), and CBSFA (4.3). CVRF received the highest score in this category due to its strong and effective staff, low reliance on consultants, and profitable investments in the fishing industry. Although the State was concerned about high recent turnover in personnel, it stated that BBEDC had an effective staff and low administrative and board expenses. NSEDC was credited with a strong staff and consultants, although the State noted its high consultant and legal fees and the amount of administrative funds it spent contesting government oversight. The State credited YDFDA with a low reliance on outside consultants and strong board participation. However, it concluded that YDFDA "could benefit from a more comprehensive vision for the future of the corporation." The State also suggested that YDFDA should consolidate its staff in Alaska. The State credited APICDA with an excellent presentation at the private meetings, but noted concerns with its accounting department, high administrative costs, salaries, and board per diem and lack of participation by the board. As a result, the State recommended that APICDA undertake a management review. CBSFA received the lowest score due to concerns about its reliance on consultants and the effectiveness of its staff.

CDQ program standards: This category includes program standards and evaluation criteria that are related to whether (1) the CDP is consistent with the goals and purpose of the CDQ program, (2) for-profit investments earn a financial return, (3) legal and financial risk is minimized, (4) milestones are met, and (5) the CDQ groups pursue conservation-based fisheries. On its scorecard summary, the State listed the nine program standards from 6 AAC 93.017, and the nine evaluation criteria from 6 AAC 93.040(b) that are included in this category.

The highest score for this category was given to CVRF (8.7), followed by BBEDC (8), YDFDA (7.3), CBSFA (5.7), NSEDC (5.7), and APICDA (5). CVRF was given the highest score in this category because of its strong employment programs and its success in harvesting sablefish. BBEDC was credited with the success of its Pacific cod fisheries in harvesting quota and employing local residents. YDFDA also was credited with its success in harvesting

Pacific cod. With regard to CBSFA, the State expressed concern about a long-standing lawsuit by a former employee. NSEDC was given one of the lower scores due to compliance problems in its investment in the fishing vessel Mr. B and its operation of the community benefits share project (discussed below). The lowest score was given to APICDA because of the financial losses in all but one of its shoreside investments and due to a series of quota overages in its crab fisheries (discussed below).

In addition to the overall evaluation described above, the State provided the following rationale for its allocation recommendations of the primary target species.

Pollock: The State recommended a 1% increase in the pollock CDQ allocation to CBSFA primarily based on the strength of its plan to develop a multispecies processing facility in St. Paul. In addition, CBSFA and one other CDQ group received the highest royalty rates for pollock in 2000 and 2001. The State also noted that CBSFA had received significant returns from its investment in American Seafoods. CBSFA had received a 1% decrease in its pollock CDQ allocations in 2001 and 2002. The State determined that CBSFA had a "more positive condition" now. Those improvements and the strength of its CDP justified an increase in its pollock allocation.

To provide an increase in CBSFA's pollock allocation, the State had to recommend a reduction in the allocation recommendation for one of the other CDQ groups. On page 21 of its findings, the State concludes that "[A]fter taking into consideration all factors and comments, including the problems with program compliance, the state recommends a 1% reduction in NSEDC's pollock CDQ allocation." The State determined that this decrease was appropriate for a number of reasons. First, NSEDC was one of the CDQ groups to receive an increase in pollock allocations for 2001 and 2002, when CBSFA received a decrease. In addition, the State determined that NSEDC had pollock royalties among the lowest in the program in 2000 and 2001. The State also contended that NSEDC had violated the State's CDQ program standards by failing "to obtain advance full board approval of its purchase of the Mr. B." Finally, the State determined that NSEDC was spending money through its Community Benefits Share project on projects that are not fisheries related. The State contended that these expenditures violate State and NMFS regulations that require CDQ funds to be spent on fisheries related projects.

CVRF was the other CDQ group that received an increase in its pollock allocation in 2001 and 2002. For the current allocation cycle, the State assigned CVRF the highest scores in four of the

six evaluation categories. These high scores were assigned primarily because of CVRF's population, economic need, and the strength of its past performance. Consequently, the State did not recommend reducing CVRF's pollock CDQ allocation for 2003-2005.

With regard to APICDA, the State specifically noted the following:

In general, APICDA scored low on several scorecard categories. Because of the low scores, there was much debate among the state team concerning whether or not to recommend that APICDA have its pollock CDQ allocation reduced, and certainly other species allocation recommendations for APICDA were influenced by the overall poor scores. Nonetheless, it was felt that a reduction of pollock CDQ allocation to APICDA would not be recommended in order to permit the group to address the problems identified. (Page 13 of the State's findings)

Pacific Cod: The State recommended a decrease in the allocation of Pacific cod to APICDA and CBSFA, an increase in the allocations to BBEDC and CVRF, and no change in allocations to NSEDC and YDFDA. The Pacific cod allocation recommendations were based primarily on the royalty rates that the CDQ groups received for Pacific cod in 2000 and 2001, and how much of the cod allocations each group had been able to harvest in those years. The State justified the 1% increase to BBEDC and CVRF because of their success at harvesting their previous cod allocations and the high royalty rates they had received for cod. The 1% decrease in allocation to APICDA was justified because it had "failed to harvest all its quota in 2000 and 2001 and had the lowest royalty rate among the groups in 2000." The State recommended a 1% decrease for CBSFA because of its difficulty in harvesting cod in 2000 and because it had the lowest royalty rate in 2001. The State justified no change in YDFDA's allocation because, although YDFDA had difficulty harvesting its current allocation in 2001, it had among the highest royalty rates in 2000 and 2001.

Sablefish: The State recommended a number of reductions in fixed gear sablefish CDQ allocations due primarily to the difficulty that some of the CDQ groups had in harvesting their sablefish CDQ allocations in 2000 and 2001. For Bering Sea fixed gear sablefish, the State recommended decreasing BBEDC's, CBFSFA's, and NSEDC's allocations by 2% each and increasing YDFDA's allocation by 6%. The increase for YDFDA was recommended because the State determined that YDFDA had "achieved a high rate of success in

harvesting its Bering Sea sablefish quota using pots in 2002 and demonstrated a commitment to continue to use Lisa Marie as the primary harvester." No change was recommended for APICDA's allocation. The State recommended no allocation to CVRF, as requested in CVRF's CDP.

For Aleutian Islands fixed gear sablefish, the State recommended a 1% reduction for APICDA, BBEDC, and YDFDA because of the difficulty these groups had in harvesting their allocations in 2000 and 2001. CVRF requested a 3% decrease in its allocation and the State agreed with this request. The State also recommended a 3% allocation for CBSFA because it had not received Aleutian Islands fixed gear sablefish allocations in the past and a 3% increase for NSEDC because of its success in harvesting past allocations.

Halibut: The only change recommended in the halibut CDQ allocations was for area 4C. The only two CDQ communities in area 4C are St. Paul and St. George on the Pribilof Islands. In 2001 and 2002, CBSFA (representing St. Paul) was allocated 90% of the halibut 4C allocation and APICDA (representing St. George) was allocated 10%. For 2003-2005, the State recommended a 5% increase in the area 4C halibut CDQ allocation to APICDA, because of the success that St. George fishermen had in harvesting APICDA's 4C allocation, and the demonstrated need for more halibut quota. The State recommended a commensurate 5% decrease in CBSFA's allocation of halibut in area 4C.

Opilio Crab: The State recommended a 1% increase in the allocation of opilio crab to BBEDC due to its "commitment to harvesting crab, as evidenced by its 40% to 45% ownership in four Bering Sea crab catcher vessels," its "plans for future acquisitions in the crab sector," and "CDQ royalties in 2000 and 2001." It also recommended a 1% increase in the allocation for CBSFA in recognition of its "plan for utilizing the quota in 2003-2005 cycle." The State acknowledged CBSFA's multispecies project, which has the potential to significantly increase local employment and tax revenues. A 2% reduction in APICDA's allocation (from 10% to 8%) was recommended because APICDA had the lowest royalty rate in 2000 and 2001, and exceeded its quota in 1999, 2000, and 2001. The State did not recommend changes in the allocations for CVRF, NSEDC, or YDFDA, noting the high royalty rates received by CVRF and YDFDA in 2000 and 2001.

Bristol Bay Red King Crab: The State recommended a 1% increase in BBEDC's Bristol Bay red king crab allocation for the same reasons stated above related to its opilio allocation. BBEDC had high royalty rates in 2000 and 2001, it has made a significant

investment in the crab industry, and intends to increase its investments in the future. The State recommended a 1% decrease in APICDA's allocation because it had "significantly lower royalty rates in 2000 and 2001." The State noted that CVRF also had among the highest royalties in 2000 and 2001.

CDQ Group Comments on the State's Allocation Recommendations

All six of the CDQ groups submitted comments to the State during September 2002 on its initial CDQ allocation recommendations. These comments are included as Appendix 1 of the State's CDQ allocation recommendations. In addition, APICDA, CVRF, and NSEDC submitted comments to NMFS between October 15 and October 31, 2002.

CBSFA submitted a resolution passed by its board of directors and dated September 18, 2002. The resolution supported the State's CDQ allocation recommendations and asked the Council and NMFS to approve these allocations. YDFDA submitted a letter of comment to the State dated September 16, 2002. This letter thanked the State for its allocation recommendations and asked for clarification about how the scorecard related to the allocation recommendations. BBEDC submitted a letter of comment to the State dated September 12, 2002. BBEDC stated that the allocation process was "much improved compared to years past," and that the scorecard provided useful information about the State's evaluation of BBEDC. BBEDC commented in areas where it disagreed with the State's evaluation on the scorecard, but concluded by saying that the "CDQ team did a credible job of evaluating the groups as represented by the scorecard, and that the allocations track reasonably well." BBEDC, CBSFA, and YDFDA did not submit additional comments to NMFS.

CVRF submitted comments to both the State and NMFS. In a letter to the State dated September 19, 2002, CVRF questioned how the results of the scorecard related to the State's allocation recommendations, and disagreed with the State's conclusions about CVRF's performance in areas where CVRF received lower scores relative to some other groups. Specifically, CVRF challenged the State's conclusions about management effectiveness; community outreach; community involvement; and benefits to communities, the CDQ region and the State. It stated that it did not believe that the State properly considered economic need. CVRF disagreed with the State's allocation recommendation for pollock and requested that the State reconsider its recommendations. It also disagreed with the recommendations for Aleutian Islands other rockfish, which is based on the State's bycatch model.

CVRF's comments submitted to NMFS in a letter dated October 31, 2002, provided information about its increased investment in American Seafoods, increased community interest in board of director elections, and a clarification about per diem rates. However, although CVRF provided additional information to NMFS, it did not request that NMFS disapprove any of the State's CDQ allocation recommendations.

APICDA submitted comments to both the State and NMFS. In its letter to the State dated September 19, 2002, APICDA stated that although the scorecard was confusing and contradictory, it provided useful information about the State's perception of APICDA relative to the other CDQ groups. APICDA disagreed with the State's allocation recommendations for the following target species: Pacific cod, Bering Sea fixed gear sablefish, opilio crab, and Bristol Bay red king crab. APICDA also disagreed with the State's allocation recommendations for Bering Sea other red rockfish and Aleutian Islands other rockfish, which were developed using the State's bycatch model. APICDA did not challenge the State's allocation recommendations for pollock, as did CVRF and NSEDC. In its comments to NMFS, APICDA reiterated its objections to the State's allocation recommendations for Pacific cod, Bering Sea fixed gear sablefish, opilio crab, and Bristol Bay red king crab.

APICDA disagreed with the State's allocation recommendation on Pacific cod and its conclusions about relative harvest rates and royalties among the groups. APICDA also disagreed with the State's recommended allocation for Bering Sea fixed gear sablefish because APICDA also has been harvesting its sablefish allocation with pot gear and, while the State recommended a 6% increase in allocation to YDFDA, it did not recommend any increase for APICDA. APICDA disagreed with the State for basing its recommended allocation for opilio crab on APICDA's history of overages in 1999, 2000, and 2001. In addition, APICDA disagreed with the State's allocation recommendations for both opilio crab and Bristol Bay red king crab because it believed that the State did not adequately consider the needs of St. George and its proximity to the crab resources. APICDA also contended that the differences in royalty rates among the groups did not warrant a reduction in APICDA's crab allocations.

NSEDC also submitted comments to both the State and NMFS. In its September 19, 2002, letter to the State, NSEDC disagreed with the scores it received from the State in five of the six scorecard categories (population and demographics; management effectiveness; CDP achievement; community, regional, and statewide benefits; and community outreach and involvement). It

also concluded that the scores must not have been the basis for the allocation recommendations, because NSEDC could not identify any weighting scheme that would lead from the scores to the State's allocation recommendations. Finally, NSEDC contended that the State used unauthorized evaluation criteria. Specifically, NSEDC believes that the State relied on unauthorized criteria due to its comments on the appropriateness of a NSEDC subsidiary's purchase of the vessel Mr. B, its characterization of NSEDC as high maintenance and contesting government oversight, its questions in the public hearing about NSEDC's support for H.R. 553, and the State's suggestion that to be successful, NSEDC needs to spend much more time communicating with the State.

In its October 30, 2002, letter to NMFS, NSEDC referenced its previous comments to the State and organized its comments to NMFS into three categories: equal protection, actions by other entities, and right to petition the government. NSEDC requested that NMFS disapprove the State's pollock CDQ allocation recommendations because the State's allocation process and its recommendations do not afford NSEDC equal protection under the U.S. Constitution and the Alaska Constitution. NSEDC also contends that the State cannot consider the purchase of the vessel Mr. B by Norton Sound Investment Corporation (NSIC) in its allocation recommendations because, in doing so, the State is attempting to gain oversight of a 50%-owned subsidiary. Finally, NSEDC argues that the State inappropriately considered NSEDC's support of proposed amendments to the MSA and its efforts to contest government oversight in making its pollock CDQ allocation recommendations. NSEDC requests that NMFS disapprove the State's recommended pollock CDQ allocation for NSEDC.

NMFS's determinations about the State's Rationale

NMFS reviewed the allocation recommendations submitted in the State's October 15, 2002, letter, the supporting appendices (including letters submitted by the six CDQ groups to the State), and the six CDPs submitted by the State on behalf of the CDQ groups. NMFS also reviewed the letters of comment submitted to NMFS by APICDA, CVRF, and NSEDC.

The State provided an explanation of how it used the program standards and evaluation criteria published in State regulations at 6 AAC 93.017 and 6 AAC 93.040(b) as a basis for its allocation recommendations. NMFS regulations describe the process that the State must follow in making its allocation recommendations and identify the CDP as the document that must be submitted to the State and NMFS to apply for CDQ allocations. The regulations

include specific information that must be supplied in the CDP, but they do not specify that only the information in the CDP may be used as a basis for CDQ allocations. Specific guidelines about the criteria to use in evaluating proposed CDPs and making CDQ allocation recommendations are not contained in the MSA, the FMPs, or 50 CFR Part 679. The State appropriately developed program standards and evaluation criteria and implemented them under 6 AAC 93.

The program standards and evaluation criteria implemented by the State include population, social and economic conditions; past performance of a CDQ group in using allocations to provide benefits to eligible communities consistent with the goals and purpose of the program; plans described in the CDP to provide benefits to eligible communities in the future; and the conduct of the CDQ fisheries.⁶ These program standards and evaluation criteria are related to the information that must be submitted in the CDPs under Federal regulations and are relevant to the State's responsibility to recommend the appropriate CDQ allocations to the eligible CDQ communities. Therefore, NMFS determines that the program standards and evaluation criteria in 6 AAC 93 used by the State are appropriate factors to consider in making recommendations about CDP approval and CDQ allocations. In addition, based on examination of the scorecard categories described earlier, NMFS determines that the scorecard combines these program standards and evaluation criteria into six broad categories, and the scorecard does not create program standards and evaluation criteria that are different from those published in State regulations.

Two of the CDQ groups commented that the scorecard provided them valuable additional information about the basis for the State's CDQ allocation recommendations. However, five of the six CDQ groups questioned how the scorecard results related to the allocation recommendations, and four of the groups submitted comments disagreeing with some aspect of the scores they received.

The State explained that the purpose of the scorecard was to "serve as a tool to help the state and groups identify and recognize problems and issues affecting each group." In addition, the State announced that "there is no direct link between the scorecards and allocations," and "because of the

⁶Additional detail about the range of factors considered in the program standards and evaluation criteria is on page 18 of this document and in Attachment 4.

differing characteristics of each group, individual categories were weighted separately and cumulate scores were not issued." In other words, the State's allocation recommendations are based, in part, on the results of the scorecard, but there is not a mathematical formula that translates the scores in each category to the CDQ allocations recommended by the State.

Pollock is the most valuable species allocated through the CDQ Program, representing about 85 percent of annual royalties to the CDQ groups. Both CVRF and NSEDC disagreed with the State's allocation recommendations for pollock. CVRF contended that it should have received higher scores in five of the six categories and should have received its requested 27% pollock allocation. NSEDC disagreed with the State's recommended allocation of 22% of the pollock CDQ reserve due to procedural and legal flaws in the State's rationale. CBSFA supported the State's recommended 1% increase in its pollock CDQ allocation recommendation. APICDA, BBEDC, and YDFDA did not specifically contest the State's pollock CDQ allocation recommendations, although both APICDA and BBEDC disagreed with the some aspects of the State's process and scoring.

NMFS's review of the State's findings and rationale demonstrates a consistent relationship between the State's findings and its pollock CDQ allocation recommendations. As shown in Table 2.3, there is a consistent relationship between the rank of the scores for each CDQ group and the State's pollock CDQ allocation recommendations. For example, CVRF ranked first in four of six categories and also received the highest recommended pollock CDQ allocation of 24%. NSEDC ranked second or third in five of six categories and received the second highest recommended pollock CDQ allocation (22%). BBEDC ranked second or third in four of six categories and received the third highest recommended pollock CDQ allocation (21%). The State's scores for YDFDA and APICDA are not as consistent with its pollock CDQ allocation recommendations as for the other groups. However, the State explained that, although APICDA generally received lower scores, the State did not want to further reduce APICDA's pollock CDQ allocation this cycle. Rather, the State wanted to provide APICDA an opportunity to complete a management review and address some of the State's concerns. CBSFA represents only one CDQ community and was ranked fifth in population and economic need and CDP achievement and ranked last in management effectiveness. CBSFA received the lowest pollock CDQ allocation recommendation at 5%. However, for 2003-2005, the State is recommending an increase for CBSFA in recognition of improvements that it has made in recent years and in the strength of its proposed CDP.

Table 2.3. Rank of scores assigned by the State to each CDQ group in six categories and rank of the State's recommended percentage allocation for pollock for 2001 - 2003.

	APICDA	BBEDC	CBSFA	CVRF	NSEDC	YDFDA
(1) Population and economic need	5	3	5	1	2	4
(2) CDP achievement	6	2	5	1	3	4
(3) Community, regional, and statewide benefits	1	6	1	3	3	5
(4) Community outreach and involvement	5	4	1	6	3	2
(5) Management effectiveness	5	2	6	1	3	3
(6) CDQ program standards	6	2	4	1	4	3
Recommended Pollock Allocation	4 (14%)	3 (21%)	6 (5%)	1 (24%)	2 (22%)	4 (14%)

Overall, the scorecard also shows a high degree of consistency between the rank of the score in the category of "population and economic need," and the rank of the recommended pollock CDQ allocation. CVRF was ranked highest by the State in terms of population and economic need. It ranked second in the percent of population of the CDQ region (30%), and has the lowest median household income in the program. NSEDC ranked second in its score for population and economic need and received the second highest pollock CDQ allocation recommendation from the State (22%). Although NSEDC had the highest percent of population in the CDQ Program (32%), the State determined that it had lower economic need than CVRF as evidenced by its higher median household income. BBEDC was ranked third in population and economic need and was recommended to receive the third highest pollock CDQ allocation (21%). YDFDA was ranked fourth in population and need and CBSFA and APICDA tied for the fifth rank in scores for population and economic need. The State recommended that YDFDA and APICDA be allocated 14% of the pollock CDQ allocation and CBSFA be allocated 5%.

Many of the CDQ groups' comments involved disagreement with the scores that the State assigned on the scorecard or its conclusions about managerial, financial, or fishery performance. NMFS's review of the State's CDQ allocation recommendations, and

the scorecard, is intended to evaluate whether the State followed the required process and considered relevant and appropriate evaluation factors. In addition, NMFS must determine whether the State's findings and rationale are consistent with and support its allocation recommendations. NMFS's review is not intended to provide independent evaluation of the CDQ groups' past performance or determine what allocations best provide benefits from the CDQ Program to the eligible communities. NMFS does not substitute its judgment for the State's judgment in determining how to weigh the various evaluation criteria, how to evaluate past performance or the relative quality of the proposed CDPs, or how to assign scores or ranks to the CDQ groups. Therefore, although NMFS reviewed all of the comments submitted by the CDQ groups, NMFS will not specifically address comments related to disagreements with the State's scoring or evaluation of the groups' managerial, financial or fishery performance.

NMFS will, however, respond to comments that address whether the State used appropriate evaluation criteria or violated the legal rights of the CDQ groups. The following comments appear to fall into these categories.

1. APICDA's claim that the State inappropriately considered APICDA's history of overages in makings its opilio crab allocation recommendation.
2. NSEDC's request that NMFS disapprove the State's pollock CDQ allocation recommendation for NSEDC because it violates equal protection guarantees.
3. NSEDC's claim that the State inappropriately considered that NSEDC spends too much time and money contesting government oversight in making its pollock allocation recommendations.
4. NSEDC's claim that the State inappropriately considered NSEDC's purchase of the Mr. B in makings its pollock allocation recommendations
5. Comments by several groups about the use of the bycatch matrix to determine allocation recommendations for incidental catch and prohibited species in the groundfish CDQ fisheries.

APICDA's opilio crab CDQ allocation

The State recommended that APICDA be allocated 8% of the opilio crab available to the CDQ Program, which is 2% lower than APICDA was allocated in 2001 and 2002. This recommendation is due, in

2006-2008 CDQ Allocation Process

Considering the pending status of the proposed rule package for Amendment 71, we will not have revisions to the regulations governing the CDQ allocation process in time for the start of the next allocation cycle for 2006-2008 allocations. We can continue to use our existing regulations, however, NMFS must add an administrative appeals process that provides the CDQ groups a meaningful opportunity to appeal NMFS's initial decision about whether to approve or disapprove the State's CDQ allocation recommendations. This can be accomplished if the State is willing to voluntarily submit its CDQ allocation recommendations to NMFS well before the October 15 deadline currently in NMFS's regulations. The State has agreed to this proposal.

Under this proposal, the CDQ allocations would operate as follows:

1. Use the existing CDQ allocation process regulations in 679.30 that requires the State to submit its allocation recommendations to NMFS by October 15 (2005).
2. Follow NOAA GC's legal advice that we must provide issue an initial decision about approval/disapproval of the State's allocation recommendations and provide the CDQ groups an opportunity to administratively appeal.
3. Use existing administrative appeals process regulations in 679.43 that apply to all of part 679 (which includes the CDQ Program) to guide the administrative appeals process. These regulations provide for a 60 day appeals filing period and a 30 day review period by the RA after the OAA issues its decision.
4. The State would voluntarily submit its allocation recommendations well before the October 15, 2005 deadline to provide NMFS more time to issue an IAD and provide an administrative appeals process with the expectation that the appeals process will be concluded and NMFS can make a final decision on CDQ allocations by December 31, 2005. If NMFS was unable to complete the administrative appeals process before December 31, 2005, we'd rely on NOAA GC's September 3, 2003, legal opinion that advises us that we'd have to leave the existing (2003-2005) CDQ allocations in place until the agency takes final action to replace them (e.g. approves allocations for 2006-2008).
5. If, for some reason, the State cannot submit its allocation recommendations until NMFS's regulatory deadline of October 15, 2005, NMFS would issue an IAD by December 1, 2005 (our 45-day deadline) and then we'd have an open filing period for administrative appeals through February 1, 2006. Under this scenario, we know that we will not be able to resolve appeals by January 1, 2006 because we'll still be in the middle of the 60 day appeal filing period. We'd rely on NOAA GC's legal opinion advising that the existing (2003-2005) CDQ allocations would remain in place until the agency takes final action to replace them.

Proposed Schedule for 2006-2008 CDQ Allocations (using current NMFS regulations and State voluntarily submitting information to NMFS before it is required to).

Milestone	Dates
State's application period begins	October 1, 2004
CDQ groups submit proposed CDPs to the State	November 1, 2004
State holds public hearing	December 1, 2004
State issues initial CDQ allocation recommendations	December 10, 2004
State accepts comments from groups (end of comment period)	January 10, 2005
State consults with Council	April 2005 mtg
State submits allocation recommendations to NMFS	April 15, 2005
NMFS SF Division issues IAD (45 days from State submission)	June 1, 2005
Deadline for CDQ group to file an appeal (60 days from IAD)	August 1, 2005
Final decision on appeals (gives 4 months to consider appeals)	December 1, 2005
RA has 30 days to review appeals decision	December 31, 2005
Final agency action on CDQ allocations (and 2003-2005 allocations expire)	December 31, 2005

Incorporating New Crab CDQ allocations from the Crab Rationalization Program

Currently, there are six crab quota categories that are allocated to the CDQ Program:

- Bristol Bay red king crab
- Norton Sound red king crab
- Pribilof Island red and blue king crab
- St. Matthew blue king crab
- Bering Sea C. opilio crab
- Bering Sea C. bairdi crab.

Percentage allocations of the six crab CDQ reserves that currently exist have been allocated among the six CDQ groups through the end of 2005 (which includes the 2005-2006 crab seasons, if any of these crab fisheries start in the fall of 2005 and extend into the first part of 2006).

The crab rationalization program will make two changes to the allocations of crab to the CDQ Program. It will increase the allocation of crab to the CDQ Program from 7.5 percent of the guideline harvest levels to 10 percent of the GHL for all crab fisheries, except Norton Sound red king crab (which is not included in the rationalization program). In addition, two new crab CDQ allocations will be added to the CDQ Program in 2005:

Eastern Aleutian Islands brown (golden) king crab
Adak red king crab

These two crab fisheries have not had CDQ allocations in the past.

NMFS's schedule for implementation of the crab rationalization program plans to have a final rule authorizing the program published in March 2005. Crab quota shares will be issued in time for the first crab fishery that occurs after March 2005, which is the Aleutian Islands brown (golden) king crab fishery (opens on August 15, 2005). This is one of the new CDQ crab categories, which will have a 10% CDQ allocation. NMFS assumes that the CDQ groups will want to participate in this fishery as early as the August 15 opening date. The Adak red king crab fishery opens on October 15 (if a fishery occurs). This means the State of Alaska and NMFS must develop and approve percentage allocations of these crab CDQ reserves among the CDQ groups for 2005. Allocations beyond 2005 for these two new quota categories will be included in the regular 2006-2008 allocation process and do not have to be handled separately from any of the other CDQ species for 2006-2008. It is only the allocations for the two new crab categories for the end of 2005 that pose the problem because they were not included in previous allocations approved for 2003-2005.

Allocations for these two new crab CDQ categories for the fall of 2005 could be included in the allocation process for the 2006-2008 CDQ allocation cycle. It is possible that a final administrative decision by NMFS on the allocations for the 2006-2008 cycle will occur as early as August 1, 2005. However, a final decision on these allocations that early in 2005 depends on NMFS issuing an initial administrative determination to approve the State's allocation recommendations by June 1, 2005, and on the CDQ groups not administratively appealing the IAD.

Upon issuance of an IAD, the CDQ groups have 60 days to file an administrative appeal. If no appeals are filed about NMFS's approval of the State's 2005 allocation recommendations for the two new crab quota categories, then these percentage allocations would be final at the end of the 60 day period (August 1, 2005). However, if a CDQ group files an appeal that directly or indirectly involves these two new crab quota categories, then the final decision about these 2005 CDQ allocations could not be made by NMFS until the administrative appeal was resolved, which is likely to be December 31, 2005. If this occurred, then NMFS would not be able to approve allocations for these two new crab quota categories in 2005.

Whether the CDQ groups could harvest crab in the two new quota categories from their 2005 CDQ allocations after December 31, 2005 depends on the seasons that are specified for these fisheries under the crab rationalization program. Some crab fisheries start in the fall of one year

and continue on into the first part of the next calendar year. If this occurred for the Aleutian Islands brown king crab or Adak red king crab, it would be possible for the CDQ groups to harvest crab from the 2005 allocation after January 1, 2006. However, the season ending dates for the crab fisheries under the crab rationalization program are not known at this time (and will have to be established by the State of Alaska). Therefore, including the 2005 allocations of the two new crab CDQ categories in with the 2006-2008 CDQ allocation cycle does not guarantee that the CDQ groups will be able to harvest crab from these CDQ fisheries in 2005.

The only way to guarantee that the new allocations will be ready by August 15, 2005, is to conduct a separate allocation process for the 2005 allocations of just the two new crab CDQ categories and start that allocation process in the summery of 2004. This would provide sufficient time for these allocations to be finalized by August 15, 2005. However, conducting a completely separate CDQ allocation process on a five month earlier timeline than the overall 2006-2008 allocation cycle would be extremely time consuming and expensive for NMFS, the State, and the CDQ groups. NMFS and the State discussed these options and agreed that the 2005 allocations for the two new crab categories had to be included with the 2006-2008 allocation cycle and that we would not hold two separate allocation cycles during 2004 and 2005 to accommodate the two new crab categories. If a CDQ group appeals NMFS's IAD on these two crab categories, CDQ fishing on the 2005 allocations of these species will depend upon whether fishing is allowed on the two crab species in early 2006.

(b) CDQ Fishery Management Issues

A discussion paper attached to your action memo, prepared by Obren Davis, describes an analysis that he is developing for alternatives to address anticipated future problems managing the smaller rockfish CDQ reserves and to provide more flexibility to adjust the CDQ reserve categories and allocations to the groups when the Council recommends splitting or joining TAC categories during the annual specifications process.

NMFS requests that the Council schedule initial review of this analysis at its June 2004 meeting and final action at its October 2004 meeting. Any regulatory revisions made as a result of Council action in October 2004 would not be effective until mid to late 2005 for the 2006 groundfish specifications process and in time for the 2006-2008 CDQ allocation cycle.

The initial draft will analyze the following alternatives:

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 the CDQ allocations made to the group.

Alternative 2: Modify the annual groundfish specifications regulations to allow the Council to recommend each year (1) which CDQ reserves would be allocated among the groups and which CDQ reserves would not be allocated among the groups, and (2) how to manage new TAC categories created by joining existing TAC categories by species or area among the CDQ groups.

Option 1: Reallocate squid to the CDQ Program and incorporate into this process.

Alternative 3: Amend NMFS regulations to specify which TAC categories would be allocated to the CDQ groups and which TAC categories would not be allocated to the CDQ groups. Any changes to these specifications would have to be made by a subsequent regulatory amendment.

Option 1: Reallocate squid to the CDQ Program and incorporate into this process.

Staff Tasking - Current Priorities for CDQ Staff

Highest Priorities for 2004

1. Crab rationalization: Regulations and FMP amendments associated with oversight and administration of the allocation of WAI brown crab to Adak. (Bibb and Davis)
2. AI pollock allocation: Analysis and regulations for oversight and administration of the allocation of AI pollock to the Aleut Corporation. (Bibb)
3. BSAI Amendment 71a and allowance for non-fisheries investments - Issue 7 in Amendment 71. (Bibb, request assistance from Nicole Kimball on analysis)
4. Preparation of analysis for CDQ fisheries management revisions needed to manage CDQ allocations in the future. (Davis)
5. Regulatory amendments to relax requirements for CDQ quota transfers and alternative fishing plans - Issue 8 in Amendment 71. (Carls)
6. Monitoring status of CDQ eligible communities and completing rulemaking, if necessary (Davis)
7. Any tasks associated with the 2006-2008 allocation process.

Lower Priority for 2004

1. Continued analysis of Amendment 71b - oversight issues.
2. Implementation of regulations revising the CDQ allocation process under Amendment 71. Not needed until 2007 for the 2009-2011 CDQ allocation process.

Draft BSAI FMP for Amendment 71
(June 10, 2002)

Strike-outs would be removed from the FMP. Bold italicized text would be added to the FMP.

13.4.7.3 COMMUNITY DEVELOPMENT QUOTAS

- (A) **PURPOSE AND SCOPE.** The Western Alaska Community Development Quota Program is established to provide fishermen who reside in western Alaska communities a fair and reasonable opportunity to participate in the Bering Sea/Aleutian Islands groundfish fisheries, to expand their participation in salmon, herring, and other nearshore fisheries, and to help alleviate the growing social economic crisis within these communities. Residents of western Alaska communities are predominantly Alaska Natives who have traditionally depended upon the marine resources of the Bering Sea for their economic and cultural well-being. The Western Alaska Community Development Quota Program is a joint program of the Secretary and the Governor of the State of Alaska. ~~Through the creation and implementation of community development plans, western Alaska communities will be able to diversify their local economies, provide community residents with new opportunities to obtain stable, long-term employment, and participate in the Bering Sea/Aleutian Islands fisheries which have been foreclosed to them because of the high capital investment needed to enter the fishery.~~

The purpose of the CDQ Program is 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 NMFS Regional Director shall hold the designated percent of the annual total allowable catch (TAC) of groundfish for each management area in the Bering Sea and Aleutian Islands for the western Alaska community quota as noted below. These amounts shall be released to eligible Alaska communities who submit a plan, approved by the Governor of Alaska, for its wise and appropriate use. Not more than 33 percent of the total Western Alaska community quota may be designated for a single CDQ applicant, except that if portions of the total quota are not designated by the end of the second quarter, applicants may apply for any portion of the remaining quota for the remainder of that year only.

The Western Alaska Community Quota program will be structured such that the Governor of Alaska is authorized to recommend to the Secretary that a Bering Sea Rim community be designated as an eligible fishing community to receive a portion of the reserve. To be eligible a community must meet the specified criteria and have developed a fisheries development plan approved by the Governor of Alaska. The Governor shall develop such recommendations in consultation with the Council. The Governor shall forward any such recommendations to the Secretary, following consultation with the Council. Upon receipt of such recommendations, the Secretary may designate a community as an eligible fishing community and, under the plan, may release appropriate portions of the reserve.

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

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

13.4.7.3.2 ELIGIBLE WESTERN ALASKA COMMUNITIES.

The Governor of Alaska is authorized to recommend to the Secretary that a community within western Alaska which meets all of the following criteria be eligible for the western Alaska community quota program (hereinafter "the Program"):

- (1) be located on or proximate to the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands or a community located on an island within the Bering Sea, that the Secretary of the Interior has certified pursuant to section 11(b)(2) or (3) of Pub. L. No. 92-203 as Native villages are defined in section 3(c) of Pub. L. No. 92-203;
- (2) be unlikely to be able to attract and develop economic activity other than commercial fishing that would provide a substantial source of employment;
- (3) its residents have traditionally engaged in and depended upon fishing in the waters of the Bering Sea coast;
- (4) has not previously developed harvesting or processing capability sufficient to support substantial participation in the commercial groundfish fisheries of the Bering Sea/Aleutian Islands because of a lack of sufficient funds for investing in harvesting or processing equipment; and
- (5) has developed a community development plan approved by the Governor, after consultation with the North Pacific Fishery Management Council.

Also, Akutan will be included in the list of eligible CDQ communities.

13.4.7.3.3 Fixed Gear Sablefish CDQ Allocation

The NMFS Regional Director shall hold 20 percent of the annual fixed-gear Total Allowable Catch of

sablefish for each management area in the Bering Sea/Aleutian Islands Area for the western Alaska sablefish community quota. The portions of sablefish TACs for each management area not designated to CDQ fisheries will be allocated as QS and IFQs and shall be used pursuant to the program outlined in Section 13.4.7.1.

13.4.7.3.4 Pollock CDQ Allocation

For a Western Alaska Community Quota, 50% of the BSAI pollock reserve as prescribed in the FMP will be held annually. This held reserve shall be released to communities on the Bering Sea Coast which submit a plan, approved by the Governor of Alaska, for the wise and appropriate use of the released reserve.

13.4.7.3.5 Multispecies Groundfish and Prohibited Species CDQ Allocations

CDQs will be issued for 7.5% of the TAC for all BSAI groundfish species not already covered by another CDQ program (pollock and longline sablefish). A pro-rata share of PSC species will also be issued. PSC will be allocated before the trawl/non-trawl splits. The program will be patterned after the pollock CDQ program, but will not contain a sunset provision.

Summary of an analysis that NMFS is developing to address fisheries management issues in the Community Development Quota Program

Prepared by Obren Davis
NMFS Alaska Regional Office
March 23, 2004

Introduction

NMFS is developing an analysis of alternatives to address fisheries management issues that have arisen during the tenure of the multispecies Community Development Quota (CDQ) Program, which was implemented in 1998. The strict quota accountability requirements associated with the CDQ program have been identified as being unnecessarily constraining to the complete prosecution of CDQ target species. Modifying the management of some CDQ reserves could allow CDQ groups to experience a greater degree of success in harvesting 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.

NMFS will be prepared to present an initial draft analysis to the Council at its June 2004 meeting and final action could be taken at the October 2004 meeting. Any recommended regulatory amendments would be implemented in mid to late 2005.

Objectives

The objectives of this proposed action are to develop a means to specify which CDQ reserves will be allocated among the CDQ groups; to integrate changes made during the annual BSAI groundfish specifications process into the multi-year CDQ allocation and management regime; and, to clarify how groundfish CDQ reserves will be managed. These objectives are meant to increase NMFS's flexibility to manage the groundfish CDQ fisheries effectively and to support the overall goals and purposes of the 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. Each CDQ 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 harvest 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 10 percent of the BSAI pollock TAC in 1999 under the American Fisheries Act (AFA) (Pub.L. 105-277).

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. In other words, the catch of target species in these programs 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 and 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, and the second is that current CDQ allocative procedures lack flexibility to incorporate annual changes made to BSAI groundfish species categorization.

Fisheries Management Issues

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 their CDQ target species. This was a particular problem for the CDQ groups with the "other species" TAC category. In 2003, NMFS implemented the Council's recommendation to no longer allocate the "other species" CDQ reserve among the CDQ groups because of the potential that the CDQ groups would catch their allocations of "other species" before completely harvesting 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."

A similar issue may arise with some of the other BSAI groundfish species categories in the future. Rockfish are probably the next best example of a situation where the catch of an incidental catch species could prevent the CDQ groups from fully harvesting their target species. Some of these 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 are getting so small that individual CDQ groups could be allocated less than a metric ton of a particular rockfish species for the entire fishing year. 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, NMFS is recommending that the Council consider alternatives that could address this problem more comprehensively.

The second CDQ fisheries management issue 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 at the beginning of an allocation cycle. However, during each annual specifications process, the Council may split or join groundfish species groups. This is usually done in response to recent stock assessment and biological information. Such changes may or may not reconcile with existing allocation percentages. Recent changes to rockfish species categorization in the past several years has meant that certain CDQ species categories and percentage allocations did not match re-specified BSAI rockfish categories. 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.

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, if the Council split the combined shortraker/roughey rockfish (SR/RE) quota category into two separate quota categories for shortraker rockfish (SR) and roughey rockfish (RE), NMFS could apply the percentage allocations previously approved for SR/RE to the new allocations for SR and RE. However, if the Council joins two TAC categories by species or area, then NMFS does not have an approved percentage allocation to allocate the resultant CDQ reserve (which is based on the new TAC category) among the CDQ groups. If two separate quota categories, each with a different range of percentage allocations were combined into one quota category, NMFS would not have any approved percentage allocations to appropriately apply to the new quota category. This problem would occur, for example, if there previously were separate quota categories for Bering Sea SR and Aleutian Islands SR which were then combined by area into one quota category for BSAI SR. Lacking specificity about an appropriate range of allocation percentages to apply to new quota categories could lead NMFS to choose to not allocate such categories

among CDQ groups, and to instead manage these quota categories with more general management measures.

Proposed 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 contain it to the amount of each CDQ reserve allocated to the program, that both target and non-target quota categories will be managed at the same level of accounting, 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 that may be created during the annual BSAI groundfish specifications process.

The strict CDQ accounting requirements may be unnecessarily constraining to the complete harvest of annual CDQ target species. 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 a yearly 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 fisheries 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.

Alternatives

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 the CDQ allocations made to the group.

Alternative 2: Modify the annual groundfish specifications regulations to allow the Council to recommend each year (1) which CDQ reserves would be allocated among the groups and which CDQ reserves would not be allocated among the groups, and (2) how to manage new TAC categories created by joining existing TAC categories by species or area among the CDQ groups.

Option 1: Reallocate squid to the CDQ Program and incorporate into this process.

Under Alternative 2, the Council would recommend which CDQ reserves should be allocated among CDQ groups as part of the annual 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 the group would be managed at the CDQ reserve level by limiting directed fishing and retention to control the catch of unallocated CDQ reserves within the CDQ fisheries. This 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 given species, as needed.

Additionally, Alternative 2 would allow the Council to specify how any new CDQ reserves created by combining existing TAC categories should be managed. Management options could include not allocating such reserves among CDQ groups or recommending interim allocation percentages that would allow NMFS to distribute new CDQ reserves among CDQ groups for the remainder of a given allocation cycle.

Alternative 2, Option 1 would add squid to the suite of species allocated to the CDQ Program. Squid was removed from being a species issued to the program in 1999. 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. Amending regulations to allow the Council to specify which CDQ reserves would be allocated among CDQ groups could encompass the original intent of removing squid from the CDQ Program. Integrating squid back into the CDQ Program would require an amendment to the Fishery Management Plan (FMP) for BSAI Groundfish.

Alternative 3: Amend NMFS regulations to specify which TAC categories would be allocated to the CDQ groups and which TAC categories would not be allocated to the CDQ groups. Any changes to these specifications would have to be made by a subsequent regulatory amendment.

Option 1: Reallocate squid to the CDQ Program and incorporate into this process.

Alternative 3 would amend regulations to specify which species categories would be allocated among CDQ groups each year. The Council would recommend which TAC categories and associated CDQ reserves to allocate among CDQ groups on a more permanent basis than the annual process described under Alternative 2. Regulations also would be amended to specify that any new CDQ reserve category created if the Council recommended that existing TAC categories be joined by species or area would not be allocated among the CDQ groups until the next CDQ allocation cycle.

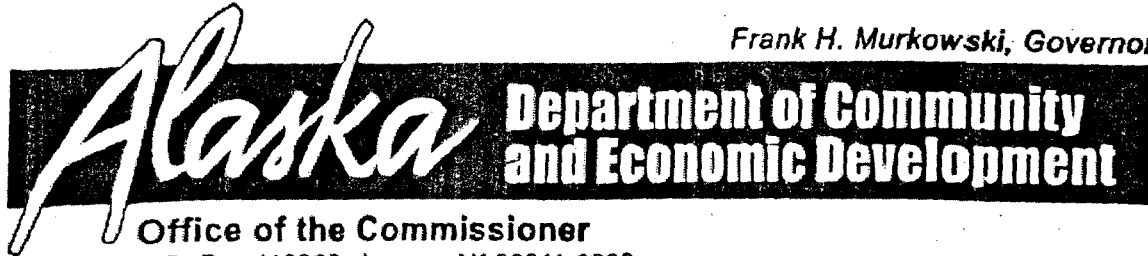
Under this alternative, the CDQ groups would continue to be prohibited from exceeding any CDQ allocations made to the groups. Any species not allocated to the group would be managed at the CDQ reserve level by limited directed fishing and retention to control the catch of unallocated CDQ reserves. This would remove a potential constraint to CDQ groups, as described under Alternative 2.

Alternative 3, Option 1 is similar to Alternative 2, Option 1. 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 were not included in the suite of CDQ reserves that were 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 groundfish FMP.

Appendix 5

August 16, 2004, Announcement by the State of the CDP Application Period

Frank H. Murkowski, Governor



Office of the Commissioner

P.O. Box 110800, Juneau, AK 99811-0800

Telephone: (907) 465-2500 • Fax: (907) 465-5442 • Text Telephone: (907) 465-5437

Email: questions@dced.state.ak.us • Website: www.dced.state.ak.us/

August 16, 2004

Dear Interested Party:

The State of Alaska is pleased to announce that an application cycle for the Community Development Quota (CDQ) Program will be held for all CDQ groundfish, halibut, and crab species for 2006-2008. The application period opens October 1, 2004 and ends on November 1, 2004 at 4:30 P.M. This application process is entered into under the authority of federal regulations 50 CFR 679.30 and state regulations 6 AAC 93.

Two new crab species have been added to the CDQ program. The two crab species are Eastern AI (EAI) Golden (Brown) king crab and Adak (Petrel Bank) red king crab.

The following attachment describes the various requirements needed to complete the applications. This packet is very similar to the application distributed during the previous allocation period.

Please be advised that the Community Development Plan (CDP) and the allocation cycle will be in effect for the term 2006-2008, a three-year period.

If your CDQ group does not have a current CDP on file with NMFS, please contact the State to verify if your community is eligible for a Bering Sea/Aleutian Island CDQ allocation under 50 CFR 679.30.

If you have any questions, please contact:

Greg Cashen, CDQ Manager
Department of Community & Economic Development
Division of Banking, Securities, and Corporations
PO Box 110807
Juneau, Alaska 99811-0807
(907) 465-5536 (phone)
(907) 465-2549 (fax)
E-mail: greg_cashen@dced.state.ak.us

"Promoting a healthy economy and strong communities"

COMMUNITY DEVELOPMENT PLAN APPLICATION PACKET

**2006 – 2008 CDP Application
CDQ Program**



Prepared by
State of Alaska



August 16, 2004

APPLICATION PACKET INSTRUCTIONS

Introduction



2006 – 2008 CDP Applications: Community Development Plan (CDP) applications for the Community Development Quota (CDQ) Program are to be submitted to the Governor of Alaska. The Governor, the Commissioners of the Departments of Community and Economic Development and Fish and Game, and their staff will evaluate the applications and make recommendations of quota allocation for groundfish, halibut, crab, and associated bycatch species in the Bering Sea and Aleutian Islands. Two new crab species have been added to the CDQ program and are included here. The two crab species are Eastern AI (EAI) Golden (Brown) king crab and Adak (Petrel Bank) red king crab. The recommendations will be presented to the North Pacific Fishery Management Council (NPFMC) and then submitted for final approval to the U.S. Secretary of Commerce through the National Marine Fisheries Service (NMFS).

The 2006 – 2008 applications are being accepted under federal regulations 50 CFR 679.30 and State of Alaska CDQ regulations under 6 AAC 93. The applications are required to meet the standards outlined in State and federal regulations.

Eligible Applicants: Communities that are eligible to receive community development quota allocations must meet the eligibility requirements set out in the Magnuson-Stevens Fishery Conservation and Management Act and federal regulation. Applications may be submitted by local fishing organizations or local economic development organizations incorporated for the purpose of designing or implementing a Community Development Plan, from eligible communities or groups of communities.

General Application Contents: The applicant must submit seven (7) copies of the CDP application in new binders (prefer D-Ring binders with no larger than three inch capacity) to the State of Alaska, Department of Community and Economic Development. The petition of confidentiality needs to be included in the CDPs. Each of the CDP copies should be three-hole punched and must follow these instructions.

Applications must address the level of local employment that will be generated, the vocational and educational programs created for local residents, and the schedule for moving from reliance on CDQs to self-sufficiency. Applications must also include detailed information on the management of the quota and how the applicant intends to use the revenues generated by their allocation. This includes detailed business plans of proposed ventures with copies of proposed contracts. Budgets, which outline expenditures for proposed and active projects for the allocation period, are required.

A specific CDP application format has been developed. To be considered for quota allocation, this format must be followed. The CDP checklist has been provided in Appendix 2 to ensure compliance. This checklist must be completed and included in the submitted CDP.

Allocation Timeline: The final date applications will be accepted is November 1, 2004. Upon receipt of the CDP applications, the State will review the applications. Following the review, a public hearing will be held to give all interested parties the opportunity to comment on the proposed CDPs. The public hearing is scheduled for November 30, 2004. The CDP application timeline is found in Attachment 4.

Appendix 6

February 9, 2005, Letters from the State of Alaska to the Six CDQ Groups
Initial Recommendations for the 2006-2008 CDPs and CDQ Allocations



DIVISION OF BANKING, SECURITIES, AND CORPORATIONS
COMMUNITY DEVELOPMENT QUOTA PROGRAM

Frank H. Murkowski, Governor

February 9, 2005

Larry Cotter, CEO
APICDA
234 Gold Street
Juneau, AK 99801-1211

RE: 2006-2008 Multi Species and 2005 Crab CDQ
Initial Allocation Recommendations

Dear Mr. Cotter:

The State of Alaska (State) received six Community Development Plan (CDP) applications for multi-species and associated bycatch Community Development Quota (CDQ) for the 2006-2008 and 2005 Crab CDP allocation cycle. The six CDP applications are from the six regional organizations or CDQ groups representing 65 eligible coastal communities bordering the Bering Sea. As a result of crab rationalization, two new crab CDQ species are added to the CDQ program beginning in 2005, which are Eastern Aleutian Islands (EAI) Golden (Brown) king crab and Adak (Petrel Bank) Red king crab.

Please remember, the State is required to start each allocation cycle with a clean slate. 50 C.F.R. 679.30(a) provides:

Allocations of CDQ and PSQ are harvest privileges that expire upon the expiration of the CDP. When the CDP expires, further CDQ allocations are not implied or guaranteed, and a qualified applicant must re-apply for further allocations on a competitive basis with other qualified applicants.

As you are well aware, the State is required to solicit submittal of CDPs, hold an application period and public hearings, and review and evaluate a multitude of factors in making an allocation recommendation to NMFS. These criteria are set out in State and federal regulations. The State strictly adhered to these requirements during this allocation process.

On August 15, 2004, the State notified the public of the 2006-2008 and 2005 Crab CDP Application Period and application packets were mailed to the six CDQ groups. The application period began on October 1, 2004 and ended November 1, 2004. Public notice scheduling a public hearing was provided on October 15, 2004 and held in Anchorage, Alaska on November 30, 2004. The State required revisions to each CDP in letters to the CDQ

Physical address for shipments and deliveries such as UPS and DHL: 150 3rd Street, Suite 217, Juneau, Alaska 99801

Correspondence with this office: P.O. Box 110807, Juneau, Alaska 99811-0807

Telephone: (907) 465-5536 Fax: (907) 465-2549 Text Telephone: (907) 465-5437

Website: <http://www.commerce.state.ak.us/bsc/CDQ/cdq.htm>

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groups dated November 15th and December 6, 2004. Expanded public hearings were held during December 15 through 17, 2004 in Anchorage, Alaska.

The State reviewed and evaluated all proposed CDPs to determine whether the CDPs were consistent with the standards in 6 AAC 93.017 and met all requirements of 6 AAC 93 and 50 C.F.R. 679. The State also considered all 20 factors set forth in 6 AAC 93.040(b) when reviewing and evaluating the six proposed CDPs.¹

Additionally, the State's evaluation and review and initial allocation recommendation was guided by the regulatory requirement to "maximize the benefits of the CDQ program to the greatest number of participating communities."² Therefore, the State determined that the following factors should be given more weight: 6 AAC 93.040(b)(1)-(5), (b)(9), and (b)(11)-(17).

After reviewing the six 2006-2008 and 2005 Crab CDP applications and having considered all factors for consideration under 6 AAC 93.040, CDQ Program Standards under 6 AAC 93.017, and the federal CDQ regulations under 50 C.F.R. 679, the State has determined initial allocation recommendations for all six CDQ groups. See Attached table. As in prior allocation cycles, the State used a by-catch model to determine the non-target species allocations. The calculations used for the 2006-2008 CDP cycle were based on harvest statistics provided to the State by the CDQ groups for the period 1999-2003.

A brief explanation of some of the factors the State relied on in making this initial allocation recommendation for your group is set forth below. Given the tight timelines the State is working under during this allocation cycle, a more thorough explanation of all of the factors relied on in making this initial allocation recommendation would have meant delaying this process even further. Therefore, in the interest of keeping this allocation cycle on track, a brief explanation is all the State could offer at this point. The State is mindful of the fact that a more thorough explanation of the basis of this initial allocation recommendation would provide for a more meaningful reconsideration process. However, the State is also mindful of the fact that further delays could disrupt the State's ability to consult with the North Pacific Fishery Management Council (Council) at the April 2005 meeting. The State feels strongly that being prepared to meet with the Council in April is an important step in completing this allocation process in time for the groups to fish the new allocations.

Each CDQ group will have 30 days from the receipt of this initial allocation recommendation to request reconsideration from the State. The request for reconsideration shall be in writing. There is no State or federal regulation requiring this reconsideration process. As you know, the State has proposed changes to the regulations that would provide for a reconsideration process. Additionally, the State provided this reconsideration process during the prior allocation cycle. However, there is no requirement to participate in the reconsideration process. For groups that provide a timely written request for reconsideration, the State will have 30 days to respond to that request and will incorporate these comments in consultation with the Council at the April 2005 meeting.

Last, the State does not believe that any information in this initial allocation recommendation should be classified as 'confidential'. If you disagree, within 10 days of receiving this document, please provide us with notice of what information contained in this document is 'confidential' and why.

¹ Public comment received at the public hearings was considered. 6 AAC 93.040(b)(20).

² The State determined that 6 AAC 94.040(g) applied because the six groups requested more allocation than was available.

Initial Allocation Recommendation for APICDA

Per the 2000 U.S. Census³, APICDA has the lowest population among the CDQ groups. APICDA also has the lowest unemployment rate, the second highest median household income and a low poverty rate in comparison to the other CDQ groups. Based on these factors, the APICDA region has a high standard of living and therefore APICDA's economic need is low in comparison with the other CDQ groups.

APICDA's past performance of existing offshore CDQ projects have, for the most part, been successful in generating capital for fisheries related business investment. However, APICDA has been reluctant to invest in additional for-profit offshore investments in the Bering Sea that have the ability to provide a long term steady income stream to promote self-sufficiency and support their active and proposed CDQ projects. APICDA has not made a major vessel or quota investment in the Bering Sea since 2000⁴.

Instead, APICDA has chosen primarily to invest in in-region infrastructure and processing projects in their communities. With the exception of one in-region CDQ project in Atka, APICDA's in-region CDQ projects have not been profitable for consecutive years, provided benefits to a limited number of APICDA residents, and resulted in non-performing assets.

APICDA's active and proposed CDQ projects do not appear to have the likelihood of developing a self-sustaining local fisheries economy or have a viable schedule for transition from reliance on an allocation to self-sufficiency. According to APICDA, their transition plan places emphasis on the amount of CDQ allocation they receive, especially pollock.⁵ However, 50 C.F.R. 679.30(a)(6) provides, "The plan for transition to self-sufficiency must be based on the qualified applicant's long-term revenue stream without CDQs." Further, APICDA's in-region projects do not appear to be designed with realistic measurable milestones for determining progress.⁶

APICDA's CDQ projects for employment, education, and training that provide career track opportunities have been static for several years and the Team feels APICDA could improve in this area on behalf of APICDA residents, especially with offshore industry partners.⁷

After considering all of the factors in 6 AAC 93.040, the CDQ Program Standards in 6 AAC 93.017, the federal CDQ regulations under 50 C.F.R. 679, and for the reasons set forth above, the State makes the following allocation recommendations:

Pollock allocation: 3% reduction. The Team feels this is the proper allocation necessary to achieve the milestones and objectives in the proposed CDP.

Pacific cod allocation: No adjustment.

Bering Sea Fixed Gear Sablefish allocation: 2% increase. APICDA's harvest rates were taken into consideration in this recommendation.

³ 2000 Census data, <http://www.census.gov>

⁴ Offshore investments, http://www.commerce.state.ak.us/bsc/CDQ/cdq_handbook/13_cdq_chapt5_APICDA.pdf

⁵ 2006-2008 MS CDP, Binder II, Part 1, Chapter 5, Section 1.0, "CDQ Planning Transition to Self-Sufficiency" pages 1-2

⁶ 2006-2008 MS CDP, Binder I, Executive Summary, Section 5.0 "Goals/Objectives & Milestones of the CDP" to Section 7.0 "Management Strategy to Accomplish CDP Projects" pages 5-18

⁷ 2004 MS Third Quarter Report, November 5, 2004, II. Community Development, C. "Employment" to D. "Training and Education" pages 5-7

Bristol Bay Red king crab allocation: 7% reduction. APICDA's investment in this sector and employment and training benefits provided by harvesting vessels were taken into consideration.

Atka mackerel and Pacific Ocean Perch allocation: 15% reduction. APICDA is no longer the only group successfully prosecuting this fishery.

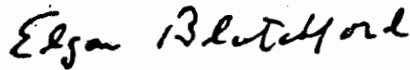
Yellowfin sole allocation: 14% reduction. APICDA is no longer the only group successfully prosecuting this fishery.

Rock sole allocation: 10% reduction. APICDA is no longer the only group successfully prosecuting this fishery.

Eastern Aleutian Islands Golden king crab and Adak Red king crab allocation: 8% allocation.

The State did not recommend adjustments in the majority of non-target species. Unless otherwise noted, adjustments in non-target species were the result of the State's bycatch matrix.

Sincerely,



Edgar Blatchford
Commissioner

Attachment

cc: Governor Frank H. Murkowski
CDQ Team

Western Alaska Community Development Quota Program
2006 - 08 Quota Allocations

	APICDA	BBEDC	CBSFA	CVRF	NSDC	YDFDA	Total
Pollock	11%	22%	6%	24%	22%	15%	100%
BS	11%	22%	6%	24%	22%	15%	100%
AI	11%	22%	6%	24%	22%	15%	100%
Bogoslof							
Pacific Cod	15%	21%	9%	18%	18%	19%	100%
Sablefish	17%	20%	14%	2%	16%	31%	100%
BS FG	14%	19%	3%	27%	23%	14%	100%
AI FG	16%	22%	8%	16%	16%	22%	100%
BS	15%	18%	11%	19%	17%	20%	100%
AI							
Atka Mackerel	15%	18%	11%	19%	17%	20%	100%
WAI	15%	18%	11%	19%	17%	20%	100%
CAI	15%	18%	11%	19%	17%	20%	100%
EAI/BS							
Yellowfin Sole	14%	24%	11%	16%	11%	24%	100%
Rock Sole	14%	23%	8%	16%	16%	23%	100%
Greenland Turbot	15%	20%	8%	17%	19%	21%	100%
BS	15%	19%	8%	18%	20%	20%	100%
AI							
Arrowtooth	16%	22%	8%	16%	16%	22%	100%
Flathead Sole	18%	21%	9%	16%	16%	20%	100%
Other Flatfish	20%	24%	9%	12%	11%	24%	100%
Alaska Plaice	13%	22%	6%	24%	22%	15%	100%
POP	13%	22%	7%	21%	20%	17%	100%
BS	15%	18%	11%	19%	17%	20%	100%
WAI	15%	18%	11%	19%	17%	20%	100%
CAI	15%	18%	11%	19%	17%	20%	100%
EAI/BS							
Northern Rockfish BS	15%	20%	8%	18%	19%	20%	100%
Shorrfaker/Rougheye Rockfish BS	14%	20%	8%	19%	20%	19%	100%
Northern Rockfish AI	14%	18%	11%	20%	17%	20%	100%
Shorrfaker/Rougheye Rockfish AI	14%	19%	10%	19%	18%	20%	100%
Other Rockfish	14%	20%	8%	19%	20%	19%	100%
BS	14%	19%	9%	19%	19%	20%	100%
AI	15%	21%	9%	18%	17%	20%	100%
Other Species							
FSC	14%	22%	10%	17%	14%	23%	100%
Zone 1 Red King Crab	14%	24%	11%	16%	12%	23%	100%
Zone 1 Bairdi Tanner Crab	16%	23%	9%	15%	15%	23%	100%
Zone 2 Bairdi Tanner Crab	14%	23%	10%	16%	14%	21%	100%
Opilho Tanner Crab	15%	22%	9%	17%	16%	15%	100%
Pacific Halibut	11%	22%	6%	24%	22%	15%	100%
Chinook Salmon	11%	22%	6%	24%	22%	15%	100%
Non-Chinook Salmon							
Halibut	100%	0%	0%	0%	0%	0%	100%
4B	15%	0%	85%	0%	0%	0%	100%
4C	0%	26%	0%	24%	30%	20%	100%
4D	0%	30%	0%	65%	5%	0%	100%
4E							
Crab	10%	21%	13%	20%	18%	18%	100%
Bristol Bay Red King	0%	0%	0%	0%	50%	50%	100%
Norton Sound Red King	0%	0%	100%	0%	0%	0%	100%
Pribilof Island Red and Blue	50%	12%	0%	12%	14%	12%	100%
St. Matthew Blue	8%	20%	20%	17%	18%	14%	100%
Bering Sea C. opilho	8%	18%	21%	18%	21%	14%	100%
EAI Golden (Brown) King	8%	18%	21%	18%	18%	17%	100%
Adak (Petrel Bank) Red King	10%	19%	19%	17%	18%	18%	100%
Bering Sea C. bairdi							



DIVISION OF BANKING, SECURITIES, AND CORPORATIONS
COMMUNITY DEVELOPMENT QUOTA PROGRAM

Frank H. Murkowski, Governor

February 9, 2005

RECEIVED
NATIONAL CLAM FISHERIES
ANCHORAGE
2005 MAR 01 PM 1:00

Robin Samuelsen, President/CEO
BBEDC
P.O. Box 1464
Dillingham, AK 99576-1464

RE: 2006-2008 Multi Species and 2005 Crab CDQ
Initial Allocation Recommendations

Dear Mr. Samuelsen:

The State of Alaska (State) received six Community Development Plan (CDP) applications for multi-species and associated bycatch Community Development Quota (CDQ) for the 2006-2008 and 2005 Crab CDP allocation cycle. The six CDP applications are from the six regional organizations or CDQ groups representing 65 eligible coastal communities bordering the Bering Sea. As a result of crab rationalization, two new crab CDQ species are added to the CDQ program beginning in 2005, which are Eastern Aleutian Islands (EAI) Golden (Brown) king crab and Adak (Petrel Bank) Red king crab.

Please remember that the State is required to start each allocation cycle with a clean slate. 50 C.F.R. 679.30(a) provides:

Allocations of CDQ and PSQ are harvest privileges that expire upon the expiration of the CDP. When the CDP expires, further CDQ allocations are not implied or guaranteed, and a qualified applicant must re-apply for further allocations on a competitive basis with other qualified applicants.

As you are well aware, the State is required to solicit submittal of CDPs, hold an application period and public hearings, and review and evaluate a multitude of factors in making an allocation recommendation to NMFS. These criteria are set out in State and federal regulations. The State strictly adhered to these requirements during this allocation process.

On August 15, 2004, the State notified the public of the 2006-2008 and 2005 Crab CDP Application Period and application packets were mailed to the six CDQ groups. The application period began on October 1, 2004 and ended November 1, 2004. Public notice scheduling a public hearing was provided on October 15, 2004 and held in Anchorage, Alaska on November 30, 2004. The State required revisions to each CDP in letters to the CDQ

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Correspondence with this office: P.O. Box 110807, Juneau, Alaska 99811-0807

Telephone: (907) 465-5536 Fax: (907) 465-2549 Text Telephone: (907) 465-5437

com@commerce.state.ak.us Website: <http://www.commerce.state.ak.us/bsc/CDQ/cdq.htm>

groups dated November 15th and December 6, 2004. Expanded public hearings were held during December 15 through 17, 2004 in Anchorage, Alaska.

The State reviewed and evaluated all proposed CDPs to determine whether the CDPs were consistent with the standards in 6 AAC 93.017 and met all requirements of 6 AAC 93 and 50 C.F.R. 679. The State also considered all 20 factors set forth in 6 AAC 93.040(b) when reviewing and evaluating the six proposed CDPs.¹

Additionally, the State's evaluation and review and initial allocation recommendation was guided by the regulatory requirement to "maximize the benefits of the CDQ program to the greatest number of participating communities."² Therefore, the State determined that the following factors should be given more weight: 6 AAC 93.040(b)(1)-(5), (b)(9), and (b)(11)-(17).

After reviewing the six 2006-2008 and 2005 Crab CDP applications and having considered all factors for consideration under 6 AAC 93.040, CDQ Program Standards under 6 AAC 93.017, and the federal CDQ regulations under 50 C.F.R. 679, the State has determined initial allocation recommendations for all six CDQ groups. See Attached table. As in prior allocation cycles, the State used a by-catch model to determine the non-target species allocations. The calculations used for the 2006-2008 CDP cycle were based on harvest statistics provided to the State by the CDQ groups for the period 1999-2003.

A brief explanation of some of the factors the State relied on in making this initial allocation recommendation for your group is set forth below. Given the tight timelines the State is working under during this allocation cycle, a more thorough explanation of all of the factors relied on in making this initial allocation recommendation would have meant delaying this process even further. Therefore, in the interest of keeping this allocation cycle on track, a brief explanation is all the state could offer at this point. The State is mindful of the fact that a more thorough explanation of the basis of this initial allocation recommendation would provide for a more meaningful reconsideration process. However, the State is also mindful of the fact that further delays could disrupt the State's ability to consult with the North Pacific Fishery Management Council (council) at the April 2005 meeting. The State feels strongly that being prepared to meet with the Council in April is an important step in completing this allocation process in time for the groups to fish the new allocations.

Each CDQ group will have 30 days from the receipt of this initial allocation recommendation to request reconsideration from the State. The request for reconsideration shall be in writing. There is no state or federal regulation requiring this reconsideration process. As you know, the State has proposed changes to the regulations that would provide for a reconsideration process. Additionally, the State has provided this reconsideration process in past allocation cycles. However, there is no requirement to participate in the reconsideration process. For groups that provide a timely written request for reconsideration, the State will have 30 days to respond to that request and will incorporate these comments in consultation with the Council at the April 2005 meeting.

Last, the State does not believe that any information in this initial allocation recommendation should be classified as 'confidential'. If you disagree, within 10 days of receiving this document, please provide us with notice of what information contained in this document is 'confidential' and why.

¹ Public comment received at the public hearings was considered. 6 AAC 93.040(b)(20).

² The State determined that 6 AAC 94.040(g) applied because the six groups requested more allocation than was available.

Initial Allocation Recommendation for BBEDC

Per the 2000 U.S. Census, BBEDC has the third highest population and fourth highest median household income. BBEDC has a mid-range poverty rate and low unemployment rate among the CDQ groups. Based on these factors, the BBEDC region has a mid-range standard of living and economic need among the CDQ groups.³ However, BBEDC communities have been adversely affected by overall low salmon prices which is the primary source of revenue in the region.

BBEDC's past performance of existing offshore CDQ projects have been very successful in generating capital for fisheries related business investment. BBEDC has been very active investing in for-profit offshore and onshore investments in the Bering Sea that provide a steady income stream to support their active and proposed CDQ projects.⁴ BBEDC has a well-prepared long-range transition plan to develop a self-sustaining fisheries economy in the Bristol Bay region.⁵

BBEDC's CDQ projects for employment, education, and training that provide career track opportunities have been successful for several years.⁶ However, the Team feels BBEDC should continue to pursue their employment efforts on behalf of BBEDC residents, especially with industry partners.

BBEDC's active and proposed CDQ projects appear to have the likelihood of developing a self-sustaining local fisheries economy and a viable schedule for transition from reliance on an allocation to self-sufficiency.⁵ Per 50 C.F.R. 679.30(a)(6), "The plan for transition to self-sufficiency must be based on the qualified applicant's long-term revenue stream without CDQs." BBEDC's in-region projects appear to be designed with realistic measurable milestones for determining progress for their projects.⁷

After considering all of the factors in 6 AAC 93.040, the CDQ Program Standards in 6 AAC 93.017, the federal CDQ regulations under 50 C.F.R. 679, and for the reasons set forth above, the State makes the following allocation recommendations:

Pollock allocation: 1% increase. The Team feels this is the proper allocation necessary to achieve the milestones and objectives in the proposed CDP.

Pacific cod allocation: No adjustment.

Bering Sea Fixed Gear Sablefish allocation: No adjustment.

Bristol Bay Red king crab allocation: 2% increase. BBEDC's investment in this sector along with employment and training benefits provided by harvesting vessels were taken into consideration.

³ 2000 Census, <http://www.census.gov>

⁴ Offshore investments, http://www.commerce.state.ak.us/bsc/CDQ/cdq_handbook/14_cdq_chapt5_BBEDC.pdf

⁵ 2006-2008 MS CDP, Binder III, CDQ Planning, A. "Transition Plan from CDQ Program to Self-Sufficiency in Fisheries" pages 1-8

⁶ 2004 Third Quarter Report, II. Community Development, C. "Employment" to D. "Training" pages 22-24

⁷ 2006-2008 MS CDP, Binder I, Executive Summary, E. "Goals/Objectives and Milestones of the CDP" to G. "Management Strategy to Accomplish CDP Projects" pages 11-23

Atka mackerel and Pacific Ocean Perch allocation: 3% increase. The fact that BBEDC, along with other groups, have begun to successfully harvest these two species was taken into consideration.

Yellowfin sole allocation: No adjustment.

Rock sole allocation: No adjustment.

Eastern Aleutian Islands Golden king crab and Adak Red king crab allocation: 18% allocation.

The State did not recommend adjustments in the majority of non-target species. Unless otherwise noted, adjustments in non-target species were the result of the State's bycatch matrix.

Sincerely,

Edgar Blatchford

Edgar Blatchford
Commissioner

Attachment

cc: Governor Frank H. Murkowski
CDQ Team

Western Alaska Community Development Quota Program
2006 - 08 Quota Allocations

	APICDA	BBEDC	CBSFA	CVRF	NSEDC	YDFDA	Total
Pollock	11%	22%	6%	24%	22%	15%	100%
BS	11%	22%	6%	24%	22%	15%	100%
AI	11%	22%	6%	24%	22%	15%	100%
Bogalof							
	15%	21%	9%	18%	18%	19%	100%
Pacific Cod							
	15%	21%	9%	18%	18%	19%	100%
Sablefish	17%	20%	14%	2%	16%	31%	100%
BS FG	14%	19%	3%	27%	23%	14%	100%
AI FG	16%	22%	8%	16%	16%	22%	100%
BS	15%	18%	11%	19%	17%	20%	100%
AI							
	15%	18%	11%	19%	17%	20%	100%
Atka Mackerel	15%	18%	11%	19%	17%	20%	100%
WAI	15%	18%	11%	19%	17%	20%	100%
CAI	15%	18%	11%	19%	17%	20%	100%
EAI/BS							
	14%	24%	11%	16%	11%	24%	100%
Yellowfin Sole	14%	23%	8%	16%	16%	23%	100%
Rock Sole							
	15%	20%	8%	17%	19%	21%	100%
Greenland Turbot	15%	19%	8%	18%	20%	20%	100%
BS	16%	22%	8%	16%	16%	22%	100%
AI							
	16%	22%	8%	16%	16%	22%	100%
Arrowtooth	18%	21%	9%	16%	16%	20%	100%
Flathead Sole	20%	24%	9%	12%	11%	24%	100%
Other Flatfish							
	11%	22%	6%	24%	22%	15%	100%
Alaska Plaice							
POP	13%	22%	7%	21%	20%	17%	100%
BS	15%	18%	11%	19%	17%	20%	100%
WAI	15%	18%	11%	19%	17%	20%	100%
CAI	15%	18%	11%	19%	17%	20%	100%
EAI/BS							
	15%	20%	8%	18%	19%	20%	100%
Northern Rockfish BS	14%	20%	8%	19%	20%	19%	100%
Shortraker/Rougheye Rock fish BS	14%	18%	11%	20%	17%	20%	100%
Northern Rockfish AI	14%	19%	10%	19%	18%	20%	100%
Shortraker/Rougheye Rock fish AI							
	14%	20%	8%	19%	20%	19%	100%
Other Rockfish	14%	19%	9%	19%	19%	20%	100%
BS	14%	19%	9%	19%	17%	20%	100%
AI	15%	21%	9%	18%	17%	20%	100%
Other Species							
	14%	22%	10%	17%	14%	23%	100%
PSC	14%	24%	11%	16%	12%	23%	100%
Zone 1 Red King Crab	14%	23%	9%	15%	15%	22%	100%
Zone 1 Bairdi Tanner Crab	16%	23%	10%	16%	14%	23%	100%
Zone 2 Bairdi Tanner Crab	14%	23%	10%	17%	16%	21%	100%
Opilho Tanner Crab	15%	22%	9%	24%	22%	15%	100%
Pacific Halibut	11%	22%	6%	24%	22%	15%	100%
Chinook Salmon	11%	22%	6%	24%	22%	15%	100%
Non-Chinook Salmon							
	100%	0%	0%	0%	0%	0%	100%
Halibut	15%	0%	85%	0%	0%	0%	100%
4B	0%	26%	0%	24%	30%	20%	100%
4C	0%	30%	0%	65%	5%	0%	100%
4D							
4E							
	10%	21%	13%	20%	18%	18%	100%
Crab	0%	0%	0%	0%	50%	50%	100%
Bristol Bay Red King	0%	0%	100%	0%	0%	0%	100%
Norton Sound Red King	0%	0%	0%	12%	14%	12%	100%
Pribilof Island Red and Blue	50%	12%	20%	17%	18%	17%	100%
St. Matthew Blue	8%	20%	21%	18%	21%	14%	100%
Bering Sea C. opilio	8%	18%	21%	18%	21%	14%	100%
EAI Golden (Brown) King	8%	18%	21%	17%	18%	17%	100%
Adak (Petrel Bank) Red King	10%	19%	19%	17%	18%	17%	100%
Bering Sea C. bairdi							



DIVISION OF BANKING, SECURITIES, AND CORPORATIONS
COMMUNITY DEVELOPMENT QUOTA PROGRAM

Frank H. Murkowski, Governor

February 9, 2005

Morgen Crow, Executive Director
CVRF

711 H Street, Suite 200
Anchorage, AK 99501-3461

RE: 2006-2008 Multi Species and 2005 Crab CDQ
Initial Allocation Recommendations

Dear Mr. Crow:

The State of Alaska (State) received six Community Development Plan (CDP) applications for multi-species and associated bycatch Community Development Quota (CDQ) for the 2006-2008 and 2005 Crab CDP allocation cycle. The six CDP applications are from the six regional organizations or CDQ groups representing 65 eligible coastal communities bordering the Bering Sea. As a result of crab rationalization, two new crab CDQ species are added to the CDQ program beginning in 2005, which are Eastern Aleutian Islands (EAI) Golden (Brown) king crab and Adak (Petrel Bank) Red king crab.

Please remember that the State is required to start each allocation cycle with a clean slate. 50 C.F.R. 679.30(a) provides:

Allocations of CDQ and PSQ are harvest privileges that expire upon the expiration of the CDP. When the CDP expires, further CDQ allocations are not implied or guaranteed, and a qualified applicant must re-apply for further allocations on a competitive basis with other qualified applicants.

As you are well aware, the State is required to solicit submittal of CDPs, hold an application period and public hearings, and review and evaluate a multitude of factors in making an allocation recommendation to NMFS. These criteria are set out in State and federal regulations. The State strictly adhered to these requirements during this allocation process.

On August 15, 2004, the State notified the public of the 2006-2008 and 2005 Crab CDP Application Period and application packets were mailed to the six CDQ groups. The application period began on October 1, 2004 and ended November 1, 2004. Public notice scheduling a public hearing was provided on October 15, 2004 and held in Anchorage, Alaska on November 30, 2004. The State required revisions to each CDP in letters to the CDQ

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E-mail: commerce.state.ak.us Website: <http://www.commerce.state.ak.us/bsc/CDQ/cdq.htm>

groups dated November 15th and December 6, 2004. Expanded public hearings were held during December 15 through 17, 2004 in Anchorage, Alaska.

The State reviewed and evaluated all proposed CDPs to determine whether the CDPs were consistent with the standards in 6 AAC 93.017 and met all requirements of 6 AAC 93 and 50 C.F.R. 679. The State also considered all 20 factors set forth in 6 AAC 93.040(b) when reviewing and evaluating the six proposed CDPs.¹

Additionally, the State's evaluation and review and initial allocation recommendation was guided by the regulatory requirement to "maximize the benefits of the CDQ program to the greatest number of participating communities."² Therefore, the State determined that the following factors should be given more weight: 6 AAC 93.040(b)(1)-(5), (b)(9), and (b)(11)-(17).

After reviewing the six 2006-2008 and 2005 Crab CDP applications and having considered all factors for consideration under 6 AAC 93.040, CDQ Program Standards under 6 AAC 93.017, and the federal CDQ regulations under 50 C.F.R. 679, the State has determined initial allocation recommendations for all six CDQ groups. See Attached table. As in prior allocation cycles, the State used a by-catch model to determine the non-target species allocations. The calculations used for the 2006-2008 CDP cycle were based on harvest statistics provided to the State by the CDQ groups for the period 1999-2003.

A brief explanation of some of the factors the State relied on in making this initial allocation recommendation for your group is set forth below. Given the tight timelines the State is working under during this allocation cycle, a more thorough explanation of all of the factors relied on in making this initial allocation recommendation would have meant delaying this process even further. Therefore, in the interest of keeping this allocation cycle on track, a brief explanation is all the state could offer at this point. The State is mindful of the fact that a more thorough explanation of the basis of this initial allocation recommendation would provide for a more meaningful reconsideration process. However, the State is also mindful of the fact that further delays could disrupt the State's ability to consult with the North Pacific Fishery Management Council (council) at the April 2005 meeting. The State feels strongly that being prepared to meet with the Council in April is an important step in completing this allocation process in time for the groups to fish the new allocations.

Each CDQ group will have 30 days from the receipt of this initial allocation recommendation to request reconsideration from the State. The request for reconsideration shall be in writing. There is no state or federal regulation requiring this reconsideration process. As you know, the State has proposed changes to the regulations that would provide for a reconsideration process. Additionally, the State has provided this reconsideration process in past allocation cycles. However, there is no requirement to participate in the reconsideration process. For groups that provide a timely written request for reconsideration, the State will have 30 days to respond to that request and will incorporate these comments in consultation with the Council at the April 2005 meeting.

Last, the State does not believe that any information in this initial allocation recommendation should be classified as 'confidential'. If you disagree, within 10 days of receiving this document, please provide us with notice of what information contained in this document is 'confidential' and why.

¹ Public comment received at the public hearings was considered. 6 AAC 93.040(b)(20).

² The State determined that 6 AAC 94.040(g) applied because the six groups requested more allocation than was available.

Initial Allocation Recommendation for CVRF

Per the 2000 U.S. Census, CVRF has the 2nd highest population and a high unemployment rate among the CDQ groups.³ CVRF has the lowest median household income and a high poverty rate among the CDQ groups. Based on these factors, the CVRF region has a low standard of living and high economic need among the CDQ groups.

CVRF's past performance of existing offshore CDQ projects have been successful in generating capital for fisheries related business investment.⁴ CVRF has been very active investing in for-profit offshore investments in the Bering Sea that provide a steady income stream to support their active and proposed CDQ projects in-region. CVRF has a well-prepared long-range transition plan to develop a self-sustaining fisheries economy the CVRF region.⁵

CVRF's CDQ projects for employment, education, and training that provide career track opportunities have been very successful in-region.⁶ However, the Team feels CVRF could improve in their employment efforts on behalf of CVRF residents, especially with industry partners.

CVRF's active and proposed CDQ projects appear to have the likelihood of developing a self-sustaining local fisheries economy and a viable schedule for transition from reliance on an allocation to self-sufficiency. Per 50 C.F.R. 679.30(a)(6), "The plan for transition to self-sufficiency must be based on the qualified applicant's long-term revenue stream without CDQs." CVRF's in-region projects appear to be designed with realistic measurable milestones for determining progress for their projects.⁷

After considering all of the factors in 6 AAC 93.040, the CDQ Program Standards in 6 AAC 93.017, the federal CDQ regulations under 50 C.F.R. 679, and for the reasons set forth above, the State makes the following allocation recommendations:

Pollock allocation: No adjustment. The Team feels this is the proper allocation necessary to achieve the milestones and objectives in the proposed CDP.

Pacific cod allocation: No adjustment.

Bering Sea Fixed Gear Sablefish allocation: 2% increase. CVRF did not have an allocation for this fishery in prior allocation cycles and this was taken into consideration in the recommendation.

Bristol Bay Red king crab allocation: 2% increase. CVRF's investment record in this sector along with employment and training benefits provided by harvesting vessels were taken into consideration.

4E Halibut allocation: 5% reduction. In making this recommendation, the State took into consideration harvest rates and employment of local fishermen in the CDQ region as a whole.

³ 2000 Census, <http://www.census.gov>

⁴ Offshore investments, http://www.commerce.state.ak.us/bsc/CDQ/cdq_handbook/16_cdq_chapt5_CVRF.pdf

⁵ 2006-2008 MS CDP, Binder I, I-V Planning, A. "Transition Plan from CDQ Program to Self-Sufficiency in Eligible CDQ Communities" pages 1-7

⁶ 2004 Third Quarter Report, II Community Development, C. "Employment" and D. "Training" pages 24-30

⁷ 2006-2008 MS CDP, Binder I, Executive Summary, E. "Goals, Objectives and Milestones of Our CDP" to G. "Management Strategy to Accomplish CDP Projects" pages 17-28

Atka mackerel and Pacific Ocean Perch allocation: 4% increase. The fact that CVRF, along with other groups, have begun to successfully harvest these two species was taken into consideration.

Yellowfin sole allocation: 10% increase. The fact that CVRF, along with other groups, have begun to successfully harvest this species was taken into consideration. CVRF's equity ownership in a vessel that harvests groundfish species including Atka mackerel, Pacific Ocean Perch, Yellowfin sole, and rock sole was also considered.

Rock sole allocation: 5% increase. The fact that CVRF, along with other CDQ groups have begun to successfully harvest this species was taken into consideration. The State also took into consideration bycatch requirements necessary to prosecute the groundfish fishery.

Eastern Aleutian Islands Golden king crab and Adak Red king crab allocation: 18% allocation.

The State did not recommend adjustments in the majority of non-target species. Unless otherwise noted, adjustments in non-target species were the result of the State's bycatch matrix.

Sincerely,



Edgar Blatchford
Commissioner

Attachment

cc: Governor Frank H. Murkowski
CDQ Team

Western Alaska Community Development Quota Program
2006 - 08 Quota Allocations

	APICDA	BBEDC	CBSFA	CVRF	NSEDC	YDFDA	Total
Pollock	11%	22%	6%	24%	22%	15%	100%
BS	11%	22%	6%	24%	22%	15%	100%
AI	11%	22%	6%	24%	22%	15%	100%
Bogoslof							
	15%	21%	9%	18%	18%	19%	100%
Pacific Cod							
			14%	2%	16%	31%	100%
	17%	20%	3%	27%	23%	14%	100%
Sablefish	14%	19%	8%	16%	17%	22%	100%
BS FG	16%	22%	11%	19%	17%	20%	100%
AI FG	15%	18%					
BS							
AI							
Atka Mackerel	15%	18%	11%	19%	17%	20%	100%
WAI	15%	18%	11%	19%	17%	20%	100%
CAI	15%	18%	11%	19%	17%	20%	100%
EAI/BS							
	14%	24%	11%	16%	11%	24%	100%
Yellowfin Sole	14%	23%	8%	16%	16%	23%	100%
Rock Sole							
	15%	20%	8%	17%	19%	21%	100%
Greenland Turbot	15%	19%	8%	18%	20%	20%	100%
BS							
AI	16%	22%	8%	16%	16%	22%	100%
Arrowtooth	18%	21%	9%	16%	16%	20%	100%
Flathead Sole	20%	24%	9%	12%	11%	24%	100%
Other Flatfish							
	11%	22%	6%	24%	22%	15%	100%
Alaska Plaice							
POP	13%	22%	7%	21%	20%	17%	100%
BS	15%	18%	11%	19%	17%	20%	100%
WAI	15%	18%	11%	19%	17%	20%	100%
CAI	15%	18%	11%	19%	17%	20%	100%
EAI/BS							
	15%	20%	8%	18%	19%	20%	100%
Northern Rockfish BS	14%	20%	8%	19%	20%	19%	100%
Shortraker/Rougheye Rockfish BS	14%	18%	11%	20%	17%	20%	100%
Northern Rockfish AI	14%	19%	10%	19%	18%	20%	100%
Shortraker/Rougheye Rockfish AI							
Other Rockfish	14%	20%	8%	19%	20%	19%	100%
BS	14%	19%	9%	19%	19%	20%	100%
AI	15%	21%	9%	18%	17%	20%	100%
Other Species							
	14%	22%	10%	17%	14%	23%	100%
PSC							
Zone 1 Red King Crab	14%	24%	11%	16%	12%	23%	100%
Zone 1 Bairdi Tanner Crab	16%	23%	9%	15%	15%	22%	100%
Zone 2 Bairdi Tanner Crab	14%	23%	10%	16%	14%	23%	100%
Opilho Tanner Crab	15%	22%	9%	17%	16%	21%	100%
Pacific Halibut	11%	22%	6%	24%	22%	15%	100%
Chinook Salmon	11%	22%	6%	24%	22%	15%	100%
Non-Chinook Salmon							
	100%	0%	0%	0%	0%	0%	100%
Halibut	15%	0%	85%	0%	0%	0%	100%
4B	0%	26%	0%	65%	5%	0%	100%
4C	0%	30%	0%				
4D							
4E							
	10%	21%	13%	20%	18%	18%	100%
Crab	0%	0%	0%	0%	50%	50%	100%
Bristol Bay Red King	0%	0%	100%	0%	0%	0%	100%
Norton Sound Red King	0%	0%	0%	0%	14%	12%	100%
Pribilof Island Red and Blue	50%	12%	0%	12%	18%	17%	100%
St. Matthew Blue	8%	20%	20%	18%	21%	14%	100%
Bering Sea C. opilio	8%	18%	21%	18%	21%	14%	100%
EAI Golden (Brown) King	8%	18%	21%	18%	21%	17%	100%
Adak (Petrel Bank) Red King	10%	19%	19%	17%	18%	17%	100%
Bering Sea C. bairdi							



DIVISION OF BANKING, SECURITIES, AND CORPORATIONS
COMMUNITY DEVELOPMENT QUOTA PROGRAM

Frank H. Murkowski, Governor

February 9, 2005

Eugene Asicksik, President/CEO
NSEDC
420 L Street, Suite 310
Anchorage, AK 99501-1971

RE: 2006-2008 Multi Species and 2005 Crab CDQ
Initial Allocation Recommendations

Dear Mr. Asicksik:

The State of Alaska (State) received six Community Development Plan (CDP) applications for multi-species and associated bycatch Community Development Quota (CDQ) for the 2006-2008 and 2005 Crab CDP allocation cycle. The six CDP applications are from the six regional organizations or CDQ groups representing 65 eligible coastal communities bordering the Bering Sea. As a result of crab rationalization, two new crab CDQ species are added to the CDQ program beginning in 2005, which are Eastern Aleutian Islands (EAI) Golden (Brown) king crab and Adak (Petrel Bank) Red king crab.

Please remember that the State is required to start each allocation cycle with a clean slate. 50 C.F.R. 679.30(a) provides:

Allocations of CDQ and PSQ are harvest privileges that expire upon the expiration of the CDP. When the CDP expires, further CDQ allocations are not implied or guaranteed, and a qualified applicant must re-apply for further allocations on a competitive basis with other qualified applicants.

As you are well aware, the State is required to solicit submittal of CDPs, hold an application period and public hearings, and review and evaluate a multitude of factors in making an allocation recommendation to NMFS. These criteria are set out in State and federal regulations. The State strictly adhered to these requirements during this allocation process.

On August 15, 2004, the State notified the public of the 2006-2008 and 2005 Crab CDP Application Period and application packets were mailed to the six CDQ groups. The application period began on October 1, 2004 and ended November 1, 2004. Public notice scheduling a public hearing was provided on October 15, 2004 and held in Anchorage, Alaska on November 30, 2004. The State required revisions to each CDP in letters to the CDQ

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Telephone: (907) 465-5536 Fax: (907) 465-2549 Text Telephone: (907) 465-5437

Commerce.state.ak.us Website: <http://www.commerce.state.ak.us/hsc/CDQ/cdq.htm>

groups dated November 15th and December 6, 2004. Expanded public hearings were held during December 15 through 17, 2004 in Anchorage, Alaska.

The State reviewed and evaluated all proposed CDPs to determine whether the CDPs were consistent with the standards in 6 AAC 93.017 and met all requirements of 6 AAC 93 and 50 C.F.R. 679. The State also considered all 20 factors set forth in 6 AAC 93.040(b) when reviewing and evaluating the six proposed CDPs.¹

Additionally, the State's evaluation and review and initial allocation recommendation was guided by the regulatory requirement to "maximize the benefits of the CDQ program to the greatest number of participating communities."² Therefore, the State determined that the following factors should be given more weight: 6 AAC 93.040(b)(1)-(5), (b)(9), and (b)(11)-(17).

After reviewing the six 2006-2008 and 2005 Crab CDP applications and having considered all factors for consideration under 6 AAC 93.040, CDQ Program Standards under 6 AAC 93.017, and the federal CDQ regulations under 50 C.F.R. 679, the State has determined initial allocation recommendations for all six CDQ groups. See Attached table. As in prior allocation cycles, the State used a by-catch model to determine the non-target species allocations. The calculations used for the 2006-2008 CDP cycle were based on harvest statistics provided to the State by the CDQ groups for the period 1999-2003.

A brief explanation of some of the factors the State relied on in making this initial allocation recommendation for your group is set forth below. Given the tight timelines the State is working under during this allocation cycle, a more thorough explanation of all of the factors relied on in making this initial allocation recommendation would have meant delaying this process even further. Therefore, in the interest of keeping this allocation cycle on track, a brief explanation is all the state could offer at this point. The State is mindful of the fact that a more thorough explanation of the basis of this initial allocation recommendation would provide for a more meaningful reconsideration process. However, the State is also mindful of the fact that further delays could disrupt the State's ability to consult with the North Pacific Fishery Management Council (Council) at the April 2005 meeting. The State feels strongly that being prepared to meet with the Council in April is an important step in completing this allocation process in time for the groups to fish the new allocations.

Each CDQ group will have 30 days from the receipt of this initial allocation recommendation to request reconsideration from the State. The request for reconsideration shall be in writing. There is no state or federal regulation requiring this reconsideration process. As you know, the State has proposed changes to the regulations that would provide for a reconsideration process. Additionally, the State has provided this reconsideration process in past allocation cycles. However, there is no requirement to participate in the reconsideration process. For groups that provide a timely written request for reconsideration, the State will have 30 days to respond to that request and will incorporate these comments in consultation with the Council at the April 2005 meeting.

Last, the State does not believe that any information in this initial allocation recommendation should be classified as 'confidential'. If you disagree, within 10 days of receiving this document, please provide us with notice of what information contained in this document is 'confidential' and why.

¹ Public comment received at the public hearings was considered. 6 AAC 93.040(b)(20).

² The State determined that 6 AAC 94.040(g) applied because the six groups requested more allocation than was available.

Initial Allocation Recommendation for NSEDC

Per the 2000 U.S. Census, NSEDC has the highest population and a mid-range unemployment rate among the CDQ groups.³ NSEDC has the third highest median household income and a mid-range poverty rate among the CDQ groups. Based on these factors, the NSEDC region has a mid-range standard of living and economic need among the CDQ groups.

NSEDC's past performance of existing offshore CDQ projects have been successful in generating capital for fisheries related business investment.⁴ NSEDC has been active investing in for-profit offshore investments in the Bering Sea that provide a steady income stream to support their active and proposed CDQ projects in-region. NSEDC has a long-range transition plan to develop a self-sustaining fisheries economy in their eligible communities in Norton Sound.⁵

NSEDC's CDQ projects for employment, education, and training that provide career track opportunities have been successful.⁶ The Team feels NSEDC has done well in their employment efforts with offshore industry partners. However, the Team feels NSEDC should continue their employment efforts on behalf of NSEDC residents, especially with industry partners.

NSEDC's active and proposed CDQ projects appear to have the likelihood of developing a self-sustaining local fisheries economy and a viable schedule for transition from reliance on an allocation to self-sufficiency. Per 50 C.F.R. 679.30(a)(6), "The plan for transition to self-sufficiency must be based on the qualified applicant's long-term revenue stream without CDQs." NSEDC's in-region projects appear to be designed with realistic measurable milestones for determining progress for their projects.⁷

After considering all of the factors in 6 AAC 93.040, the CDQ Program Standards in 6 AAC 93.017, the federal CDQ regulations under 50 C.F.R. 679, and for the reasons set forth above, the State makes the following allocation recommendations:

Pollock allocation: No adjustment. The Team feels this is the proper allocation necessary to achieve the milestones and objectives in the proposed CDP.

Pacific cod allocation: No adjustment.

Bering Sea Fixed Gear Sablefish allocation: 2% decrease. NSEDC's harvest rates were taken into consideration in this recommendation.

Bristol Bay Red king crab allocation: No Adjustment.

4E Halibut allocation: 5% increase. In making this recommendation, the State took into consideration harvest rates and employment of local fishermen in the CDQ region as a whole.

³ 2000 Census, <http://www.census.gov>

⁴ Offshore investments, http://www.commerce.state.ak.us/bsc/CDQ/cdq_handbook/17_cdq_chapt5_NSEDC.pdf

⁵ 2006-2008 MS CDP, Binder I, V. CDQ Planning, A. "Plan For Transition From CDQ Program to Self-Sufficiency in Fisheries" pages 75-76

⁶ 2004 Third Quarter Report, II. Community Development, B. "Employment" to C. "Training" pages 14-17

⁷ 2006-2008 MS CDP, Binder I, Executive Summary, E. "Goals, Objectives and Milestones" to H. "Management Strategy to Accomplish CDP Projects" pages 7-19

Atka mackerel and Pacific Ocean Perch allocation: 3% increase. The fact that NSEDC, along with other groups, have begun to successfully harvest these two species was taken into consideration.

Yellowfin sole allocation: 3% increase. The fact that NSEDC, along with other groups, have begun to successfully harvest these two species was taken into consideration.

Rock sole allocation: 5% increase. The fact that NSEDC, along with other groups, have begun to successfully harvest these two species was taken into consideration. The State also took into consideration bycatch requirements necessary to prosecute the groundfish fishery.

Eastern Aleutian Islands Golden king crab and Adak Red king crab allocation: 21% allocation. NSEDC's investment in this sector along with employment and training benefits provided by harvesting vessels were taken into consideration.

The State did not recommend adjustments in the majority of non-target species. Unless otherwise noted, adjustments in non-target species were the result of the State's bycatch matrix.

Sincerely,



Edgar Blatchford
Commissioner

Attachment

cc: Governor Frank H. Murkowski
CDQ Team

Western Alaska Community Development Quota Program
2006 - 08 Quota Allocations

	APICDA	BBEDC	CBSFA	CVRF	NSEDC	YDFDA	Total
Pollock	11%	22%	6%	24%	22%	15%	100%
BS	11%	22%	6%	24%	22%	15%	100%
AI	11%	22%	6%	24%	22%	15%	100%
Bogoslof			9%	18%	18%	19%	100%
Pacific Cod	15%	21%					
Sablefish	17%	20%	14%	2%	16%	31%	100%
BS FG	14%	19%	3%	27%	23%	14%	100%
AI FG	16%	22%	8%	16%	16%	22%	100%
BS	15%	18%	11%	19%	17%	20%	100%
AI							
Atka Mackerel	15%	18%	11%	19%	17%	20%	100%
WAI	15%	18%	11%	19%	17%	20%	100%
CAI	15%	18%	11%	19%	17%	20%	100%
EAI/BS							
Yellowfin Sole	14%	24%	11%	16%	11%	24%	100%
Rock Sole	14%	23%	8%	16%	16%	23%	100%
Greenland Turbot	15%	20%	8%	17%	19%	21%	100%
BS	15%	19%	8%	18%	20%	20%	100%
AI							
Arrowtooth	16%	22%	8%	16%	16%	20%	100%
Flathead Sole	18%	21%	9%	16%	16%	20%	100%
Other Flatfish	20%	24%	9%	12%	11%	24%	100%
Alaska Plaice	11%	22%	6%	24%	22%	15%	100%
POP	13%	22%	7%	21%	20%	17%	100%
BS	15%	18%	11%	19%	17%	20%	100%
WAI	15%	18%	11%	19%	17%	20%	100%
CAI	15%	18%	11%	19%	17%	20%	100%
EAI/BS							
Northern Rockfish BS	15%	20%	8%	18%	19%	20%	100%
Shortraker/Rougheye Rockfish BS	14%	20%	8%	19%	20%	19%	100%
Northern Rockfish AI	14%	18%	11%	20%	17%	20%	100%
Shortraker/Rougheye Rockfish AI	14%	19%	10%	19%	18%	20%	100%
Other Rockfish	14%	20%	8%	19%	20%	19%	100%
BS	14%	19%	9%	19%	19%	20%	100%
AI	15%	21%	9%	18%	17%	20%	100%
Other Species							
PSC	14%	22%	10%	17%	14%	23%	100%
Zone 1 Red King Crab	14%	24%	11%	16%	12%	23%	100%
Zone 1 Bairdi Tanner Crab	16%	23%	9%	15%	15%	22%	100%
Zone 2 Bairdi Tanner Crab	14%	23%	10%	16%	14%	23%	100%
Opilho Tanner Crab	15%	22%	9%	17%	16%	21%	100%
Pacific Halibut	11%	22%	6%	24%	22%	15%	100%
Chinook Salmon	11%	22%	6%	24%	22%	15%	100%
Non-Chinook Salmon							
Halibut	100%	0%	0%	0%	0%	0%	100%
4B	15%	0%	85%	0%	0%	0%	100%
4C	0%	26%	0%	24%	30%	20%	100%
4D	0%	30%	0%	65%	5%	0%	100%
4E							
Crab	10%	21%	13%	20%	18%	18%	100%
Bristol Bay Red King	0%	0%	0%	0%	50%	50%	100%
Norton Sound Red King	0%	0%	100%	0%	0%	0%	100%
Pribilof Island Red and Blue	50%	12%	0%	12%	14%	12%	100%
St. Matthew Blue	8%	20%	20%	17%	18%	17%	100%
Bering Sea C. opilio	8%	18%	21%	18%	21%	14%	100%
EAI Golden (Brown) King	8%	18%	21%	18%	21%	14%	100%
Adak (Petrel Bank) Red King	10%	19%	19%	17%	18%	17%	100%
Bering Sea C. bairdi							

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DIVISION OF BANKING, SECURITIES, AND CORPORATIONS
COMMUNITY DEVELOPMENT QUOTA PROGRAM

Frank H. Murkowski, Governor

February 9, 2005

Ragnar Alstrom, Executive Director
YDFDA
301 Calista Court, Suite C
Anchorage, AK 99518-3028

RE: 2006-2008 Multi Species and 2005 Crab CDQ
Initial Allocation Recommendations

Dear Mr. Alstrom:

The State of Alaska (State) received six Community Development Plan (CDP) applications for multi-species and associated bycatch Community Development Quota (CDQ) for the 2006-2008 and 2005 Crab CDP allocation cycle. The six CDP applications are from the six regional organizations or CDQ groups representing 65 eligible coastal communities bordering the Bering Sea. As a result of crab rationalization, two new crab CDQ species are added to the CDQ program beginning in 2005, which are Eastern Aleutian Islands (EAI) Golden (Brown) king crab and Adak (Petrel Bank) Red king crab.

Please remember that the State is required to start each allocation cycle with a clean slate. 50 C.F.R. 679.30(a) provides:

Allocations of CDQ and PSQ are harvest privileges that expire upon the expiration of the CDP. When the CDP expires, further CDQ allocations are not implied or guaranteed, and a qualified applicant must re-apply for further allocations on a competitive basis with other qualified applicants.

As you are well aware, the State is required to solicit submittal of CDPs, hold an application period and public hearings, and review and evaluate a multitude of factors in making an allocation recommendation to NMFS. These criteria are set out in State and federal regulations. The State strictly adhered to these requirements during this allocation process.

On August 15, 2004, the State notified the public of the 2006-2008 and 2005 Crab CDP Application Period and application packets were mailed to the six CDQ groups. The application period began on October 1, 2004 and ended November 1, 2004. Public notice scheduling a public hearing was provided on October 15, 2004 and held in Anchorage, Alaska on November 30, 2004. The State required revisions to each CDP in letters to the CDQ

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Website: <http://www.commerce.state.ak.us/bsc/CDQ/cdq.htm>

groups dated November 15th and December 6, 2004. Expanded public hearings were held during December 15 through 17, 2004 in Anchorage, Alaska.

The State reviewed and evaluated all proposed CDPs to determine whether the CDPs were consistent with the standards in 6 AAC 93.017 and met all requirements of 6 AAC 93 and 50 C.F.R. 679. The State also considered all 20 factors set forth in 6 AAC 93.040(b) when reviewing and evaluating the six proposed CDPs.¹

Additionally, the State's evaluation and review and initial allocation recommendation was guided by the regulatory requirement to "maximize the benefits of the CDQ program to the greatest number of participating communities."² Therefore, the State determined that the following factors should be given more weight: 6 AAC 93.040(b)(1)-(5), (b)(9), and (b)(11)-(17).

After reviewing the six 2006-2008 and 2005 Crab CDQ applications and having considered all factors for consideration under 6 AAC 93.040, CDQ Program Standards under 6 AAC 93.017, and the federal CDQ regulations under 50 C.F.R. 679, the State has determined initial allocation recommendations for all six CDQ groups. See Attached table. As in prior allocation cycles, the State used a by-catch model to determine the non-target species allocations. The calculations used for the 2006-2008 CDQ cycle were based on harvest statistics provided to the State by the CDQ groups for the period 1999-2003.

A brief explanation of some of the factors the State relied on in making this initial allocation recommendation for your group is set forth below. Given the tight timelines the State is working under during this allocation cycle, a more thorough explanation of all of the factors relied on in making this initial allocation recommendation would have meant delaying this process even further. Therefore, in the interest of keeping this allocation cycle on track, a brief explanation is all the state could offer at this point. The State is mindful of the fact that a more thorough explanation of the basis of this initial allocation recommendation would provide for a more meaningful reconsideration process. However, the State is also mindful of the fact that further delays could disrupt the State's ability to consult with the North Pacific Fishery Management Council (Council) at the April 2005 meeting. The State feels strongly that being prepared to meet with the Council in April is an important step in completing this allocation process in time for the groups to fish the new allocations.

Each CDQ group will have 30 days from the receipt of this initial allocation recommendation to request reconsideration from the State. The request for reconsideration shall be in writing. There is no state or federal regulation requiring this reconsideration process. As you know, the State has proposed changes to the regulations that would provide for a reconsideration process. Additionally, the State has provided this reconsideration process in past allocation cycles. However, there is no requirement to participate in the reconsideration process. For groups that provide a timely written request for reconsideration, the State will have 30 days to respond to that request and will incorporate these comments in consultation with the Council at the April 2005 meeting.

Last, the State does not believe that any information in this initial allocation recommendation should be classified as 'confidential'. If you disagree, within 10 days of receiving this document, please provide us with notice of what information contained in this document is 'confidential' and why.

¹ Public comment received at the public hearings was considered. 6 AAC 93.040(b)(20).

² The State determined that 6 AAC 94.040(g) applied because the six groups requested more allocation than was available.

Initial Allocation Recommendation for YDFDA

Per the 2000 U.S. Census, YDFDA has the 4th highest population and the highest unemployment rate among the CDQ groups.³ YDFDA has the 2nd lowest median household income and a high poverty rate among the CDQ groups. Based on these factors, the YDFDA region has one of the lowest standards of living and highest economic need among the CDQ groups.

YDFDA's past performance of existing offshore CDQ projects have been successful in generating capital for fisheries related business investment.⁴ YDFDA has been active investing in for-profit offshore investments in the Bering Sea that provide a steady income stream to support their active and proposed CDQ projects in-region. YDFDA has a well-prepared long-range transition plan to develop a self-sustaining fisheries economy in their eligible communities on the Yukon River.⁵

YDFDA's CDQ projects for employment, education, and training that provide career track opportunities have been successful.⁶ YDFDA has made considerable efforts to provide employment opportunities for local residents both onshore and offshore. However, the Team feels YDFDA could improve in their employment efforts on behalf of YDFDA residents, especially with industry partners.

YDFDA's active and proposed CDQ projects appear to have the likelihood of developing a self-sustaining local fisheries economy and a viable schedule for transition from reliance on an allocation to self-sufficiency. Per 50 C.F.R. 679.30(a)(6), "The plan for transition to self-sufficiency must be based on the qualified applicant's long-term revenue stream without CDQs." YDFDA's in-region projects appear to be designed with realistic measurable milestones for determining progress for their projects.⁷

After considering all of the factors in 6 AAC 93.040, the CDQ Program Standards in 6 AAC 93.017, the federal CDQ regulations under 50 C.F.R. 679, and for the reasons set forth above, the State makes the following allocation recommendations:

Pollock allocation: 1% increase. The Team feels this is the proper allocation necessary to achieve the milestones and objectives in the proposed CDP.

Pacific cod allocation: No adjustment.

Bristol Bay Red king crab allocation: No adjustment.

Bering Sea Fixed Gear Sablefish allocation: No adjustment.

Atka mackerel and Pacific Ocean Perch allocation: 2% increase. The fact that YDFDA, along with other groups, have begun to successfully harvest these two species was taken into consideration.

³ 2000 Census, <http://www.census.gov>

⁴ Offshore investments, http://www.commerce.state.ak.us/bsc/CDQ/cdq_handbook/18_cdq_chapt5_YDFDA.pdf

⁵ 2006-2008 MS CDP, Binder I, V. CDQ Planning, A. "Transition Plan From CDQ Program to Self-Sufficiency" to C. "Other CDQ Planning Information Which May Assist in The Evaluation of The Application" pages 75-16

⁶ 2004 Third Quarter Report, II Community Development, C. "Employment" and D. "Training" pages 24-30

⁷ 2006-2008 MS CDP, Binder I, Executive Summary, E. "Goals and Objectives/Milestones of The CDP" to G. "Management Strategy to Fish CDP Projects" pages 11-20

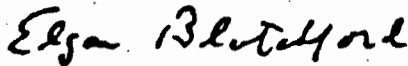
Yellowfin sole allocation: 3% decrease. The fact that YDFDA, along with other groups, have begun to successfully harvest this species was taken into consideration. In making this recommendation, the State also took into consideration bycatch requirements to prosecute the groundfish fishery among the CDQ region as a whole.

Rock sole allocation: No adjustment.

Eastern Aleutian Islands Golden king crab and Adak Red king crab allocation: 14% allocation.

The State did not recommend adjustments in the majority of non-target species. Unless otherwise noted, adjustments in non-target species were the result of the State's bycatch matrix.

Sincerely,



Edgar Blatchford
Commissioner

Attachment

cc: Governor Frank H. Murkowski
CDQ Team

Appendix 7

April 11, 2005, Letter from the Council to the Governor of Alaska

North Pacific Fishery Management Council

April 2005 Council
mtg.

Stephanie Madsen, Chair
Chris Oliver, Executive Director

Telephone (907) 271-2809



605 W. 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Fax (907) 271-2817

Visit our website: <http://www.fakr.noaa.gov/npfmc>

April 11, 2005

Governor Frank H. Murkowski
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Murkowski:

At its recent April meeting, the North Pacific Fishery Management Council (Council) reviewed the State of Alaska CDQ Team's draft allocation recommendations for the 2006 - 2008 allocation cycle for the western Alaska Community Development Quota (CDQ) Program. Included in these recommendations are allocations to the CDQ groups for groundfish, prohibited species, crab, and halibut. The Council also reviewed the CDQ Team's initial allocation recommendations for two new crab species that were included in the program starting in 2005: Eastern Aleutian Islands golden king crab and Adak red king crab. The draft allocation recommendation letter sent to the Council (March 31, 2005) describes the process by which the CDQ Team established its recommendations and provides its rationale for each recommendation based upon the applicable regulations. As you know, State and Federal regulations¹ specify that the State of Alaska shall consult with the Council regarding its allocation recommendations prior to their submittal to the National Marine Fisheries Service (NMFS), and State regulations require that any comments from the Council are incorporated into the written findings submitted to NMFS.

Commissioner Blatchford, Department of Commerce Community and Economic Development (DCCED), presented the CDQ Team's initial recommendations to the Council on April 8, 2005, for the next phase of the CDQ allocations. The Council appreciated the presentation by Commissioner Blatchford, and the extensive dialogue that ensued regarding both the State's allocation process and the rationale used to determine the draft recommendations. We will be transcribing that dialogue and will forward a copy to your office and the CDQ Team in the near future. The Council recognizes that these represent draft recommendations, and that after considering applications for reconsideration from the CDQ groups, the Governor's final allocation recommendations will be forwarded to NMFS with the proposed Community Development Plans.

The Council continues to strongly support the CDQ Program, and is committed to the goal of the program to provide the means for starting or supporting projects that will result in ongoing, regionally based, fisheries-related economies in western Alaska. The CDQ Program has grown to be a major source of revenue, employment, and stability in these rural, fishery-dependent communities, and the growth of the program and the diversity of its effects have been rapid and widespread.

However, while the CDQ Program has provided significant benefits to western Alaska, many concerns have been raised by members of the Council as the program continues to mature. These concerns are related primarily to the way in which the program standards and evaluation criteria in State regulation are applied by the State CDQ Team in its evaluation of the Community Development Plans and development of the allocation recommendations, and include concerns regarding the ability of the CDQ groups to

¹6 AAC 93.040(h) and 50 CFR 679.30(c).

understand the most important factors for consideration and the relative weighting of the criteria in each new allocation cycle. The Council therefore encourages the State of Alaska to establish a small "blue ribbon" committee to conduct a thorough review of the CDQ program, and the process by which allocations are determined, in order to ensure that the program continues to grow and operate in a manner that provides the maximum benefit to western Alaska communities. The intent is that upon completion of the review, the committee would provide a report to the Governor, including any recommendations. The Council recommends the following elements be included in such a review and report:

- Review of the State CDQ regulations to ensure that all regulations continue to fit the program as it evolves
- Thorough and independent financial review of the CDQ investments, procedures and commitments
- Prioritization of the goals of the CDQ Program with regard to following:
 - Investment in local community infrastructure
 - Improvement in basic needs for community residents
 - Development of sustainable business ventures in the CDQ regions
 - The need to expand opportunities for CDQ investment and development outside fisheries businesses
 - Other items identified by the Governor

The Council appreciates the effort with which the State of Alaska conducts the CDQ allocation process. I hope that these comments will serve to improve this process for all involved, including the CDQ groups, their industry partners, the State of Alaska, NMFS, and the Council. The Council welcomes any suggestions you may have in this regard, and is willing to provide any additional comments, if the State requests, once your recommendations for the 2006 - 2008 allocations are finalized. The Council's next meeting is June 1 - 8 in Girdwood.

Sincerely,

Stephanie D. Madsen

Stephanie Madsen, Chair
North Pacific Fishery Management Council

Cc: Edgar Blatchford, Commissioner, DCCED
Dr. Jim Balsiger, Regional Administrator, NOAA Fisheries Alaska Region

Appendix 8

April 27, 2005, Press Release by the State of Alaska, Office of the Governor

State of Alaska
OFFICE OF THE GOVERNOR

Frank H. Murkowski
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE



Becky Hultberg
Press Spokeswoman
907-465-3500
FAX: 907-465-3532
www.gov.state.ak.us

FOR IMMEDIATE RELEASE: April 27, 2005

No. 05-070

"Blue Ribbon" Panel to Review CDQ Program
After 13 years, Governor says it's time for a thorough review

(Juneau) – Governor Frank H. Murkowski Wednesday announced the appointment of a "Blue Ribbon" Community Development Quota Program Review Panel.

"The CDQ program has been a story of success in bringing investment and dollars into areas in great need of economic activity," said the governor. "But, like anything, the program can be improved. I have charged this panel with doing a comprehensive review of the CDQ program. They will report back to me the program's benefits, but also changes we can make to ensure a strong CDQ program going forward."

The panel will meet to conduct a thorough review of the CDQ program, including its regulations, investments, goals, timeline of allocations and state oversight.

Appointed by the governor to the panel are Ed Rasmuson of the Rasmuson Foundation, Stephanie Madsen of the Pacific Seafood Processors Association, Ron Miller of AIDEA, Tom Case of the University of Alaska Anchorage College of Business and Public Policy and Dennis Metrokin of the Koniag Corporation.

Carl Marrs will serve as the panel's facilitator.

The objective of the CDQ program is to enhance the social and economic development of Western Alaska. The North Pacific Fishery Management Council established the CDQ program in 1992. Each year the council sets a total allowable catch of all species in the Bering Sea. The CDQ program divides a portion of the total allowable catch between six CDQ groups representing 65 communities in the Bering Sea region.

CDQ groups take their percentage of the species quota and either fish it or lease it out to other vessels and companies. Profits are reinvested in the fishing industry and used to help develop fisheries related onshore economic activity.

The governor has asked the panel to report back to him within three months.

###

Appendix 9

May 26, 2005, Letter from the Blue Ribbon Committee on CDQs
to the Governor of Alaska

Blue Ribbon Committee
On CDQ's
301 West Northern Lights Blvd # 412
Anchorage, Alaska 99509

May 26, 2005

RECEIVED

Honorable Frank Murkowski Governor
State of Alaska
Juneau, Alaska 99811

MAY 31 2005

SOA / DEPT OF COMMERCE
CDQ PROGRAMS

Dear Governor Murkowski:

You have appointed us as a Blue Ribbon Committee to organize, review and ultimately recommend to you potential changes to the existing CDQ programs in Western Alaska.

This change will require us to hold a number of meetings both in Anchorage and in the communities around Western Alaska that are affected by the CDQ programs. For the Blue Ribbon Committee to be effective, we will need to review all policies, regulations and laws both State and Federal so that we can make informed recommendations to you on changes that may be necessary to streamline the programs. The support from your departments and your office is critical. We will need access to all audit records, audit reports, financials, operation plans and long term plans on how the CDQ's intend to carry out their mission to enhance the future of these communities.

We also request that you hold up any decision to proceed with the existing reallocation of the CDQ quota programs (with the exception of the Adak red and Eastern golden king crab allocations) until the Blue Ribbon Committee can assess the program and send its finding and recommended changes to you. It would be in the best interest of all to have any such changes considered by Commissioner Blatchford in his recommendation to you. We do not believe that holding up the decision on the existing quota reallocations and leaving it status quo, would result in any harm to the CDQ program and its partners.

Respectfully Yours



Blue Ribbon Committee on CDQ's
Edward Rasmuson
Chairman

Appendix 10

May 31, 2005, Letters from the State of Alaska to the Six CDQ Groups



OFFICE OF THE COMMISSIONER

Frank H. Murkowski, Governor

May 31, 2005

Larry Cotter, CEO
APICDA
234 Gold Street
Juneau, AK 99801-1211

Dear Mr. Cotter:

As you are aware, when members of the North Pacific Fishery Management Council (Council) reviewed the State's draft allocation recommendations, they formally recommended that Governor Murkowski establish a "Blue Ribbon" CDQ Review Panel (Panel) to review the program in its entirety. In a letter dated May 26, 2005, Ed Rasmuson chairman of the Panel asked that, with the exception of the new species allocations of Eastern Aleutian Islands Golden and Adak red king crab for 2005, the 2006-2008 allocations be held until the Panel can assess the program and send its findings to the Governor.

Accordingly, I will be holding the 2006-2008 Multi Species Community Development Quota (CDQ) allocation, with the exception of the two new crab allocations for 2005, in my office pending the completion of the Panel's report to the Governor. After reviewing the Panel's recommendations I will forward my final allocation recommendation to the Governor.

I agree with the Council and Panel that this review is necessary to ensure continued CDQ program success in bringing economic development to rural Alaska for a long time into the future. Given the fact that the CDQ Program is one of the most successful state/federal programs in this state's history – I look forward to improving it.

Regards,

Edgar Blatchford
Commissioner



OFFICE OF THE COMMISSIONER

Frank H. Murkowski, Governor

May 31, 2005

Robin Samuelsen, President/CEO
BBEDC
P.O. Box 1464
Dillingham, AK 99576-1464

Dear Mr. Samuelsen:

As you are aware, when members of the North Pacific Fishery Management Council (Council) reviewed the State's draft allocation recommendations, they formally recommended that Governor Murkowski establish a "Blue Ribbon" CDQ Review Panel (Panel) to review the program in its entirety. In a letter dated May 26, 2005, Ed Rasmuson chairman of the Panel asked that, with the exception of the new species allocations of Eastern Aleutian Islands Golden and Adak red king crab for 2005, the 2006-2008 allocations be held until the Panel can assess the program and send its findings to the Governor.

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Regards,

Edgar Blatchford
Commissioner



OFFICE OF THE COMMISSIONER

Frank H. Murkowski, Governor

May 31, 2005

Phillip Lestenkof, President
CBSFA
P.O. Box 288
St. Paul, AK 99660-0288

Dear Mr. Lestenkof:

As you are aware, when members of the North Pacific Fishery Management Council (Council) reviewed the State's draft allocation recommendations, they formally recommended that Governor Murkowski establish a "Blue Ribbon" CDQ Review Panel (Panel) to review the program in its entirety. In a letter dated May 26, 2005, Ed Rasmuson chairman of the Panel asked that, with the exception of the new species allocations of Eastern Aleutian Islands Golden and Adak red king crab for 2005, the 2006-2008 allocations be held until the Panel can assess the program and send its findings to the Governor.

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Regards,

Edgar Blatchford
Commissioner



OFFICE OF THE COMMISSIONER

Frank H. Murkowski, Governor

May 31, 2005

Morgen Crow, Executive Director
CVRF
711 H Street, Suite 200
Anchorage, AK 99501-3461

Dear Mr. Crow:

As you are aware, when members of the North Pacific Fishery Management Council (Council) reviewed the State's draft allocation recommendations, they formally recommended that Governor Murkowski establish a "Blue Ribbon" CDQ Review Panel (Panel) to review the program in its entirety. In a letter dated May 26, 2005, Ed Rasmuson chairman of the Panel asked that, with the exception of the new species allocations of Eastern Aleutian Islands Golden and Adak red king crab for 2005, the 2006-2008 allocations be held until the Panel can assess the program and send its findings to the Governor.

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Regards,

A handwritten signature in cursive script that reads "Edgar Blatchford".

Edgar Blatchford
Commissioner



OFFICE OF THE COMMISSIONER

Frank H. Murkowski, Governor

May 31, 2005

Eugene Asicksik, President & CEO
NSEDC
420 L Street, Suite 310
Anchorage, AK 99201-1971

Dear Mr. Asicksik:

As you are aware, when members of the North Pacific Fishery Management Council (Council) reviewed the State's draft allocation recommendations, they formally recommended that Governor Murkowski establish a "Blue Ribbon" CDQ Review Panel (Panel) to review the program in its entirety. In a letter dated May 26, 2005, Ed Rasmuson chairman of the Panel asked that, with the exception of the new species allocations of Eastern Aleutian Islands Golden and Adak red king crab for 2005, the 2006-2008 allocations be held until the Panel can assess the program and send its findings to the Governor.

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Regards,

Edgar Blatchford
Commissioner



OFFICE OF THE COMMISSIONER

Frank H. Murkowski, Governor

May 31, 2005

Ragnar Alstrom, Executive Director
YDFDA
301 Calista Court, Suite C
Anchorage, AK 99518-3028

Dear Mr. Alstrom:

As you are aware, when members of the North Pacific Fishery Management Council (Council) reviewed the State's draft allocation recommendations, they formally recommended that Governor Murkowski establish a "Blue Ribbon" CDQ Review Panel (Panel) to review the program in its entirety. In a letter dated May 26, 2005, Ed Rasmuson chairman of the Panel asked that, with the exception of the new species allocations of Eastern Aleutian Islands Golden and Adak red king crab for 2005, the 2006-2008 allocations be held until the Panel can assess the program and send its findings to the Governor.

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Regards,

Edgar Blatchford

Edgar Blatchford
Commissioner

Appendix 11

Draft Minutes from the Blue Ribbon Panel Meeting on June 16, 2005

Blue Ribbon Committee on CDQ's

Public Meeting – June 16, 2005, Hilton Hotel – King Salmon Room, Anchorage, AK

CALL TO ORDER

Chairman Ed Rasmuson called the public meeting of the Blue Ribbon Committee meeting to order at 9:00 a.m.

Chairman Rasmuson welcomed panel members and guests of the Blue Ribbon Committee on CDQs.

MEMBERS PRESENT

Ed Rasmuson, Chairman, Blue Ribbon Committee
Stephanie Madsen, Member, Blue Ribbon Committee
Dennis Metrokin, Member, Blue Ribbon Committee
Ron Miller, Member, Blue Ribbon Committee
Thomas R. Case, Member, Blue Ribbon Committee

STAFF PRESENT

Carl Marrs, Project Manager
Theresa Cooper, Assistant (Recorder)

INTRODUCTION

Chairman Rasmuson – What we're planning to do is try to come up with some recommendations to the Governor by August 31st. That is the deadline. In doing that, we've got to be in the listening mode. We got here because of the contentious nature about every three years or so, for reallocation of the CDQ IFQ's. As a result, the governor has talked to me about it and indicated that we need to revisit how we got to where we are at today. We've been very successful and we've got to try to come up with new guidelines and try to streamline the process today so that in the future, the CDQ's themselves can operate in a manner they would like to become accustomed to with a certain amount of oversight, but not like it is today. Hopefully we can arrive at some joint solutions and make it palatable to all of us.

We're finding that there is a lot of restrictive nature in what the CDQ's can do and what they can't do and a lot of money is tied up in banks and other entities. There are only so many fish processing plants you can build and what have you. Most of the CDQ's have their own idea of what to invest their money in. Stevens felt that – and we all agree that a certain percentage – i.e., 10% of Bering sea allocation should go to Western Alaska and I'm very happy that it has been done so. We are here to support the ongoing efforts of CDQ's and the need for a less contentious existence with other CDQ's. We would love to see you all operate together. As an Alaskan, I would like to see Alaskans own more and more of the Bering Sea fisheries. I think it is our heritage and a very strong economic factor in our state. I would like to run the meeting so we have a chance to have the various CDQ's speak for 30-45 minutes and be able to ask questions so that we can write down some of your thoughts. We can hopefully come up with something intelligent that makes sense to all of us.

Blue Ribbon Committee on CDQ's

Public Meeting – June 16, 2005, Hilton Hotel – King Salmon Room, Anchorage, AK

We are also going to travel to have meetings within your areas. We can't visit all 65 communities, but we can go to one or two communities in the areas that you are serving.

GUESTS PRESENT

Guests of the Blue Ribbon Committee on CDQs introduced themselves as follows:

Rachel Baker, Alaska Department of Fish and Game
Ragnar Alstrom, YDEDA via teleconference
Phillip Lestenkof, CBSFA via teleconference
Robin Samuelson, BBEDC via teleconference
Scott Miller, KPMG
Jon Zuck, Technical Advisor, NSEDC
Nicole Kimball, NPMFC
Trevor McCabe, BBEDC, CVRF, YDEDA
Gilda Shellikoff, APICDA
Steve Rieger, NSEDC
Don Mitchell, NSEDC
Joe Kyle, COO, APICDA
Eric Olson, Fisheries Quota Manager, BBEDC
Morgen Crow, Executive Director, CVRF
Robert Williams, Director of Development, CVRF
Eugene Asicksik, President, NSEDC
Simon Kinneen, Fisheries Biologist, NSEDC
Janis Ivanoff, Community Benefits Director, NSEDC
Jim Barnet, Attorney, BBEDC
Bill Wilson, NPFMC
Charles Kozak, KPMG
Gerry Davis, YDEDA
John Walsh, J.M. Walsh & Co.
Greg Cashen, Alaska Department of Commerce
Alan Austerman, State of Alaska
Max Malavansky, City of St. George
Jonathan Thorpe, CFO, CBSFA
Bryce Edgmon, COO, BBEDC
Carl Peyton, BBEDC
Bob Leingang, Chief Officer, BBEDC
Gail Shubert, Attorney, APICDA

Chairman Rasmuson – I would like to ask people on the phone to testify first. Robin Samuelson wanted time certain at 2:00 p.m. With that, I'd like to start out – we also have Phil Lestenkof on the phone. Billy Charles (Chairman of the board) is with him. We set out the agenda and request comments from the groups and any additional comments that the CDQ's want to make. I would like people on the phone to testify first – any objections? Robin Samuelson will be on the phone at 2:00 p.m.