

**Council Motion on Community Development Quota (CDQ) Program
December 11, 2005**

(a) Management of CDQ reserves

The Council adopted Alternative 4 as its preferred alternative: Amend regulations to: 1) remove the prohibition against allowing the transfer of groundfish CDQ or halibut PSQ from one CDQ group to another CDQ group to cover harvest overages of groundfish CDQ or PSQ allocations, and 2) only allocate target species CDQ reserves among CDQ groups. CDQ target species allocations would be managed as hard caps and unallocated CDQ reserves would be managed as soft caps.

As part of this action, the Council also adopted the list of CDQ non-target and target species that would be provided in Federal regulation (see below).

Target species categories (by TAC and CDQ Reserve category)	
Area or subarea	Species
BS, AI, and Bogoslof	Pollock
BSAI	Pacific cod
BS and AI	Sablefish (fixed gear)
BS and AI	Sablefish (non-gear specific)
EAI/BS, CAI, and WAI	Atka mackerel
BSAI	Yellowfin sole
BSAI	Rock sole
BS	Greenland turbot
BSAI	Flathead sole
EAI, CAI, and WAI	Pacific Ocean perch
BSAI	Arrowtooth flounder
Non-target species (by TAC and CDQ reserve category)	
Area or subarea	Species
BSAI	Alaska plaice
AI	Greenland Turbot
BSAI	Northern rockfish
BSAI	Other flatfish
BSAI	Shortraker rockfish
BSAI	Rougheye rockfish
BS and AI	Other rockfish
BS	Pacific Ocean Perch
Existing exceptions	
BSAI	Other species (not allocated among CDQ groups)
BSAI	Squid (not allocated to CDQ Program)

(b) BSAI Amendment 71

The Council hereby rescinds its final action on Issues 1-7 of BSAI Amendment 71 taken at its June 2002 meeting, and adopts the following revised alternatives and options for analysis.

ALTERNATIVE 1. No Action

CDQ Program Oversight

Component 1. Define the role of government oversight in the CDQ Program

Do not amend the BSAI or crab FMPs to outline the role of government in oversight of the economic development aspects of the program.

Component 2. Extent of government oversight

Do not revise NMFS regulations governing the extent of oversight of the business activities of the CDQ groups and affiliated businesses.

Component 3. Allowable investments

Do not amend the purpose statement in Federal regulations to clarify the description of allowable projects.

Component 4. CDQ Program purpose

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.

CDQ Allocation Process

Component 5. Process by which CDQ allocations are made

Allocations would continue to be made through NMFS informal administrative adjudication. CDQ groups can appeal NMFS's decision to approve or disapprove the State's recommendations. Current allocations remain in effect if NMFS cannot approve or disapprove the State's recommendations before the allocation cycle ends.

Component 6. Fixed versus performance-based allocations

100% of CDQ is allocated on a competitive basis as recommended by the State of Alaska and approved by NMFS.

Component 7. CDQ allocation evaluation criteria

Evaluation criteria are not specified in Federal regulations.

Component 8. Duration of the allocation cycle

The State determines the length of the allocation cycle, but not in regulation.

ALTERNATIVE 2. Council Preferred Alternative from June 2002

CDQ Program Oversight

Component 1. Define the role of government oversight in the CDQ Program

Amend the BSAI groundfish FMP to specify the Federal government's responsibility for oversight of the CDQ program in addition to fishery management. Prior approval of CDPs and amendments to the CDPs is required. Government oversight of the CDQ Program and CDQ groups is limited to the following purposes:

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

Component 2. Extent of government oversight

Amend Federal regulations to clarify that government oversight (primarily requirements for reporting and prior approval of investments) extends to subsidiaries controlled by CDQ groups. To have effective management control or controlling interest in a company the ownership needs to be 51% or greater.

Component 3. Allowable investments

Limit CDQ groups to investing in fisheries related projects, with the exception of allowing each group to invest up to 20% of its previous year's pollock CDQ royalties in self-sustaining, non-fisheries related projects in the CDQ regions. Other non-fisheries related activities such as administration, charitable contributions, scholarships and training, and stocks/bond purchases would not be included within the 20% cap.

Component 4. CDQ Program purpose

Amend Federal regulations and the BSAI FMP to state:

The goals and purpose of the CDQ Program are to allocate CDQ to qualified applicants representing eligible Western Alaska communities as the first priority, to provide the means for investing in, participating in, starting or supporting commercial fisheries business activities that will result in an on-going, regionally based, fisheries economy and, as a second priority, to strengthen the non-fisheries related economy in the region.

(Fisheries related projects will be given more weight in the allocation process than non-fisheries related projects.)

CDQ Allocation Process

Component 5. Process by which CDQ allocations are made

Allocations would continue to be made through NMFS informal administrative adjudication.

- Option 1. Allocations would be established through Federal rulemaking rather than through the current administrative process.

Component 6. Fixed versus performance-based allocations

100% of CDQ is allocated on a competitive basis as recommended by the State of Alaska and approved by NMFS. The State must apply the evaluation criteria specified in Component 7, but it decides how to balance demographic and socioeconomic factors with performance criteria.

Component 7. CDQ allocation evaluation criteria

State CDQ allocation recommendations would be based on the following list of ten criteria published in Federal regulations:

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

Component 8. Duration of the allocation cycle

Establish a 3-year cycle in Federal regulations. Allow the State to recommend reallocation of CDQ mid-cycle under extraordinary circumstances. The State would be required to consult with the Council on recommended reallocations and recommended reallocations would need to be implemented by NFMS administrative adjudication.

ALTERNATIVE 3. State of Alaska Blue Ribbon Panel recommendations

CDQ Program Oversight

Component 1. Define the role of government oversight in the CDQ Program

- Option 1. Define in Federal regulations two specific oversight responsibilities for the State of Alaska, which are: 1) nonbinding review of proposed major investments, and 2) “transparency” reporting governed by the State Division of Banking and Securities.
- Option 2. Amend the BSAI FMPs and Federal regulations to minimize the role of NMFS and the Council in CDQ program oversight to the maximum extent permissible under law.

Component 2. Extent of government oversight

The Council recommends that the State implement regulations including: financial reporting requirements similar to reporting by ANCSA corporations; an annual report to communities; and disclosure of compensation for contractors, Board members, and top five employees of CDQ groups and their subsidiaries.

The State will provide an annual report to the Council about its oversight of the economic development aspects of the CDQ Program, including copies of each CDQ group’s annual report to its communities.

Component 3. Allowable investments

The Council recommends that the State implement regulations to limit each CDQ group to fisheries related projects, with the exception of allowing each group to invest up to 20% of net revenues in non-fisheries related projects in the CDQ region and to prohibit the funding of non-fisheries infrastructure projects unless the CDQ group was providing matching funds. Other non-fisheries related activities such as administration, charitable contributions, scholarships and training, and stocks/bond purchases would not be counted under the 20% cap.

Component 4. CDQ program purpose

Option 1. Amend Federal regulations and the FMPs to state:

The goals and purpose of the CDQ Program are to allocate CDQ to qualified applicants representing eligible Western Alaska communities as the first priority, to provide the means for investing in, participating in, starting or supporting commercial fisheries business activities that will result in an on-going, regionally based, fisheries economy and, as a second priority, to strengthen the non-fisheries related economy in the region.

Option 2. Amend Federal regulations and the FMPs to state:

The purpose of the CDQ Program is to provide eligible western Alaska communities with the opportunity to participate and invest in fishery-related business activities, and to use earnings derived there from in support of economic development in western Alaska in order to provide economic and social benefits to residents and to achieve sustainable and diversified local economies.

CDQ Allocation Process

Component 5. Process by which CDQ allocations are made

Allocations would continue to be made through NMFS informal adjudication.

Component 6. Fixed versus performance-based allocations

A portion of each group's CDQ allocation by species would be allocated on a variable basis every ten years starting in 2012. Baseline allocation recommendations to which this provision would be applied for the 2012-2021 allocation cycle would be determined through the current allocation process prior to implementation of Amendment 71.

Option 1. The fixed portion would be applied once based on the 2012 allocation and would remain fixed permanently.

Option 2. The fixed portion would be recalculated each cycle and would limit the amount the allocation could change during the next allocation cycle.

Suboption 1 (applies to both options): The fixed percentage will be between 85% and 95%. Ranges to be analyzed are 85%, 90%, and 95%.

Component 7. CDQ allocation evaluation criteria

The evaluation criteria are only applied to the portion of the CDQ that is not 'fixed'. Each CDQ group is evaluated based on the following list of six criteria:

1. Population/poverty level (as indicated in the U.S. Census).
2. Number of jobs created (permanent and temporary).
3. Amount of in-region investments in both fisheries and non-fisheries projects.
4. Amount and number of scholarships and training provided.
5. Community economic development (as documented by ADCCED, through measure of total local revenue and median household income).
6. The financial performance of the CDQ groups.

Option 1. The criteria and weighting/prioritization are established in the FMPs and Federal regulations. The analysis will need to address the following at a minimum:

1. Ranges of weighting for each criteria from 10-35%
2. How the different criteria would be defined and measured
3. How changes in weighting of each criteria might affect the different groups' allocations depending on their current levels of population, poverty, number of jobs created to date, amount/number of scholarships and training provided, etc.

Option 2. The criteria and weighting/prioritization are established in State regulations only.

Suboption 1 (applies to both options): The Council encourages the State of Alaska and the CDQ groups to jointly develop a recommended weighting proposal in time for Council final action.

Component 8. Duration of the allocation cycle

Establish a 10-year cycle in Federal regulation, to coincide with the U.S. Census. The first cycle would be 2012-2021.