


MEMORANDUM

TO: Council, SSC and AP Members
FROM: Chris Oliver 
Executive Director
DATE: October 1, 2005
SUBJECT: Community Development Quota (CDQ) Program

ESTIMATED TIME 2 HOURS (all C-2 items)
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ACTION REQUIRED

- (a) Initial Review of EA/RIR on management of CDQ reserves

BACKGROUND

In June 2004, the Council reviewed a draft analysis to consider amending regulations that govern which CDQ Program allocations (CDQ reserves) should be allocated to the individual CDQ groups. At that time, the Council approved two additional alternatives for consideration: (1) allow after-the-fact CDQ transfers; and (2) allow CDQ groups to manage the harvest of their quota among themselves using cooperatives. A revised set of alternatives was approved by the Council in October 2004. NMFS has continued to refine the alternatives for analysis; the current suite of alternatives would potentially allow the Council to modify the management of groundfish CDQ reserves and other CDQ fishery management measures. **The EA/RIR/IRFA was mailed to the Council on September 20. The executive summary is provided as Item C-2(a)(1). Initial review of the analysis is scheduled for this October meeting.**

This proposed action is intended to address concerns that the current groundfish and halibut prohibited species allocations were not designed to provide the CDQ groups with an amount of incidental catch or halibut prohibited species catch needed to completely harvest their target species allocations. The changes to CDQ fisheries management regulations considered in this analysis could provide more flexibility for the CDQ groups to fully harvest their target species and reduce the potential for quota overages, while still providing NMFS with adequate tools to manage the CDQ catch limits established for the BSAI fisheries as a whole.

NMFS has further refined the analysis to incorporate three components that address: (1) amending CDQ transfer regulations, (2) allowing CDQ groups to form cooperatives and pool their quota, and (3) identifying which CDQ reserves to allocate to individual CDQ groups, as well as, how allocated and non-allocated reserves should be managed (either with hard or soft caps, respectively). Each component is included in a progressive range of management alternatives that transition from very restrictive (Alternative 1 – status quo) to very flexible (Alternative 4, which includes all three of the above components). The analysis does not include all possible combinations of the components; however, the Council could further segregate or combine components as part of its preferred alternative.

Alternatives for consideration

Alternative 1: Status Quo. Do not amend CDQ fishery management regulations. CDQ and PSQ transfers between CDQ groups would not be allowed to account for in-season quota overages; CDQ groups would not be allowed to form cooperatives and pool their CDQ allocations; each BSAI TAC category allocated to the CDQ Program would be allocated among CDQ groups; all CDQ group allocations would be managed as hard caps; and changes to those TAC categories allocated to CDQ groups would continue to be made through rulemaking.

Alternative 2: Amend regulations to remove the prohibition disallowing the transfer of CDQ from one CDQ group to another CDQ group to cover overages of groundfish CDQ allocations.

Alternative 3: Amend regulations to: (1) remove the prohibition disallowing the transfer of CDQ from one CDQ group to another CDQ group to cover harvest overages of groundfish CDQ allocations, and (2) allow CDQ groups to form cooperatives and pool their groundfish CDQ allocations for purposes of quota management and monitoring.

Alternative 4: Amend regulations to: (1) remove the prohibition disallowing the transfer of CDQ from one CDQ group to another CDQ group to cover in-season harvest overages of groundfish CDQ allocations, (2) allow CDQ groups to form cooperatives and pool their groundfish CDQ allocations for purposes of quota management and monitoring, and (3) 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.

Option 1: Amend regulations to allow the Council to make future modifications to the suite of TAC categories allocated among CDQ groups during the annual groundfish harvest specifications process, rather than through rulemaking.

Option 1 is associated with Alternative 4 and the component to identify which CDQ reserves to allocate to individual CDQ groups. This option would allow the Council to determine which CDQ reserves to allocate to the individual CDQ groups during the annual groundfish specifications process. Allowing such changes to be made during the specifications process could allow future changes to the list of allocated or non-allocated CDQ reserves (as would be identified under Alternative 4, Component 3) to be made without corresponding rulemaking. Such changes could potentially be in response to future changes in BSAI TAC categories, particularly in relationship to multi-year CDQ percentage allocations; issues associated with increases or decreases in the annual TACs for target or non-target species; or other considerations.

Initial Review Draft

**Environmental Assessment/Regulatory Impact Review/
Initial Regulatory Flexibility Analysis**

for

**A Regulatory Amendment to Modify the Management of
Community Development Quota Groundfish Reserves**

Date: September 16, 2005

Lead Agency: National Marine Fisheries Service
Alaska Region

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Executive Summary

Background and purpose of this action

This document provides National Environmental Policy Act (NEPA), Regulatory Impact Review (RIR), and Regulatory Flexibility Act (RFA) analyses for a proposed action to modify the management of Community Development Quota (CDQ) Program groundfish allocations.

This action proposes preliminary alternatives to amend regulations at 50 CFR part 679 governing quota transfers, CDQ cooperatives and quota pooling, and the designation of which CDQ Program allocations (CDQ reserves) should be allocated among CDQ managing organizations (CDQ groups). Such revisions could provide more operational and catch accounting flexibility for CDQ groups to fully harvest their harvest species and reduce the potential for quota overages and subsequent enforcement actions. These revisions also could provide NMFS with the management measures necessary to more effectively manage the overall CDQ catch limits established for the BSAI groundfish fisheries.

The purpose of the CDQ Program is to allocate groundfish, prohibited species, halibut, and crab 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. The CDQ Program receives allocations of the annual catch limits for a variety of Bering Sea and Aleutian Islands (BSAI) target, incidental catch, and prohibited species, which are in turn allocated among six different CDQ groups. CDQ groups derive revenue from such allocations, which is then used for the economic benefit of the 65 communities participating in the program.

The CDQ Program's current fishery management objectives were developed, during a 1998 expansion of the CDQ Program, to strictly limit catch in the CDQ fishery to the CDQ reserve amounts allocated to the program. These objectives include not allowing catch under the program to accrue against non-CDQ portions of the total allowable catch (TAC) limits and prohibited species catch limits, managing target and incidental catch species allocations to the CDQ groups with the same level of strict quota accountability, and holding each CDQ group responsible to not exceed any of its groundfish CDQ allocations or its halibut prohibited species quota (PSQ) allocations. However, the current CDQ allocation regime was not designed to ensure that CDQ groups are provided with the allocations of incidental catch or halibut prohibited species needed to fully harvest target species allocations. The high level of quota accountability creates the potential that the CDQ groups may not be able to fully harvest their target species allocations because they may reach a quota for an incidental catch species or prohibited species first.

Alternatives considered for this action

Alternative 1: Status Quo. Do not amend CDQ fishery management regulations. CDQ and PSQ transfers between CDQ groups would not be allowed to account for in-season quota overages, CDQ groups would not be allowed to form cooperatives and pool their CDQ allocations, each BSAI TAC category allocated to the CDQ Program would be allocated among CDQ groups, all CDQ group allocations would be managed as hard caps, and changes to those TAC categories allocated to CDQ groups would continue to be made through the rulemaking.

Alternative 2: Amend regulations to remove the prohibition disallowing the transfer of CDQ from one CDQ group to another CDQ group to cover overages of groundfish CDQ allocations.

Alternative 3: Amend regulations to (1) remove the prohibition disallowing the transfer of CDQ from one CDQ group to another CDQ group to cover harvest overages of groundfish CDQ allocations and (2) allow CDQ groups to form cooperatives and pool their groundfish CDQ allocations for purposes of quota management and monitoring.

Alternative 4: Amend regulations to (1) remove the prohibition disallowing the transfer of CDQ from one CDQ group to another CDQ group to cover in-season harvest overages of groundfish CDQ allocations, (2) allow CDQ groups to form cooperatives and pool their groundfish CDQ allocations for purposes of quota management and monitoring, and (3) 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.

Option 1: Amend regulations to allow the Council to make future modifications to the suite of TAC categories allocated among CDQ groups during the annual groundfish harvest specifications process, rather than through rulemaking.

Effects and Impacts of this Action

The environmental assessment (EA) was prepared to address NEPA requirements requiring determination of whether a proposed action will result in significant impacts on the human environment. The alternatives considered by this action would not amend the amount of BSAI TAC limits directly allocated to the CDQ Program, nor would they modify CDQ fishing practices or locations in ways not already considered in prior NEPA analyses. Alternatives 2 and 3 primarily propose administrative changes. Alternative 4 would allow the Council to modify the allocation and management of CDQ reserves by identifying which reserves should be allocated to groups, as well as to specify how non-allocated CDQ reserves would be managed. The preliminary assessment of this action's effects on the natural, physical, and socioeconomic environments concludes that the action would not result in adverse environmental impacts.

The RIR was prepared to address the requirements of Presidential Executive Order (E.O.) 12866. The RIR finds that the alternatives proposed by this action could, by modifying certain elements of the existing CDQ fishery management regime, provide some additional degree of operational flexibility for the CDQ fishery. This would result in corresponding benefits to CDQ groups if these changes allowed them to catch more of their CDQ target species or to be subject to fewer enforcement actions for exceeding their quotas. Alternative 3 and Alternatives 4 could result in increased management costs for both CDQ groups and NMFS. The RIR does not indicate that this action would have an annual effect on the economy of \$100 million or more, or that it would trigger other threshold criteria associated with "significant regulatory actions" under E.O. 12866.

The Initial Regulatory Flexibility Analysis (IRFA) examines, per RFA requirements, potential impacts on regulated small entities. For this action, those entities are the six CDQ groups that represent 65 western Alaska communities. Each of the proposed alternatives is intended to modify, by some degree, the existing, relatively strict CDQ fishery management regime. Alternatives 3 and 4 could impose new recordkeeping and reporting requirements associated with CDQ cooperatives and quota pooling. The proposed alternatives are intended to provide some degree of benefit to CDQ groups; none of the alternatives appear to have any negative economic impacts on these small entities.