

ITEM C-1(a)
APRIL 2005**DIVISION OF BANKING, SECURITIES, AND CORPORATIONS
COMMUNITY DEVELOPMENT QUOTA PROGRAM***Frank H. Murkowski, Governor*

February 16, 2005

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

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

MAR 31 2005
N.P.F.M.C.

Dear Mr. Samuelsen:

You have received several oral and telephonic inquiries in response to the State's initial 2006-2008 Multi-Species and 2005 Crab CDQ allocation recommendations, which were sent to the six CDQ groups on February 9, 2005. This letter is a response to those inquiries.

Additional Rationale for Allocation Recommendation:

The State's initial allocation recommendations provided to you in letter form contained an explanation of some of the factors the State relied on in making its initial allocation recommendation for BBEDC.

We subsequently received several inquiries requesting information regarding any additional reasons for the State's initial allocation recommendations which were used by the voting members of the CDQ Team, but which were not set forth in the February 9, 2005 letter. At present, the State is in the process of preparing an explanation of the factors the voting members of the CDQ Team used in reaching the initial allocation recommendations. This information will be provided to the North Pacific Fishery Management Council (Council) at its April, 2005 meeting in Anchorage.

First Reconsideration Process:

As set forth in the initial allocation recommendations, each group will be allowed until March 11, 2005, to file a written request for reconsideration of the State's initial allocation recommendations. We strongly encourage CDQ groups who wish to request reconsideration, do so during this time period. The State will have 30 days to respond to such reconsideration requests. The State, by regulation, is required to consult with the Council concerning its allocation recommendations and will do so by making a written filing in conjunction with the Council's April 2005 meeting; this submission will include a discussion of any written requests for reconsideration received from any CDQ group and the State's response to each application for reconsideration.

2006-2008 Multi-Species and 2005 CDQ
Initial Allocation Recommendations
Page 2 of 2

Second Reconsideration Process After Consultation with the Council:

After consultation with the Council, the State will provide each CDQ group with the State's final allocation recommendations for each particular group. At that time, each CDQ group will have an opportunity to provide a written request for reconsideration of the State's allocation recommendations. However, **please note** that this second reconsideration process, filed after consultation with the Council, will be limited in scope.

In the second reconsideration period, the State will only consider new issues not previously raised in any group's written application for reconsideration to the State's initial allocation recommendations of February 9, 2005 that arose and exist as a result of: (1) the State providing a more detailed explanation of its initial allocation recommendations, which explanation(s) was not set forth in the letter of February 9, 2005; (2) any allocation changes the State made, if any, to its initial allocation recommendations during the first reconsideration process; and (3) any allocation changes made, if any, after consultation with the Council. The groups will only have **ten days** from the date the final allocation recommendations are faxed to the groups to prepare and provide to the State a written request for reconsideration.

Final Allocation Recommendation to NMFS

The State will incorporate any comments from the Council as well as comments and responses generated during any of the two reconsideration processes into its written findings submitted to the National Marine Fisheries Service on April 15, 2005.

If you have any questions please call me at 907-465-5536.

Sincerely,



Greg Cashen
CDQ Program Manager

cc: CDQ Team
National Marine Fisheries Service
North Pacific Fishery Management Council



Coastal Villages Region Fund

711 H Street, Suite 200 • Anchorage, Alaska 99501 • Phone 907 278-5151 • Fax 907 278-5150

March 31, 2005

Edgar Blatchford - Commissioner
State of Alaska - Department of Commerce,
Community and Economic Development
Division of Banking, Securities, and Corporations
Community Development Quota Program
PO Box 110809
Juneau, AK 99811

**RE: 2006-2008 CDP Application
Request for Reconsideration of Allocation Recommendations**

Dear Mr. Blatchford:

We are in receipt of your letter of March 14, 2005, where the CDQ Team provided its Draft Allocation Recommendations (the "*Recommendations*") to the Governor of Alaska for the 2006-2008 Multi Species CDQ Program (the "*Program*") and would respectfully request that the CDQ Team reconsider its Recommendations for the reasons listed below.

As we described in more detail in our application¹ to participate in the Program, Coastal Villages Region Fund ("*CVRF*") is a non-profit community development company, representing twenty (20) of the sixty-five (65) CDQ-eligible communities participating in the Program, or thirty-one percent (31%) of the participating communities. Likewise, the CDQ Team's findings confirm that CVRF's communities have the 2nd highest population², high unemployment, the lowest median household income, and the highest poverty rate among the CDQ groups.³ Yet, in terms of the allocations set forth in the Recommendations, the CDQ Team has reduced the vast majority of quota to be allocated to CVRF far below the modest twenty-seven percent (27%) requested in our application.⁴

The CDQ enabling legislation and regulations adopted thereunder make it clear that the goals and purpose of the CDQ program is to allocate CDQ to each of the eligible Western Alaska communities⁵ applying therefore. Likewise, the "*number of participating eligible communities,*" including population and economic condition, is listed as the primary factor⁶ for the CDQ Team to consider when making the Recommendations. In that regard, CVRF firmly believes that each of its communities is entitled to separate and equal consideration among all eligible communities and that, properly administered, each CVRF community should be treated fairly in the application process without regard to affiliation with one of the larger CDQ groups.

¹ The Executive Summary of which is incorporated herein by this reference.

² Using the most current data generated by the State for administering the PFD program, CVRF's communities have the highest population among CDQ Groups.

³ Page 16 of the Recommendation, first paragraph after *CVRF* heading.

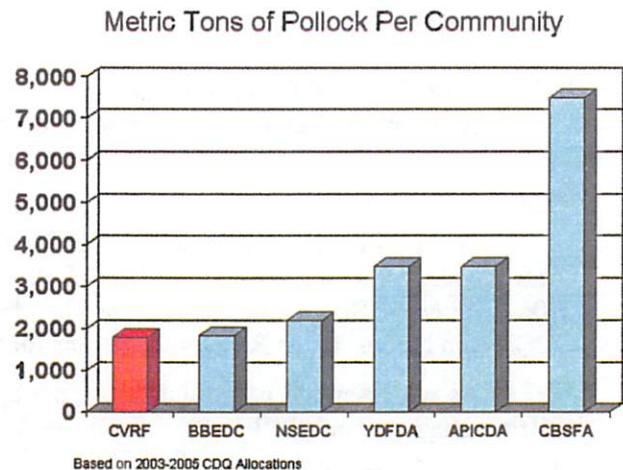
⁴ AI FG Sablefish is the only species allocation that was not reduced below that requested.

⁵ 50 C.F.R. 679.1(e)

⁶ 6 AAC 93.040(b)(1). Also acknowledged by the CDQ Team on page 3 of the Recommendations, last full paragraph, concluding that the first of the three most relevant factors to be considered by the CDQ Team in making its Recommendations is to "*maximize the benefits of the CDQ Program to the greatest number of participating communities.*"

Each of CVRF's communities is entitled, as a matter of law, to its pro-rata share of the available quota for each species as long as (i) they remain "eligible" within the meaning of applicable law, and (ii) the CDP in our application meets the requirements of such law. As a result, CVRF's communities are entitled to their fair share of the available CDQ, if requested, and in no event is it proper, or contemplated by the regulatory regime, that our communities would be discriminated against by having their pro-rata portion of the available CDQ reduced absent statutory justification.⁷ No such justification has been provided, nor does it exist,⁸ and the CDQ Team even lauded CVRF's past performance as very successful, well prepared, likely to develop a self-sustaining fisheries economy, and having otherwise met all of the statutory requirements applicable to it.⁹

Nevertheless, the CDQ Team cites the fact that "CVRF has the largest pollock allocation of any CDQ Group"¹⁰ as its primary justification for reducing our pollock allocation from the modest twenty-seven percent (27%) requested to twenty-four percent (24%). In fact, however, CVRF has the lowest pollock allocation on a per community basis and is being asked to fund projects for thirty-one percent (31%) of CDQ eligible communities with less than twenty-four percent (24%) of the available quota. Although CVRF admits that NMFS would be prohibited from allocating more than thirty-three percent (33%) of each CDQ reserve to any one CDQ group,¹¹ CVRF's requested allocation is well below that threshold. No other statutory basis exists for reducing an applicant's allocation just because (i) the number of communities represented exceeds a certain percentage, or (ii) an applicant's quota is higher than that allocated to another CDQ group.



As you correctly pointed out in your Recommendations, "further CDQ allocations are not implied or guaranteed, and a qualified applicant must reapply for further allocations on a competitive basis with other qualified applicants."¹² However, in several instances throughout the Recommendations, the CDQ Team treats the allocations as fixed by prior periods in the allocation cycle. For example, the State recommends a 3% reduction of one group's pollock allocation with increases of 1% to each of three other groups¹³. Upon review, however, it is clear that the relative percentages are reductions and increases to those group's historical allocations,

⁷ 6 AAC 93.040(g).

⁸ While the CDQ Team also lists concerns over CVRF administrative expenses and partner debt levels, those matters (i) have been properly managed by the CVRF board, (ii) were previously discussed with the CDQ Team, (iii) strictly adhere to all applicable law governing non-profit corporations generally and CDQ groups in particular, and (iv) reflect proper business decisions based on the risks and rewards associated with CVRF's operations.

⁹ Pages 16 – 19 of the Recommendations.

¹⁰ Page 17 of the Recommendations, last sentence of the last full paragraph.

¹¹ 50 C.F.R. 679.31

¹² Page 3 of the Recommendations, second paragraph citing 50 C.F.R. 679.30(a). See also the first sentence of the second paragraph of the CDQ Team's letter of February 9, 2005 to CVRF which acknowledges that the State is "required to start each allocation cycle with a clean slate."

¹³ Page 9 of the Recommendations, first sentence of the last paragraph.

not those requested in their respective applications to participate in this Program.¹⁴ Likewise, the State says that it recommends making “no adjustment” to CVRF’s pollock CDQ allocation¹⁵ but in reality proposed to reduce our modest request of twenty-seven percent (27%) down to twenty-four percent (24%).

Finally, 6 AAC 93.040(g) makes it clear that the CDQ Team should “seek to maximize the benefits of the CDQ program to the greatest number of participating communities” when it becomes necessary to apportion, or reduce, an applicant’s allocation request. As a result, it is incumbent upon the CDQ Team to ensure that the resulting allocations be weighted primarily towards the number of eligible communities, and the number of residents permanently domiciled in eligible communities to be served, and the economic need of those communities. To find otherwise results in unfair discrimination among eligible communities, disenfranchises our people and works a great injustice to both our communities and our people.

To the extent the CDQ Team still recommends a cut to our requested allocations following the reconsideration process, we would like to discuss the adverse impact of those cuts with the CDQ Team in more detail during the consultation required by 6 AAC 93.40(f). If you have any questions, or require additional information, please contact me at your earliest convenience.

Sincerely,



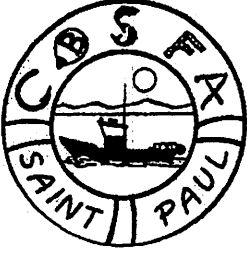
Morgen Crow, Executive Director
COASTAL VILLAGES REGION FUND

cc: CDQ Team
CDQ Groups

¹⁴ Similar references are made throughout the Recommendations to “no adjustment” or modest “increases” even though the resulting allocation recommendation is well below those requested by the applicant.

Likewise, the Recommendations contain a number of other legal and factual errors which will form the basis of our formal administrative appeal, should that action become necessary

¹⁵ Page 17 of the Recommendations, fourth full paragraph.



CENTRAL BERING SEA FISHERMEN'S ASSOCIATION

Post Office Box 288 ▲ St. Paul Island, Alaska 99660 ▲ Phone (907) 546-2597 ▲ Fax (907) 546-2450

RESOLUTION 05-01

A RESOLUTION OF THE CENTRAL BERING SEA FISHERMEN'S ASSOCIATION (CBSFA) BOARD OF DIRECTORS ENDORSING THE STATE OF ALASKA'S (STATE) 2006-2008 MULTI-SPECIES AND 2005 CRAB COMMUNITY DEVELOPMENT QUOTA (CDQ) INITIAL ALLOCATION RECOMMENDATIONS ANNOUNCED IN A LETTER TO CBSFA DATED FEBRUARY 9, 2005, FROM COMMISSIONER EDGAR BLATCHFORD, AND FURTHERMORE CBSFA REQUESTS THAT THE NATIONAL MARINE FISHERIES SERVICE APPROVE THE STATE'S INITIAL ALLOCATION RECOMMENDATIONS WITHOUT CHANGE.

WHEREAS, on August 15, 2004, the State notified the public of the 2006-2008 Multi-Species and 2005 Crab Community Development Plan (CDP) Application Period, which began on October 1, 2004 and ended November 1, 2004; and

WHEREAS, the State received six CDP applications for the 2006-2008 multi-species CDQ and the new 2005 crab CDQ; and

WHEREAS, a public notice was given on October 15, 2004, of a public hearing on the six CDP applications and such public hearing was held on November 30, 2004, in Anchorage, Alaska and CBSFA was afforded an opportunity to present its past CDP accomplishments and its 2006-2008 CDP projects; and

WHEREAS, expanded public hearings were held on the six CDP applications during December 15-17, 2004, in Anchorage, Alaska in which CBSFA was again provided an opportunity to make a presentation on its CDP's and was required to answer questions from the State; and

WHEREAS, the State reviewed and evaluated all proposed CDP applications to determine whether the CDP applications 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 CDP applications; and


WHEREAS, after reviewing the six CDP applications and having considered all relevant factors under State and Federal law and policy, the State has determined initial allocation recommendations for all six CDQ groups, including for CBSFA; and


WHEREAS, the CBSFA board of directors agree that the State has adhered to and met all State and Federal CDQ regulations governing the 2006-2008 multi-species and 2005 crab CDQ application process and that the allocations to CBSFA have been properly and fairly determined.

NOW THEREFORE BE IT RESOLVED THAT the CBSFA board of directors—

1. Endorses of the State of Alaska's 2006-2008 Multi-Species and 2005 Crab CDQ Initial Allocation Recommendations; and
2. Requests that no reductions in the allocations to CBSFA be made during the appeals process without giving CBSFA the opportunity to contest any such changes; and
3. Requests that the National Marine Fisheries Service approve the State's initial allocation recommendations only if no adverse changes are made in the initial allocations to CBSFA by the State.

PASSED AND APPROVED BY A DULY CONSTITUTED QUORUM OF THE BOARD OF DIRECTORS OF THE CENTRAL BERING SEA FISHERMEN'S ASSOCIATION THIS 3rd DAY OF MARCH 2005, BY A VOTE OF 2 FOR AND 0 OPPOSING AND 0 ABSTENTION(S).


Myron Melovidov, Chairman


Rena Kudrin, Secretary



CHAPTER 093 WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM

6 AAC 93.010 PURPOSE OF REGULATIONS.

The purpose of this chapter is to implement the state's role in the Western Alaska Community Development Quota Program (CDQ Program) for the Bering Sea and Aleutian Islands Area under 50 C.F.R. 679.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
AS 44.33.020 (11)

6 AAC 93.012 REFERENCES TO FEDERAL LAW.

In this chapter, each reference to a provision of 50 C.F.R. 679 refers to that provision as revised as of June 9, 1999.

History - Eff. 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
AS 44.33.020 (11)

6 AAC 93.015 CDQ TEAM; RESPONSIBILITIES; LEAD STATE AGENCY.

(a) To carry out the state's role in the CDQ program under 50 C.F.R. 679, a CDQ team shall perform functions as directed in and under this chapter. The CDQ team consists of

- (1) the commissioner of the Department of Community and Economic Development, or one or more of the commissioner's representatives from that department, including one person to act as CDQ manager;
- (2) the commissioner of the Department of Fish and Game, or one or more of the commissioner's representatives from that department; and
- (3) one or more other state employees or state officials designated jointly by those commissioners, if additional members of the team would be beneficial.

(b) The Department of Community and Economic Development is the lead agency. CDQ program material submitted under this chapter shall be submitted to the lead agency.

(c) To fulfill the purpose of this chapter, including providing accountability to the CDQ program, the CDQ team shall

- (1) solicit submittals of community development plans (CDP) from eligible communities;

- (2) review and evaluate proposed CDPs;
- (3) make recommendations regarding CDQ allocations and changes to allocations;
- (4) review and make recommendations regarding amendments to approved CDPs;
- (5) monitor the performance of each CDQ group in achieving the group's milestones and objectives in its CDP;
- (6) seek to ensure consistency between the CDQ program standards in 6 AAC 93.017 and a CDQ group's activities that are subject to this chapter and 50 C.F.R. 679; and
- (7) based on reports and other information obtained under this chapter, prepare and submit to the governor, for the governor's review, approval, and necessary action, the state's annual progress report described in 50 C.F.R. 679.30(g) and (h).

(d) The governor will, in the governor's discretion, delegate in writing the responsibility for carrying out one or more duties of the governor under this chapter to the CDQ team.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
AS 44.33.020 (11)

Editor's Notes - The mailing address for submitting material under this chapter is: CDQ Team, Office of the Commissioner, Department of Community and Economic Development, P.O. Box 110893, Juneau, Alaska 99811-0893.

6 AAC 93.017 CDQ PROGRAM STANDARDS.

To carry out the state's role under 50 C.F.R. 679 and this chapter, the CDQ team shall apply the standards listed in (1) - (9) of this section, as applicable. The CDQ team shall determine whether

- (1) a CDP provides specific and measurable benefits to each community participating in the CDP;
- (2) as part of a CDP, a CDQ project provides benefits to individual residents of a participating community, to a single participating community, or to all participating communities;
- (3) a proposed CDP has the support of all participating communities;
- (4) each CDQ project listed in a CDP has the support of the applicant's or CDQ group's board of directors, reflected by official action of the board;
- (5) before initiating a proposed CDQ project, a CDQ group exercised a level of due diligence that reflects the value of the investment, the risk involved, and the type of project;
- (6) a reasonable likelihood exists that a for-profit CDQ project will earn a financial return to the CDQ group;
- (7) the CDQ group has minimized legal and financial risk;
- (8) the CDQ group has clearly demonstrated how a proposed CDQ project will further the goals and purpose of the CDQ program as stated in 50 C.F.R. 679.1(c); and
- (9) in areas of fisheries harvesting and processing, the CDQ group, to the greatest extent possible, has promoted conservation-based fisheries by taking actions that will minimize bycatch, provide for full retention and increased utilization of the fishery resource, and minimize impact to essential fish habitats.

History - Eff. 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
AS 44.33.020 (11)

6 AAC 93.020 CDQ APPLICATION PERIOD.

- (a) Within a reasonable time before an application period is to begin, the CDQ team shall
- (1) establish the application period by scheduling a deadline for receipt of proposed CDPs from qualified applicants and by scheduling a projected time frame for
 - (A) initial evaluation;
 - (B) holding a public hearing to discuss all CDPs received; and
 - (C) final review;
 - (2) publish a notice that announces the CDQ application period, states the allocation cycle, and states the deadline for submitting a proposed CDP; the notice must be published in at least one newspaper of general circulation in Western Alaska and in at least one newspaper of general circulation in the state; and



- (3) mail a copy of the notice to each eligible community.
- (b) Except as provided in 6 AAC 93.075 (b), the deadline for submission of a proposed CDP set by (a)(1) of this section may not be less than 14 days after publication of the notice under (a) of this section.
- (c) If, after publication of the notice under (a) of this section, the CDQ team determines that it is necessary to change the allocation cycle, the CDQ team shall notify all applicants and eligible communities and publish notice of the change.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
AS 44.33.020 (11)

6 AAC 93.025 REQUIREMENTS FOR SUBMITTING A PROPOSED CDP.

- (a) To apply for an allocation under 50 C.F.R. 679, a qualified applicant must submit to the CDQ team, on or before the deadline set under 6 AAC 93.020, a complete proposed CDP that contains the information required by 50 C.F.R. 679.30(a), including
 - (1) a statement that the applicant is a qualified applicant as defined in 50 C.F.R. 679.2; this statement must be accompanied by a certificate of incorporation showing that the applicant is a nonprofit corporation formed under AS 10.20;
 - (2) a statement as to whether the applicant is also the managing organization for the proposed CDP;
 - (3) a statement that each community participating in the proposed CDP is an eligible community as defined in 50 C.F.R. 679.2;
 - (4) with the list of communities participating in the CDP required by 50 C.F.R. 679.30(a)(1)(iv),
 - (A) the population of each community;
 - (B) the economic conditions in each community; and
 - (C) evidence that the applicant has developed an effective outreach project to keep participating communities informed about the CDQ group's activities and to facilitate community input throughout the course of the CDP;
 - (5) for each member of the applicant's board of directors, a letter of support or election results from the board member's eligible community and a statement of support from the governing body of each community participating in the proposed CDP; the statement of support may be a copy of a resolution, letter, or other appropriate expression of support;
 - (6) for each species allocation, evidence, such as a contract with a business partner, that the applicant has not obligated, and does not intend to obligate, further allocations to a third party;
 - (7) for an applicant that is also a managing organization,
 - (A) evidence that the managing organization has a board of directors with a membership composed of at least 75 percent resident fishermen from the community or group of communities participating in the CDP, with at least one member from each community; and
 - (B) a statement of support from the governing body of each community that the organization represents; the statement of support may be a copy of a resolution, letter, or other appropriate expression of support;
 - (8) for a managing organization that will participate in a fishery on behalf of the applicant, but is not the applicant, a statement

- of support from the governing body of each community that the organization represents; the statement of support may be a copy of a resolution, letter, or other appropriate expression of support;
 - (9) information regarding the particular benefits that an allocation under the CDP would generate for the Bering Sea and Aleutian Islands region; in addition, the applicant may provide information regarding any benefits to the state or the United States;
 - (10) the applicant's existing and foreseeable business relationships; to meet the requirement of this paragraph, the applicant shall
 - (A) provide copies of any contractual service arrangements dealing with legal, lobbying, audit, accounting, allocation management, investment research, fund management, and similar services;
 - (B) provide copies of profit sharing arrangements;
 - (C) provide copies of funding and financing plans; and
 - (D) describe each type of relationship, including joint ventures, loans, partnerships, corporations, and, if applicable, distribution of proceeds;
 - (11) a copy of the investment policies that the applicant will follow for
 - (A) for-profit CDQ projects;
 - (B) infrastructure CDQ projects;
 - (C) fund and cash management CDQ projects; and
 - (D) other applicable CDQ projects;
 - (12) as part of the detailed description of each CDQ project required by 50 C.F.R. 679.30(a)(1)(i), information that
 - (A) identifies the project as an active or proposed CDQ project;
 - (B) describes the project's normal scope of operations; and
 - (C) indicates whether an active project should be classified as a core or noncore CDQ project;
 - (13) a milestone table that sets out specific and measurable objectives for each CDQ project and dates for achieving each objective;
 - (14) budgets, including
 - (A) a general budget for the proposed CDP that identifies all allocation revenue, project revenue, and project expenditures for the entire period for the proposed CDP;
 - (B) an annual budget listing detailed expenses for each CDP project for the first year of the proposed CDP; and
 - (C) an annual comprehensive budget for the allowable administrative expenses, as previously determined by the CDQ team, specifically indicating the expenses that are chargeable to the managerial, general administrative, and policy phases of a CDQ group and the group's projects;
 - (15) a description of how the applicant plans to report financial and audit information to the CDQ team throughout the course of its CDP, in accordance with 6 AAC 93.050; and
 - (16) any additional information that the CDQ team finds is necessary to determine whether to recommend approval of the proposed CDP under 6 AAC 93.040(c).
- (b) An eligible community may not
 - (1) submit more than one proposed CDP during a single CDQ application period; or
 - (2) participate in more than one CDP; this paragraph does not prevent an eligible community from participating in halibut allocations that are restricted by regulatory areas of the



International Pacific Halibut Commission and 50 C.F.R. 679.30.

(c) Except for circumstances that the CDQ team finds were beyond the applicant's control, the CDQ team may not evaluate a proposed CDP received after the deadline set under 6 AAC 93.020.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Al. Const., art. III, sec. 24

AS 44.33.020(11)

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at 6 AAC 93.015.

6 AAC 93.030 INITIAL EVALUATION OF PROPOSED CDPS.

(a) The CDQ team shall perform an initial evaluation of a proposed CDP submitted under 6 AAC 93.025 to determine whether the CDP is complete. Within 15 days after a proposed CDP is received, the CDQ team shall notify the CDP applicant of any information needed to make the CDP complete. The applicant must submit the needed information within 10 days after being notified by the CDQ team. If, after the initial evaluation period, the CDQ team finds that additional information is needed for completeness, the applicant will have 10 days after notification to provide the information.

(b) After the initial CDP evaluation, the CDQ team shall schedule a public hearing under 6 AAC 93.035 as required by 50 C.F.R. 679.30(b).

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Al. Const., art. III, sec. 24

AS 44.33.020(11)

6 AAC 93.035 PUBLIC HEARING.

(a) The CDQ team shall schedule at least one public hearing on all pending complete proposed CDPs, providing for a teleconference site in each geographical area that is subject to a proposed CDP.

(b) The CDQ team shall provide notice of the date and location of a public hearing

(1) to each applicant whose proposed CDP is the subject of the hearing;

(2) through newspaper publication; in addition, notice may be provided through other media; and

(3) to any other person the CDQ team believes will be interested in a pending CDP.

(c) A public hearing under this section must be recorded and transcribed. The transcript of the public hearing will be made available to the public, upon request, at the same time that the transcript is submitted under 6 AAC 93.045

(d) Repealed 8/19/99.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Al. Const., art. III, sec. 24

AS 44.33.020(11)

6 AAC 93.040 FINAL EVALUATION OF PROPOSED CDPS [COMPLETE CDP APPLICATIONS]

(a) After the public hearing under 6 AAC 93.035, the CDQ team shall evaluate all complete proposed CDPs to determine whether the CDPs are consistent with the standards in 6 AAC

93.017 and meet the applicable requirements of this chapter and 50 C.F.R. 679.

(b) The CDQ team shall consider the following factors when reviewing a complete proposed CDP:

(1) the number of participating eligible communities and

(A) the population of each community; and

(B) the economic conditions in each community;

(2) the size of the allocation requested by the applicant and the proper allocation necessary to achieve the milestones and objectives as stated in the proposed CDP;

(3) the degree, if any, to which each CDQ project is expected to develop a self-sustaining local fisheries economy, and the proposed schedule for transition from reliance on an allocation to economic self-sufficiency;

(4) the degree, if any, to which each CDQ project is expected to generate

(A) capital or equity in the local fisheries economy or infrastructure; or

(B) investment in commercial fishing or fish processing operations;

(5) the applicant's contractual relationship, if any, with joint venture partners and the managing organization;

(6) the applicant's and the applicant's harvesting and processing partners', if any, involvement and diversity in all facets of harvesting and processing;

(7) the coordination or cooperation with other applicants or CDQ groups on CDQ projects;

(8) the experience of the applicant's industry partners, if any;

(9) the applicant's CDQ projects for employment, education, and training that provide career track opportunities;

(10) the benefits, if any, to the state's economy or to the economy of communities that are not eligible to participate in the CDQ program that are in addition to the benefits generated by the proposed CDP for participating communities;

(11) a demonstration, through the information submitted under 6 AAC 93.025(a)(11), that the applicant has a formal, effective administrative process that sets out sound business principles and examples of due diligence that the applicant will exercise;

(12) the development, if any, of innovative products and processing techniques as well as innovation in harvesting gear for conservation and maximum utilization of the fishery resource;

(13) the applicant's ability to maintain control over each of its allocations;

(14) the capital or equity generated by the applicant's CDQ projects for fisheries-related business investment;

(15) the past performance of the applicant and the applicant's industry partners, as appropriate;

(16) the applicant's transition plan, including the objectives set out in the milestone table submitted under 6 AAC 93.025 (a)(13);

(17) for each CDQ project, the inclusion in the proposed CDP of realistic measurable milestones for determining progress;

(18) the degree of participating community input in developing the proposed CDP;

(19) the likely effectiveness of the outreach project described in 6 AAC 93.025(4)(C); and

(20) comments provided by other agencies, organizations, and the public.



- (c) After evaluation under this section, the CDQ team shall transmit to the governor for the governor's review and necessary action each proposed CDP and the CDQ team's evaluation and recommendation regarding each CDP. The governor will then make a written finding that a proposed CDP either
- (1) meets the requirements of this chapter and 50 C.F.R. 679 and will be recommended to the National Marine Fisheries Service (NMFS) for approval for an allocation in the amount requested by the applicant;
 - (2) meets the requirements of this chapter and 50 C.F.R. 679 and will be recommended to the NMFS for approval with a reduced allocation from the amount initially requested by the applicant; or
 - (3) does not meet the requirements of this chapter and 50 C.F.R. 679 and will not be recommended to the NMFS for approval.
- (d) If there is a sufficient quota of fishery resource available to meet the combined total allocations requested in all of the complete proposed CDPs that meet the requirements of this chapter and 50 C.F.R. 679, the governor will, in the governor's discretion, recommend all of those CDPs to the NMFS for approval.
- (e) If there is an insufficient quota of fishery resource available to meet the combined total allocations requested in all of the complete proposed CDPs that meet the requirements of this chapter and 50 C.F.R. 679, the governor will, in the governor's discretion and after consultation by the CDQ team under (f) of this section,
- (1) apportion the available quota among the applicants whose CDPs will be recommended for approval and will recommend the apportionment to the NMFS for approval; or
 - (2) select those complete proposed CDPs that the governor believes best satisfy the objectives, requirements, and criteria of the CDQ program and will recommend those CDPs to the NMFS for approval; a recommendation under this paragraph may also include a recommendation for an apportionment under (1) of this subsection.
- (f) Before the CDQ team recommends an apportionment of the quota under (e) of this section, it shall consult with the applicants that might be affected by the proposed apportionment. The CDQ team may request an applicant to submit a revised CDP to assist the CDQ team in determining the
- (1) economic feasibility and likelihood of success of the proposed CDP with an allocation of fishery resource less than that requested; and
 - (2) particular benefits that may be derived by participating communities affected by an allocation of fishery resource less than that requested.
- (g) In apportioning the quota of fishery resource under (e) of this section, the governor will consider the information specified in this chapter and 50 C.F.R. 679 and seek to maximize the benefits of the CDQ program to the greatest number of participating communities.
- (h) Before forwarding recommendations to the NMFS under 6 AAC 93.045, the governor will, or, at the governor's direction, the CDQ team shall, consult with the North Pacific Fishery Management Council regarding the proposed CDPs to be recommended by the governor for allocations and incorporate

any comments from the council into the written findings required under (c) of this section and 50 C.F.R. 679.30(d).
History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
AS 41.33.020 (11)

6 AAC 93.045 RECOMMENDATIONS TO THE NMFS REGARDING PROPOSED CDPs.

After making written findings under 6 AAC 93.040 regarding the complete proposed CDPs, the governor will

- (1) forward the proposed CDPs to the NMFS with written findings, rationale, and recommendations for approval of proposed CDPs and CDQ allocations; and
- (2) notify in writing each CDP applicant as to whether the applicant's proposed CDP was recommended to the NMFS for approval, including whether any reduction of allocation was recommended under 6 AAC 93.040.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
AS 41.33.020 (11)

6 AAC 93.050 QUARTERLY AND ANNUAL REPORTS.

- (a) In order for the CDQ team to monitor a CDP as required under 50 C.F.R. 679.30, a CDQ group shall submit to the CDQ team a quarterly report for each calendar quarter in which that group's CDP is in effect, and an annual report as described in (d) of this section. Each quarterly report must be submitted by the deadline stated in (b) of this section and must contain the information required by (c) of this section.
- (b) A CDQ group shall submit a quarterly report to the CDQ team, to be received or postmarked on or before
- (1) April 30 for a CDP in effect during the preceding January, February, or March;
 - (2) July 30 for a CDP in effect during the preceding April, May, or June;
 - (3) October 30 for a CDP in effect during the preceding July, August, or September; and
 - (4) January 30 for a CDP in effect during the preceding October, November, or December.
- (c) A quarterly report submitted under this section must include
- (1) information describing how, during the period covered by the report, the CDP group has met the milestones and objectives of the CDP as set out in the CDP;
 - (2) a year-to-date report of all CDQ harvesting and processing activities of the CDQ group;
 - (3) comprehensive financial statements if required by the CDQ team; a statement required under this paragraph must include, as applicable,
 - (A) a consolidated balance sheet;
 - (B) a consolidated income statement that clearly identifies, by CDQ project, revenue and expenditures;
 - (C) a cash flow statement; and
 - (D) financial statements for the CDQ group's subsidiaries;
 - (4) complete year-to-date data regarding training, education, and employment under the CDP, provided in a format specified by the CDQ team;
 - (5) minutes for any CDQ group board or directors meetings



that were held during the quarter; and

(6) any other information that the CDQ team determines is necessary to carry out the state's role in the administration of the CDQ program; if the CDQ team requires additional information under this paragraph, the CDQ team shall notify the CDQ group in writing at least 15 days before the report is due.

(d) The quarterly reports submitted under this section for a calendar year are subject to an independent audit performed by a reputable accounting firm. The CDQ group's selection of an accounting firm is subject to the CDQ team approval. The independent audit constitutes a CDQ group's annual report and must be submitted by the CDQ group to the CDQ team, to be received or postmarked no later than May 31 of the year following the calendar year covered by the audit. The audit must include

(1) a report that indicates whether the CDQ group is meeting the milestones and objectives of the CDP as set out in its CDP; the CDP group shall meet with an auditor to develop agreed-upon procedures for the content of this report;

(2) consolidated financial statements, reported according to generally accepted accounting principles and, if determined necessary by the CDQ team, supplemental schedules reporting the financial position and results of operations for each of the CDQ group's consolidated for-profit subsidiaries classified in the CDP as a core CDQ project;

(3) a note to the financial statements in which the auditor details how financial results were determined and any other relevant information;

(4) a supplemental schedule detailing the CDQ group's general and administrative expenses;

(5) except for fund and cash management CDQ projects, a budget reconciliation between all CDQ projects and administrative budgets, and actual expenditures;

(6) a management report or letter; and

(7) any other information that the CDQ team determines is necessary to carry out the state's role in the administration of the CDQ program; if the CDQ team requires additional information under this paragraph, the CDQ team shall notify the CDQ group in writing at least 15 days before the group's annual report is due.

(e) In this section, "postmarked" means the

(1) United States Postal Service postmark;

(2) the date of placement with a courier-type delivery service as evidenced on the shipping documents;

(3) the date the document is delivered to the CDQ team by facsimile; or

(4) the date the document is delivered to the CDQ team by electronic mail.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/15/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Alaska Const., art. III, sec. 24

AS 44.35.020 - 11.

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at 6 AAC 93.015.

6 AAC 93.055 AMENDMENTS TO AN APPROVED CDP.

(a) General requirements. A CDP is a working business plan that must be kept current. A CDQ group that seeks to amend a CDP under this section and 50 C.F.R. 679.30 shall submit to the CDQ

team a written request for approval of the amendment under the appropriate process described in this section. A CDQ group may not engage in an activity that requires an amendment to the group's CDP until the amendment is recommended for approval by the state and approved by the NMFS.

(b) Submittal requirements. When submitting a proposed CDP amendment under (c) or (d) of this section, in addition to the information that is required to be submitted under 50 C.F.R. 679.30(g)(4) or (5), the CDQ group shall describe how the amendment

(1) is consistent with the standards in 6 AAC 93.017, the group's investment policies submitted under 6 AAC 93.25(a)(11), and the requirements of 50 C.F.R. 679; and
(2) will affect the CDQ group's ability to meet the milestones and objectives in its CDP.

(c) Substantial amendments. A substantial amendment to a CDP is subject to (f) and (h) of this section and 50 C.F.R. 679.30(g)(4). A substantial amendment requires the commissioner to make a recommendation for approval or disapproval before the proposed amendment can be forwarded to the NMFS under 50 C.F.R. 679.30(g)(4). A substantial amendment is required if a CDQ group intends to

(1) make a change described in 50 C.F.R. 679.30(g)(4)(iv);

(2) pursue a proposed CDQ project that will be classified in the amended CDP as a core CDQ project;

(3) add a new proposed CDQ project;

(4) make a substantial variation in the normal scope of operations for an active core CDQ project described under 6 AAC 93.025 (a)(12)(B); or

(5) engage in a CDQ activity that would result in an active noncore CDQ project being classified as a core CDQ project under 6 AAC 93.057.

(d) Technical amendments for noncore projects. A technical amendment under this subsection is subject to 50 C.F.R. 679.30(g)(5). If a CDQ group intends to pursue an activity described in this subsection, the group shall send a letter of notification to the CDQ manager, describing the activity and seeking a technical amendment to the CDP. With the letter of notification, the CDQ group shall include the information required by (b) of this section. An activity under this subsection is subject to (g) and (i) of this section and requires the CDQ manager to make a recommendation for approval or disapproval before the proposed amendment can be forwarded to the NMFS under 50 C.F.R. 679.30(g)(5). Subject to (g)(2) of this section, the CDQ manager will make a decision under this subsection within 10 days after a letter of notification is received. Notification under this subsection is required when a CDQ group intends to

(1) pursue a proposed noncore CDQ project that is clearly identified in the CDP text and budget, if the CDQ team advises the CDQ group that notification under this section is required; or

(2) make a substantial variation in the normal scope of operations of an active noncore CDQ project, if the variation will impact the CDQ project performance measures described in the milestone table submitted under 6 AAC 93.025 (a)(13);

(e) Other technical amendments. A technical amendment to a CDP is subject to 50 C.F.R. 679.30(g)(5). A technical



amendment requires the CDQ manager to review the materials submitted by the CDQ group and make a recommendation for approval or disapproval before the proposed amendment can be forwarded to the NMFS under 50 C.F.R. 679.30(g)(5). A technical amendment to the CDP under this subsection is required when a CDQ group intends to

(1) make a change in its board of directors or key administrative staff;

(2) make a change in a contract dealing with a business relationship described under 6 AAC 93.025 (a)(10)(A);

(3) add a harvesting or processing contract that is substantially similar to an existing contract in the group's approved CDP; the CDQ group shall provide a copy of the contract; or

(4) make any other change that the CDQ team determines is technical in nature.

(f) Review process for substantial amendments. The CDQ team shall use the following process in its review for a substantial amendment proposed under (c) of this section:

(1) the CDQ team shall determine within 30 days whether the amendment

(A) is consistent with the standards, policies, and requirements discussed under (b)(1) of this section; or

(B) will reduce the CDQ group's ability to meet the milestones and objectives in its CDP;

(2) if the CDQ team finds an amendment to be inconsistent under (1)(A) of this subsection or will reduce the CDQ group's ability to meet the milestones and objectives in its CDP,

(A) the CDQ team shall notify the CDQ group; the group will have 10 days to respond with more information;

(B) within 10 days after the CDQ group's response is received, the CDQ team shall repeat the review under (1) of this subsection; and

(3) the CDQ team shall repeat the process described in (2) of this subsection until the CDQ team recommends approval of the amendment or makes a determination under (h) of this section.

(g) Review process for technical amendments for noncore projects. The CDQ manager shall use the following process in the review of a technical amendment for a noncore project proposed under (d) of this section.

(1) the CDQ manager shall determine within 10 days whether the amendment

(A) is consistent with the standards, policies, and requirements discussed under (b)(1) of this section; or

(B) will reduce the CDQ group's ability to meet the milestones and objectives in its CDP;

(2) if the CDQ manager finds that an amendment is inconsistent under (1)(A) of this subsection or will reduce the CDQ group's ability to meet the milestones and objectives in its CDP,

(A) the CDQ manager shall notify the CDQ group; the group will have five days to respond with more information;

(B) within 10 days after the CDQ group's response is received, the CDQ manager shall repeat the review under (1) of this subsection; and

(3) the CDQ manager shall repeat the process described in (2) of this subsection until the CDQ manager recommends approval of the amendment or makes a determination under (i) of this section.

(h) Recommendation for disapproval of a substantial

amendment. If the CDQ team finds that a substantial amendment proposed under (c) of this section is inconsistent with the standards, policies, or requirements referred to in (b) of this section, or that the amendment will reduce the CDQ group's ability to successfully meet the milestones and objectives in its CDP, the CDQ team shall recommend that the commissioner forward the amendment to the NMFS with a recommendation for disapproval. If the commissioner decides to recommend disapproval under this subsection, the commissioner will notify the CDQ group, advising the group that it may request reconsideration under 6 AAC 93.090.

(i) Recommendation for disapproval of a technical amendment for a noncore project. If the CDQ manager finds that a technical amendment for a noncore project proposed under (d) of this section is inconsistent with the investment policies or federal requirements referred to in (b) of this section, or that the amendment will reduce the CDQ group's ability to successfully meet the milestones and objectives in its CDP, the CDQ manager shall recommend disapproval of the amendment. If the CDQ manager finds that the amendment is inconsistent with the standards in 6 AAC 93.017, the CDQ manager may recommend disapproval of the amendment. The CDQ group may request reconsideration of the CDQ manager's decision under 6 AAC 93.090.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
AS 44.33.020 (11)

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at 6 AAC 93.015.

6 AAC 93.057 RECLASSIFICATION OF CORE AND NONCORE PROJECTS.

(a) If the annual progress report prepared by the CDQ team under 6 AAC 93.015 will address a CDQ project classified in the CDP as a noncore CDQ project that has been found by the CDQ team to meet the criteria for a core CDQ project in 6 AAC 93.900, the CDQ team may reclassify a noncore CDQ project as a core CDQ project in that report and shall request the CDQ group to seek a substantial amendment to its CDP under 6 AAC 93.055 (c). For the purposes of this subsection, the criteria in the definition of "core CDQ project" at 6 AAC 93.900 (13)(C)(i) may not be considered.

(b) If a CDQ group believes that a project classified in the group's CDP as a core CDQ project should instead be classified as a noncore CDQ project, the CDQ group may petition the CDQ team to reclassify the project. A CDQ group may submit a petition under this subsection only between June 15 and August 15.

(c) The CDQ team shall consider the following factors in its review of a petition submitted under (b) of this section:

(1) the maturity of the business cycle, the stability of management, and the profitability of the project;

(2) the success of the project in meeting the milestones and objectives in the CDP;

(3) whether the majority of activities of the project are occurring in, or in proximity to, an eligible CDQ community; and

(4) the overall impact the project has on the success of the CDQ group's CDP.



(d) If the CDQ team approves a petition submitted under (b) of this section, the petition will be treated as a technical amendment that is recommended for approval by the NMFS under 50 C.F.R. 679.30(g)(5).

History - Eff. 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
AS 44.33.020 (11)

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at 6 AAC 93.015.

6 AAC 93.060 SUSPENSION OR TERMINATION OF A CDP; DECREASE IN ALLOCATION.

(a) The governor will, in the governor's discretion, recommend to the NMFS in writing that a CDP be partially suspended, or terminated or that allocations under CDP be decreased if, as part of the annual progress report prepared under 6 AAC 93.015 or in response to an allegation under (c) of this section, the CDQ team notifies the governor that the CDQ team has determined that a CDQ group

(1) has failed to comply with

(A) this chapter; or

(B) 50 C.F.R. 679;

(2) has failed to meet its milestones or objectives; or

(3) appears unlikely to meet its milestones or objectives.

(b) Nothing in (a) of this section precludes the governor from including a recommendation for a decreased allocation with a recommendation for a partial suspension.

(c) If, at any time during the course of a CDP, the CDQ team is advised that a CDQ group has failed to comply with 50 C.F.R. 679 or with this chapter, the CDQ Team will send a written notice of the allegation to the CDQ group at the address on file at the department for the group. The CDQ group may, within 10 days after receipt of the notice, submit to the CDQ team a written response to the allegation. The CDQ team shall consider the CDQ group's written response, if any, in deciding whether to make a recommendation to the governor under (a) or (b) of this section. If the CDQ team decides to make a recommendation under (a) or (b) of this section, the CDQ team shall include the CDQ group's written response, if any, with the recommendation transmitted to the governor.

(d) Before sending the governor's recommendation under (a) or (b) of this section to the NMFS, the CDQ team shall inform the CDQ group of the governor's decision. The CDQ group may request reconsideration of the governor's decision under 6 AAC 93.090.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
AS 44.33.020 (11)

6 AAC 93.070 CONFIDENTIAL RECORDS.

(a) Except as provided in (b) and (c) of this section, records submitted under this chapter by an applicant or a CDQ group that are in the possession of the governor or the CDQ team are subject to AS 09.25.110 - 09.25.120 and are open to inspection by the public during regular office hours.

(b) A participating community, applicant, CDQ group, or managing organization wishing to protect a record that was provided to the state under this chapter may file with the governor or CDQ team a written petition identifying the record

to be protected and showing good cause to classify the record as confidential. If, at the time of submission, a participating community, applicant, CDQ group, or managing organization wishes to protect a record being submitted under this chapter, the community, applicant, group, or organization shall mark the record as "confidential" and show good cause to classify the record as confidential.

(c) Good cause to classify a record as confidential under this section includes a showing that

(1) disclosure of the record to the public might competitively or financially disadvantage or harm the participating community, applicant, CDQ group, or managing organization with the confidentiality interest, or might reveal a trade secret or proprietary business interest; and

(2) the need for confidentiality outweighs the public interest in disclosure.

(d) If the governor or CDQ team determines that good cause exists under (c) of this section, the governor or CDQ team will, in writing, classify the records as "confidential" and restrict access to them.

(e) Except as provided in Alaska Rules of Court, a record classified as confidential under this section will not be made public or furnished to any person other than the United States Secretary of Commerce, the North Pacific Fishery Management Council, the Alaska Region of the National Marine Fisheries Service, the governor, the CDQ team and staff, or other authorized representatives of the governor.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

AS 44.33.020 (11)

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at 6 AAC 93.015.

6 AAC 93.075 GENERAL PROVISIONS.

(a) The governor will, in the governor's discretion, consider other factors not identified in this chapter if those factors are relevant to the decision or recommendation in question.

(b) The governor will, in the governor's discretion, relax or reduce the notice requirements of 6 AAC 93.020 - 6 AAC 93.040 if the governor determines that a shortened or less expensive method of public notice is reasonably designed to reach all interested persons.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126

Authority - Art. III, Sec. 1, Ak. Const.

Art. III, Sec. 24, Ak. Const.

6 AAC 93.080 REPORTING OF CDQ PROGRAM FISHERY HARVEST.

A buyer of fish that, under AS 16.05.690 and 5 AAC 39.130, is required to record and report a purchase of fish shall also record and report the buyer's purchases of fishery resources that are harvested through a CDQ program. This shall be done in the manner required by AS 16.05.690 and 5 AAC 39.130 and other regulations adopted under that statute.

History - Eff. 1/1/98, Register 144

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24



6 AAC 93.090 RECONSIDERATION PROCESS.

(a) A CDQ group may submit to the CDQ team a request for reconsideration of a decision under 6 AAC 93.055 or a decision under 6 AAC 93.060. Subject to (c) of this section, the request for reconsideration must be submitted within 20 days after the CDQ group receives notice of the decision. For a decision to be reconsidered, the request for reconsideration must include additional information that was not provided for consideration in the initial decision.

(b) For reconsideration of a decision under

(1) 6 AAC 93.055 (h), the CDQ team shall review the additional information submitted with the request for reconsideration and make a recommendation to the commissioner regarding a reconsideration decision;

(2) 6 AAC 93.055 (i), the CDQ manager shall review the additional information submitted with the request for reconsideration and make a reconsideration decision; or

(3) 6 AAC 93.060, the CDQ team shall review the additional information submitted with the request for reconsideration and make a recommendation to the governor regarding a reconsideration decision.

(c) Within 20 days after a request for reconsideration is received, notification to the CDQ group of the reconsideration decision will be made by

(1) the commissioner, for a decision under 6 AAC 93.055 (h);

(2) the CDQ manager, for a decision under 6 AAC 93.055 (i); or

(3) the governor, for a decision under 6 AAC 93.060.

(d) Findings regarding a reconsideration decision will be submitted to the NMFS along with the final recommendation regarding the amendment, suspension, termination, or decrease in allocation. The CDQ team shall shorten the time within which a request for reconsideration may be submitted under (a) of this section if the CDQ team determines that a participating community will be competitively or financially harmed by a delay in issuing the decision.

History - Eff. 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

AS 44.33.020 (11)

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at 6 AAC 93.015.

6 AAC 93.900 DEFINITIONS.

In this chapter

(1) "active CDQ project" means a CDQ project that was initiated under an approved CDP or through the amendment process in 6 AAC 93.055, and that continues its status as a CDQ project;

(2) "allocation" includes a CDQ allocation and a PSQ allocation under 50 C.F.R. 679;

(3) "allocation cycle" means the time of duration of a CDP as designated at the onset of the CDQ application period;

(4) "application period" means the time between the date of publication of the notice under 6 AAC 93.020 (a) and the forwarding of the final CDP recommendation to the NMFS;

(5) "CDP" means community development plan;

(6) "CDQ" means community development quota;

(7) "CDQ activity" means an activity pursued by the CDQ group that is paid for, directly or indirectly, through CDQ assets;

(8) "CDQ asset" means property of a CDQ group;

(9) "CDQ liability" means a debt of a CDQ group;

(10) "CDQ manager" means the department employee designated by the commissioner;

(11) "CDQ team" means the state officials designated in or under 6 AAC 93.015;

(12) "commissioner" means the commissioner of the department;

(13) "core CDQ project" means a CDQ project that (A) has a collective ownership by the applicant or CDQ group that is in excess of 49 percent;

(B) has a level of involvement by the applicant or CDQ group that demonstrates effective managing control, as determined by the CDQ team; or

(C) meets at least two of the following criteria:

(i) the applicant's or CDQ group's equity interest in the CDQ project constitutes at least 25 percent of the applicant's or group's assets;

(ii) the CDQ project has total indebtedness that the applicant or CDQ group is directly liable for in excess of 25 percent of the applicant's or group's assets;

(iii) the CDQ project has total indebtedness that the applicant or CDQ group is directly liable for in excess of 25 percent of the applicant's or group's assets;

(iii) the CDQ project has been determined by the annual progress report prepared under 6 AAC 93.015 to not meet the milestones and objectives in the CDP for three consecutive years;

(iv) the CDQ project receives funding from the applicant or CDQ group in a calendar year;

(14) "department" means the Department of Community and Economic Development;

(15) "fisheries-related" means to have a direct or indirect link to the commercial fisheries industry;

(16) "for-profit CDQ project" means a CDQ project with a central activity that involves an ongoing exchange of goods or services for compensation between two or more parties;

(17) "governing body" means a city council, traditional council, or Indian Reorganization Act (IRA) Council;

(18) "NMFS" means the federal National Marine Fisheries Service;

(19) "noncore CDQ project" means a CDQ project that is not a core CDQ project;

(20) "proposed CDQ project" means a CDQ project that is yet to be initiated;

(21) "substantial variation" means a significant change in the normal scope of operations of an active CDQ project as stated in the CDP; a "substantial variation" includes a change that could result in a determination of inconsistency with the standards in 6 AAC 93.017 and a change that could affect a CDQ group's ability to meet the milestones and objectives in the CDP.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

AS 44.33.020 (11)

Editor's Notes - Definitions of other terms under 6 AAC 93 are found at 50 C.F.R. 679.2.