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ENVIRONMENTAL ASSESSMENT/REGULATORY IMPACT REVIEW/
FINAL REGULATORY FLEXIBILITY ANALYSIS

Implementation of the Western Alaska
Community Development Quota Program
in the Bering Sea and Aleutian Islands
Management Area

Prepared by

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SUMMARY

The National Marine Fisheries Service (NMFS) proposes to implement the Western Alaska Community Development Quota (CDQ) program pursuant to Amendment 18 to the Fisheries Management Plan (FMP) for the Bering Sea and Aleutian Islands (BSAI) area, approved on March 4, 1992, as authorized by the Magnuson Fishery Conservation and Management Act (Magnuson Act). This action is intended to promote the goals and objectives of the North Pacific Fishery Management Council (Council) and the Secretary of Commerce (Secretary) with respect to groundfish management in the BSAI area.

PURPOSE AND NEED

The domestic and foreign groundfish fisheries in the exclusive economic zone of the BSAI area are managed by the Secretary under the FMP for the BSAI area. The FMP was prepared by the Council under the Magnuson Act and is implemented by regulations for the foreign fishery at 50 CFR 611.93 and for the U.S. fishery at 50 CFR part 675. General regulations that also pertain to the U.S. fishery are implemented at 50 CFR part 620.

The structure of the FMP allows certain measures to be changed by regulatory amendments without amending the FMP itself. This action proposes a regulatory amendment that would implement the CDQ program approved in concept as part of Amendment 18 to the FMP for the BSAI area.

Amendment 18, or the "inshore/offshore" amendment for the BSAI, was partially disapproved by the Secretary on March 4, 1992. The approved portion of Amendment 18 included inshore/offshore allocations for 1992 and the CDQ program, in concept, for a temporary period from 1992 through 1995.

The final rule implementing Amendment 18 (57 FR 23321, June 3, 1992) provided only for the basic allocation of pollock for the CDQ program. The CDQ allocation provides for 7.5 percent of the pollock total allowable catch (TAC), or one-half of the non-specific reserve, for each BSAI subarea to be set aside for the CDQ program. This regulatory amendment would implement the CDQ program by providing regulations that specify the contents of Community Development Plans (CDPs) and the criteria and procedures for approval by the Secretary. Approval of a CDP by the Secretary would result in allocations of portions of the "CDQ reserve" to specific western Alaska communities.

The CDQ program was proposed to help develop commercial fisheries in western Alaska communities. These communities are isolated and have few natural resources with which to develop their economies. Unemployment rates are high, resulting in substantial social problems. However, these communities are

geographically located near the fisheries resources of the Bering Sea, and have the possibility of developing a commercial fishing industry. Although fisheries resources exist adjacent to these communities, they are difficult to develop without start-up support. This CDQ program is intended to provide the means to start regional commercial fishing projects that could develop into ongoing commercial fishing industries.

Current regulations require publication of proposed and final specifications of the pollock TAC to be published in the Federal Register under 50 CFR 675.20(a). Regulations at § 675.20(a)(3) require 15 percent of the amount of the TAC specified for pollock in each subarea defined at § 675.2 to be placed automatically in a reserve that is not specific to any species. Under the proposed CDQ program, one-half of this reserve amount would be assigned to a CDQ reserve for each subarea. During the year 1993, 1994, and 1995, the Secretary, in consultation with the Council, would publish proposed and final seasonal allowances of the CDQ reserve in the Federal Register under procedures provided for at § 675.20(a)(7). For the 1992 fishing year, the CDQ reserve would be 101,445 metric tons (mt), which is one-half of the pollock component of the nonspecific reserve established for 1992. Once established, the CDQ amounts will be separate from proposed and final seasonal allowances of the pollock TAC provided for in § 675.20(a)(7).

Operators of vessels conducting directed fishing for any CDQ reserve would be subject to all regulations in 50 CFR part 675. Unless prohibited by regulations, vessel operators may conduct directed fishing for a CDQ reserve during times and in areas closed to directed fishing for pollock TAC. The Secretary, in consultation with the Council, may limit the amounts of CDQ reserve that may be harvested during the roe or "A" season (January 1-April 15) and the non-roe or "B" season (June 1-December 31) provided at § 675.20(a)(2)(ii). Harvesting of CDQs may also occur in-between these seasons depending on seasonal allocations of CDQ approved by the Secretary. For 1992, all of the 101,445 mt CDQ reserve will be available from the effective date of a final rule until December 31, 1992, subject to other regulatory actions.

The communities could use the CDQ reserve by harvesting the fish with their own vessels and selling or processing the fish, or by entering into partnerships with harvesting vessels that would pay the CDQ communities in return for harvesting the communities' pollock allocation. Because most of the communities lack much of the infrastructure necessary to harvest pollock directly, many communities may initially sell their allocation of CDQ pollock to operators of vessels in the existing pollock fleet. The resulting income could be used to develop a pollock fishing infrastructure, or could be used to develop other BSAI fisheries. The types of fishery projects that could be funded by

selling the harvesting of CDQ allocation could be any project that promotes development of the communities' commercial fishing industries. For example, proceeds from the sale of the CDQ allocation could be used to develop the harvesting of underutilized species, hook-and-line fisheries, processing capabilities, or basic fishery infrastructure to support the harvest of pollock or other species.

The following information outlines the proposed Federal CDQ Program regulations and explains their intent in more detail.

Eligible Community

NMFS is proposing the following criteria to identify communities eligible to apply for approval of CDPs with CDQ allocations of pollock. The criteria were developed by the Governor of the State of Alaska (Governor), in consultation with the Council. The Secretary has determined that the communities listed in Table 1 at 50 CFR 675.27 meet these criteria; however, communities that may be eligible for CDPs and CDQ allocations of pollock are not limited to those listed in the table.

(1) For a community to be eligible, it must be located within 50 nautical miles from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering sea. A community is not eligible if it is located on the Gulf of Alaska coast of the North Pacific Ocean even if it is within 50 nautical miles of the baseline of the Bering Sea.

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

(3) The residents of the community must collectively conduct more than one-half their current commercial or subsistence fishing effort in the Bering Sea and surrounding waters.

(4) The community must not have previously developed harvesting or processing capability sufficient to support substantial fisheries participation in the BSAI, except if the community can show that CDQ benefits would be the only way to realize a return from previous investments. Unalaska and Akutan are the only two communities that would be excluded under this provision.

Prior to approval of the Governor's recommendations for approval of CDPs and CDQ allocations of pollock, the Secretary would review the Governor's findings as to how the communities meet these criteria.

CDP Application Contents

Under the proposed regulations, an eligible community or group of communities may apply for approval of a CDP but may not concurrently be a recipient of more than one CDQ allocation. To prevent monopolization of CDQ allocations and ensure an adequate distribution of benefits from the CDQ program, the Secretary will allocate no more than 33 percent of the total CDQ reserve of the BSAI to any approved CDP application. A CDP would consist of three parts: 1) information regarding community development, including goals and objectives; 2) business information; and 3) a description of the managing organization.

The intent of these regulations is that all applications for CDPs, which include requests for CDQs, would be similarly structured to facilitate their review and comparison. These standards are expected to reduce the need for follow-up information and should minimize administrative expenses for application review and evaluation.

Secretarial Review and Approval of Community Development Plans

The Governor, after consultation with the Council, would recommend specific CDPs to the Secretary. The Governor's recommendations may support all or part of the allocation of CDQ pollock requested by an applicant. The total CDQ allocation included in the CDPs recommended by the Governor may not exceed the total amount of CDQ reserve. Upon receipt by the Secretary of the Governor's recommendations, including his set of findings that the CDPs meet the requirements of these regulations and the Alaska Coastal Management Program, the Secretary will review the record of the Governor's findings, the transcript or summary of the public hearings held by the Governor in making the recommendations, and other information deemed relevant to the Secretary to determine if the eligibility conditions and approval criteria set forth in these regulations have been met. The Secretary shall then approve or disapprove the Governor's recommendations. In the event of approval, the Secretary shall prepare a set of findings with respect to the requirements of these regulations. The Governor and the Council shall be notified, in writing, of the Secretary's decision, including the findings. Publication of the decision, including the allocation of portions of the CDQ reserve for each subarea to the specific CDPs and the availability of her findings, will appear in the Federal Register. In the event the Secretary disapproves the recommendation of the Governor, the Secretary shall advise the Governor and the Council in writing, including the reasons therefor. Publication of the decision will appear in the Federal Register.

Monitoring of CDPs

A CDP could include single or multi-year pollock allocations. For single year allocations, a final report would be required to be submitted by June 30 annually to the Governor showing how the CDP's goals and objectives were met as set forth at § 675.27(e)(1). For multi-year allocations, annual reports would be required to be submitted by June 30 to the Governor. Failure to submit an annual report could result in suspension or termination of CDPs. The Governor would then review the status of the project and determine whether the project is being managed according to the provisions of the original CDP, and submit an annual report with recommendations on whether to continue the multi-year allocation to the Secretary for approval.

The Governor must be notified of and approve amendments to an approved CDP and submit a recommendation for approval of the amendment to the Secretary. Amendments to a CDP of which the Governor must be notified are those set out at 50 CFR 675.27(e)(3)(i) and include any change in the relationships among the business partners, the profit sharing arrangements, the CDP budget, the management structure, or audit procedures or control.

Suspension or Termination of a CDP

If any applicant fails to notify the Governor of an amendment to a CDP or if a multi-year CDP appears unlikely to meet its goals and objectives or the recipient of the CDQ is deviating from the approved CDP, the Governor may submit a recommendation to the Secretary that the CDP be suspended or terminated. The Governor must set out in writing his reasons for recommending suspension or termination of the CDP. After review of the Governor's recommendation and reasons, the Secretary would notify the Governor in writing of her approval or disapproval of his recommendation. NMFS would publish a notice in the Federal Register that the CDP has been suspended or terminated, with reasons for the Secretary's decision. The Secretary may also suspend or terminate any CDP at any time if the Secretary finds a recipient of an allocation is not complying with these regulations or any other regulations and provisions of the Magnuson Act or other applicable law, or if the Secretary changes the FMP.

Recordkeeping and Reporting

The harvest of CDQ pollock would be tracked through the existing Federal recordkeeping and reporting system. A unique CDQ number would be issued to each approved CDP at the time CDQ allocations are made. This number would be written on existing forms that would identify each landing as a CDQ landing to be entered into the Federal fisheries landing database. The vessel

operator would be required to write the CDQ number on the Daily Fishing Logbook, and the processor would be required to write the CDQ number on the Daily Cumulative Production Logbook and the Weekly Production Report that currently are required at 50 CFR 675.5.

Operators of Federally permitted vessels harvesting CDQ pollock would be required to comply with existing regulations at 50 CFR part 675. The Council may consider, and the Secretary may implement, additional regulatory amendments that might apply to CDQ pollock harvesting. An approved CDP with an allocation of CDQ pollock does not guarantee a specific amount of pollock to approved CDP's. Instead, a CDQ allocation under an approved CDP provides an exclusive harvest privilege that may be fulfilled at the discretion of the Secretary and only in compliance with all fisheries regulations.

NMFS preliminarily has determined that the CDQ program is consistent with the FMP and proposes this regulatory amendment. The State of Alaska is implementing regulations that will be compatible with these proposed Federal regulations. The State of Alaska regulations will serve as the standards and criteria for the Governor's development of CDPs and his recommendation to the Secretary for approval. State of Alaska regulations would be in effect on or before a date that the Secretary approves these regulations. The State's regulations will include provisions for notifying the public when the Governor is accepting CDP applications.

ALTERNATIVES

Criteria For CDO Applications

Alternative A1 (status quo) - Under this alternative, no criteria would exist for CDP applications. Any community along the Bering Sea rim could submit an application to the Governor. Each application would contain different types of information in an unspecified format. Establishment of any application criteria would be done under State of Alaska regulations.

Alternative A2 (Preferred Alternative) - Under this alternative, specific criteria for CDP applications are developed by the State of Alaska and approved by the Secretary in consultation with the Council. When drafting the criteria for CDP applications, the Governor consulted with western Alaska community leaders, Council members, fishing industry leaders, various state agencies, and the public. The Council adopted the criteria at its April 1992, meeting and is recommending them for Secretarial approval.

Procedure For Approval Of CDP Applications.

Alternative B1 (status quo) - Under this alternative, the issuance of CDQs would involve a formal rule-making on the part of the Secretary. This process could begin following the Council's September meeting when preliminary recommendations are made of the amount of fisheries resource available for the CDQ program. This alternative would involve full Secretarial review of each application, and a full and lengthy administrative and public review process. Allocations for CDPs probably could not be made until late spring or early summer of the following year at the earliest.

Alternative B2 - This alternative involves the use of a review process for the approval of CDPs similar to that existing in the FMP for the setting of TAC and prohibited species catch (PSC) limits. The Secretary would review recommendations from the Governor after consultation with the Council and publish them in the Federal Register with a public comment period. Following public comment, the Governor would re-submit the recommendations with any modifications and they would be considered and analyzed in aggregate by the Secretary along with the Council's recommendations on TACs in December. Final approval by the Secretary and publication in the Federal Register would occur in late January or early February.

Alternative B3 (Preferred Alternative) - This alternative streamlines the Secretarial review process. The Governor would request CDP applications from the public and develop recommendations on CDPs, including CDQ allocations, for the Secretary after consultation with the Council. The Secretary would receive the recommendation package from the Governor and review the package for consistency with the eligibility conditions and approval criteria set forth in the regulations. NMFS would publish in the Federal Register the Secretary's determination of approval or disapproval. In addition, the Secretary would ensure that any alterations to requested amounts were made according to established procedures in Federal regulations. Final approval would be documented by publication of CDQ allocations to specific CDP applicants in the Federal Register.

ENVIRONMENTAL IMPACTS OF THE ALTERNATIVES

This analysis considers the environmental impacts of the alternatives for the CDQ implementing regulations. The physical, biological, and socioeconomic impacts addressed in this analysis supplement the analysis included in the Supplementary Environmental Impact Statement for Amendments 18/23. Based on the analysis provided below, none of the alternatives have significant impacts on the environment.

Overall, the CDQ program redistributes the harvest of fisheries resources but will not change the total amount landed. The most obvious change is a redistribution of fisheries resources from the non-CDQ fishery participants to CDQ participants. Pollock allocated to CDP applicants may be harvested throughout the fishing year as allowed by current fishing regulations.

Secretarial approval of Amendment 18 authorized the CDQ program in concept. None of the alternatives considered in the analysis limits when CDQ pollock harvesting will be prosecuted, other than the existing fisheries regulations. Under all alternatives, details of the business arrangements among CDP applicants and business partners are not specified. This is in keeping with the requirement of national standard 7 that regulations should not impose unnecessary burdens on the public. These regulations govern the information requested concerning these relations and the procedures for Secretarial approval of the applications.

Physical and biological impacts

Physical impacts on the environment associated with any of these alternatives are not expected to differ significantly from the current fishery. Physical impacts are associated with differences in fishing gear used, locations where fishing occurs, processing locations, etc. To the extent that CDQ harvesting results in differences in these types of fishing practices, physical impacts will differ. Processing plants in new locations, for example the Pribilof Islands, will result in impacts such as increased freshwater discharges, vessel traffic, and greater landfill use. However, these types of impacts are actually secondary since these regulations permit projects that could be used to fund new processing facilities, they do not permit the processing facilities themselves. Impacts to habitat are expected to be similar to those in the current fishery.

The biological impacts of these regulations or alternatives are often secondary or indirect and are expected to be small because CDQ pollock harvesting will take place during the existing "A" and "B" seasons, and will not result in the taking of more pollock in the "A" or "B" seasons than would occur without the CDQ program.

Operators of vessels harvesting CDQ pollock will fish under current bycatch and PSC regulations. The overall catch of other species and PSC is not expected to be significantly different than would have occurred without the CDQ program. This is because neither the overall catch nor the distribution of catch between the "A" and "B" seasons are changed by these regulations.

Socioeconomic impacts

The CDQ program was proposed to help develop commercial fisheries in western Alaska communities. These communities are isolated and have few natural resources with which to develop their economies. This CDQ program would provide the means to start regional commercial fishing projects that could develop an ongoing commercial fishing industry.

The communities could use the CDQ pollock allocations by harvesting the fish with their own vessels and selling or processing the fish, or by entering into partnerships with harvesting vessels that would pay the CDQ communities in return for harvesting the communities pollock allocation. Because most of the communities lack much of the infrastructure necessary to directly harvest pollock directly, many communities may initially sell their allocation of CDQ pollock to operators of vessels in the existing pollock fleet. The resulting income could be used to develop a pollock fishing infrastructure, or could be used to develop other BSAI fisheries. The types of fishery projects that could be funded by selling harvesting of CDQ allocation could be any project that promotes development of the communities' commercial fishing industries. For example, proceeds the sale of CDQ allocation could be used to develop the harvesting of under-utilized species, hook-and-line fisheries, processing capabilities, or basic fishery infrastructure to support the harvest of pollock or other species.

As a measure of the magnitude of the transfer, 7.5 percent of the Bering Sea and Aleutian Islands pollock TACs in 1992 amounts to 101,445 mt. If this is valued at an exvessel price of \$0.107 per pound (PacFIN price data, May 14, 1992), the transfer total is approximately \$24 million. However, this overstates the actual amount communities will realize since much of this will be spent on fixed and variable costs of harvest and/or processing. The communities will receive some of the resource rent from the harvest. The exact amount they will receive will depend on the specific projects they undertake and the business arrangements they enter. Since the communities will most likely contract with fishing businesses involved in the open fishery, some of this amount will be transferred to these business as wages and profit. The cost of the transfer will be borne by all members of the open fishery who are not involved in CDQ harvesting. If a 10 percent profit margin is assumed, the potential profit at the exvessel level is \$2.4 million. If business arrangements are made with processors, then a different level of profit is possible. Those operators who both harvest and process, such as factory/trawlers, have an even greater amount of resource rent available to them. As discussed above, the gross revenues and potential profits vary during the year, depending on the product forms being produced.

Impacts from CDQ application criteria

Alternative A1

Under this alternative, the Secretary would not have a set of standards for CDP applications. All applications would be accepted from any community within 50 nautical miles of the Bering Sea. There would be no restrictions or standards for the management structure, permitted projects or business plan of the proposed project.

Without community eligibility criteria, more applications are expected. Although a similar number of communities might be eligible with or without criteria, the limitation of only one application per community would not exist. This would lead to different factions within communities submitting competed plans or, perhaps, complementary plans, in the hopes of maximizing CDQ allocations that they would receive. Those groups receiving CDQ allocations might not be the disadvantaged groups targeted by the Secretary when Amendment 18 was approved. The result would be an increased amount of dollars spent on application preparation, increased review load to the government, less equitable CDQ allocations than there otherwise could be, more eligible applicants, and smaller CDQ allotments to eligible participants.

The lack of controls on managing organizations would lead to a higher probability of projects that would be improperly managed. This would result in decreased benefits to the recipient and to other recipients who would have made a better use of the CDQ allocations.

Finally, the BSAI groundfish regulations at 50 CFR 675.20(a)(3)(i) states that "portions of the CDQ for each area may be allocated for use by specific western Alaska communities in accordance with community fishery development plans developed by the state of Alaska and approved by the Secretary in consultation with the Council." Therefore, this alternative could not be chosen because it would contradict these regulations by not using application standards developed by the state.

Alternative A2

The proposed Federal CDQ program implementing regulations was adapted from criteria that the State developed and was approved by the Council (see Appendix I). The following text reviews these state criteria for CDQ applications.

The State CDQ criteria are divided into four parts: definitions, application requirements, evaluation and recommendation procedures, and compliance. The first part defines terms used throughout the criteria. The entities defined

are: eligible communities, applicants, managing organizations, and a Community Fisheries Development Plan (CFDP). These definitions are used to ensure that all applicants fully understand who will be eligible to receive CDQs. Such knowledge will reduce superfluous applications and their review, thereby reducing both public and private expenses.

The second part of the criteria contains information required to be present in a CFDP. These criteria match those that are specified in part III, evaluation and recommendation procedures. The sections of part II are designed to assist the applicant in organizing and presenting information that will then be evaluated by the Governor, Council, and Secretary. All the criteria set forth in part II are more fully explained in the discussion that follows for part III.

Part III, evaluation and recommendation procedures, covers the following: the receipt of applications and schedule for review, determination of eligibility, evaluation of applications, and procedures for the Governor's recommendations to the Secretary. This part sets forth certain criteria and procedures for implementing CDQ programs that an applicant must meet before being considered for CDQ allocations. These criteria include: which communities, applicant groups, and managing organizations would be eligible; the necessary elements of CDPs and business plans; and what financial data is required. These criteria are designed to ensure that projects are financially viable and will benefit those groups of people the regulations are designed to benefit. By setting these in regulation, applicants, the public, and the Governor will be able to ensure that the allocation of CDQs are carried out in an equitable manner. Each applicant will know exactly what is expected in an application and how that information will be judged by the Governor and Secretary. The section on receipt of applications and schedule for review is contained in the framework alternatives below.

Part IV of the regulations provide for notification of changes in the CDQ recipients' program and for annual review of CDQ projects. Since these CFDPs are arranged prior to the fishing season, and some will be for multiple years, changes are expected. A provision for changes to business relationships, profit sharing, budgets, or management structure of the project structures the method that the Governor will use to evaluate such changes. The Secretary reserves the right to terminate a CDQ allocation if the change is not in the best interests of the Nation or if a change occurs without notification to or approval by the state. In addition, these compliance criteria stipulate an annual review of all CDQ projects. This is to insure that proper use is being made of the allocation and monies are being properly handled.

Communities - The criterion at Part III(B)(2)(a) restricts eligible communities to those in close proximity to the Bering Sea, whose residents already participate in commercial and/or subsistence fisheries in the Bering Sea, who are not already heavily involved in the groundfish fisheries, have no other natural resources to harvest, and who lack sufficient capital to enter the fisheries without CDQs. This restricts the benefits to those communities who are most in need. The listing of communities is presented in Table 1 of the regulations.

The fisheries resource that will be used by CDQ recipients is entirely within the Bering Sea. Therefore, only communities within 50 nautical miles of the Bering Sea coast, and not located on the Gulf of Alaska coast, would be eligible. Most of the communities listed are year-round communities with more than 10 households. Other communities such as Ugashik and Ekuk have several year-round residents. Still other communities that qualify under Pub. L. 92-203, below, are seasonally inhabited, usually during the summer fishing season. These include Bill Moore's, Chanilut, Hamilton, and Northeast Cape. Only communities within 50 nautical miles are included to limit the eligible communities to those who are reasonably expected to use resources in the Bering Sea.

Part III(B)(2)(b) further restricts eligible communities to only those approved by the Secretary of the Interior as Alaska Native communities under Pub. L. 92-203. This restricts benefits of the CDQ program to those communities with a large Native American population. The Native American population was singled out by Congress to receive special harvest privileges for other resources in and near the State of Alaska under legislation such as the Alaska Native Claims Settlement Act. However, this regulation would in no way restrict benefits to Native Americans; non-native citizens living in these communities would also be eligible to participate in the CDQ program.

Part III(B)(2)(c) requires that eligible communities must conduct a substantial portion, or more than one-half, of their current commercial and subsistence fishing in the waters of the Bering Sea. For this criterion, Bering Sea waters include saltwater areas such as Bristol Bay and Norton Sound. Also for this criterion, fishing includes the taking of marine mammals by Native Alaskans. Based on Alaska Department of Fish and Game records, all the communities in Table 1 qualify under this criterion.

Restrictions on communities with substantial current participation in BSAI groundfish fisheries is covered in Part III(B)(2)(d). Very few of the communities have any harvesting or processing involvement in the groundfish fisheries of the Bering Sea. There are significant processing facilities in Akutan and Unalaska. Major processing facilities for Federally regulated

fisheries have existed in these communities for well over a decade, first for crab and later for groundfish. Local participation in the groundfish fisheries varies in each community. The Unalaska port has been one of the top ports in the United States for fisheries landings and value for many years. In Akutan, processors both onshore and anchored in the inlet process groundfish and crab. Pollock processing began in the shore-based facility in Akutan in 1985 and the facility employs approximately 500 people for all species in peak season. Few if any of the indigenous residents seek employment with processors. Most of Akutan's tax base is and has been for many years from local processing plants. Residents of both communities have had ready access to participation in the groundfish fisheries if they so desired.

Some processing occurs within the boundaries of St. Paul and St. George, both onshore and on floating processors near shore. These two Pribilof Island communities have been granted special treatment by the U.S. government based on the losses they have suffered due to changes in the International Fur Seal Treaty. In 1983, Pub. L. 98-129 established a Memorandum of Understanding among the Federal, state, and community governments to develop fishing opportunities in the Bering Sea for residents of these two communities. That legislation allocated significant funds for the development of fisheries in the communities. While attempts and some progress have been made, to date the communities have not yet succeeded in becoming full-time participants in the groundfish fisheries. For this reason, these two communities are eligible to receive CDQs under these criteria.

Community support - Community support for the CDQ allocation and restrictions on the number of projects a community may participate in are set forth in Part III(B)(3). Restrictions limiting a community to one application are meant to ensure that the benefits of the CDQ program will be shared among as many communities as possible. The requirement of a letter of support from the governing body in each community is to ensure that strong community support exists for the project. Similar programs in rural Alaska have failed in the past because of a lack of strong community support. In these ways, the Secretary intends to maximize the social benefits of the plan.

Managing organization and required experience - Certain criteria concerning the managing organization, either the applicant or a separate group, are to ensure that the proposed project(s) will be operated and managed in a technically and financially sound manner. These are set forth in Part III(B)(4) of the Appendix. Since the funds will be generated from the preferential distribution of a public resource, this is in the best interests of the Nation. In order to ensure that the benefits of the proposed projects are realized, it is important

that the managing organization has the ability to perform the project(s). Mandating that 75 percent of the applicant's board of directors are commercial or subsistence fishermen in Bering Sea waters is intended to ensure that projects will indeed be fishery related and that the fishing sector of the community(ies) have a controlling voice in the use of funds. Requiring that the managing organization be a legal entity, able to own property and be sued, provides judicial recourse in the event funds are misappropriated. Likewise, requiring a legal relationship between the managing organization and the applicant ensures that there will be accountability for performance and the use of funds.

Under this criterion, the Secretary requires that the managing organization, be it the applicant or any other group, has demonstrated expertise with similar projects, in both type and magnitude. This is necessary because, while local fishermen and members of the board of directors might have experience in small vessel near shore fisheries, this does not provide them with the skills necessary to, for example, develop and operate a fish processor or participate in a multi-million dollar offshore fishing venture. Necessary expertise not present within the communities might be supplied by advisors, consultants, joint venture partners, a managing organization, or some other specified business arrangement.

Community Development Plans - Providing criteria for the CDP at Part III(C)(1) allows the Secretary to evaluate the applications equitably, regardless of the framework mechanism chosen for evaluation. These criteria also provide guidance to the applicants to assist them in choosing projects that will lead to an increased position of self-sufficiency in fisheries. The intent of CDQ projects is to promote regional self-sufficiency in Bering Sea fisheries.

By requiring the applicant to specify the goals and objectives of the CDQ project (Part III(C)(1)(a)), assurance is made that the results of the individual projects will match the goals and objectives of the CDQ program. Measurable milestones are required to assist in the annual review process and to ensure proper use of CDQ allocations. Requiring a project schedule and measurable milestones will help measure the progress and success of the project, ensure the project is on schedule, and provide information necessary to conduct the annual review. These milestones could consist of the kinds of equipment that would be purchased, the dates the equipment would be installed or in use, tasks or training completed, employment targets, harbor or infrastructure developed, or funds invested in such instruments as Capital Construction Funds or dedicated fishery development funds. Milestones should be unambiguous, concrete, and quantifiable accomplishments. By developing milestones, the applicants are required to plan the course of their project on a reasonable time basis from receipt of CDQs through use to the

acquisition and development of greater self-sufficiency. Also, the milestones can be used by the applicant within each year, and will be used by the Governor, Council, and Secretary during the annual review process. If milestones are not being met, the applicant would be expected to provide a satisfactory explanation or face termination or non-renewal of multi-year CDQs.

Using the goals and objectives, project schedule, and the measurable milestones, each applicant will be required to show how the proposed project(s) leads to greater self-sufficiency in fisheries as stated in Part III(C) (1) (b). Since this process will not be instantaneous, the CDP will describe how the incremental steps combine and the level of improvement expected both at the end of the CDQ program and beyond. Total economic self-sufficiency is not expected. Rather, a substantial and measurable increase is expected either in the groundfish industry or in other Bering Sea fisheries.

These increases in self-sufficiency can be in terms of training and greater participation for local residents in these fisheries, increased investments in the fisheries either in fish harvesting, processing, marketing, or development of infrastructure that is necessary to increase such participation. Projects that fall into these categories or result in these developments will lead to increases in local self-sufficiency and net social benefits. For instance, the purchase of a vessel or processing facility to participate in the fisheries would, with a sound business plan, qualify as increased self-sufficiency. Likewise, purchases of limited entry licenses or, should they be approved, individual fishing quotas, would result in an ownership right in the fishery and, therefore, increased self-sufficiency. Similarly, training in refrigeration technology, marine safety, business management, navigation or piloting, processing techniques, or experience in new fisheries would all increase the earnings potential of individuals and, consequently, the self-sufficiency of the communities in which they reside.

The CDPs at Part III(C) (1) (d) are required to describe the community's existing fisheries infrastructure and participation in order to compare how proposed projects would enhance local capability to participate in fisheries and increase benefits to the entire community. It is the intent of the state's CDQ criteria that the benefits from a CDQ program accrue to the community as a whole. For instance, development of local port facilities or water systems to service a seafood business would benefit the community as a whole. On the other hand, a community for which a port is not economically feasible would not be expected to purchase vessels and maintain them in the community. A more appropriate use of funds in such a case might be to form a partnership to own a vessel and have members of the community work onboard. Likewise, a community might wish to purchase a portion of an existing processor and thereby ensure employment of

community residents. Such an arrangement might also be possible with catcher-processors where a joint venture arrangement could be established to ensure product flow to the vessel in return for fees, local employment, or assistance in development of existing fisheries. Rather than participate in the groundfish fisheries, it might be more appropriate for a community to increase local cold storage and processing facilities that could be used to improve the quality and marketability of existing fisheries. A community whose residents fish in nearby salmon fisheries might decide to develop value added process facilities for salmon, thereby increasing the value of their existing fishery as well as increasing local employment opportunities. It is not necessary that community residents participate in the groundfish fisheries. Rather, it is necessary that the community use revenues generated from the harvest and/or processing of CDQ allocations to develop regional self-sufficiency related to fisheries.

Each applicant is expected to develop a specific plan related to the special needs and circumstances of the communities involved. Therefore, each plan may be different. However, all plans will enumerate the benefits expected to accrue to the community. These will include short-term benefits such as immediate employment or revenues from the use of CDQs and long-term benefits that will continue to accrue after the CDQ program is completed.

After transition to participation in fisheries without CDQs, after the CDQ program expires in 1995, there will be increased economic activity associated with the region. Since the activities existing after this transition will not be subsidized by CDQs, the result will be a net increase in benefits to the Nation. Even if the result is only a transfer of benefits among users, since this economically depressed region is now the recipient of government benefits, this provides social benefits and may possibly reduce existing government welfare payments.

Business Plan - The inclusion of criteria for a business plan, including financial data, at Part III(C)(2) is designed to ensure that the projects proposed by applicants are based on sound business principles, economically viable, and will provide benefits to the community. Federal fisheries resources are a publicly owned resource and the CDQ program is directly transferring exclusive use, albeit temporarily, to a select group for the express purpose of promoting economic benefits on a community and regional basis. Therefore, the specific business plan information requested by these regulations provides assurance that the resource will be used effectively to meet the goals of the program, profits will be distributed in a manner consistent with the intent of the program, and a maximum return can be realized.

All applicants for CDQs are in competition with each other. This is the case because, in all likelihood, there will be requests for more CDQ allocations than there will be fish to distribute. Since not all needs can be met, it is necessary to have a means of determining the economic viability of proposed projects should they receive less than the requested quantity. Some projects will require substantially more fisheries allocations than others to be economically viable. The financial data requested in the regulations will allow the Governor and Secretary to ascertain whether or not the projects can be self-supporting. This information will also assist in determining the feasibility of self-sufficiency after the program ends.

Recommendation Process - The Governor will examine each application and ensure that it meets the criteria. It is the intent of the program that the greatest number of communities benefit from the CDQ allocation as set forth in Part III(C)(3). Since it is expected that the quantities of CDQ allocations requested by communities will have to be adjusted, the Governor will confer with eligible applicants and try to seek compromise solutions for a way to go forward with the requests as made. This might involve the encouragement of groups intending to harvest CDQ allocations to cooperate jointly with other groups intending to process these allocations. Such cooperation would reduce the amount of CDQ allocations requested since the same quantity of fish would be utilized by two different groups. Functionally, this makes more CDQ designated fisheries resources available for all applicants. It might also involve encouraging cooperation among applicants with other similar or complementary projects in order to take advantage of economics of scale or services.

The Governor, equipped with the CFDP from each eligible applicant, will attempt to maximize the net economic and social benefits to the communities. Consideration will have to be given to projects on their own merit but also to the unique circumstances and needs of the specific communities requesting allocations. Adjustments will be made to allocations as required to make the total requested amount of fish equal to the total amount of fish available to the CDQ program. Three options exist for maximum allocations to any one group: (1) either no more than 33 percent of the total; (2) no more than 33 percent except in special circumstances; and, (3) some other percentage. The purpose behind choosing an option would be to spread benefits to the largest number of communities and groups. Therefore, option 1 would be preferred. Decreases in requested CDQ amounts will have to be on a case by case basis. Rationale for each decrease and the expected benefits expected from each proposal and the proposals overall will be included in the Governor's recommendations.

Procedure For Approving CDO Applications

These three alternatives differ primarily with respect to the Secretarial review process. Alternative B3 would be the least burden to the Secretary and is the preferred alternative.

In order to maximize the benefits of the CDQ program to the communities and region, allocations should be made in all possible years, 1992 through 1995. Also to maximize benefits, fishing should be allowed at the most lucrative "A" season in each year. Any loss of fishing opportunity by CDQ users in these years or seasons will result in decreased benefits to the Nation.

The major difficulty in setting an application review process is determining a procedure that will be responsive to CDQ requests for 1992 and 1993, since these regulations will not be finalized until late in 1992.

Alternative B1

Alternative B1 results in the fewest realized benefits and is the most costly to the government. This alternative requires the Secretary to conduct a full review and evaluation of each application through a rulemaking procedure. Of the three alternatives, this would be the most time consuming and costly to the government. Also, this alternative results in fewer benefits to the communities, region, and Nation since it would not be possible to make allocations in either 1992 or in time for the 1993 "A" season.

Alternative B2

Alternative B2 results in increased overall benefits from Alternative B1 but still results in no CDQ allocations for 1992 and the possibility of delays in allocations for the 1993 "A" season. This review process would mesh with the existing TAC process as set forth in the BSAI FMP. Therefore, allocations for 1994 and 1995 would be made in a timely manner and full benefits would be realized. However, it would not be possible to use this review process to set allocations for the 1992 season. Likewise, allocations for the 1993 roe season might not be possible since the process of full public review of draft recommendations would not have occurred by the time the final TAC recommendations are issued early in 1993. The overall administrative costs are reduced from Alternative B1 but are greater for 1993 than those for Alternative B3.

Alternative B3

Alternative B3 maximizes the benefits to the communities and region. It frameworks the Secretarial review process. This would allow the Governor's hearing and review process to serve as

the record for the Secretary's review. This would reduce the time requirements for review of applications in 1992 while allowing for full public participation. Therefore, the Secretary could make CDQ allocations for late 1992 as well as make timely CDQ allocations for the pollock roe season.

FINDING OF NO SIGNIFICANT ENVIRONMENTAL IMPACT

For the reasons discussed above, implementation of the proposed action or any of the alternatives to that action would not significantly affect the quality of the human environment, and the preparation of an environmental impact statement on the preferred action is not required by section 102(2)(C) of the National Environmental Policy Act or its implementing regulations.

DATE

COORDINATION WITH OTHERS

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APPENDIX I

WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM CRITERIA AND PROCEDURES

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 fisheries, and promote the economic well being of local coastal communities in relation to Bering Sea fishery resources. The Western Alaska Community Development Quota Program is a joint program of the Secretary of Commerce (Secretary) and the Governor of Alaska (Governor). Through the creation and implementation of community fishery 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 that have been foreclosed to them because of the high capital investments needed to enter the fishery.

Under the program, the Governor is authorized to recommend to the Secretary that certain Bering Sea communities be designated as eligible to receive a portion of the CDQ. To be eligible, a community must meet criteria specified by the state, and have developed a fisheries development plan approved by the Governor. The Governor shall forward any such recommendations to the Secretary, following consultation with the Council. Upon receipt of such recommendations, the Secretary may release appropriate portions of the CDQ to the eligible applicant.

PART I. Definitions:

A. Eligible Community

An eligible community is defined as any community that is 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. 92-203 as native villages, defined in section 3(c) of Pub. L. 92-203.

B. Applicant

An eligible applicant is defined as:

(1) any local fishermen's organization from an eligible community or group of communities that is duly incorporated under the laws of the State of Alaska, or under federal law, and whose board of directors is composed of at least 75 percent fishermen from the eligible community or group of communities involved in the project; or

(2) a local economic development organization incorporated under the laws of the State of Alaska, or under federal law, specifically for the purposes of designing and implementing a CFDP under this program, and that has a board of directors composed of at least 75 percent fishermen from the eligible community or group of communities involved in the project.

In the event an applicant described under either (1) or (2) above represents more than one community, the board of directors of the applicant must include at least one resident from each of the communities represented.

C. Managing Organization

A managing organization is defined as any organization, corporation, company, firm, association, or other entity responsible for the management or operation of the CDQ project. A managing organization must be a legally recognized corporation, association, or other legal entity able to sue, be sued, enter into binding agreements, obtain loans, and own property. A managing organization may be either the applicant or a separate party operating the project under contract or in partnership with the applicant.

D. Community Fisheries Development Plan

A CFDP is defined as the entire proposal for a CDQ project that is provided to the state by an applicant. A complete CFDP consists of a community eligibility statement, a community development plan, a business plan, a statement of the applicant's qualifications, and a description of the managing organization, as well as any other supporting documents the applicant may include in the CDQ application.

PART II. Application Requirements:

In order to qualify for a portion of the CDQ, an applicant must submit a CFDP application which contains the following information:

A. Community Eligibility Statement. The applicant must provide a statement showing:

1. The applicant's community is located within 50 nautical miles from the baseline from which the breadth of the territorial seas is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea (see Table I). A community is not eligible if it is located on the Gulf of Alaska coast of the North Pacific Ocean even if it is within 50 nautical miles of the baseline of the Bering Sea. In the event that more than one community is represented by the applicant, all of the participating communities must meet this qualification.
2. The applicant's community has been certified by the Secretary of the Interior pursuant to section 11(b)(2) or (3) of Pub. L. 92-203. In the event that more than one community is represented by the applicant, all of the participating communities must meet this qualification.
3. The residents of the community or group of communities represented by the applicant conduct a substantial portion of their commercial or subsistence fishing effort in the waters of the Bering Sea.
4. The applicant's community has not previously developed harvesting or processing capability sufficient to support substantial participation by residents of the community 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 subsequently does not have a substantial capital investment or participation in the commercial harvesting or processing of Bering Sea groundfish resources. If there is a substantial investment, a community may still qualify if the applicant can show that the community benefits arising from these investments can only be realized through the assistance of a CDQ program.
5. The community or group of communities represented by the applicant does not have other natural resources available that would allow for the creation of a viable local cash economy and employment for its residents other than commercial fishing.
6. The residents of the community or group of communities represented by the applicant do not have a sufficient source of capital to enter the groundfish fisheries of the Bering Sea.

B. Community Development Plan. The application must include a detailed CDP that includes the following:

1. The goals and objectives of the applicant's CDQ project;
2. The amount of CDQ, by species, being applied for;
3. The length of time the CDQ will be necessary to meet the goals and objectives of the project, including a project schedule with measurable milestones for determining progress;
4. The level of local employment the project will generate, including the kind and number of jobs local residents will be directly employed in;
5. A detailed description of the vocational and educational training programs the project will generate for local residents;
6. A detailed description of existing local infrastructure and how the project will utilize or enhance existing local harvesting or processing capabilities, support facilities, and human resources;
7. A detailed plan that clearly describes how the project will generate new capital or equity for local fishing infrastructure, or investment in fishing or processing operations, including vessel or gear development programs, capitalization plans, and infrastructure and support facility development schedules, as appropriate;
8. A plan and schedule for transition from reliance on the CDQ to self-sufficiency in the groundfish fishery; and
9. The overall short- and long-term benefits to the local fishermen, and the community or group of communities, from receipt of the CDQ and the development of a self-sustaining fisheries economy.

C. Business Plan. The application must include a clear and concise business plan that will be used to evaluate the feasibility of the project. The business plan should provide the following information.

1. The Business Venture

- a. A description of the business including the kind of product and the quota required.
- b. The market.

- c. The competition.
- d. A description of the managing organization, the management structure, and the personnel including resumes and references.
- e. The business relationships between the partners or with other business interests, if any, including arrangements for management and audit control.
- f. Profit sharing arrangements between the partners or with other business interests, if any.

2. Financial Data

- a. Sources and applications of funding, including outside financing.
- b. Detailed descriptions of joint venture arrangements, loans, or other partnership arrangements.
- c. A budget for implementing the CDP.
- d. Capital equipment list.
- e. Cash flow and break-even analysis.
- f. Balance sheet and income statement, including profit, loss, and return on investment.

D. Applicant and Managing Organization. The application must include a statement of the applicant's qualifications and a description of the organization managing or operating the project:

1. Applicant Qualifications

- a. The application must provide a statement demonstrating that the applicant is a qualified applicant. A qualifying applicant may be:
 - (i) any local fishermen's organization from a qualifying community or group of communities that is duly incorporated under the laws of the State of Alaska, or under federal law, and whose board of directors is composed of at least 75 percent fishermen from the community or group of communities involved in the project; or
 - (ii) a local economic development organization incorporated under the laws of the State of

Alaska, or under federal law, specifically for the purposes of designing and implementing a CFDP, and that has a board of directors composed of at least 75 percent fishermen from the qualifying community or group of communities involved in the project.

- b. In the event an applicant described under either (a) (i) or (a) (ii) above represents more than one community, the board of directors of the applicant must include at least one resident from each of the communities represented.
- c. In order to be a qualifying applicant, any organization applying for a CDQ project must also have a duly authorized statement of support from each community involved in the project. Such a statement of support shall include a resolution from the governing body (city council, Indian Reorganization Act (IRA) council, or traditional council) from each such community. A community may not participate in more than one CDQ project, and only one application per community will be accepted.

2. Managing Organization

- a. The application must include a description of the managing organization, including documentation showing that the organization is a legally recognized corporation or association able to sue, be sued, enter into binding agreements, obtain loans, and own property.
- b. The application must include information showing that the managing organization, if it is the applicant, has a board of directors whose membership is composed of at least 75 percent fishermen from the community or group of communities involved in the project, with at least one member from each such community; and has the approval of the community or communities on whose behalf it is applying, as demonstrated through resolutions of support from each community's governing body.
- c. The application must show that the managing organization, if it is not the applicant, has the support of the community or communities represented by the applicant as demonstrated through resolutions, letters, or other appropriate expressions of support. The application must also include documentation that there is a defined

legal relationship between the applicant and the managing organization that clearly describes the responsibilities and obligations of each party as demonstrated through a contract or other legally binding agreement.

- d. The application must include information demonstrating that the managing organization has the management and technical expertise necessary to carry out and successfully implement the CDQ project.

PART III. Evaluation and Recommendation Procedures:

The following procedures and criteria will be used to receive and process applications, perform project evaluations, and provide recommendations to the Secretary.

A. Receipt of Applications and Schedule for Review

1. Upon approval of these criteria by the Secretary, the state will announce a schedule for application and review of proposed CFDPs. This schedule shall provide for Council review prior to the state submitting recommendations to the Secretary.
2. The state will provide to the Council copies of the plans that are recommended for approval and a summary of the evaluation process. Copies of all applications, background materials, and the full decision-making record shall be made available to the Council upon request.
3. The Governor may hold a public hearing regarding the applications under consideration. Any such hearing shall be recorded, and the results shall become part of the decision-making record.
4. Following the close of the application period, the Governor shall evaluate any application that has been submitted, consider any comments received from the Council or the public, and forward all state approved applications to the Secretary with the state's recommendations.
5. Applicants that have received approval for multi-year projects need not reapply in subsequent years, unless so required in writing by the state or the Secretary at the time of approval or in instances where the project has been terminated.

B. Determination of Eligibility

In order to be eligible to qualify for a portion of the CDQ, an application must meet the following requirements:

1. The application must contain all of the information specified in the application instructions.
2. The community or group of communities represented by the applicant meet the following criteria:
 - a. The applicant's community is located within 50 nautical miles from the baseline from which the breadth of the territorial seas is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea (see Table I). A community is not eligible if it is located on the Gulf of Alaska coast of the North Pacific Ocean even if it is within 50 nautical miles of the baseline of the Bering Sea. In the event that more than one community is represented by the applicant, all of the participating communities must meet this qualification.
 - b. The applicant's community has been certified by the Secretary of the Interior pursuant to section 11(b)(2) or (3) of Pub. L. 92-203. In the event that more than one community is represented by the applicant, all of the participating communities must meet this qualification.
 - c. The residents of the community or group of communities represented by the applicant conduct a substantial portion of their commercial or subsistence fishing effort in the waters of the Bering Sea.
 - d. The community or group of communities involved in the project have not developed the 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 subsequently does not have a substantial capital investment in the commercial harvesting or processing of Bering Sea groundfish resources. If there is a substantial investment, a community may still qualify if the applicant can show that these investments can only be optimized through the assistance of a CDQ program.

- e. The community or group of communities represented by the applicant does not have other natural resources available that would allow for the creation of a viable local economy and employment for its residents, other than commercial fishing.
 - f. The residents of the community or group of communities represented by the applicant do not have a sufficient source of capital to enter the groundfish fisheries of the Bering Sea.
3. The applicant is a qualified applicant, as defined above, and has provided a duly authorized statement of support from each community involved in the project. Such a statement of support shall include a resolution from the governing body (city council, IRA council, or traditional council) from each such community. A community may not participate in more than one CDQ project, and only one application per community will be accepted.
4. The managing organization meets the following criteria:
- a. The managing organization is a legally recognized corporation or association able to sue, be sued, enter into binding agreements, obtain loans, and own property.
 - b. The managing organization, if it is the applicant, has a board of directors whose membership is composed of at least 75 percent fishermen from the community or group of communities involved in the project, has at least one member from each such community, and has duly authorized statements of support from each community involved in the project.
 - c. The managing organization, if it is not the applicant, has the support of the community or communities represented by the applicant, and documentation has been provided showing that there is a defined legal relationship between the applicant and the managing organization that clearly spells out the responsibilities and obligations of each party as demonstrated through a contract or other legally binding agreement.
 - d. The managing organization has demonstrated the management and technical expertise necessary to carry out the project, and is capable of successfully implementing and completing the CDQ project.

C. Evaluation

Applications determined to be eligible under Part III.A shall be evaluated on the basis of the following categories:

1. Community Development Plan

The CDP will be evaluated based on the following.

- a. The goals and objectives of the project, the project schedule for meeting those goals and objectives, and the degree to which realistic measurable milestones for determining progress have been identified.
- b. The degree to which the project will develop a self-sustaining local fisheries economy, and the schedule for transition from reliance on the CDQ to economic self-sufficiency. The overall short- and long-term benefits to the community or group of communities from receipt of the CDQ and the development of a self-sustaining fisheries economy will be important considerations.
- c. The level of local employment the project will generate, including the kind and number of jobs local residents will be directly employed in, and the vocational and educational training programs the project will generate for local residents.
- d. The degree to which the project will generate capital or equity for local fishing infrastructure, or investment in fishing or processing operations. Important consideration will be given to vessel or gear development programs, capitalization plans, and infrastructure and support facility development schedules, as appropriate.
- e. The profit sharing arrangements with other business entities, if participating in a joint venture, and the degree to which profits will be used to assist in the development of a self-sustaining local fisheries economy.

2. Business Plan

The application must include a clear and concise business plan that will be used to evaluate the feasibility of the project and likelihood of the project's success. The business plan will be evaluated based on the following information.

a. The Business Venture

- i. The description of the business including the kind of product and the quota required, the market, and the competition.
- ii. The management structure, quality and expertise of personnel, and the level of management and technical expertise of the managing organization.
- iii. The business relationships between the participants in the project, including arrangements for management and audit control, and profit sharing arrangements between the partners or with other business interests, if any.
- iv. The likelihood of success, including the ability to successfully meet the project milestones and schedule.

b. Financial Data

- i. Sources and uses of funding, including outside financing.
- ii. Detailed descriptions of joint venture arrangements, loans, or other partnership arrangements including the distribution of proceeds among the parties.
- iii. The adequacy of the budget for implementing the CDP and the likelihood of successful implementation.
- iv. Capital equipment list.
- v. Cash flow and break-even analysis.
- vi. Balance sheet and income statement, including profit, loss, and return on investment.

3. Cooperation Among Eligible Communities

Special consideration will be given to cooperative ventures among several eligible communities, or among applicants. For example, if an applicant applies only for processing or harvesting a portion of the CDQ, other eligible applicants shall have priority for the harvesting or processing of that CDQ if they have entered into a cooperative venture with the other applicant. In order to qualify for consideration

under this section, the applicants must:

- a. Meet all of the requirements for community eligibility and have a satisfactory community development plan and business plan as described above, and provide a description of the benefits arising from the cooperative project; and
- b. Have a cooperative agreement between the applicants, if more than one applicant is involved, that clearly describes the business relationships between the parties, and identifies the specific legal and financial responsibilities and obligations of each of the parties and includes a copy of this agreement.

D. Recommendations

1. Upon receipt of an application, the state shall employ the following procedures when formulating recommendations to the Secretary.
 - a. If there is sufficient quota to meet the needs of all of the qualifying applications received, those applications shall be forwarded to the Secretary with recommendations. Recommendations to the Secretary shall be based on the state's evaluation of the applications, and comments or recommendations received from the Council and the public.
 - b. In the event there is insufficient quota to meet the combined total quota requested by the applicants, the quota may be apportioned among the eligible applications. Business plans will be reviewed to determine the economic feasibility of each application with a lower amount of quota. Applicants will be consulted regarding the economic feasibility of their respective project at less than the requested amount. Quota will be apportioned based on the following:
 - i. The economic feasibility and likelihood of success of each individual project at a reduced quota.
 - ii. The relative benefits to be derived by coastal communities from participating in the CDQ program. Priority will be given to maximizing the benefits of the CDQ program to the greatest number of communities.

- iii. For pollock, individual applicants will initially be limited to a maximum of 33 percent of the annual CDQ. Exceptions to this rule will be considered on a case-by-case basis.
2. Recommendations from the Governor shall be transmitted in writing to the Secretary within 5 working days after the close of the review and evaluation period. The Governor shall provide a description of the basis for the state's recommendations, including:
 - a. A summary of how the proposal meets program criteria;
 - b. A summary of any comments received from the Council and the public, and a response to comments as appropriate; and
 - c. Any other relevant information the state considered during the evaluation and review of the application.

Part IV. Compliance

A. Notification

The State will require notification of any material change in any CDQ project 30 days in advance of any such change. Notification will be required for the following:

1. Any material change in the business relationships among the partners, including the addition or deletion of partners or participants;
2. Any material change in the profit sharing arrangements among the partners or the participants, or any material change to the budget for the CDP; or
3. Any material change in management structure of the project, including any change in audit procedures or control.

B. Approval and Right to Terminate

Upon receipt of notification of any such material change, the state shall inform the Secretary of the notification. Any material change to the project will require prior approval by the state, and the state reserves the right to recommend to the Secretary suspension or termination for any CDQ allocation for any project that is materially changed without notification to, and approval by, the state.

C. Annual Review

On an annual basis the state shall conduct a project review for each CDQ project, including adherence to the project schedule, the CDP, and the Business Plan. If a CDQ project has not been successful or appears unlikely to become successful, the state may recommend to the Secretary that the CDQ be suspended or terminated. The state can also recommend that the CDQ be increased or modified, based upon the submission of an amendment to the original application, if the existing program is successful or likely to be successful, and the modified or increased CDQ will further assist in developing a self-sustaining local fisheries economy.

TABLE I. Communities Determined To Be Eligible To Apply For Community Development Quotas. Other communities may also be eligible, but do not appear on this table.

Aleutian Region:

1. Atka
2. False Pass
3. Nelson Lagoon
4. Nikolski
5. St. George
6. St. Paul

Bering Strait:

1. Brevig Mission
2. Diomede/Inalik
3. Elim
4. Gambell
5. Golovin
6. Koyuk
7. Nome
8. Savoonga
9. Shaktoolik
10. St. Michael
11. Stebbins
12. Teller
13. Unalakleet
14. Wales
15. White Mountain

Bristol Bay:

1. Aleknagik
2. Clark's Point
3. Dillingham
4. Egegik
5. Ekuk
6. Manokotak
7. Naknek
8. Pilot Point/Ugashik
9. Port Heiden/Meschick
10. South Naknek
11. Sovonoski/King Salmon
12. Togiak
13. Twin Hills

Southwest Coastal Lowlands:

1. Alakanuk
2. Cheforak
3. Chevak
4. Eek
5. Emmonak
6. Goodnews Bay
7. Hooper Bay
8. Kipnuk
9. Kongiganak
10. Kotlik
11. Kwigillingok
12. Mekoryuk
13. Newtok
14. Nightmute
15. Platinum
16. Quinhagak
17. Scammon Bay
18. Sheldon's Point
19. Toksook Bay
20. Tununak
21. Tuntutuliak