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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Crystal Koeneman, AAC Contact
Department of Commerce, Community, & Economic Development

FROM: Scott Clark
Special Assistant
907.465.4081 

DATE: August 28, 2012

RE: Filed Permanent Regulations: Department of Commerce, Community, and Economic Development

Western Alaska Community Development Quota (CDQ) program and decennial reviews: 6 AAC 93

Attorney General File:	JU2012200308
Regulation Filed:	8/8/2012
Effective Date:	9/7/2012
Print:	203, October 2012

cc with enclosures: Linda Miller, Department of Law
Kristen Peterson, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

JU2012200308

ORDER ADOPTING CHANGES TO REGULATIONS OF
THE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC
DEVELOPMENT

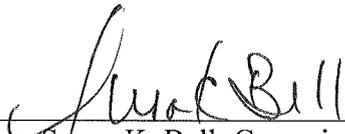
The attached 12 pages of regulations, dealing with the Western Alaska Community Development Quota (CDQ) Program, are adopted and certified to be a correct copy of the regulation changes that the Department of Commerce, Community, and Economic Development adopts under the authority of AS 44.33.020 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Department of Commerce, Community, and Economic Development paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: Aug 3, 2012
Juneau, Alaska



Susan K. Bell, Commissioner
Department of Commerce, Community, and
Economic Development

FILING CERTIFICATION

I, Mead Treadwell, Lieutenant Governor for the State of Alaska, certify that on 8 August, 2012, at 2:20 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: September 7, 2012
Register: 203, October 2012

Register 203, October 2012

GOVERNOR'S OFFICE

6 AAC 93.010 is amended to read:

6 AAC 93.010. Purpose of regulations. The purpose of this chapter is to implement the state's role in **the decennial review of** the Western Alaska Community Development Quota Program (CDQ Program) for the Bering Sea and Aleutian Islands Area **required** under **16 U.S.C. 1855(i)(1)(H) (Magnuson-Stevens Fishery Conservation and Management Act)** [50 C.F.R 679]. (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; am 9 / 7 / 2012, Register 203)

Authority: **Art. III, sec. 1, Ak Const.** **Art. III, sec. 24, Ak Const.** **AS 44.33.020**
[AK. CONST., ART. III, [AK. CONST., ART. III, [AS 44.33.020(11)]
SEC. 1] SEC. 24]

6 AAC 93.012 is repealed:

6 AAC 93.012. References to federal law. Repealed. (Eff. 8/19/99, Register 151; repealed 9 / 7 / 2012, Register 203)

6 AAC 93.015 is repealed:

6 AAC 93.015. CDQ team [TEAM]; responsibilities [RESPONSIBILITIES]; lead [LEAD] state agency. Repealed. (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; repealed 9 / 7 / 2012, Register 203)

[EDITOR'S NOTE: THE MAILING ADDRESS FOR SUBMITTING MATERIAL

Register 203, October 2012

GOVERNOR'S OFFICE

UNDER THIS CHAPTER IS: CDQ TEAM, OFFICE OF THE COMMISSIONER,
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT,
P.O. BOX 110803, JUNEAU, ALASKA 99811-0803.

AS OF REGISTER 171 (OCTOBER 2004), THE REGULATIONS ATTORNEY MADE
TECHNICAL REVISIONS UNDER AS 44.62.125(b)(6) TO REFLECT THE NAME CHANGE
OF THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT TO THE
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
MADE BY CH. 47, SLA 2004 AND THE CORRESPONDING TITLE CHANGE OF THE
COMMISSIONER OF COMMUNITY AND ECONOMIC DEVELOPMENT.]

6 AAC 93.017 is repealed:

6 AAC 93.017. CDQ program standards. Repealed. (Eff. 8/19/99, Register 151;
repealed 9 / 7 / 2012, Register 203)

6 AAC 93.020 is repealed:

6 AAC 93.020. CDQ application period. Repealed. (Eff. 11/18/92, Register 124; am
4/10/93, Register 126; am 1/1/98, Register 144; am 8/19/99, Register 151; repealed
9 / 7 / 2012, Register 203)

6 AAC 93.025 is repealed:

6 AAC 93.025. Requirements for submitting a proposed CDP. Repealed. (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; repealed 9/7/2012, Register 203)

[EDITOR'S NOTE: THE MAILING ADDRESS FOR THE CDQ TEAM IS SET OUT IN THE EDITOR'S NOTE AT 6 AAC 93.015.]

6 AAC 93.030 is repealed:

6 AAC 93.030. Initial evaluation of proposed CDPs. Repealed. (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; repealed 9/7/2012, Register 203)

6 AAC 93.035 is repealed:

6 AAC 93.035. Public hearing. Repealed. (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; repealed 9/7/2012, Register 203)

6 AAC 93.040 is repealed:

6 AAC 93.040. Final evaluation of proposed CDPs [Complete CDP Applications]. Repealed. (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; repealed 9/7/2012, Register 203)

6 AAC 93.045 is repealed:

6 AAC 93.045. Recommendations to the NMFS regarding proposed CDPs.

Repealed. (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; repealed 9 / 7 / 2012, Register 203)

6 AAC 93.050 is repealed:

6 AAC 93.050. Quarterly and annual reports. Repealed. (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; repealed 9 / 7 / 2012, Register 203)

[EDITOR'S NOTE: THE MAILING ADDRESS FOR THE CDQ TEAM IS SET OUT IN THE EDITOR'S NOTE AT 6 AAC 93.015.]

6 AAC 93.055 is repealed:

6 AAC 93.055. Amendments to an approved CDP. Repealed. (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; repealed 9 / 7 / 2012, Register 203)

[EDITOR'S NOTE: THE MAILING ADDRESS FOR THE CDQ TEAM IS SET OUT IN THE EDITOR'S NOTE AT 6 AAC 93.015.]

6 AAC 93.057 is repealed:

6 AAC 93.057. Reclassification of core and noncore projects. Repealed. (Eff. 8/19/99, Register 151; repealed 9 / 7 / 2012, Register 203)

[EDITOR'S NOTE: THE MAILING ADDRESS FOR THE CDQ TEAM IS SET OUT IN THE EDITOR'S NOTE AT 6 AAC 93.015.]

6 AAC 93.060 is repealed:

6 AAC 93.060. Suspension or termination of a CDP; decrease [DECREASE] in allocation. Repealed. (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; repealed 9/7/2012, Register 203)

6 AAC 93.075 is repealed:

6 AAC 93.075. General provisions. Repealed. (Eff. 11/18/92, Register 124; am 4/10/93, Register 126; repealed 9/7/2012, Register 203)

6 AAC 93.090 is repealed:

6 AAC 93.090. Reconsideration process. Repealed. (Eff. 8/19/99, Register 151; repealed 9/7/2012, Register 203)

[EDITOR'S NOTE: THE MAILING ADDRESS FOR THE CDQ TEAM IS SET OUT IN THE EDITOR'S NOTE AT 6 AAC 93.015.]

6 AAC 93 is amended by adding new sections to read:

6 AAC 93.110. CDQ evaluation team. A CDQ evaluation team will perform the state's duties required under 16 U.S.C. 1855(i)(1)(H), AS 44.33.020(a)(11), and this chapter. The Department of Commerce, Community, and Economic Development will lead the CDQ evaluation process. The evaluation team consists of

(1) the commissioner of commerce, community, and economic development, or the commissioner's designee;

(2) the commissioner of fish and game, or the commissioner's designee; and

(3) the commissioner of labor and workforce development, or the commissioner's designee. (Eff. 9/7/2012, Register 203)

Authority: Art. III, sec. 1, Ak Const. Art. III, sec. 24, Ak Const. AS 44.33.020

6 AAC 93.120. Limits on CDQ decennial review. The CDQ evaluation team will limit its decennial review under 16 U.S.C. 1855(i)(1)(H)(i) to

(1) the criteria set out in 16 U.S.C. 1855(i)(1)(H)(ii); and

(2) applying to those criteria the valuation system that the CDQ panel has established as required under 16 U.S.C. 1855(i)(1)(H)(ii). (Eff. 9/7/2012, Register 203)

Authority: Art. III, sec. 1, Ak Const. Art. III, sec. 24, Ak Const. AS 44.33.020

6 AAC 93.130. Decennial review report submission period. Not later than 60 days before the evaluation is to begin, the CDQ evaluation team will

(1) establish a deadline for receipt of a decennial report from each of the CDQ entities;

(2) schedule a projected period for the review; and
(3) provide a notice to each CDQ entity; in the notice, the CDQ evaluation team will state

- (A) the submission period for a decennial report; and
- (B) the deadline for submission of the report. (Eff. 9/7/2012)

Register 203)

Authority: Art. III, sec. 1, Ak Const. Art. III, sec. 24, Ak Const. AS 44.33.020

6 AAC 93.140. Submission of decennial reports. (a) To satisfy the requirements of 16 U.S.C. 1855(i)(1)(H), each CDQ entity shall submit to the CDQ evaluation team, not later than the deadline set under 6 AAC 93.130, a decennial report containing

(1) a statement that, under 16 U.S.C. 1855(i)(1)(E), the CDQ entity is eligible to participate in the CDQ program;

(2) the standards that the CDQ entity developed to measure its performance with respect to the criteria set out in 16 U.S.C. 1855(i)(1)(H)(ii), and the observable, specific data available to measure that performance;

(3) the relative value that the CDQ entity, in accordance with 16 U.S.C. 1855(i)(1)(H)(ii), has assigned to each criterion;

(4) a copy of the CDQ entity's community development plan within the meaning given in 16 U.S.C. 1855(i)(1)(J), as that plan was filed annually with the CDQ panel for the years covered by the review;

(5) an analysis of the CDQ entity's performance with respect to each criterion and

the CDQ entity's determination of its performance for each criterion; and

(6) a performance determination as to whether the CDQ entity has maintained or improved its overall performance with respect to the criteria.

(b) A decennial report may include copies of or references to supporting documentation used by the CDQ entity in analyzing its performance and making its performance determination.

(Eff. 9/7/2012, Register 203)

Authority: Art. III, sec. 1, Ak Const. Art. III, sec. 24, Ak Const. AS 44.33.020

Editor's note: The mailing address for submitting material under this chapter is: CDQ Evaluation Team, Office of the Commissioner, Department of Commerce, Community, and Economic Development, P.O. Box 110803, Juneau, Alaska 99811-0803.

6 AAC 93.150. Initial review of decennial reports. Not later than 15 days after the CDQ evaluation team receives a decennial report, the CDQ evaluation team will notify the submitting CDQ entity of any additional information or documentation needed. The CDQ entity shall submit the additional information or documentation in writing not later than 10 days after receiving notice of a deficiency. (Eff. 9/7/2012, Register 203)

Authority: Art. III, sec. 1, Ak Const. Art. III, sec. 24, Ak Const. AS 44.33.020

Editor's note: The mailing address for the CDQ evaluation team is set out in the editor's note at 6 AAC 93.140.

6 AAC 93.160. Evaluation of decennial reports. (a) After a decennial report is determined to meet the requirements of 6 AAC 93.140, the CDQ evaluation team will evaluate each CDQ entity's determination of whether the submitting CDQ entity maintained or improved its overall performance with respect to the criteria set out in 16 U.S.C. 1855(i)(1)(H)(ii).

(b) After the evaluation under (a) of this section, the Department of Commerce, Community, and Economic Development, on behalf of the CDQ evaluation team, will provide written notice, to the submitting CDQ entity and to NMFS, of the state's proposed recommendation regarding whether the CDQ entity

(1) has maintained or improved its overall performance with respect to the criteria; or

(2) has not maintained or improved its overall performance with respect to the criteria. (Eff. 9/7/2012, Register 203)

Authority: Art. III, sec. 1, Ak Const. Art. III, sec. 24, Ak Const. AS 44.33.020

6 AAC 93.170. Opportunity for hearing. (a) A CDQ entity may request a hearing to submit oral testimony or additional written comments or documentation regarding the state's proposed recommendation. A CDQ entity requesting a hearing must submit the request in writing, so that the Department of Commerce, Community, and Economic Development receives it no later than 30 days after the date of the department's written notice under 6 AAC 93.160(b). If the CDQ entity seeks to present oral testimony, the CDQ must request it expressly in the written request.

(b) Upon receipt of a timely request under (a) of this section, the Department of

Commerce, Community, and Economic Development will schedule

(1) a 30-day period during which the CDQ entity may submit additional written comments or documentation for review by the CDQ evaluation team;

(2) a date and time to receive oral testimony if the CDQ entity has requested to present it to the CDQ evaluation team; the CDQ evaluation team may conduct the oral hearing in person, by teleconference, or by videoconference.

(c) After the CDQ evaluation team reviews any new testimony, comments, or documentation, the Department of Commerce, Community, and Economic Development, on behalf of the CDQ evaluation team, will provide written notice to

(1) the CDQ entity of the state's final recommendation regarding whether the CDQ entity

(A) has maintained or improved its overall performance with respect to the criteria set out in 16 U.S.C. 1855(i)(1)(H)(ii); or

(B) has not maintained or improved its overall performance with respect to the criteria; and

(2) NMFS, for use by NMFS in making the determination under 16 U.S.C. 1855(i)(1)(H)(iii).

(d) If it does not receive a timely request under (a) of this section, the Department of Commerce, Community, and Economic Development, on behalf of the CDQ evaluation team, will provide written notice to NMFS that the state's proposed recommendation under 6 AAC 93.160(b) is the state's final recommendation for use by NMFS in making the determination under 16 U.S.C. 1855(i)(1)(H)(iii). (Eff. 9/7/2012, Register 203)

Authority: Art. III, sec. 1, Ak Const. Art. III, sec. 24, Ak Const. AS 44.33.020

Editor's note: The mailing address for the CDQ evaluation team is set out in the editor's note at 6 AAC 93.140.

6 AAC 93.900 is repealed and readopted to read:

6 AAC 93.900. Definitions. In this chapter,

- (1) "CDQ" means community development quota;
- (2) "CDQ entity" means an entity listed in 16 U.S.C. 1855(i)(1)(D)(i) - (vi);
- (3) "CDQ evaluation team" or "CDQ team" means the group established under

6 AAC 93.110;

- (4) "CDQ panel" means the panel established under 16 U.S.C. 1855(i)(1)(G);

- (5) "NMFS" means the United States Department of Commerce, National Marine

Fisheries Service. (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; am 9/7/2012, Register 203)

Authority: Art. III, sec. 1, Ak Const. Art. III, sec. 24, Ak Const. AS 44.33.020

[AK. CONST., ART. III, [AK. CONST., ART. III, [AS 44.33.020(11)]

SEC. 1] SEC. 24]

[EDITOR'S NOTE: DEFINITIONS OF OTHER TERMS UNDER IN 6 AAC 93 ARE FOUND AT 50 C.F.R. 679.2.

AS OF REGISTER 171 (OCTOBER 2004), THE REGULATIONS ATTORNEY MADE

Register 203, October 2012

GOVERNOR'S OFFICE

TECHNICAL REVISIONS UNDER AS 44.62.125(b)(6) TO REFLECT THE NAME CHANGE OF THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT TO THE DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT MADE BY CH. 47, SLA 2004 AND THE CORRESPONDING TITLE CHANGE OF THE COMMISSIONER OF COMMUNITY AND ECONOMIC DEVELOPMENT.]