less stringent than the federal program. The State has since amended its hazardous waste rules and is now applying for mixed waste authorization. Arizona submitted an application for mixed waste on October 16, 1992.

EPA has reviewed Arizona's applications for corrective action and mixed waste, and has made an immediate final decision that Arizona's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to approve final authorization for Arizona's hazardous waste program revisions for corrective action and mixed waste. The public may submit written comments on EPA's immediate final decision up until December 23, 1992. Copies of Arizona's applications for program revision are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

Approval of Arizona's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either: (1) A withdrawal of the immediate final decision or (2) a notice containing a response to the comment which either affirms that the immediate final decision takes effect or reverses the decision.

Arizona is applying for authorization for the following Federal hazardous waste regulations:

Federal requirement	State authority
Radioactive Mixed Waste (51 FR 24504, July 3, 1986)	Arizona Revised Statute (ARS) 49-922(A) + (B); Arizona Administrative Code (AAC) R18-8-261(A) + (C).
Amendments to Part B Information Requirements for Disposal Facilities (52 FR 23447, June 22, 1987, as amended on September 9, 1987 at 52 FR 33936)	ARS 49-922(A) + (B); AAC R18-8-270(A).
Hazardous Waste Miscellaneous Units (52 FR 46946, December 10, 1987)	ARS 49-922(A) + (B); AAC R18-8-260(C), 264(A) and 270(A).
Corrective Action (50 FR 28702, July 15, 1985)	ARS 49-922(A) + (B); AAC R18-8-264(A) and 270(A).
Permit Application Requirements Regarding Corrective Action (52 FR 45788, December 1, 1987)	ARS 49-922(A) + (B); AAC R18-8-270(A).
Corrective Action Beyond the Facility Boundary (52 FR 45788, December 1, 1987)	ARS 49-922(A) + (B); AAC R18-8-264(A).

Arizona agrees to review all State hazardous waste permits which have been issued under State law prior to the effective date of this authorization. Arizona agrees to then modify or revoke and reissue such permits as necessary to require compliance with the amended State program. The modifications or revocation and reissuance will be scheduled in the annual State Grant Work Plan.

Arizona is not being authorized to operate any portion of the hazardous waste program on Indian lands.

C. Decision

I conclude that Arizona's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Arizona is granted final authorization to operate its hazardous waste program as revised.

Arizona is now responsible for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Arizona also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013 and 7003 of RCRA.

Compliance with Executive Order 12291: The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification under the Regulatory Flexibility Act: Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Arizona's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This document is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: November 10, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92-28177 Filed 11-20-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7557]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 457, Lanham, MD 20706, (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C

Street, SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 11291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Date certain Federal authorization/cancellation of sale of flood insurance in community	Current effective map date
Regular Program Conversions Region II			
New York:			
Allen, Town of Allegany County	361361	November 4, 1992 Suspension Withdrawn.	July 16, 1982.
Bolivar, Town of Allegany County	361097	do	July 30, 1982.
Burke, Town of Franklin County	361394	do	Feb. 19, 1986.
Butternuts, Town of Otsego County	361247	do	Dec. 23, 1983.
Cobleskill, Village of Schoharie County	361573	do	Jan. 19, 1983.
Cold Spring, Town of Cattaraugus County	360064	do	Mar. 1, 1978.
Dickinson, Town of Franklin County	361122	do	Mar. 18, 1986.
Farmersville, Town of Cattaraugus County	360071	do	July 23, 1982.
Ischua, Town of Cattaraugus County	360079	do	Aug. 15, 1978.
Italy, Town of Yates County	360958	do	July 23, 1982.
Lyndon, Town of Cattaraugus County	360083	do	July 16, 1982.
Minerva, Town of Essex County	361153	do	Oct. 5, 1984.
Moriah, Town of Essex County	361389	do	Sept. 24, 1984.
Morristown, Town of St. Lawrence County	360706	do	Aug. 6, 1982.
Ohio, Town of Herkimer County	361408	do	Sept. 24, 1984.
Rensselaerville, Town of Albany County	360014	do	Aug. 27, 1982.
South Dayton, Village of Cattaraugus County	360099	do	Jan. 5, 1978.
Villenova, Town of Chautaugua County	361082	do	May 21, 1982.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: November 16, 1992.

C. M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-28363 Filed 11-20-92; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-146; RM-8019]

Radio Broadcasting Services; Mammoth Lakes, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 293B1 for Channel 292A at Mammoth Lakes, California, and modifies the license for Station KMMT(FM) to specify operation on the higher powered channel, as requested by Mammoth Mountain FM Associates, Inc. See 57 FR 32499, July 22, 1992. Coordinates for Channel 293B1 at Mammoth Lakes are 37-37-40 and 119-01-56. With this action, the proceeding is terminated.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-146, adopted October 7, 1992, and released November 17, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1990 M Street, NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 292A and adding Channel 293B1 at Mammoth Lakes.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-28406 Filed 11-20-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-53; RM-7936]

Radio Broadcasting Services; Edmond, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Porter H. Davis, d/b/a Life Broadcasting, Inc., substitutes Channel 250A for Channel 249A at Edmond, Oklahoma, and modifies the license of Station KTNT-FM to specify operation on the alternate Class A channel. See 57 FR 10454, March 26, 1992. Use of Channel 250A will allow Station KTNT-FM to operate with maximum Class A facilities of 6 kW. Channel 250A can be allotted to Edmond in compliance with the Commission's minimum distance separation requirements at Station KTNT-FM's licensed site, at coordinates North Latitude 35-34-11 and West Longitude 97-30-01. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-53, adopted October 5, 1992, and released November 17, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1990 M Street, NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 249A and adding Channel 250A at Edmond.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-28408 Filed 11-20-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-99; RM-7971]

Radio Broadcasting Services; Rock Valley, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Robert M. Mason, substitutes Channel 295C3 for Channel 295A at Rock Valley, Iowa, and modifies Station KQEP's construction permit to specify operation on the higher class channel. See 57 FR 19836, May 8, 1992. Channel 295C3 can be allotted to Rock Valley in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.3 kilometers (9.5 miles) north to accommodate petitioner's desired transmitter site, at coordinates North Latitude 43-20-27 and West Longitude 96-18-34. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-99, adopted October 5, 1992, and released November 17, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1990 M Street NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 295A and adding Channel 295C3 at Rock Valley

Federal Communications Commission

Michael C. Ruger

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau

[FR Doc. 92-28409 Filed 11-20-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-72; RM-7926]

Radio Broadcasting Services; Hatteras, NC

AGENCY: Federal Communications Commission

ACTION: Final rule

SUMMARY: The Commission, at the request of Hurricane Communications, substitutes Channel 233C1 for Channel 232A at Hatteras, North Carolina, and modifies Station WVAV's construction permit to specify operation on the higher class channel. See 57 FR 10750, March 30, 1992. Channel 233C1 can be allotted to Hatteras in compliance with the Commission's minimum distance separation requirements at the site specified in Station WVAV's permit, at coordinates North Latitude 35-15-38 and West Longitude 75-35-02. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-72, adopted October 5, 1992, and released November 17, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1990 M Street NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 232A and adding Channel 233C1 at Hatteras

Federal Communications Commission

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau

[FR Doc. 92-28410 Filed 11-20-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-147; RM-7951]

Radio Broadcasting Services; Fruitland and Weiser, ID

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: This document reallots Channel 257A from Weiser, Idaho, and modifies the license of Station KWEI(FM) to specify Channel 258C1, Fruitland, Idaho, as its community of license, at the request of Treasure Valley Broadcasting Company. The allotment of Channel 258C1 to Fruitland will provide that community with its first local transmission service, in accordance with Section 1.420(i) of the Commission's Rules. See 57 FR 31691, July 17, 1992. Channel 258C1 can be allotted to Fruitland in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.3 kilometers (3.9 miles) south. The coordinates are North Latitude 44-03-44 and West Longitude 116-54-22. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-147, adopted October 8, 1992, and released November 17, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1990 M Street NW., suite 640, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Weiser, Channel 257A, and adding Fruitland, Channel 258C1.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-28411 Filed 11-20-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 675

[Docket No. 920944-2302]

RIN 0648-AE80

Groundfish Fishery of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement the Western Alaska Community Development Quota (CDQ) program pursuant to Amendment 18 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands (BSAI) Area. This action is necessary to prescribe administrative procedures for the CDQ program. It is intended to promote the goals and objectives of the North Pacific Fishery Management Council (Council) with respect to groundfish management in the BSAI area.

DATES: Effective Date: November 18, 1992.

ADDRESSES: Individual copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained from the Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: David C. Ham, Fishery Management Biologist, Alaska Region, NMFS, (907) 586-7230.

SUPPLEMENTARY INFORMATION:

Background

Domestic and foreign groundfish fisheries in the exclusive economic zone of the BSAI area are managed by the Secretary of Commerce (Secretary) in accordance with the BSAI FMP. The FMP was prepared by the Council under the Magnuson Fishery Conservation and Management Act (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 appear at 50 CFR part 620.

Amendment 18, or the "inshore-offshore" amendment, was partially disapproved by the Secretary on March 4, 1992. The final rule implementing the approved portion of Amendment 18 (57 FR 23321, June 3, 1992) established inshore and offshore allocations of pollock for the remainder of 1992, and provided for an annual allocation of pollock for the CDQ program for a temporary period from 1992 through 1995. The CDQ allocation provides for 7.5 percent of the total allowable catch (TAC) of pollock for each BSAI subarea to be set aside in a "CDQ reserve." This regulatory amendment fully implements the CDQ program by specifying 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 an allocation of part of the CDQ reserve to specific western Alaska communities. The CDQ program is intended to help develop commercial fisheries in western Alaska communities.

Current regulations require publication of proposed and final specifications of the TAC of pollock and other groundfish species in the **Federal Register** (50 CFR 675.20(a)). Regulations at § 675.20(a)(3) require 15 percent of the amount of each species TAC to be assigned to a reserve that is not specific to any species. One half of the amount of pollock that is assigned to the non-specific reserve for each subarea is then re-assigned to the CDQ reserve. For the 1992 fishing year, the CDQ reserve is 97,500 metric tons (mt) in the Bering Sea subarea, 3,870 mt in the Aleutian Islands subarea, and 75 mt in the Bogoslof subarea. These amounts are available for harvest under approved CDPs until December 31 1992. During the years 1993, 1994, and 1995, the Secretary, in consultation with the Council, will publish proposed and final seasonal allowances of the CDQ reserve in the **Federal Register** under § 675.20(a)(7).

An analysis of the economic problems of western Alaska communities, and of the biological, economic, and social impacts of various alternative management measures considered by NMFS is contained in the EA/RIR/FRFA, which is available (see **ADDRESSES**). A full description of the CDQ program was published October 7, 1992, in the preamble to the proposed rule at 57 FR 46139.

Implementation of CDQ Program

NMFS will require 100 percent observer coverage and will use the "best blend" system, which is a combination of observer data and vessel data, to monitor pollock harvests accurately. CDQ harvesting probably will be fast paced and will require daily submission of observer reports and vessel production reports. The representative designated by the managing organization will be notified when the CDQ allocation to the approved CDP has been reached; however, it is the managing organization's responsibility to monitor its vessels' harvest and stop fishing when the allocation has been reached. Notwithstanding absence of notification of the designated representative by NMFS, the operation of a vessel that is harvesting a CDQ allocation of pollock when that allocation has been taken is prohibited.

The harvesting of pollock under an approved CDP must take place according to all existing Federal regulations except that a vessel included in the offshore component may harvest its CDQ allocation in the catcher vessel operational area (CVOA) when directed fishing is closed for the offshore component. Presently, the BSAI pollock TAC is apportioned in three parts: Inshore component, offshore component, and CDQ. Directed fishing for pollock by the inshore and offshore components must occur during the "A" season (January 1-April 15) or "B" season (June 1-December 31). However, CDQ harvesting may occur during these seasons or between these seasons depending on seasonal allocations of CDQ recommended by the Council and approved by the Secretary.

Changes in the Final Rule From the Proposed Rule

This final rule includes the following changes from the proposed rule:

(1) In § 675.27(b)(3)(1), language is added to require a managing organization to specify the address, FAX, and telephone number, of a designated representative. This person would serve as the principal liaison between the managing organization and NMFS. When the harvest of pollock under an approved CDP has been reached, the Regional Director will prohibit further fishing by that CDP by FAX or by telephone message to the indicated FAX or telephone number. However, the managing organization of an approved CDP is responsible to prevent pollock harvesting in excess of its CDQ allocation, regardless of any notification from NMFS to that effect. The clarify this assignment of responsibility, § 675.7(j) is changed by adding a paragraph prohibiting the operation of a vessel engaged in harvesting a pollock CDQ allocation in excess of that allocation. These additions are necessary to prevent harvesting of CDQs in excess of amounts authorized under the CDP.

(2) Proposed § 675.27(d)(5)(iv) is changed by adding paragraph (E) that states that the Governor must take into account the success or failure of the applicant and/or the managing organization in the execution of a prior CDP when developing his recommendation for approval of CDPs. This is necessary to ensure that the performance of the applicant and/or managing organization in a 1992–1993 CDP is taken into account by the Governor and the Secretary when allocating 1994–1995 CDQs.

(3) Proposed § 675.22(g) is amended to allow offshore component vessels fishing for pollock under an approved CDP to fish in the CVOA when directed fishing for pollock by the offshore component is prohibited. This provision allows the managing organization and the CDP to have the flexibility to enter into a business arrangement with any vessel, whether part of the inshore or offshore component, to harvest CDQs. This change is made in response to comment 2.

(4) Proposed § 675.27(d)(2) and the heading for Table 1 are changed to require the Governor and the Secretary to make findings on the eligibility of a community only if it is not listed on Table 1. This change is made in response to comment 3.

(5) Language in proposed § 675.27(d)(2)(iv) is changed from "substantial fisheries participation" to "substantial ground fish fisheries participation" to precisely reflect the intent of the Council. This change is made in response to comment 4.

(6) Proposed § 675.27(e)(3) is changed to allow CDQ harvesting partners the flexibility to change harvesting vessels quickly due to unforeseen circumstances such as mechnical breakdowns. This change is made in response to comment 5.

(7) Proposed § 675.27(b)(2)(x) is changed to relieve the proposed requirement for burdensome and

confidential financial information about the managing organization to be submitted in the CDP. This change is made is response to comment 6.

(8) Proposed § 675.27(d)(2)(iii) is revised to change the language, "waters of the Bering Sea" to "Bering Sea and Aleutian Islands management area and adjacent waters." This change is in response to comment 7 and will eliminate confusion by using a term already defined at § 675.2.

(9) Paragraph (a)(3) is added to § 675.27 specifying that before sending his recommendations for approval of CDPs to the Secretary, the Governor must consult with the Council, and make available, upon request, CDPs that are not part of the Governor's recommendations. This change is made is response to comment 8, and will ensure that the Council will be able to review all proposed CDPs, not just those recommended by the Governor.

Response to Comments on the Proposed Regulations

Thirty-eight letters of comment were received during the public comment period. Of these letters, 29 were in favor of the CDQ program, 4 were against, and 5 letters commented on specific details of the proposed rule without expressing an opinion for or against approval. Many of the letters received were similar, which allowed for some consolidation of the comments. Significant issues and concerns raised by these comments are summarized and responded to as follows:

Comment 1: The CDQ program would benefit the western Alaska communities who are in need of this support and assist them in developing their own self-sufficiency in the commercial fishing industry. However, the CDQ final regulations should be issued as soon as possible. Millions of dollars, or approximately 25 percent of the benefits to these western Alaska communities over the life of the program will be lost if the final regulations are delayed and insufficient time remained to harvest 1992 CDQ allocations.

Response: NMFS notes this comment.

Comment 2: The proposed regulations do not allow the harvesting of CDQ within the CVOA. Amendment 18 allocated fishery resources between the inshore and offshore components of the pollock fishery in the BSAI and established the CVOA to prevent preemption of the inshore component by the offshore component. There is no reason to apply the CVOA restriction to CDQ harvesting when fishing by the offshore component is closed because there will be no preemption at that time. Opening the CVOA to CDQ harvesting would maximize benefits of the CDQ program. Production and overhead costs would be lower and product quality would be higher if access to the CVOA were allowed.

Response: NMFS concurs. The regulations at § 675.22(g) are changed to allow CDQ harvesting in the CVOA when directed fishing by the offshore component is prohibited.

Comment 3: The proposed regulations require that the Governor make findings that each community that is part of a recommended CDP meets the community eligibility criteria which are listed at § 675.27(d)(2). This is an unnecessary burden because the State of Alaska has determined that the communities listed in Table 1 are eligible and should be deemed eligible. The Governor should only be required to make findings on the eligibility of a community if it is not listed in Table 1.

Response: NMFS concurs. The State of Alaska has submitted information with its comments on the CDQ proposed rule that evaluate the list of communities in Table 1 against the community eligibility criteria at § 675.27(d)(2). The State of Alaska has concluded that the list of communities in Table 1 meet these eligibility criteria. The Secretary has reviewed this information in the record and agrees that the communities listed in Table 1 meet these criteria. The regulations at § 675.27(d)(2) and the heading for Table 1 are changed to require the Governor to provide to the Secretary findings of community eligibility only if the community is not listed in Table 1.

Comment 4: Proposed § 675.27(d)(2)(iv) states: "the community must not have previously developed harvesting or processing capability sufficient to support substantial fisheries participation in the BSAI. . . ." However, the Council approved language that specified "substantial groundfish fisheries" in this context. The proposed regulations should be changed from "substantial fisheries participation" to "substantial groundfish fisheries participation" to be consistent with the intent of the Council.

Response: NMFS concurs. The regulations at § 675.27(d)(2)(iv) are changed to include the word "groundfish."

Comment 5: Proposed § 675.27(b)(2)(i) requires the name and permit number of each vessel that will be used to harvest a CDQ allocation. Breakdowns, re-scheduling, weather or other unforeseen conditions would cause difficulty anticipating which vessels of a fishing corporation will be available for fishing. A mechanism is needed to allow a quick change in the list of CDQ harvesting vessels that appears on the CDP so that a substitute vessel can immediately begin fishing.

Response: NMFS concurs. The regulations at § 675.27(e)(3) are changed to allow an amendment to a CDP regarding a vessel change to have tentative approval upon receipt of the amendment by the Governor, pending final approval of the amendment under the procedure specified at § 675.27(e)(3). This change will give fishing corporations the ability to harvest CDQs if a regularly scheduled vessel is incapacitated due to mechanical breakdowns or other reasons.

Comment 6: The proposed regulations at § 675.27(b)(2)(x) state that a CDP must contain a "balance sheet and income statement, including profit, loss, and return on investment on all business ventures within the previous 12 months by the applicant and/or managing organization." This would require diversified companies that would work as the managing organization to divulge proprietary financial information to the public to participate in the program. This burdensome requirement should be changed to be consistent with the criterion approved by the Council, which states that a proposed CDP must contain a "balance sheet and income statement, including profit, loss, and return on investment" for the CDP.

Response: NMFS concurs. The final rule is changed at § 675.27(b)(2)(x) to be consistent with the Council's intent.

Comment 7: Proposed § 675.27(d)(2)(iii) states that for a community to be eligible it must conduct more than one-half of its current commercial or subsistence fishing effort "in the waters of the Bering Sea." The term "Bering Sea" should be defined in these regulations to eliminate confusion about the meaning of this criterion.

Response: NMFS concurs and revised § 675.27(d)(2)(iii) to substitute "Bering Sea and Aleutian Islands management area and adjacent waters," which is defined at § 675.2, for the undefined term "Bering Sea."

Comment 8: The regulations specify that the Council will be consulted on the Governor's recommendations for approval of CDPs. This procedure will not give the Council an opportunity to review any of the proposed CDPs that were not recommended by the Governor.

Response: NMFS concurs and adds § 675.27(a)(3) to read as follows: "Before sending his recommendations for approval of CDPs to the Secretary, the Governor must consult with the Council, and make available, upon request, CDPs

that are not part of the Governor's recommendations."

Comment 9: The proposed rule at § 675.27(b)(3)(ii)(A) would require a managing organization to receive official documentation of support from each community in the CDP application. This requirement is burdensome and should be left to the relationship between the association and its member communities.

Response: This requirement is necessary to protect the interests of the members of the community. This requirement is an integral part of the CDQ program criteria that were approved by the Council.

Comment 10: The proposed rule at § 675.27(b)(1)(iv) states that the CDP must estimate the number of employee hours that are anticipated to result from the CDP. However, employee hours are not a useful way to measure employment on vessels. Crew months or crew days would be a better method to measure participation.

Response: The number of employee hours anticipated per year will apply not only to vessels, but also to other types of businesses. Crew days could be easily converted to crew hours based on an assumed number of hours that a crew member is expected to work per day.

Comment 11: Requirements for plans to prevent quota overages in § 675.27(b)(2)(iii) should be more specific and use the same "best blend" method currently used by NMFS to manage fisheries quotas.

Response: The "best blend" system may be used by the CDP applicant in a CDP as the basis for monitoring catches and preventing quota overages. NMFS is allowing the CDP applicant to develop their own plan to prevent quota overages to provide the CDQ managing organization with the most flexibility in determining its own system.

Comment 12: Akutan, King Cove, and Sand Point are three communities that have been excluded from participation in the CDQ program. These communities should be included because no adequate justification is given for their exclusion.

Response: The CDQ program applies only to pollock in the BSAI management area. Further, the Council intended the benefits of the program to be limited to communities within a specific geographical area of western Alaska and that do not have substantial groundfish harvesting or processing capability For this reason, § 675.27(d)(2) states that a community is not eligible if it is located on the Gulf of Alaska, or if it has previously developed harvesting or processing capability sufficient to support substantial groundfish fisheries in the BSAI. Akutan has been excluded because it has a large groundfish processing plant. King Cove and Sand Point are excluded because they are located on the Gulf of Alaska.

Comment 13: The regulations should be amended to keep to a minimum the amount of confidential information that must be submitted in a CDP and to protect against the release of any confidential information that is submitted.

Response: According to the provisions of the Paperwork Reduction Act, requests for confidential information in the CDPs have been minimized.

Comment 14: The harvest of CDQ pollock should be exempt from all time and area closures that apply to the non-CDQ "olympic fishery."

Response: The harvest of CDQ pollock must occur within existing regulations pertaining to bycatch, prohibited species, marine mammal management, and other provisions. It is likely that CDQ fisheries will have ample time to harvest their pollock allocations after the non-CDQ inshore and offshore apportionments of the pollock TAC are achieved.

Comment 15: The CDQ for a given year should be available for use up to the beginning of the "A" season of the following year.

Response: Current regulations at § 675.20(a) require specification of the pollock TAC on a calendar year basis. There is no authority to "rollover" unused TAC from one calendar year to the next. Hence, it is not possible to harvest 1992 pollock TAC after December 31, 1992. In addition, the first season, or "A" season begins on January 1 (§ 675.20(a)(2)(ii)). Directed fishing for "A" season pollock has been delayed until late January, in part to reduce the bycatch of salmon in the pollock fishery. Allowance of CDQ fishing during this period in early January would undermine this bycatch management measure.

Comment 16: The CDQ program gives an exclusive allotment of pollock to native Alaskan communities, has the potential to award a disproportionate share of the resource to a single entity, transfers Federal oversight and monitoring of the CDQ program to the State of Alaska, and imposes burdensome and complicated reporting requirements.

Response: The CDQ program is consistent with the Magnuson Act and other applicable law. The Federal government will continue to exercise conservation and management authority over the BSAI area pollock fisheries. Additional information and reporting requirements implemented by this final rule are necessary to assure that the pollock resource will not be overfished under the CDQ program.

Comment 17: The CDQ program resembles an individual fishing quota (IFQ) program and should be managed in a similar way. Using the CDQ program as a test for a potential IFQ program would provide useful information for developing IFQ management measures.

Response: The CDQ program is based on allocation of part of the BSAI pollock TAC to approved CDPs for a specific limited period of time. The Council's proposed IFQ program for halibut and sablefish differs significantly in that participants would receive a transferable harvest privilege that continues indefinitely. However, a similar CDQ program also is proposed as part of the halibut and sablefish IFQ program.

Comment 18: In § 675.27(b), it is required that the Governor shall include in his written findings to the Secretary, that the CDPs meet the requirements of the Alaska Coastal Management Program (ACMP). The CDP is essentially a planning document, and should not be subject to ACMP consistency. Instead, ACMP consistency should be determined during the course of the permitting process that results from an approved CDP.

Response: The CDPs are comprehensive documents that describe in detail the proposed projects that would develop the fishing industry in western Alaska communities. Before the Secretary can approve a proposed CDP that has been recommended by the Governor, the CDP must be consistent with the CDQ regulations, the Magnuson Act, and all other applicable law, including the ACMP.

Comment 19: Native Alaskan communities that participate in the CDQ program may agree to enter into business arrangements that are not fully in their interest because of lack of experience in such business negotiations. Specific regulations that protect the interests of native Alaskan communities should be added to the CDQ regulations.

Response: The risk of making a poor business decision is inherent in virtually all businesses. It would be difficult and probably not appropriate for the Federal government to intervene in this area. To some extent, the requirement for letters of support from the community's governing body will provide incentive for public involvement in each community to assure that an appropriate and informed decision is made regarding contracts with a managing organization. In addition, separate CDPs will be

required for 1992–1993 and 1994–1995 allocations of pollock. This will provide a community that is dissatisfied with its 1992–1993 allocation to renegotiate its contracts for the 1994–1995 allocation.

Comment 20: The CDQ program was approved in concept on June 3, 1992, but its implementation was contingent on subsequent analysis of the program criteria and proposed CDPs. The proposed CDQ program has received only the most cursory cost-benefit analysis and no assessment of how it would produce an overall net benefit to the Nation as required by national standard 1. The CDQ regulations also are unsupported by sufficient economic and social impact analysis, and would not further any conservation or socio-economic purpose. The idea that our Nation's fisheries resources should be "sold" by coastal communities is unprecedented under the Magnuson Act.

Response: NMFS agrees that the pollock CDQ program is unique but does not have economic allocation as its sole purpose. Its primary objective is the achievement of social benefits through the development of fisheries in certain western Alaska communities. The CDQ program as implemented by these regulations is consistent with the Magnuson Act and other applicable law.

Comment 21: Past NMFS policy encouraged capital investment in north Pacific fishing, but allocations of pollock to the CDQ program will require this capital investment to remain idle and will put American fishermen out of work.

Response: NMFS has determined that the CDQ program is consistent with the Magnuson Act and other applicable law.

Comment 22: The CDQ program is a "give-away" welfare program, and is not likely to encourage self-sufficiency.

Response: The CDQ program is designed to provide start-up support for western Alaska communities by allocating a portion of the pollock TAC to them for the development of their local fishing industry.

Comment 23: It is inappropriate to force the investment of money in fisheries in western Alaska communities under the CDQ program. Western Alaska communities are not historically fishing communities and are unlikely to do so in the future. Many have limited access to fisheries because of winter ice conditions and surrounding shallow waters.

Response: For a community to be eligible to receive allocations of CDQs, it must conduct more than one-half its current commercial or subsistence fishing effort in the BSAI management area and adjacent waters.

Comment 24: The CDQ program sets an unusual precedent, is beyond the scope of Federal law, and should be disapproved. The CDQ program violates national standard 4 because it would discriminate between the residents of different states. It fails to meet national standards 5 and 7 because it does not promote efficiency and the maximum utility of resources. The Magnuson Act prohibits the sale of fish or fees by the U.S. Government beyond the necessary fees to cover the cost of issuing permits, but the selling of the right to harvest CDQs by the communities constitutes a fee.

Response: The Magnuson Act and other applicable law does not require maximum efficiency in the use of fishery resources if there are counterbalancing social or biological reasons for less efficiency. The Magnuson Act limits permit fees to the administrative costs of issuing a permit. This provision does not extend to the commercial transfer of such permits. Taxing such transfers for the benefit of the Nation is prohibited under the Magnuson Act. The CDQ program is consistent with the Magnuson Act and other applicable law. For further discussion of these subjects, see the preamble to the final rule of Amendment 18 (57 FR 23321, 23331–33, June 3, 1992).

Comment 25: The CDQ regulations do not require CDQ harvesting to conform to existing regulations except for recordkeeping and reporting requirements, so environmental protection measures could be bypassed.

Response: CDQ harvesting must conform to all existing fisheries regulations, except that CDQ harvesting by vessels that process or deliver to the offshore component is allowed in the CVOA when directed fishing by the offshore component is prohibited and CDQ harvesting may occur between the "A" and "B" seasons depending on seasonal allocations of CDQ approved by the Secretary. The CDQ implementing regulations do not excuse vessels that harvest pollock under an approved CDP from compliance with any other regulation including but not limited to bycatch and environmental regulations.

Comment 26: If the Secretary publishes final approval of the CDPs, the public and the interested communities would not have knowledge of the details of approved CDPs prior to their approval.

Response: The Governor is required by the CDQ regulations to hold a public hearing on the substance of the CDPs that are received by the State. The Secretary may use the transcript from the hearing as well as other information, including CDPs submitted by applicants but not recommended by the Governor for approval, to determine, in part, which CDPs should be approved. The hearing transcript will be available to the public on request. In addition, the Governor must consult with the Council regarding his recommendations, and the Council may review the CDPs that were not recommended by the Governor for approval.

Comment 27: The CDQ regulations violate the appointments clause of the U.S. Constitution because the U.S. Constitution requires that the Nation's executive decisionmakers, such as the Council members, be appointed by the executive branch of the U.S. Government. The Council members are selected, in effect, by the Governor, causing a conflict of interest whereby the CDQ program, which benefits Alaska, is being proposed and promoted by Council members selected by Alaska's Governor.

Response: Although Councils recommend FMPs or FMP amendments, it is the Secretary that decides whether to approve or disapprove a Council's proposal and only the Secretary has the authority to implement an approved FMP or FMP amendment. The delegation of power from the Congress to the Secretary is within the authority of the Appointments Clause. Therefore, the Secretary's approval of the CDQ regulations does not violate the Appointments Clause of the U.S. Constitution.

Comment 28: The CDQ regulations are not related to the preemption problem of Amendment 18, and if implemented, would do nothing to solve it, and therefore violate the Commerce Clause.

Response: The CDQ regulations do not violate the Commerce Clause. The CDQ Program was not proposed to solve the preemption problem between the inshore and offshore components. It was proposed to further the goals of the BSAI Goundfish FMP by promoting opportunities to improve the economic stability, growth, and self-sufficiency of western Alaska coastal communities.

Comment 29: If the CDQ program is implemented, each CDP should be subject to independent auditing before CDQs are allocated and on every anniversary of the allocation.

Response: The Governor, Council, and Secretary will review each CDP for consistency with the CDQ regulations before the Secretary approves it. The Governor is required under § 675.27(e) to submit an annual report to the Secretary on the performance of each CDP and a recommendation on the continuance of multi-year CDPs. Hence, each CDP will

be evaluated annually to determine if it is being managed according to the approved CDP. Independent review and auditing would create an unreasonable additional information reporting burden and increased costs.

Comment 30: NMFS has failed to satisfy the public comment requirements of the Magnuson Act and the Administrative Procedure Act (APA).

Response: The CDQ proposed rule was filed at the Office of the Federal Register on October 2, 1992, and published in the **Federal Register** on October 7, 1992 (57 FR 46139). Public comments were invited until October 23, 1992. This 22-day comment period meets the requirements of the APA.

Comment 31: Communities participating in the CDQ program do not have the infrastructure and deep water ports to process the pollock allocated to the CDQ program. Russia does have the ports and the infrastructure to process these fish; therefore, a joint venture with Russian business interests should be a part of the CDQ program. Also, other Alaskan cities could offer training opportunities to members of the CDQ communities in exchange for joint use of the CDQ allocation.

Response. The communities receiving CDQ allocations will be free to enter into any legal business relationship to use CDQs. There are no requirements in these regulations that specify what type of business arrangements are acceptable. Compensation to the CDQ communities can take any form, including training, if the final use of the compensation is to develop the fishing industry in the community.

Response to Comments on the EA/RIR/IRFA

Comment 1: In the second paragraph on page 2 of the EA/RIR/IRFA, the following statement is made: "CDQ pollock harvesting will take place during the existing "A" and "B" seasons." This is misleading because the CDQ pollock will most likely be harvested following the close of the "A" and "B" seasons.

Response: Existing regulations at § 675.20(a)(2)(ii) specify that the first, or "A" season, occurs from January 1 through April 15, and the second, or "B" season, occurs from June 1 through December 31. Directed fishing for pollock by CDQ and non-CDQ fisheries may occur during these time periods. Hence, a closure of directed fishing within a season does not technically terminate the season. The harvesting of CDQ pollock probably will occur after directed fishing for the offshore and inshore components is closed but before the "A" and "B" seasons end. Harvesting of CDQs may also occur between these seasons depending on seasonal allocations of CDQ approved by the Secretary. NMFS notes this comment and amends the EA/RIR/FRFA at the second paragraph, page 7, to clarify the seasons when CDQ harvesting is allowed.

Comment 2: The EA/RIR/IRFA discusses the community eligibility criterion, which is outlined at Part III(B)(2)(f) in Appendix I, that would ensure the allocation of CDQ pollock to economically depressed communities. This eligibility criterion is not discussed in the proposed rule or regulations.

Response. This community eligibility criterion was removed from the list of community eligibility criteria before publication of the proposed rule and should have been deleted from the EA/RIR/FRFA. It has now been deleted from the EA/RIR/FRFA.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this final rule is necessary for the conservation and management of the groundfish fishery off Alaska and that it is consistent with the Magnuson Act and other applicable law.

The Alaska Region, NMFS, prepared an EA for this proposed rule that discusses the impacts on the environment as a result of this rule and concluded that no significant impact on the human environment will result from its implementation. The public may obtain a copy (see **ADDRESSES**).

The final regulatory flexibility analysis (FRFA), prepared as part of the EA/RIR/FRFA, concludes that this proposed rule, if adopted, would have significant effects on small entities. The FRFA indicates that this rule would tranfer 7.5 percent of the BSAI area pollock TACs to western Alaska communities. In 1992, 7.5 percent of these TACs equals 101,445 mt. At an assumed exvessel price of $0.107 per pound (0.45 kilograms), the total exvessel value would be about $24 million. If the resource rent is 10 percent, the potential proceeds accruing to disadvantaged western Alaska communities would be approximately $2.4 million. These proceeds would be used to fund fisheries development projects designed to establish a permanent commercial fishing industry that would be a basis for future regional economic growth. A copy of this document may be obtained (see **ADDRESSES**)

NMFS concluded formal section 7 consultations on Amendment 18 to the BSAI FMP on March 4, 1992. The biological opinion issued for the consultation concluded that operation of the fishery under the amendment, including the CDQ program, is not likely to jeopardize the continued existence and recovery of any endangered or threatened species. Adoption of the management measures described in this rule will not affect listed species in a way that was not already considered in the biological opinion. Therefore, NMFS has determined that no further section 7 consultation is required for adoption of this action.

The Assistant Administrator has determined that this rule is not a "major rule" requiring a regulatory impact analysis under E.O 12291. Based on the socio-economic impacts discussed in the EA/RIR/FRFA prepared by the Alaska Region, NMFS has concluded that none of the proposed measures in this rule would cause impacts considered major for purposes of E.O. 12291

This rule involves collection-of-information requirements subject to the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. 3501 et seq) that have been approved by the Office of Management and Budget (OMB) under control number 0648–0213. The rule also contains new requirements that have been approved by OMB under control number 0648–0269. Public reporting burden for the new collections are estimated to average 160 hours per response for applications, 40 hours per response for amendments, and 40 hours for annual report submissions. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

NMFS has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. Consistency is automatically inferred because the appropriate State agency did not reply within the statutory time period.

The Department of Commerce's Federalism Implementation Officer has determined that this rule has sufficient

federalism implications to warrant preparation of a Federalism Assessment (FA) under E.O 12612. An FA has been prepared, which concludes that there are no provisions or elements of this proposed rule that are inconsistent with the principles, criteria, and requirements set forth in section 2 through 5 of E.O 12612. Further, this rule does not affect Alaska's ability to discharge traditional state governmental functions or other aspects of state sovereignty

The Assistant Administrator has determined that the provisions providing for a 30-day delay of the effectiveness of this final rule under section 553 of the Administrative Procedure Act will be waived. This determination was reached because a delay-in effectiveness would deny the western Alaska communities the opportunity to receive the economic development benefits from the allocations of pollock from the CDQ reserve for 1992.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: November 18, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 675 is amended as follows:

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for 50 CFR part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 675.2, new definitions of "Community Development Plan," "Community Development Quota," "Community Development Quota Program," "Community Development Quota Reserve," and "Governor" are added in alphabetical order to read as follows:

§ 675.2 Definitions.

* * * * *

Community Development Plan (CDP) (applicable through December 31, 1995) means a plan for a specific Western Alaska community or group of communities approved by the Governor of the State of Alaska and recommended to the Secretary under § 675.27 of this part.

Community Development Quota (CDQ) (applicable through December 31, 1995) means a western Alaska community development quota for pollock assigned to an approved CDP. All CDQs, in the aggregate, equal one-half of 15 percent of the total allowable catch specified for pollock that is placed in reserve under § 675.20(a)(3) of this part.

Community Development Quota Program (CDQ program) (applicable through December 31, 1995) means the Western Alaska Community Development Program implemented under § 675.27 of this part.

Community Development Quota Reserve (CDQ reserve) (applicable through December 31, 1995) means one-half of 15 percent of the total allowable catch specified for pollock in each subarea that is placed in reserve under § 675.20(a)(3) of this part.

* * * * *

Governor means the Governor of the State of Alaska.

* * * * *

3. In § 675.7, paragraphs (j) and (k) are redesignated as (k) and (l), respectively, and a new paragraph (j) is added to read as follows:

§ 675.7 Prohibitions.

* * * * *

(j) *Applicable through December 31, 1995.*

(1) Participate in a Western Alaska Community Development Quota program in violation of § 675.27 of this part or submit information that is false or inaccurate with a CDP application or request for an amendment; or

(2) Operate a vessel that harvests pollock for credit to a CDQ allocation when that allocation has been fully harvested.

* * * * *

4. In § 675.20, paragraphs (a)(3)(i), (a)(3)(ii), (a)(3)(iii), the first sentence of (a)(7)(i), and the first sentence of (a)(7)(ii), are revised and a new paragraph (e)(2)(iv) is added to read as follows:

§ 675.20 General limitations.

(a) * * *

(3) * * *

(i) *Applicable through December 31, 1995.* Any amounts of the nonspecific reserve that are reapportioned to pollock as provided by paragraph (b) of this section must be apportioned between inshore and offshore components in the same proportion specified in paragraph (a)(2)(iii) of this section.

(ii) *Applicable through December 31, 1995.* In the publications of proposed and final harvest limit specifications required under § 675.20(a) of this part, one half of the pollock TAC placed in the reserve for each subarea will be assigned to a CDQ reserve for each subarea. NMFS may add any amount of a CDQ reserve back to the nonspecific reserve if, after September 30, the Regional Director determines that amount will not be used during the remainder of the fishing year.

(iii) *Applicable through December 31, 1995. Application for approval of a CDP and CDQ allocation.* In accordance with Secretarial action under § 675.27 of this part, NMFS may allocate portions of the CDQ reserve for each subarea to one or more eligible communities or groups of communities that have an approved CDP. An application for a CDP and CDQ allocation of pollock must contain the information described in § 675.27(c) of this part. In addition to the requirements in § 675.27, vessels participating in the CDQ program must comply with regulations in this part.

* * * * *

(7) * * *

(i) *Proposed specifications and interim harvest amounts.* As soon as practicable after consultation with the Council, NMFS will publish an action in the **Federal Register** specifying, for the succeeding fishing year, proposed annual TAC and initial TAC amounts for each target species and "other species" category and apportionments thereof among DAP, JVP, and TALFF; prohibited species catch allowances established under § 675.21(b) of this part; seasonal allowances of the pollock TAC; and seasonal allowances of the pollock CDQ reserve. * * *

(ii) *Final specifications.* NMFS will consider comments on the proposed specifications received during the comment period and, after consultation with the Council, will publish an action in the **Federal Register** specifying the final annual TAC for each target species and the "other species" category and apportionments thereof, final prohibited species catch allowances established under § 675.21(b) of this part, final seasonal allowances of the pollock TAC; and seasonal allowances of the pollock CDQ reserve. * * *

* * * * *

(e) * * *

(2) * * *

(iv) Exceeding a CDQ as defined at § 675.2 of this part.

* * * * *

5. In § 675.22, paragraph (g) is revised to read as follows:

§ 675.22 Time and area closures.

(g) *Catcher vessel operational area (applicable through December 31, 1992).* The offshore component of the groundfish fishery may not conduct directed fishing for pollock at any time in the Bering Sea subarea south of 56°00'

N. latitude, and between 163°00′ and 168°00′ W. longitude. Directed fishing for pollock by vessels that process pollock or deliver pollock to the offshore component may operate in this area under an approved CDP and only when such directed fishing is prohibited in the Bering Sea subarea.

6. A new § 675.27 is added to read as follows:

§ 675.27 Western Alaska Community Development Quota Program (applicable through December 31, 1995).

(a) *State of Alaska CDQ regulations.*

(1) The State of Alaska must be able to ensure implementation of the CDPs once approved by the Secretary. To accomplish this, the State must establish a monitoring system that defines what constitutes compliance and non-compliance.

(2) Prior to granting approval of a CDP by the Governor, the Secretary shall find that the Governor developed and approved the CDP after conducting at least one public hearing, at an appropriate time and location in the geographical area concerned, so as to allow all interested persons an opportunity to be heard. The hearing(s) on the CDP do not have to be held on the actual documents submitted to the Governor under section § 675.27(b). Such hearing(s) must cover the substance and content of the proposed CDP in such a manner that the general public, and particularly the affected parties, have a reasonable opportunity to understand the impact of the CDP. The Governor must provide reasonable public notice of hearing date(s) and location(s). The Governor must make available for public review, at the time of public notice of the hearing, all state materials pertinent to the hearing(s). The Governor must include a transcript or summary of the public hearing(s) with the Governor's recommendations to the Secretary in accordance with § 675.27. At the same time this transcript is submitted to the Secretary, it must be made available, upon request, to the public. The public hearing held by the Governor will serve as the public hearing for purposes of Secretarial review under § 675.27(c).

(3) Before sending his recommendations for approval of CDPs to the Secretary, the Governor must consult with the Council, and make available, upon request, CDPs that are not part of the Governor's recommendations.

(b) *CDP application.* The Governor, after consultation with the Council, shall include in his written findings to the Secretary recommending approval of a single or multi-year CDP, that the CDP meets the requirements of these regulations, the Magnuson Act, the Alaska Coastal Management Program, and other applicable law. At a minimum, the submission must discuss the determination of a community as eligible; information regarding community development, including goals and objectives; business information; and a statement of the managing organization's qualifications. For purposes of this section, an eligible community includes any community or group of communities that meets the criteria set out in paragraph (d)(2) of this section. Applications for a CDP must include the following information:

(1) *Community development information.* Community development information includes:

(i) The goals and objectives of the CDP;

(ii) The allocation of CDQ pollock requested for each subarea defined at § 675.2;

(iii) The length of the time the CDP and allocation will be necessary to achieve the goals and objectives of the CDP, including a project schedule with measurable milestones for determining progress;

(iv) The number of individuals to be employed under the CDP, the nature of the work provided, the number of employee-hours anticipated per year, and the availability of labor from the applicant's community(ies);

(v) Description of the vocational and educational training programs that a CDQ allocation under the CDP would generate;

(vi) Description of existing fishery-related infrastructure and how the CDP would use or enhance existing harvesting or processing capabilities, support facilities, and human resources;

(vii) Description of how the CDP would generate new capital or equity for the applicant's fishing or processing operations;

(viii) A plan and schedule for transition from reliance on the CDQ allocation under the CDP to self-sufficiency in fisheries; and

(ix) A description of short- and long-term benefits to the applicant from the CDQ allocation.

(2) *Business information.* Business information includes:

(i) Description of the intended method of harvesting the CDQ allocation, including the types of products to be produced; amounts to be harvested; when, where, and how harvesting is to be conducted; and names and permit numbers of the vessels that will be used to harvest a CDQ allocation;

(ii) Description of the target market for sale of products and competition existing or known to be developing in the target market;

(iii) Description of business relationships between all business partners or with other business interests, if any, including arrangements for management, audit control, and a plan to prevent quota overages. For this section, business partners means all individuals who have a financial interest in the CDQ project;

(iv) Description of profit sharing arrangements;

(v) Description of all funding and financing plans;

(vi) Description of joint venture arrangements, loans, or other partnership arrangements, including the distribution of proceeds among the parties;

(vii) A budget for implementing the CDP;

(viii) A list of all capital equipment;

(ix) A cash flow and break-even analysis; and

(x) A balance sheet and income statement, including profit, loss, and return on investment for the proposed CDP.

(3) *Statement of managing organization's qualifications.*

Statement of the managing organization's qualifications includes:

(i) Information regarding its management structure and key personnel, such as resumes and references; and includes the name, address, FAX number, and telephone number of the managing organization's representative; and

(ii) A description of how the managing organization is qualified to manage a CDQ allocation and prevent quota overages. For purposes of this section, a qualified managing organization means any organization or firm that would assume responsibility for managing all or part of the CDP and would meet the following criteria:

(A) Documentation of support from each community represented by the applicant for a CDP through an official letter of support approved by the governing body of the community;

(B) Documentation of a legal relationship between the CDP applicant and the managing organization, which clearly describes the responsibilities and obligations of each party as demonstrated through a contract or other legally binding agreement; and

(C) Demonstration of management and technical expertise necessary to carry out the CDP as proposed by the CDP application.

(c) *Secretarial review and approval of CDPs.*

(1) Upon receipt by the Secretary of the Governor's recommendation for approval of proposed CDPs, the Secretary will review the record to determine whether the community eligibility criteria and the evaluation criteria set forth in paragraph (d) of this section have been met. The Secretary shall then approve or disapprove the Governor's recommendation within 45 days of its receipt. In the event of approval, the Secretary shall notify the Governor and the Council in writing that the Governor's recommendations for CDPs are consistent with the community eligibility conditions and evaluation criteria under paragraph (d) of this section and other applicable law, including the Secretary's reasons for approval. Publication of the decision, including the percentage of the CDQ reserve for each subarea allocated under the CDPs, and the availability of the findings will be published in the **Federal Register.** The Secretary will allocate no more than 33 percent of the total CDQ to any approved CDP application. A community may not concurrently receive more than one pollock CDQ allocation, and only one CDP per community will be approved.

(2) If the Secretary finds that the Governor's recommendations for CDQ allocations are not consistent with the criteria set forth in these regulations and disapproves the Governor's recommendations, the Secretary shall so advise the Governor and the Council in writing, including the reasons therefor. Notice of the decision will be published in the **Federal Register.** The CDP applicant may submit a revised CDP to the Governor for submission to the Secretary. Review by the Secretary of a revised CDP application will be in accordance with the provisions set forth in this section.

(d) *Evaluation criteria.* The Secretary will approve the Governor's recommendations for CDPs if the Secretary finds the CDP is consistent with the requirements of these regulations, including the following:

(1) Each CDP application is submitted in compliance with the application procedures described in § 675.27(b);

(2) Prior to approval of a CDP recommended by the Governor, the Secretary will review the Governor's findings to determine that each community that is part of a CDP is listed on Table 1 or meets the following criteria for an eligible community:

(i) The community 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;

(ii) 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.

(iii) The residents of the community must conduct more than one-half of their current commercial or subsistence fishing effort in the waters of the Bering Sea and Aleutian Islands management area.

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

(3) Each CDP application demonstrates that a qualified managing organization will be responsible for the harvest and use of the CDQ allocation pursuant to the CDP;

(4) Each CDP application demonstrates that its managing organization can effectively prevent exceeding the CDQ allocation; and

(5) The Governor has found for each recommended CDP that:

(i) The CDP and the managing organization are fully described in the CDQ application, and have the ability to successfully meet the CDP milestones and schedule;

(ii) The managing organization has an adequate budget for implementing the CDP, and that the CDP is likely to be successful;

(iii) A qualified applicant has submitted the CDP application and that the applicant and managing organization have the support of each community participating in the proposed CDQ project as demonstrated through an official letter approved by the governing body of each such community; and

(iv) The following factors have been considered:

(A) The number of individuals from applicant communities who will be employed under the CDP, the nature of their work, and career advancement;

(B) The number and percentage of low income persons residing in the applicant communities, and the economic opportunities provided to them through employment under the CDP;

(C) The number of communities cooperating in the application;

(D) The relative benefits to be derived by participating communities and the specific plans for developing a self-sustaining fisheries economy; and

(E) The success or failure of the applicant and/or the managing organization in the execution of a prior CDP.

(6) For purposes of this paragraph, "qualified applicant" means:

(i) A local fishermen's organization from an eligible community, or group of eligible communities, that is 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 resident fishermen of the community (or group of communities) that is (are) making an application; or

(ii) A local economic development organization incorporated under the laws of the State of Alaska, or under Federal law, specifically for the purpose of designing and implementing a CDP, and that has a board of directors composed of at least 75 percent resident fishermen of the community (or group of communities) that is (are) making an application.

(7) For the purpose of this paragraph, "resident fisherman" means an individual with documented commercial or subsistence fishing activity who maintains a mailing address and permanent domicile in the community and is eligible to receive an Alaska Permanent Fund dividend at that address.

(8) If a qualified applicant represents more than one community, the board of directors of the applicant must include at least one member from each of the communities represented.

(e) *Monitoring of CDPs (applicable through December 31, 1995).* (1) Applicants for single-year CDPs are required to submit final reports and applicants for multi-year CDPs are required to submit annual reports to the Governor by June 30 of the year following CDP approval and CDQ allocation. Multi-year CDP annual reports will include information describing how the CDP has met its milestones, goals, and objectives. The Governor will submit an annual report to the Secretary on the final status of all single-year CDPs, and recommend whether multi-year CDPs should be continued. The Secretary must notify the Governor in writing within 45 days of receipt of the Governor's annual report, accepting or rejecting the annual report and the Governor's recommendations on multi-year CDQ projects. If the Secretary rejects the Governor's annual report, the Secretary will return the

Governor's annual report for revision and resubmission to the Secretary. The Governor's annual report will be deemed approved if the Secretary does not notify the Governor in writing within 45 days of receipt of the Governor's annual report.

(2) If an applicant requests an increase in CDQ allocation under a multi-year CDP, the applicant must submit a new CDP application for review by the Governor and approval by the Secretary as described in paragraphs (b) and (c) of this section.

(3) Amendments to a CDP will require written notification to the Governor and subsequent approval by the Governor and the Secretary before any change in a CDP can occur. The Governor may recommend to the Secretary that the request for an amendment be approved. The Secretary may notify the Governor in writing of approval or disapproval of the amendment within 30 days of receipt of the Governor's recommendation. The Governor's recommendation for approval of an amendment will be deemed approved if the Secretary does not notify the Governor in writing within 30 days of receipt of the Governor's recommendation. If the Secretary determines that the CDP, if changed, would no longer meet the criteria under paragraph (d) of this section, or if any of the requirements under § 675.27 would not be met, the Secretary shall notify the Governor in writing of the reasons why the amendment cannot be approved. An amendment to the list of names and permit numbers of CDQ harvesting vessels as specified in § 675.27(b)(2)(i) will be approved upon receipt by the Governor unless it is subsequently disapproved by the Governor, or by the Secretary under provisions of this paragraph.

(i) For the purposes of this section, amendments are defined as substantial changes in a CDP, including, but not limited to, the following:

(A) Any change in the relationships among the business partners, including a change in CDQ harvesting vessels;

(B) Any change in the profit sharing arrangements among the business partners, or any change to the budget for the CDP; or

(C) Any change in management structure of the project, including any change in audit procedures or control.

(ii) Notification of an amendment to a CDP shall include the following information:

(A) Description of the proposed change, including specific pages and text of CDP that will be changed if the amendment is approved by the Secretary; and

(B) Explanation of why the change is necessary and appropriate. The explanation should identify which findings, if any, made by the Secretary in approving the CDP may need to be modified if the amendment is approved.

(4) Harvesting operations for a CDQ allocation will stop when the managing organization's representative is informed by the Regional Director that the CDQ allocation has been reached. It is prohibited for a vessel engaged in harvesting a CDQ allocation to continue fishing when the CDP's managing organization's representative has been informed that the CDQ allocation has been reached.

(f) *Suspension or termination of a CDP (applicable through December 31, 1995).*

(1) The Secretary at any time, may partially suspend, suspend, or terminate any CDP upon written recommendation of the Governor setting out his reasons that the CDP recipient is not complying with these regulations. After review of the Governor's recommendation and reasons for a partial suspension, suspension, or termination of a CDP, the Secretary will notify the Governor in writing of approval or disapproval of his recommendation within 45 days of its receipt. In the event of approval of the Governor's recommendation, the Secretary will publish an announcement in the **Federal Register** that the CDP has been partially suspended, suspended, or terminated along with reasons therefor.

(2) The Secretary also may partially suspend, suspend, or terminate any CDP at any time if the Secretary finds a recipient of a CDQ allocation pursuant to the CDP is not complying with these regulations or other regulations or provisions of the Magnuson Act or other applicable law. Publication of suspension or termination will appear in the **Federal Register** along with the reasons therefor.

(3) The annual report for multi-year CDPs, which is required under paragraph (e) of this section, will be used by the Governor to review each CDP to determine if the CDP and CDQ allocation thereunder should be continued, decreased, partially suspended, suspended, or terminated under the following circumstances:

(i) If the Governor determines that the CDP will successfully meet its goals and objectives, the CDP may continue without any Secretarial action.

(ii) If the Governor recommends to the Secretary that an allocation be decreased, the Governor's recommendation for decrease will be deemed approved if the Secretary does not notify the Governor in writing within 30 days of receipt of the Governor's recommendation.

(iii) If the Governor determines that a CDP has not successfully met its goals and objectives, or appears unlikely to become successful, the Governor may submit a recommendation to the Secretary that the CDP be partially suspended, 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 therefor, the Secretary will notify the Governor in writing of approval or disapproval of his recommendation within 30 days of its receipt. The Secretary would publish a notice in the **Federal Register** that the CDP has been suspended or terminated, with reasons therefor.

(g) *CDQ fishing requirements.* All processors and vessels will be responsible for the following recordkeeping and reporting requirements in addition to existing regulations at § 675.5:

(1) Operators of all vessels fishing CDQs must list all CDQ catch on a Daily Fishing Logbook sheet, as required in § 675.5(b)(2), and clearly write their CDQ identification number on the sheet. A separate sheet must be used for CDQ catch.

(2) A processor receiving CDQ landings must list all CDQ landings on a Daily Cumulative Production Logbook sheet, as required in § 675.5(b)(3), and clearly write the CDQ identification number on the sheet. A separate sheet must be used for CDQ landings.

(3) A processor receiving CDQ landings must list all CDQ landings on a Weekly Production Report sheet, as required in § 675.5(c)(2), and clearly write the CDQ identification number on the sheet. A separate sheet must be used for CDQ landings.

TABLE 1. 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. Alegnagik
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. Chefornak
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

[FR Doc. 92-28377 Filed 11-18-92; 1:00 pm]

BILLING CODE 3510-22-M