



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**

*National Marine Fisheries Service*

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Re: Applicability of the Federal Advisory Committee Act to the Western Alaska  
Community Development Quota Administrative Panel

Dear CDQ Group Executive Directors:

This letter responds to your request for a determination about whether the Federal Advisory Committee Act (FACA), 5 U.S.C. App. I (1982), applies to the Western Alaska Community Development Quota Administrative Panel (CDQ Panel). For the reasons stated below, we have determined that FACA does not apply to the CDQ Panel.

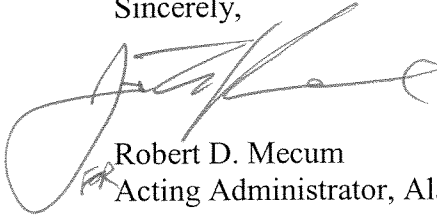
The CDQ Panel was created on July 11, 2006, when the President signed the Coast Guard and Maritime Transportation Act of 2006 (the Coast Guard bill), Pub. L. No. 109-241 (2006). Section 416(a) of the Coast Guard bill revises section 305(i)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1855(i), by replacing all of the existing language in this section with new language. Section 305(i)(1)(A) establishes, and sets forth the purposes of, the Western Alaska Community Development Quota Program (CDQ Program). Section 305(i)(1)(G) establishes the CDQ Panel and defines its membership and functions. It states that the CDQ Panel shall administer certain aspects of the CDQ Program, either through contractual arrangement or recommendation, and coordinate and facilitate the activities of the program entities (306 (i)(1)(G)(iii)(I) and (II)).

Pursuant to FACA regulations at 41 C.F.R. 102-3.40(k), committees established by statute to perform primarily operational, as opposed to advisory, functions are not subject to FACA. The same regulation states that operational functions are those specifically authorized by statute or



Presidential directive, such as making or implementing Government decisions or policy. In this case, the CDQ Panel has been established by statute in order to administer activities associated with the implementation of the CDQ Program's objectives as defined by section 305(i)(1)(A) of the MSA. These objectives are (1) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the Bering Sea and Aleutian Islands Management Areas, (2) to support economic development in western Alaska, (3) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and (4) to achieve sustainable and diversified local economies in western Alaska. Accordingly, the CDQ Panel is not subject to FACA. Note, however, that should the CDQ Panel's activities become primarily advisory, as opposed to operational, FACA will then apply.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert D. Mecum", written over a printed name and title.

Robert D. Mecum  
Acting Administrator, Alaska Region

cc: Greg Cashen, ADCCED  
NPFMC