



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

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

January 4, 2007

Emil Notti, Commissioner
Department of Commerce, Community,
and Economic Development
P.O. Box 110807
Juneau, Alaska 99811-0807

Dear Commissioner Notti:

Congratulations on your appointment as Commissioner. As you know, the State of Alaska (State) and the National Marine Fisheries Service (NMFS) have worked cooperatively to manage the Western Alaska Community Development Quota (CDQ) Program since its creation in 1992. We look forward to working with you in the future and we are available to discuss any aspect of CDQ Program management at your convenience.

Attached is a copy of a letter we sent to the State on July 28, 2006, requesting a determination about new authority and responsibilities conferred by amendments to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). We have not yet received a response to this letter. As described in more detail in the attached letter, the MSA was amended on July 11, 2006, to require the State to conduct a decennial review of the CDQ groups and to authorize the State to adjust allocations of groundfish, halibut, and crab among the CDQ groups. No role in the allocation adjustment is required for the Secretary of Commerce or NMFS unless State law prevents the State from undertaking this responsibility. We request a determination from the State about whether it can undertake this responsibility before we initiate any revisions to federal regulations related to the decennial review and allocation adjustment process.

Please contact Sally Bibb, NMFS Alaska Region, Sustainable Fisheries Division at (907) 586-7389 or sally.bibb@noaa.gov if you have any additional questions about this request or any other aspect of the CDQ Program.

Sincerely,

Robert D. Mecum
Acting Administrator, Alaska Region

cc: CDQ Groups
Greg Cashen
NPFMC





UNITED STATES DEPARTMENT OF COMMERCE
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National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

July 28, 2006

William C. Noll, Commissioner
Department of Commerce, Community,
and Economic Development
P.O. Box 110807
Juneau, Alaska 99811-0807

Dear Commissioner Noll:

On July 11, 2006, the President signed HR 889, the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241). Section 416 of this legislation amended section 305(i)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), which governs the Western Alaska Community Development Quota (CDQ) Program. Enclosed are (1) excerpts from the April 6, 2006, conference committee report on HR 889, and (2) excerpts from Public Law (Pub. L.) 109-241.

Section 305(i)(1)(H) of the MSA, as revised by Pub. L. 109-241, now requires a decennial review of the CDQ groups and CDQ Program and provides for an adjustment of allocations of groundfish, halibut, or crab quota among the CDQ groups under certain circumstances. Section 305(i)(1)(H)(i) requires that the State of Alaska evaluate the performance of each CDQ group, during 2012 and every 10 years thereafter. Section 305(i)(1)(H)(iii) requires:

(iii) ADJUSTMENT OF ALLOCATIONS.—After the evaluation required by clause (i), the State of Alaska shall make a determination, on the record and after an opportunity for a hearing, with respect to the performance of each entity participating in the program for the criteria described in clause (ii). If the State determines that the entity has maintained or improved its overall performance with respect to the criteria, the allocation to such entity under the program shall be extended by the State for the next 10-year period. If the State determines that the entity has not maintained or improved its overall performance with respect to the criteria—

(I) at least 90 percent of the entity's allocation for each species under subparagraph (C) shall be extended by the State for the next 10-year period; and

(II) the State may determine, or the Secretary may determine (if State law prevents the State from making the determination), and implement an appropriate reduction of up to 10 percent of the entity's allocation for each species under subparagraph (C) for all or part of such 10-year period.

The MSA requires that the State of Alaska conduct the decennial review and any reallocations that result from the review under State law. No role is required for the Secretary of Commerce in



this review or allocation adjustment process unless State law prevents the State from undertaking this responsibility.

The National Marine Fisheries Service (NMFS) and the North Pacific Fishery Management Council must assess the need for amendments to fishery management plans and Federal regulations governing the CDQ Program as a result of Pub. L. 109-241. In order to begin the assessment of implementation of section 305(i)(1)(H), we require a determination by the State of Alaska as to whether it has the legal authority to adjust allocations of groundfish, crab, or halibut quota among the CDQ groups consistent with the requirements of the MSA. Therefore, we request that the State of Alaska provide us a written determination about its legal authority under Section 305(i)(1)(H) as soon as possible.

Please contact Sally Bibb, NMFS Alaska Region, Sustainable Fisheries Division at (907) 586-7389 or Lauren Smoker, NOAA General Counsel, Alaska Region at (907)-586-7414, ext. 233 if you have any questions about the MSA amendments made through Pub. L. 109-241 or this request.

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region

Enclosure

cc: CDQ Groups
Greg Cashen
NPFMC