

111TH CONGRESS
1ST SESSION

S. 1609

To authorize a single fisheries cooperative for the Bering Sea Aleutian Islands longline catcher processor subsector, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2009

Ms. CANTWELL (for herself, Mrs. MURRAY, Ms. MURKOWSKI, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize a single fisheries cooperative for the Bering Sea Aleutian Islands longline catcher processor subsector, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Longline Catcher Proc-
5 essor Subsector Single Fishery Cooperative Act”.

1 **SEC. 2. AUTHORITY TO APPROVE AND IMPLEMENT A SIN-**
2 **GLE FISHERY COOPERATIVE FOR THE**
3 **LONGLINE CATCHER PROCESSOR SUB-**
4 **SECTOR IN THE BSAI.**

5 (a) IN GENERAL.—Upon the request of eligible mem-
6 bers of the longline catcher processor subsector holding
7 at least 80 percent of the licenses issued for that sub-
8 sector, the Secretary is authorized to approve a single fish-
9 ery cooperative for the longline catcher processor sub-
10 sector in the BSAI.

11 (b) LIMITATION.—A single fishery cooperative ap-
12 proved under this section shall include a limitation prohib-
13 iting any eligible member from harvesting a total of more
14 than 20 percent of the Pacific cod available to be har-
15 vested in the longline catcher processor subsector, the vio-
16 lation of which is subject to the penalties, sanctions, and
17 forfeitures under section 308 of the Magnuson-Stevens
18 Act (16 U.S.C. 1858), except that such limitation shall
19 not apply to harvest amounts from quota assigned explic-
20 itly to a CDQ group as part of a CDQ allocation to an
21 entity established by section 305(i) of the Magnuson-St-
22evens Act (16 U.S.C. 1855(i)).

23 (c) CONTRACT SUBMISSION AND REVIEW.—The
24 longline catcher processor subsector shall submit to the
25 Secretary—

1 (1) not later than November 1 of each year, a
2 contract to implement a single fishery cooperative
3 approved under this section for the following cal-
4 endar year; and

5 (2) not later than 60 days prior to the com-
6 mencement of fishing under the single fishery coop-
7 erative, any interim modifications to the contract
8 submitted under paragraph (1).

9 (d) DEPARTMENT OF JUSTICE REVIEW.—Not later
10 than November 1 before the first year of fishing under
11 a single fishery cooperative approved under this section,
12 the longline catcher processor sector shall submit to the
13 Secretary a copy of a letter from a party to the contract
14 under subsection (c)(1) requesting a business review letter
15 from the Attorney General and any response to such re-
16 quest.

17 (e) IMPLEMENTATION.—The Secretary shall imple-
18 ment a single fishery cooperative approved under this sec-
19 tion not later than 2 years after receiving a request under
20 subsection (a).

21 (f) STATUS QUO FISHERY.—If the longline catcher
22 processor subsector does not submit a contract to the Sec-
23 retary under subsection (c) then the longline catcher proc-
24 essor subsector in the BSAI shall operate as a limited ac-
25 cess fishery for the following year subject to the license

1 limitation program in effect for the longline catcher proc-
 2 essor subsector on the date of enactment of this Act or
 3 any subsequent modifications to the license limitation pro-
 4 gram recommended by the Council and approved by the
 5 Secretary.

6 **SEC. 3. HARVEST AND PROHIBITED SPECIES ALLOCATIONS**
 7 **TO A SINGLE FISHERY COOPERATIVE FOR**
 8 **THE LONGLINE CATCHER PROCESSOR SUB-**
 9 **SECTOR IN THE BSAI.**

10 A single fishery cooperative approved under section
 11 2 may, on an annual basis, collectively—

12 (1) harvest the total amount of BSAI Pacific
 13 cod total allowable catch, less any amount allocated
 14 to the longline catcher processor subsector non-coop-
 15 erative limited access fishery;

16 (2) utilize the total amount of BSAI Pacific cod
 17 prohibited species catch allocation, less any amount
 18 allocated to a longline catcher processor subsector
 19 non-cooperative limited access fishery; and

20 (3) harvest any reallocation of Pacific cod to
 21 the longline catcher processor subsector during a
 22 fishing year by the Secretary.

1 **SEC. 4. LONGLINE CATCHER PROCESSOR SUBSECTOR NON-**
 2 **COOPERATIVE LIMITED ACCESS FISHERY.**

3 (a) IN GENERAL.—An eligible member that elects not
 4 to participate in a single fishery cooperative approved
 5 under section 2 shall operate in a non-cooperative limited
 6 access fishery subject to the license limitation program in
 7 effect for the longline catcher processor subsector on the
 8 date of enactment of this Act or any subsequent modifica-
 9 tions to the license limitation program recommended by
 10 the Council and approved by the Secretary.

11 (b) HARVEST AND PROHIBITED SPECIES ALLOCA-
 12 TIONS.—Eligible members operating in a non-cooperative
 13 limited access fishery under this section may collectively—

14 (1) harvest the percentage of BSAI Pacific cod
 15 total allowable catch equal to the combined average
 16 percentage of the BSAI Pacific cod harvest allocated
 17 to the longline catcher processor sector and retained
 18 by the vessel or vessels designated on the eligible
 19 members license limitation program license or li-
 20 censes for 2006, 2007, and 2008, according to the
 21 catch accounting system data used to establish total
 22 catch; and

23 (2) utilize the percentage of BSAI Pacific cod
 24 prohibited species catch allocation equal to the per-
 25 centage calculated under paragraph (1).

1 **SEC. 5. AUTHORITY OF THE NORTH PACIFIC FISHERY MAN-**
2 **AGEMENT COUNCIL.**

3 (a) IN GENERAL.—Nothing in this Act shall super-
4 sede the authority of the Council to recommend for ap-
5 proval by the Secretary such conservation and manage-
6 ment measures, in accordance with the Magnuson-Stevens
7 Act (16 U.S.C. 1801 et seq.) as it considers necessary to
8 ensure that this Act does not diminish the effectiveness
9 of fishery management in the BSAI or the Gulf of Alaska
10 Pacific cod fishery.

11 (b) LIMITATIONS.—

12 (1) Notwithstanding the authority provided to
13 the Council under this section, the Council is prohib-
14 ited from altering or otherwise modifying—

15 (A) the methodology established under sec-
16 tion 3 for allocating the BSAI Pacific cod total
17 allowable catch and BSAI Pacific cod prohib-
18 ited species catch allocation to a single fishery
19 cooperative approved under this Act; or

20 (B) the methodology established under sec-
21 tion 4 of this Act for allocating the BSAI Pa-
22 cific cod total allowable catch and BSAI Pacific
23 cod prohibited species catch allocation to the
24 non-cooperative limited access fishery.

25 (2) No sooner than 7 years after approval of a
26 single fisheries cooperative under section 2 of this

1 Act, the Council may modify the harvest limitation
2 established under section 2(b) if such modification
3 does not negatively impact any eligible member of
4 the longline catcher processor subsector.

5 (c) PROTECTIONS FOR THE GULF OF ALASKA PA-
6 CIFIC COD FISHERY.—The Council may recommend for
7 approval by the Secretary such harvest limitations of Pa-
8 cific cod by the longline catcher processor subsector in the
9 Western Gulf of Alaska and the Central Gulf of Alaska
10 as may be necessary to protect coastal communities and
11 other Gulf of Alaska participants from potential competi-
12 tive advantages provided to the longline catcher processor
13 subsector by this Act.

14 **SEC. 6. RELATIONSHIP TO THE MAGNUSON-STEVENSON ACT.**

15 (a) IN GENERAL.—Consistent with section 301(a) of
16 the Magnuson-Stevens Act (16 U.S.C. 1851(a)), a single
17 fishery cooperative approved under section 2 of this Act
18 is intended to enhance conservation and sustainable fish-
19 ery management, reduce and minimize bycatch, promote
20 social and economic benefits, and improve the vessel safety
21 of the longline catcher processor subsector in the BSAI.

22 (b) TRANSITION RULE.—A single fishery cooperative
23 approved under section 2 of this Act is deemed to meet
24 the requirements of section 303A(i) of the Magnuson-Ste-
25 vens Act (16 U.S.C. 1853a(i)) as if it had been approved

1 by the Secretary within 6 months after the date of enact-
2 ment of the Magnuson-Stevens Fishery Conservation and
3 Management Reauthorization Act of 2006, unless the Sec-
4 retary makes a determination, within 30 days after the
5 date of enactment of this Act, that application of section
6 303A(i) of the Magnuson-Stevens Act to the cooperative
7 approved under section 2 of this Act would be inconsistent
8 with the purposes for which section 303A was added to
9 the Magnuson-Stevens Act.

10 (c) COST RECOVERY.—Consistent with section
11 304(d)(2) of the Magnuson-Stevens Act (16 U.S.C.
12 1854(d)(2)), the Secretary is authorized to recover reason-
13 able costs to administer a single fishery cooperative ap-
14 proved under section 2 of this Act.

15 **SEC. 7. COMMUNITY DEVELOPMENT QUOTA PROGRAM.**

16 Nothing in this Act shall affect the western Alaska
17 community development program established by section
18 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)),
19 including the allocation of fishery resources in the directed
20 Pacific cod fishery.

21 **SEC. 8. DEFINITIONS.**

22 In this Act:

23 (1) BSAI.—The term “BSAI” has the meaning
24 given that term in section 219(a)(2) of the Depart-
25 ment of Commerce and Related Agencies Appropria-

1 tions Act, 2005 (Public Law 108–447; 118 Stat.
2 2886).

3 (2) BSAI PACIFIC COD TOTAL ALLOWABLE
4 CATCH.—The term “BSAI Pacific cod total allow-
5 able catch” means the Pacific cod total allowable
6 catch for the directed longline catcher processor sub-
7 sector in the BSAI as established on an annual basis
8 by the Council and approved by the Secretary.

9 (3) BSAI PACIFIC COD PROHIBITED SPECIES
10 CATCH ALLOCATION.—The term “BSAI Pacific cod
11 prohibited species catch allocation” means the pro-
12 hibited species catch allocation for the directed
13 longline catcher processor subsector in the BSAI as
14 established on an annual basis by the Council and
15 approved by the Secretary.

16 (4) COUNCIL.—The term “Council” means the
17 North Pacific Fishery Management Council estab-
18 lished under section 302(a)(1)(G) of the Magnuson-
19 Stevens Act (16 U.S.C. 1852(a)(1)(G)).

20 (5) ELIGIBLE MEMBER.—The term “eligible
21 member” means a holder of a license limitation pro-
22 gram license, or licenses, eligible to participate in
23 the longline catcher processor subsector.

24 (6) GULF OF ALASKA.—The term “Gulf of
25 Alaska” means that portion of the Exclusive Eco-

1 nomic Zone contained in Statistical Areas 610, 620,
2 and 630.

3 (7) LONGLINE CATCHER PROCESSOR SUB-
4 SECTOR.—The term “longline catcher processor sub-
5 sector” has the meaning given that term in section
6 219(a)(6) of the Department of Commerce and Re-
7 lated Agencies Appropriations Act, 2005 (Public
8 Law 108–447; 118 Stat. 2886).

9 (8) MAGNUSON-STEVENSON ACT.—The term
10 “Magnuson-Stevens Act” means the Magnuson-Ste-
11 vens Fishery Conservation and Management Act (16
12 U.S.C. 1801 et seq.).

13 (9) SECRETARY.—The term “Secretary” means
14 the Secretary of Commerce.

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