

Public Law 111-335
111th Congress

An Act

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

Dec. 22, 2010

[S. 1609]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Longline Catcher Processor
Subsector Single Fishery Cooperative Act”.

**SEC. 2. AUTHORITY TO APPROVE AND IMPLEMENT A SINGLE FISHERY
COOPERATIVE FOR THE LONGLINE CATCHER PROC-
ESSOR SUBSECTOR IN THE BSAI.**

(a) **IN GENERAL.**—Upon the request of eligible members of
the longline catcher processor subsector holding at least 80 percent
of the licenses issued for that subsector, the Secretary is authorized
to approve a single fishery cooperative for the longline catcher
processor subsector in the BSAI.

(b) **LIMITATION.**—A single fishery cooperative approved under
this section shall include a limitation prohibiting any eligible
member from harvesting a total of more than 20 percent of the
Pacific cod available to be harvested in the longline catcher proc-
essor subsector, the violation of which is subject to the penalties,
sanctions, and forfeitures under section 308 of the Magnuson-Ste-
vens Act (16 U.S.C. 1858), except that such limitation shall not
apply to harvest amounts from quota assigned explicitly to a CDQ
group as part of a CDQ allocation to an entity established by
section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)).

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

(1) not later than November 1 of each year, a contract
to implement a single fishery cooperative approved under this
section for the following calendar year; and

(2) not later than 60 days prior to the commencement
of fishing under the single fishery cooperative, any interim
modifications to the contract submitted under paragraph (1).

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

(e) **IMPLEMENTATION.**—The Secretary shall implement a single
fishery cooperative approved under this section not later than 2
years after receiving a request under subsection (a).

Longline Catcher
Processor
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16 USC 1851
note.
Deadlines.

Records.

(f) **STATUS QUO FISHERY.**—If the longline catcher processor subsector does not submit a contract to the Secretary under subsection (c) then the longline catcher processor subsector in the BSAI shall operate as a limited access fishery for the following year subject to the license limitation program in effect for the longline catcher processor subsector on the date of enactment of this Act or any subsequent modifications to the license limitation program recommended by the Council and approved by the Secretary.

SEC. 3. HARVEST AND PROHIBITED SPECIES ALLOCATIONS TO A SINGLE FISHERY COOPERATIVE FOR THE LONGLINE CATCHER PROCESSOR SUBSECTOR IN THE BSAI.

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

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

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

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

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

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

(b) **HARVEST AND PROHIBITED SPECIES ALLOCATIONS.**—Eligible members operating in a non-cooperative limited access fishery under this section may collectively—

(1) harvest the percentage of BSAI Pacific cod total allowable catch equal to the combined average percentage of the BSAI Pacific cod harvest allocated to the longline catcher processor sector and retained by the vessel or vessels designated on the eligible members license limitation program license or licenses for 2006, 2007, and 2008, according to the catch accounting system data used to establish total catch; and

(2) utilize the percentage of BSAI Pacific cod prohibited species catch allocation equal to the percentage calculated under paragraph (1).

SEC. 5. AUTHORITY OF THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL.

(a) **IN GENERAL.**—Nothing in this Act shall supersede the authority of the Council to recommend for approval by the Secretary such conservation and management measures, in accordance with the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.) as it considers necessary to ensure that this Act does not diminish the effectiveness

of fishery management in the BSAI or the Gulf of Alaska Pacific cod fishery.

(b) LIMITATIONS.—

(1) Notwithstanding the authority provided to the Council under this section, the Council is prohibited from altering or otherwise modifying—

(A) the methodology established under section 3 for allocating the BSAI Pacific cod total allowable catch and BSAI Pacific cod prohibited species catch allocation to a single fishery cooperative approved under this Act; or

(B) the methodology established under section 4 of this Act for allocating the BSAI Pacific cod total allowable catch and BSAI Pacific cod prohibited species catch allocation to the non-cooperative limited access fishery.

(2) No sooner than 7 years after approval of a single fisheries cooperative under section 2 of this Act, the Council may modify the harvest limitation established under section 2(b) if such modification does not negatively impact any eligible member of the longline catcher processor subsector.

(c) PROTECTIONS FOR THE GULF OF ALASKA PACIFIC COD FISHERY.—The Council may recommend for approval by the Secretary such harvest limitations of Pacific cod by the longline catcher processor subsector in the Western Gulf of Alaska and the Central Gulf of Alaska as may be necessary to protect coastal communities and other Gulf of Alaska participants from potential competitive advantages provided to the longline catcher processor subsector by this Act.

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

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

(b) TRANSITION RULE.—A single fishery cooperative approved under section 2 of this Act is deemed to meet the requirements of section 303A(i) of the Magnuson-Stevens Act (16 U.S.C. 1853a(i)) as if it had been approved by the Secretary within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, unless the Secretary makes a determination, within 30 days after the date of enactment of this Act, that application of section 303A(i) of the Magnuson-Stevens Act to the cooperative approved under section 2 of this Act would be inconsistent with the purposes for which section 303A was added to the Magnuson-Stevens Act.

Deadlines.

(c) COST RECOVERY.—Consistent with section 304(d)(2) of the Magnuson-Stevens Act (16 U.S.C. 1854(d)(2)), the Secretary is authorized to recover reasonable costs to administer a single fishery cooperative approved under section 2 of this Act.

SEC. 7. COMMUNITY DEVELOPMENT QUOTA PROGRAM.

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

SEC. 8. DEFINITIONS.

In this Act:

(1) **BSAI.**—The term “BSAI” has the meaning given that term in section 219(a)(2) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2886).

(2) **BSAI PACIFIC COD TOTAL ALLOWABLE CATCH.**—The term “BSAI Pacific cod total allowable catch” means the Pacific cod total allowable catch for the directed longline catcher processor subsector in the BSAI as established on an annual basis by the Council and approved by the Secretary.

(3) **BSAI PACIFIC COD PROHIBITED SPECIES CATCH ALLOCATION.**—The term “BSAI Pacific cod prohibited species catch allocation” means the prohibited species catch allocation for the directed longline catcher processor subsector in the BSAI as established on an annual basis by the Council and approved by the Secretary.

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

(5) **ELIGIBLE MEMBER.**—The term “eligible member” means a holder of a license limitation program license, or licenses, eligible to participate in the longline catcher processor subsector.

(6) **GULF OF ALASKA.**—The term “Gulf of Alaska” means that portion of the Exclusive Economic Zone contained in Statistical Areas 610, 620, and 630.

(7) **LOGLINE CATCHER PROCESSOR SUBSECTOR.**—The term “longline catcher processor subsector” has the meaning given that term in section 219(a)(6) of the Department of Commerce and Related Agencies Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2886).

(8) **MAGNUSON-STEVENS ACT.**—The term “Magnuson-Stevens Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

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

Approved December 22, 2010.

LEGISLATIVE HISTORY—S. 1609:

SENATE REPORTS: No. 111-250 (Comm. on Commerce, Science, and Transportation).

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Nov. 18, considered and passed Senate.

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