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.

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 PROCESSOR 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 processor subsector, the violation of which is subject to the penalties, sanctions, and forfeitures under section 308 of the Magnuson-Stevens 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).
(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 alloca-
tion to the non-cooperative limited access fishery.

(2) No sooner than 7 years after approval of a single fish-
eries 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 Sec-
etary 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-STEVENS ACT.

(a) IN GENERAL.—Consistent with section 301(a) of the Magnu-
son-Stevens Act (16 U.S.C. 1851(a)), a single fishery cooperative
approved under section 2 of this Act is intended to enhance con-
servation and sustainable fishery management, reduce and mini-
mize 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 Con-
servation 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.

(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) LONGLINE 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.