

H.R.889

Coast Guard and Maritime Transportation Act of 2006 (Enrolled as Agreed to or Passed by Both House and Senate)

SEC. 416. WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

(a) Restatement of Existing Program Incorporating Certain Provisions of Regulations- Section 305(i) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)) is amended by striking paragraph (1) and inserting the following:

 (1) WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM-

 (A) IN GENERAL- There is established the western Alaska community development quota program in order--

- (i) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the Bering Sea and Aleutian Islands Management Area;
- (ii) to support economic development in western Alaska;
- (iii) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and
- (iv) to achieve sustainable and diversified local economies in western Alaska.

 (B) PROGRAM ALLOCATION-

 (i) IN GENERAL- Except as provided in clause (ii), the annual percentage of the total allowable catch, guideline harvest level, or other annual catch limit allocated to the program in each directed fishery of the Bering Sea and Aleutian Islands shall be the percentage approved by the Secretary, or established by Federal law, as of March 1, 2006, for the program. The percentage for each fishery shall be either a directed fishing allowance or include both directed fishing and nontarget needs based on existing practice with respect to the program as of March 1, 2006, for each fishery.

 (ii) EXCEPTIONS- Notwithstanding clause (i)--

 (I) the allocation under the program for each directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) shall be a directed fishing allocation of 10 percent upon the establishment of a quota program, fishing cooperative, sector allocation, or other rationalization program in any sector of the fishery; and

`(II) the allocation under the program in any directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) established after the date of enactment of this subclause shall be a directed fishing allocation of 10 percent.

`(iii) PROCESSING AND OTHER RIGHTS- Allocations to the program include all processing rights and any other rights and privileges associated with such allocations as of March 1, 2006.

`(iv) REGULATION OF HARVEST- The harvest of allocations under the program for fisheries with individual quotas or fishing cooperatives shall be regulated by the Secretary in a manner no more restrictive than for other participants in the applicable sector, including with respect to the harvest of nontarget species.

`(C) ALLOCATIONS TO ENTITIES- Each entity eligible to participate in the program shall be authorized under the program to harvest annually the same percentage of each species allocated to the program under subparagraph (B) that it was authorized by the Secretary to harvest of such species annually as of March 1, 2006, except to the extent that its allocation is adjusted under subparagraph (H). Such allocation shall include all processing rights and any other rights and privileges associated with such allocations as of March 1, 2006.

`(D) ELIGIBLE VILLAGES- The following villages shall be eligible to participate in the program through the following entities:

`(i) The villages of Akutan, Atka, False Pass, Nelson Lagoon, Nikolski, and Saint George through the Aleutian Pribilof Island Community Development Association.

`(ii) The villages of Aleknagik, Clark's Point, Dillingham, Egegik, Ekuk, Ekwok, King Salmon/Savonoski, Levelock, Manokotak, Naknek, Pilot Point, Port Heiden, Portage Creek, South Naknek, Togiak, Twin Hills, and Ugashik through the Bristol Bay Economic Development Corporation.

`(iii) The village of Saint Paul through the Central Bering Sea Fishermen's Association.

`(iv) The villages of Chefornek, Chevak, Eek, Goodnews Bay, Hooper Bay, Kipnuk, Kongiganak, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nightmute, Oscarville, Platinum, Quinhagak, Scammon Bay, Toksook Bay, Tuntutuliak, and Tununak through the Coastal Villages Region Fund.

`(v) The villages of Brevig Mission, Diomedea, Elim, Gambell, Golovin, Koyuk, Nome, Saint Michael, Savoonga, Shaktoolik, Stebbins, Teller, Unalakleet, Wales, and White Mountain through the Norton Sound Economic Development Corporation.

`(vi) The villages of Alakanuk, Emmonak, Grayling, Kotlik, Mountain Village, and Nunam Iqua through the Yukon Delta Fisheries Development Association.

`(E) ELIGIBILITY REQUIREMENTS FOR PARTICIPATING ENTITIES- To be eligible to participate in the program, an entity referred to in subparagraph (D) shall meet the following requirements:

`(i) BOARD OF DIRECTORS- The entity shall be governed by a board of directors. At least 75 percent of the members of the board shall be resident fishermen from the entity's member villages. The board shall include at least one director selected by each such member village.

`(ii) PANEL REPRESENTATIVE- The entity shall elect a representative to serve on the panel established by subparagraph (G).

`(iii) OTHER INVESTMENTS- The entity may make up to 20 percent of its annual investments in any combination of the following:

`(I) For projects that are not fishery-related and that are located in its region.

`(II) On a pooled or joint investment basis with one or more other entities participating in the program for projects that are not fishery-related and that are located in one or more of their regions.

`(III) For matching Federal or State grants for projects or programs in its member villages without regard to any limitation on the Federal or State share, or restriction on the source of any non-Federal or non-State matching funds, of any grant program under any other provision of law.

`(iv) FISHERY-RELATED INVESTMENTS- The entity shall make the remainder percent of its annual investments in fisheries-related projects or for other purposes consistent with the practices of the entity prior to March 1, 2006.

`(v) ANNUAL STATEMENT OF COMPLIANCE- Each year the entity, following approval by its board of directors and signed by its chief executive officer, shall submit a written statement to the Secretary and the State of Alaska that summarizes the purposes for which it made investments under clauses (iii) and (iv) during the preceding year.

`(vi) OTHER PANEL REQUIREMENTS- The entity shall comply with any other requirements established by the panel under subparagraph (G).

`(F) ENTITY STATUS, LIMITATIONS, AND REGULATION-
The entity--

`(i) shall be subject to any excessive share ownership, harvesting, or processing limitations in the fisheries of the Bering Sea and Aleutian Islands Management Area only to the extent of the entity's proportional ownership, excluding any program allocations, and notwithstanding any other provision of law;

`(ii) shall comply with State of Alaska law requiring annual reports to the entity's member villages summarizing financial operations for the previous calendar year, including general and administrative costs and compensation levels of the top 5 highest paid personnel;

`(iii) shall comply with State of Alaska laws to prevent fraud that are administered by the Alaska Division of Banking and Securities, except that the entity and the State shall keep confidential from public disclosure any information if the disclosure would be harmful to the entity or its investments; and

`(iv) is exempt from compliance with any State law requiring approval of financial transactions, community development plans, or amendments thereto, except as required by subparagraph (H).

`(G) ADMINISTRATIVE PANEL-

`(i) ESTABLISHMENT- There is established a community development quota program panel.

`(ii) MEMBERSHIP- The panel shall consist of 6 members. Each entity participating in the program shall select one member of the panel.

`(iii) FUNCTIONS- The panel shall--

`(I) administer those aspects of the program not otherwise addressed in this paragraph, either through private contractual arrangement or through recommendations to the North Pacific Council, the Secretary, or the State of Alaska, as the case may be; and

`(II) coordinate and facilitate activities of the entities under the program.

`(iv) UNANIMITY REQUIRED- The panel may act only by unanimous vote of all 6 members of the panel and may not act if there is a vacancy in the membership of the panel.

`(H) DECENNIAL REVIEW AND ADJUSTMENT OF ENTITY ALLOCATIONS-

`(i) IN GENERAL- During calendar year 2012 and every 10 years thereafter, the State of Alaska shall evaluate the performance of each entity participating in the program based on the criteria described in clause (ii).

`(ii) CRITERIA- The panel shall establish a system to be applied under this subparagraph that allows each entity participating in the program to assign relative values to the following criteria to reflect the particular needs of its villages:

`(I) Changes during the preceding 10-year period in population, poverty level, and economic development in the entity's member villages.

`(II) The overall financial performance of the entity, including fishery and nonfishery investments by the entity.

`(III) Employment, scholarships, and training supported by the entity.

`(IV) Achieving of the goals of the entity's community development plan.

`(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.

`(iv) REALLOCATION OF REDUCED AMOUNT- If the State or the Secretary reduces an entity's allocation under clause (iii), the reduction shall be reallocated among other entities participating in the program whose allocations are

not reduced during the same period in proportion to each such entity's allocation of the applicable species under subparagraph (C).

`(I) SECRETARIAL APPROVAL NOT REQUIRED-

Notwithstanding any other provision of law or regulation thereunder, the approval by the Secretary of a community development plan, or an amendment thereof, under the program is not required.

`(J) COMMUNITY DEVELOPMENT PLAN DEFINED- In this paragraph, the term `community development plan' means a plan, prepared by an entity referred to in subparagraph (D), for the program that describes how the entity intends--

`(i) to harvest its share of fishery resources allocated to the program, or

`(ii) to use its share of fishery resources allocated to the program, and any revenue derived from such use, to assist its member villages with projects to advance economic development,

but does not include a plan that allocates fishery resources to the program.'.

(b) No Interruption of Existing Allocations- The amendment made by subsection (a) shall not be construed or implemented in a way that causes any interruption in the allocations of fishery resources to the western Alaska community development quota program or in the opportunity of an entity participating in that program to harvest its share of such allocations.

(c) Loan Subsidies- The last proviso under the heading `National Oceanic and Atmospheric Administration--OPERATIONS, RESEARCH, AND FACILITIES' in the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108; 119 Stat. 2311-2312) is amended--

(1) by striking `for the cost of loans' and inserting `to subsidize gross obligations for the principal amount of direct loans, not to exceed a total of \$200,000,000,'; and

(2) by striking `use' and inserting `the purchase of all or part of ownership interests in fishing or processing vessels, shoreside fish processing facilities, permits, quota, and cooperative rights'.

SEC. 417. QUOTA SHARE ALLOCATION.

(a) In General- The Secretary of Commerce shall modify the Voluntary Three-Pie Cooperative Program for crab fisheries of the Bering Sea and Aleutian Islands being implemented under section 313(j) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1862(j)) to require that Blue Dutch, LLC, receives processor quota shares units equal to 0.75 percent of the total number of processor quota share units for each of the following fisheries: the Bristol Bay red king crab fishery and the Bering Sea C. opilio crab fishery.

(b) Applicability- The modification made under subsection (a) shall apply with respect to each fishery referred to in subsection (a) whenever the total allowable catch for that fishery is more than 2 percent higher than the most recent total allowable catch in effect for that fishery prior to September 15, 2005.

(c) Savings Provision- Nothing in this section affects the authority of the North Pacific Fishery Management Council to submit, and the Secretary of Commerce to implement, changes to or repeal of conservation and management measures under section 313(j)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1862(j)(3)).

(d) Regulations- Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall issue regulations to implement this section.

SEC. 418. MAINE FISH TENDER VESSELS.

The prohibition under section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) against transportation of fish or shellfish between places in the State of Maine by a vessel constructed in Canada shall not apply to a vessel of less than 5 net tons if--

- (1) the vessel was engaged in the transportation of fish or shellfish between places in the State of Maine before January 1, 2005;
- (2) before January 1, 2005, the owner of the vessel transported fish or shellfish pursuant to a valid wholesale seafood license issued under section 6851 of title 12 of the Maine Revised Statutes;
- (3) the vessel is owned by a person that meets the citizenship requirements of section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802); and
- (4) not later than 180 days after the date of enactment of this Act, the owner of the vessel submits to the Secretary of the department in which the Coast Guard is operating an affidavit certifying that the vessel and owner meet the requirements of this section.

SEC. 419. AUTOMATIC IDENTIFICATION SYSTEM.

(a) Prevention of Harmful Interference- Not later than 60 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, may transfer \$1,000,000 to the National Telecommunications and Information Administration of the Department of Commerce for the purposes of awarding, not later than 120 days after such date of enactment, a competitive grant to design and develop a prototype device that integrates a Class B Automatic Identification System transponder (International Electrotechnical Commission standard 62287) with a wireless maritime data device approved by the Federal Communications Commission with channel throughput greater than 19.2 kilobits per second to enable such wireless maritime data device to provide wireless maritime data services, concurrent with the operation of the transponder, on frequency channels adjacent to the frequency channels on which the transponder operates, while minimizing or eliminating the harmful interference between the transponder and

such wireless maritime data device. The design of the device developed under this subsection shall be available for public use.

(b) Implementation of AIS- It is the sense of the Senate, not later than 60 days after the date of enactment of this Act, that the Federal Communications Commission should resolve the disposition of its rulemaking on the Automatic Information System and licensee use of frequency bands 157.1875-157.4375 MHz and 161.7875-162.0375 MHz (RM-10821, WT Docket Number 04-344). The implementation of this section shall not delay the implementation of an Automatic Identification System as required by section 70114 of title 46, United States Code, and international convention.

SEC. 420. VOYAGE DATA RECORDER STUDY AND REPORT.

(a) Study- The Secretary of the department in which the Coast Guard is operating shall study--

(1) the carriage of a voyage data recorder by a passenger vessel described in section 2101(22)(D) of title 46, United States Code, carrying more than 399 passengers; and

(2) standards for voyage data recorders, methods for approval of models of voyage data recorders, and procedures for annual performance testing of voyage data recorders.

(b) Consultation- In conducting the study, the Secretary shall consult, at a minimum, with manufacturers of voyage data recorders and operators of potentially affected passenger vessels.

(c) Report- Not later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the study's findings, including a proposal for legislation if such a proposal is considered appropriate by the Secretary.