

107TH CONGRESS
1ST SESSION

H. R. 553

To amend the Magnuson-Stevens Fishery Conservation and Management Act to improve implementation of the western Alaska community development quota program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2001

Mr. YOUNG of Alaska introduced the following bill; which was referred to the Committee on Resources

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to improve implementation of the western Alaska community development quota program, 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 “Western Alaska Com-
5 munity Development Quota Program Implementation Im-
6 provement Act of 2001”.

1 **SEC. 2. IMPROVEMENT OF WESTERN ALASKA COMMUNITY**
2 **DEVELOPMENT QUOTA PROGRAM.**

3 Section 305 of the Magnuson-Stevens Fishery Con-
4 servation and Management Act (16 U.S.C. 1855) is
5 amended—

6 (1) by amending the subsection heading for
7 subsection (i) to read as follows:

8 “(i) WESTERN PACIFIC COMMUNITY DEVELOPMENT
9 PROGRAM.—”;

10 (2) by striking paragraph (1) of subsection (i);

11 (3) by redesignating paragraph (2) of sub-
12 section (i) as paragraph (1);

13 (4) by inserting before paragraph (3) of sub-
14 section (i) the following:

15 “(k) GENERAL PROVISIONS RELATING TO COMMU-
16 NITY DEVELOPMENT QUOTA PROGRAMS.—”;

17 (5) in subsection (k) (as designated by para-
18 graph (4) of this section) by redesignating para-
19 graphs (3) and (4) as paragraphs (1) and (2) of
20 subsection (k), respectively; and

21 (6) by inserting after subsection (i) the fol-
22 lowing:

23 “(j) WESTERN ALASKA COMMUNITY DEVELOPMENT
24 PROGRAM.—

1 “(1) ESTABLISHMENT.—The North Pacific
2 Council and the Secretary shall establish a western
3 Alaska community development quota program—

4 “(A) to afford eligible communities a fair
5 and equitable opportunity to participate in Ber-
6 ing Sea fisheries; and

7 “(B) to assist eligible communities to
8 achieve sustainable long-term diversified local
9 economic development.

10 “(2) ALLOCATION OF PERCENTAGES OF BERING
11 SEA DIRECTED FISHERIES.—(A) The Secretary shall
12 allocate to the program, as a directed fishing allow-
13 ance, a percentage of the total allowable catch or
14 guideline harvest level, as applicable, of each Bering
15 Sea directed fishery.

16 “(B) The Secretary shall allocate under this
17 paragraph 10 percent of the total allowable catch of
18 the Bering Sea directed pollock fishery.

19 “(C) The Secretary shall allocate under this
20 paragraph a percentage of the total allowable catch
21 of each other Bering Sea directed groundfish fishery,
22 a percentage of the total allowable catch of the Ber-
23 ing Sea directed halibut fishery, and a percentage of
24 the guideline harvest level of each Bering Sea di-
25 rected crab fishery, that—

1 “(i) before October 1, 2001, shall be the
2 most recent percentage recommended to the
3 Secretary for that fishery by the North Pacific
4 Council as of October 1, 1995; and

5 “(ii) on and after October 1, 2001, shall be
6 no less than such recommended percentage.

7 “(D) Prior to October 1, 2001, the North Pa-
8 cific Council may not submit, and the Secretary may
9 not approve, any plan, amendment, or regulation
10 that increases the applicable percentage under sub-
11 paragraph (C).”.

12 “(3) ELIGIBILITY TO PARTICIPATE.—To be eli-
13 gible to participate in the western Alaska community
14 development quota program, a community must—

15 “(A) be located—

16 “(i) within 50 nautical miles from the
17 baseline from which the breadth of the ter-
18 ritorial sea is measured along the Bering
19 Sea coast from the Bering Strait to the
20 westernmost of the Aleutian Islands; or

21 “(ii) on an island within the Bering
22 Sea;

23 “(B) not be located on the Gulf of Alaska
24 coast of the north Pacific Ocean;

1 “(C) be certified by the Secretary of the
2 Interior pursuant to the Alaska Native Claims
3 Settlement Act (43 U.S.C. 1610 et seq.) to be
4 a Native village;

5 “(D) consist of residents who conduct
6 more than one-half of their current commercial
7 or subsistence fishing effort in the waters of the
8 Bering Sea or waters surrounding the Aleutian
9 Islands;

10 “(E) not have previously developed har-
11 vesting or processing capability sufficient to
12 support substantial participation in the ground-
13 fish fisheries of the Bering Sea, unless the com-
14 munity demonstrates that its participation in
15 the western Alaska community development
16 program is the only way for the community to
17 realize a return from previous investments in
18 harvesting or processing capability; and

19 “(F) be a member of a CDQ group.

20 “(4) AUTHORITY TO HARVEST.—(A) The Sec-
21 retary may authorize a CDQ group to harvest a
22 share of the percentage of the total allowable catch
23 or guideline harvest level of a Bering Sea directed
24 fishery allocated under paragraph (2) if the CDQ

1 group submits a community development plan to the
2 Secretary in accordance with this paragraph.

3 “(B) A community development plan shall—

4 “(i) request a share of the percentage of
5 the total allowable catch or guideline harvest
6 level of the fishery that the CDQ group that
7 submits the plan desires to harvest annually
8 during the effective period of the plan; and

9 “(ii) describe all CDQ projects that the
10 CDQ group that submits the plan intends to
11 participate in during the 36-month duration of
12 the plan.

13 “(C)(i) The Secretary shall timely approve or
14 disapprove each community development plan sub-
15 mitted under this paragraph that contains the infor-
16 mation described in subparagraph (B). If approved,
17 a community development plan shall be effective for
18 36 months, except as provided in clause (ii).

19 “(ii) The community development plans that
20 the Secretary approved before the 2001 fishing year
21 shall expire on December 31, 2003.

22 “(D) In approving a community development
23 plan, the Secretary shall specify the share of the
24 total allowable catch or guideline harvest level that

1 the CDQ group is authorized to harvest annually
2 under the plan, in accordance with paragraph (5).

3 “(5) SPECIFICATION OF HARVEST SHARES.—

4 (A) If the total of the harvest shares requested pur-
5 suant to paragraph (4)(B)(i) for a fishery is greater
6 than the percentage of the total allowable catch or
7 guideline harvest level for the fishery allocated under
8 paragraph (2) to the western Alaska community de-
9 velopment quota program, the Secretary shall au-
10 thorize each CDQ group requesting a harvest share
11 to harvest annually such share of the percentage of
12 the total allowable catch or guideline harvest level of
13 the fishery allocated under paragraph (2) as the
14 Secretary determines is appropriate.

15 “(B) If the Secretary authorizes a CDQ group
16 to harvest a share of a fishery that is less than the
17 harvest share requested in the community develop-
18 ment plan submitted by the CDQ group, the Sec-
19 retary shall give the CDQ group an opportunity to
20 amend the plan to reflect the reduction in harvest
21 share authorized by the Secretary.

22 “(C)(i) Within 24 months after the date of en-
23 actment of the Western Alaska Community Develop-
24 ment Program Implementation Improvement Act of
25 2001, each CDQ group may submit criteria to the

1 Secretary for the Secretary to consider in deter-
2 mining harvest shares under subparagraph (A).

3 “(ii) If, pursuant to clause (i), each CDQ group
4 submits the same criteria to the Secretary, the Sec-
5 retary shall consider only those criteria in deter-
6 mining harvest shares under subparagraph (A).

7 “(iii) If, pursuant to clause (i), all CDQ groups
8 do not submit the same criteria to the Secretary, the
9 Secretary shall, by not later than 30 months after
10 the date of enactment of the Western Alaska Com-
11 munity Development Program Implementation Im-
12 provement Act of 2001, promulgate regulations that
13 establish criteria that the Secretary shall consider in
14 determining harvest shares under subparagraph (A).

15 “(6) PARTICIPATION BY STATE OF ALASKA.—
16 (A) The Secretary may allow the State of Alaska to
17 participate in the implementation of the western
18 Alaska community development quota program.

19 “(B) If the State of Alaska participates, the
20 Secretary may require CDQ groups to submit a copy
21 of their community development plans to the Gov-
22 ernor of Alaska.

23 “(C) If the State of Alaska is participating in
24 the implementation of the western Alaska commu-
25 nity development quota program and the total of the

1 harvest shares requested pursuant to paragraph
2 (4)(B)(i) for a fishery is greater than the percentage
3 of the total allowable catch or guideline harvest level
4 for the fishery allocated under paragraph (2) to the
5 western Alaska community development quota pro-
6 gram, the Secretary may direct the Governor of
7 Alaska—

8 “(i) to consult with the CDQ groups;

9 “(ii) to consult with the North Pacific
10 Fishery Management Council regarding the
11 plans; and

12 “(iii) to timely submit the Governor’s rec-
13 ommendations regarding the approval of the
14 plans by the Secretary.

15 “(D) The Governor shall indicate, in writing, to
16 the Secretary and to each CDQ group the rationale,
17 and the factual basis for the rationale, for any rec-
18 ommendation regarding the Secretary’s approval of
19 a CDQ group’s community development plan.

20 “(7) REPORTS.—(A) On March 1 of each cal-
21 endar year each CDQ group shall submit a report
22 regarding its approved community development
23 plans then in effect to the Secretary, and to the
24 Governor of Alaska if the State of Alaska is partici-
25 pating under paragraph (6).

1 “(B) Each report shall describe the following:

2 “(i) The CDQ group’s implementation dur-
3 ing the previous calendar year of the CDQ
4 projects described in the group’s community de-
5 velopment plans, and any modifications to a
6 project that the group may have made since the
7 last report.

8 “(ii) In summary form, the financial per-
9 formance during the previous calendar year of
10 each subsidiary, joint venture, partnership, or
11 other entity in which the CDQ group owns an
12 equity interest, and all other non-CDQ project-
13 related activities in which the group engaged.

14 “(iii) The CDQ group’s budget for the cur-
15 rent calendar year.

16 “(C) Financial and strategic business informa-
17 tion contained in reports submitted under this para-
18 graph shall be considered confidential. The Sec-
19 retary, and the Governor of Alaska if the State of
20 Alaska is participating in the Secretary’s implemen-
21 tation of the western Alaska community development
22 quota program—

23 “(i) shall not make such information avail-
24 able to the public; and

1 “(ii) may not use such information for any
2 purpose other than evaluating the financial sta-
3 tus and performance of the CDQ group that
4 submitted the information.

5 “(8) DEFINITIONS.—For the purposes of this
6 subsection:

7 “(A) The term ‘CDQ group’ means a non-
8 profit or for-profit corporation or other entity
9 whose membership is exclusively composed of
10 one or more communities that satisfy the cri-
11 teria described in paragraph (3)(A) through
12 (E).

13 “(B) The term ‘community development
14 plan’ means a plan that describes—

15 “(i) how a CDQ group intends to har-
16 vest its requested share of the percentage
17 of the total allowable catch or guideline
18 harvest level of a directed Bering Sea fish-
19 ery that the Secretary has allocated to the
20 western Alaska community development
21 quota program; and

22 “(ii) how the group intends to use the
23 harvest opportunity and the revenue de-
24 rived therefrom to assist communities that
25 are members of the group to achieve sus-

1 tainable long term local economic develop-
2 ment.

3 “(C)(i) Subject to clause (ii), the term
4 ‘CDQ project’ means a program or activity that
5 is administered or initiated by a CDQ group
6 and that is funded by revenue the CDQ group
7 derives or accrues during the duration of a
8 community development plan approved by the
9 Secretary from harvesting the fishery covered
10 by the plan.

11 “(ii) Such term does not include a program
12 or activity administered or initiated by a sub-
13 sidiary, joint venture, partnership, or other en-
14 tity in which a CDQ group owns an equity in-
15 terest, if the program or activity is funded by
16 the assets of the subsidiary, joint venture, part-
17 nership, or other entity, rather than by the as-
18 sets of the CDQ group.

19 “(9) REGULATIONS.—The Secretary may pro-
20 mulgate such regulations as are reasonable and nec-
21 essary to enable the Secretary to implement this
22 subsection.”.

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