

acquired, a projection of the remaining operational lifespan of each legacy asset, a detailed justification for each modification to the original Deepwater plan to meet the Service's revised mission needs statement, and an explanation of the costs that will be required above the estimated costs of the original Deepwater program resulting from such modifications.

Section 409. Helicopters

Section 410 of the House bill would limit the number of HH-65 helicopters that the Coast Guard may acquire to no more than four and prohibit the Commandant from acquiring such helicopters until 90 days after the submission to Congress of a determination that the cost of acquiring used HH-65 helicopters and the cost to modifying those helicopters or airframes to meet the same design, construction, and equipment standards that apply to the current fleet of HH-65 helicopters is more cost-effective than an acquisition or leasing of a similar number of MH-68 helicopters.

The Senate amendment does not include a comparable provision.

The Conference substitute adopts a provision that requires the Coast Guard to study and report to Congress an analysis of the potential impacts, including costs and benefits, of a requirement that the Coast Guard only acquires helicopters or major helicopter components built in the United States. The conferees understand that some foreign helicopter manufacturers own U.S. manufacturing facilities capable of building helicopters and some helicopter components, but that some components of those helicopters are only manufactured outside the United States.

Section 410. Newton Creek, New York City, New York

Section 412 of the House bill requires the Coast Guard to carry out a study and report to Congress on the pollution of Newtown Creek in the city of New York, New York caused by oil seepage.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision with a modification to require the Environmental Protection Agency to carry out the study rather than the Coast Guard.

Section 411. Report on technology

Section 414 of the House bill requires the Commandant of the Coast Guard to submit a report that includes an assessment of the availability and effectiveness of technologies that evaluate and identify inbound vessels and their cargo for potential threats before they reach United States ports, including technologies already tested or in testing at joint operating centers, as well as the costs associated with implementing such technology at all United States ports.

The Senate amendment does not include a comparable provision.

The Conference substitute adopts a provision that is substantively similar to the House-passed provision.

Section 412. Assessment and planning

Section 417 of the House bill authorizes an amount of \$400,000 to be appropriated to the Coast Guard to carry out an assessment of and planning for the impact of an Arctic Sea Route on the indigenous people of Alaska.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts the House provision with an amendment to authorize the funding to the Maritime Administration to carry out the assessment and planning rather than the Coast Guard.

Section 413. Homeport

Section 418 of the House bill requires, subject to the availability of appropriations, the

Commandant of the Coast Guard to homeport the Coast Guard cutter HEALY in Anchorage, Alaska.

The Senate amendment does not contain a comparable provision.

The Conference substitute adopts a provision that requires the Coast Guard to conduct a study to assess the current homeport for the Coast Guard polar icebreaker HEALY and to assess whether that site or alternative homeporting arrangements would enhance the Coast Guard's capabilities to meet the recommendations of the Interim Report of the National Academy of Sciences (Polar Icebreaker Roles and U.S. Future Needs: A Preliminary Assessment), namely that the United States should maintain dedicated, year-round icebreaking capability in the Arctic. The provision further requires the Coast Guard to report the findings of the study to Congress not later than one year after the enactment of this Act.

Section 414. Opinions regarding whether certain facilities create obstructions to navigation

Section 419 of the House bill requires the Coast Guard to provide an opinion in writing that states whether a proposed wind energy facility would create an obstruction to navigation in any case in which a person requests the Secretary of the Army to take action to permit a wind energy facility under the authority of section 10 of the Act of March 3, 1899 (33 U.S.C. 403).

The Senate bill does not contain a comparable provision.

The Conference substitute adopts a provision that prohibits the construction of an offshore wind energy facility in Nantucket Sound unless approved by the Commandant of the Coast Guard.

Section 415. Port Richmond

Section 424 of the House bill would prohibit the Commandant of the Coast Guard from approving a security plan under section 70103(c) of title 46, United States Code, for a liquefied natural gas import facility at Port Richmond in Philadelphia, Pennsylvania until the Secretary conducts a vulnerability assessment under section 70102(b) of such title.

The Senate bill does not contain a comparable provision.

The Conference substitute adopts the House provision.

Section 416. Eligibility to participate in Western Alaska Community Development Quota Program

Section 426 of the House bill clarifies that the approval by the Secretary of Commerce of a community development plan for a Western Alaska Community Development Group does not constitute a major Federal action under Federal law.

The Senate bill does not contain a comparable provision.

The Conference substitute establishes the Western Alaska Community Development Quota program and lists the purposes of the program. It is the intent of Congress that all activities of the CDQ groups continue to be considered tax-exempt (as has been the practice since the program's inception in 1992) so that the six CDQ groups can more readily address the pressing economic needs of the region.

The Conference substitute requires that the CDQ program continue to receive the same annual percentage allocations of each fishery as it does now under existing Federal statute and regulation. It also requires that the percentage of a particular fishery allocated to the CDQ program shall be a directed fishing allowance if treated as such under existing practice and law (such as in the Bering Sea and Aleutian Islands pollock fishery), or in the alternative to include both directed

fishing and non-target fishing allocation needs in fisheries where that is the current practice and law for the CDQ allocation. It is not the intent of the conferees to either change the current allocations to the CDQ program or create "squid boxes" problems where minor species such a squid inhibit any directed fishing under the CDQ program.

The Conference substitute provides that the allocation to the CDQ program of certain Bering Sea and Aleutian Islands groundfish species (including Pacific cod, mackerel, and flatfish species) be permanently increased to 10 percent (up from 7.5 percent) and treated as directed fishing allocations as soon as any quota-type programs are established in any sector of the applicable fishery or sector allocations are adopted in the fishery.

The Conference substitute requires that a directed fishing allocation of 10 percent be made to the CDQ program in any new fishery that is opened in the Bering Sea and Aleutian Islands.

The Conference substitute codifies existing practice with respect to processing and any other rights related to CDQ allocations. It specifies that the allocations to the CDQ program itself, as well as the allocations to each of the CDQ groups include the harvesting rights, the rights to process the fish, and any other rights or privileges related to the fish that are associated with the allocations as of March 1, 2006. This is not intended to give the CDQ program or the CDQ groups processing privileges that they do not already have. The language is also not intended to change the inshore/offshore split contained in the American Fisheries Act.

The Conference substitute requires that the harvest of the CDQ allocations be regulated in a manner no more restrictive or costly than for other participants in the applicable sector of the fishery. This section only applies to fisheries with individual quotas or fishing cooperatives.

The Conference substitute allocates to each CDQ group the same percentage of each species that it was authorized to harvest annually by the Secretary as of March 1, 2006. It codifies the existing allocations among the groups dating back to 2003 as well as allocations for new crab CDQ allocations which were approved by the National Marine Fisheries Service in 2005. This includes all species for which the CDQ groups receive an allocation. Additionally, the provision establishes a new system to reallocate up to 10 percent of a CDQ group's allocation if the group fails to meet goals and criteria weighted by the group itself and based on the needs of its region.

By eliminating short term changes in fishery allocations, the conferees intend for the CDQ groups to be able to more readily address the economic needs of western Alaska.

The Conference substitute clarifies existing law by naming the 65 communities and six entities eligible to participate in the CDQ program.

The Conference substitute establishes the requirements that each of the six CDQ groups must fulfill to maintain eligibility in the CDQ program. Each group must be governed by a board of directors, at least 75 percent of the members of which are resident fishermen from the CDQ group's member villages, and have at least one director from each of its member villages. Each CDQ group must select a representative to serve on the CDQ panel.

The Conference substitute allows each CDQ group to make up to 20 percent of its annual investments: (I) on non-fishery projects in its member villages; (II) on pooled or joint investments with other CDQ groups in their regions; or (III) for the purpose of matching Federal or State grants for projects or programs in its member villages. Any remaining

investments must be in fishery related projects or for purposes consistent with the current practices of the CDQ groups. It also requires each CDQ group to submit an annual written statement to the Secretary of Commerce and the State of Alaska which summarizes its investments for the previous year.

The Conference substitute requires CDQ groups to comply with any excessive share limitations in the BSAI fisheries only to the extent of their proportional ownership in any other entities. This provision is intended to address the inherent conflict between excessive share limitations in the fisheries and the CDQ program goal to expand the economic base of the adjacent communities through investment in the fisheries.

The excessive share limitations imposed by the North Pacific Council, Secretary, and Congress are mainly intended to prevent for-profit entities and individuals from acquiring excessive shares of fishing privileges in the fisheries. The excessive share concept stems from National Standard Four of the Magnuson-Stevens Act. It pre-dates the CDQ program and fails to take into account the unique characteristics of the CDQ program.

The Conference substitute would therefore exempt CDQ groups from the "attribution" requirements of the American Fisheries Act, the crab quota program, and other federal regulations. Under the "attribution" rules, an entity is attributed with the entirety of another entity's harvesting or processing capacity even if the original entity only owns as little as 10 percent of the other entity. Under the substitute, if a CDQ group owns 25 percent of another entity, only 25 percent of the other entity's harvesting or processing capacity would be counted against the CDQ group in determining compliance with any excessive share limitation. Similarly, if a CDQ group owns 77 percent of another entity, only 77 percent of the other entity's capacity would be counted against the CDQ group. The provision is intended to allow the CDQ groups to continue to expand in the BSAI fisheries off their shores, while not completely exempting CDQ groups from excessive share limitations.

The Conference substitute requires each CDQ group to comply with State of Alaska law for the purpose of ensuring that the group provides an annual report to its member villages describing its financial operations, including its general and administrative costs and compensation levels. This provision ensures that the State of Alaska's role is to ensure adequate "transparency" to the member villages, particularly with respect to administrative costs.

The Conference substitute requires CDQ groups to additionally comply with State of Alaska banking and securities law to prevent fraud. This requirement removes the State of Alaska from the investment planning and decisions of the CDQ groups, but creates anew, narrower role, to assist the member villages in ensuring against any fraud by the CDQ group. The provision also Clause (iii) requires that the CDQ group and State of Alaska keep confidential from public disclosure any information the disclosure of which would be harmful to the entity or its investments.

The Conference substitute exempts CDQ groups from compliance with any State approval of financial transactions, community development plans, and community development plan amendments, however the provision requires CDQ groups to comply with the decennial review conducted by the State of Alaska.

The Conference substitute establishes a community development quota program panel. The CDQ Panel will consist of a member from each of the six CDQ groups.

The CDQ Panel removes the need for governmental oversight of the CDQ program and encourages the CDQ groups to work together. Decisions by the CDQ Panel require the unanimous vote of all six Panel members. The Panel may not act if there is a vacancy.

The Conference substitute requires a decennial review of the CDQ program by the State of Alaska. The first review will be in 2012. The CDQ Panel establishes a system to be used by the State of Alaska for purposes of the decennial review that allows each CDQ group to assign relative values to certain criteria in order to match the relative weights of the criteria to the specific needs identified by the CDQ group for its villages. The criteria are: (I) changes in the population, poverty level, and economic development in the CDQ group's member villages; (II) the overall financial performance of the CDQ group, including its fishery and non-fishery investments; (III) the employment, scholarships, and training supported by the CDQ group; (IV) the achievement of the goals of the entities Community Development Plan. Each CDQ group would weight these criteria to reflect the needs of its member villages.

The Conference substitute requires the State of Alaska to use the criteria as weighted by each CDQ group to determine the performance of each CDQ group under the decennial review. The State of Alaska is required to make each performance determination on the record and after an opportunity for a hearing. If the State applies the CDQ group's weightings and determines that a CDQ group has maintained or improved its overall performance, the allocations to the CDQ group are automatically extended for the next 10-year period. If, on the other hand, the State determines that a CDQ group has failed to maintain or improve its performance as measured under the weighted criteria, then at least 90 percent of the CDQ group's allocation of each species under is automatically extended, and the State may determine an appropriate reduction of up to 10 percent of each species for all or part of the next 10-year period. If State law prevents the State from making this determination then the Secretary may make the appropriate reduction. Any reductions imposed by the State of Alaska or the Secretary under shall be reallocated for the period of the reduction to the other non-penalized groups in proportion to each non-penalized group's allocation of the applicable species.

The Conference substitute eliminates the requirement that CDQ groups seek either the review or approval by the Secretary of community development plans or amendments to community development plans. The Conference agreement does not require the State of Alaska to approve community development plans and amendments.

Nothing in the Conference substitute should be construed or implemented in a way that causes any interruption to the CDQ program or to the opportunity of CDQ groups to harvest their allocations.

Subsection (b) would amend existing CDQ loan authority to set the upper limit for the total of the CDQ loans provided by the recent bill language, and paragraph (2) would clarify that CDQ loans under the 1998 CDQ program may be used for the purchase of vessels, processors, permits, quota, and cooperative rights.

Section 417. Quota share allocation

Section 427 of the House bill provides that a portion of the total crab processing quota shares equal to 1.5 percent of the total allowable catch for the Bristol Bay red king crab fishery and the Bering Sea C. Opilio crab fishery be made available to the vessel Blue Dutch, LLC in years when the total allow-

able catch for that fishery is more than 2 percent higher than the total allowable catch for that fishery during calendar year 2005.

The provision further provides that the Voluntary Three-Pie Cooperative Program for crab fisheries of the Bering Sea and Aleutian Islands implementing regulations shall thereafter be adjusted so that the total of all crab processing quota shares for each fishery referred to equals 90 percent of the total allowable catch.

The Senate bill does not contain a comparable provision.

The Conference substitute adopts a provision that directs the Secretary of Commerce to modify the Voluntary Three-Pie Cooperative Program for crab fisheries of the Bering Sea and Aleutian Islands to provide 0.75 percent of the processor quota share units for the Bristol Bay red king crab fishery and the Bering Sea C. Opilio crab fishery to the vessel Blue Dutch, LLC in years when the total allowable catch for that fishery is more than 2 percent higher than the most recent total allowable catch for that fishery prior to September 15, 2005.

Section 418. Maine fish tender vessels

The House bill does not contain a comparable provision.

Section 211 of the Senate amendment would establish a waiver that would allow vessels not built in the United States to transport fish and shellfish within the coastal waters of the State of Maine if that vessel is ineligible for documentation under chapter 121 of title 46, United States Code because it measures less than 5 net tons and has transported fish or shellfish within the coastal waters of the State of Maine prior to December 31, 2004.

The Conference substitute adopts a provision that authorizes foreign-built vessels that are less than 5 net tons to transport fish or shellfish between places in the State of Maine if that vessel transported fish or shellfish between places in Maine prior to January 1, 2005; the owner, of such vessel owns a valid wholesale seafood license to conduct such transportation that was issued under the Revised Maine Statutes prior to January 1, 2005; the vessel is owned by a person or persons that meet U.S. citizenship requirements under section 2 of the Shipping Act, 1996; and the owner of the vessel submits within 180 days of enactment of this Act an affidavit to the Secretary in which the Coast Guard is operating that certifies that the owner and vessel meet the requirements of this section.

Section 419. Automatic identification system

The House bill does not contain a comparable provision.

Section 219 of the Senate amendment authorizes the Secretary to transfer \$1,000,000 to the Department of Commerce for the purposes of awarding a competitive grant to design, develop, and prototype a device that integrates a Class B Automatic Identification System (AIS) transponder with an FCC-approved wireless maritime data device. The Senate-passed amendment also expresses the Sense of the Senate that the Federal Communications Commission should quickly resolve the disposition of its rulemaking on the AIS and licensee use of AIS frequency bands.

The Conference substitute adopts the Senate provision.

Section 420. Voyage data recorder study and report

Section 429 of the House bill would require the Secretary to prescribe regulations to require ferries that carry more than 399 passengers be equipped with a voyage data recorder and to establish standards, methods