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TITLE: MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT  
REAUTHORIZATION ACT OF 2005

*CDQ/CGMTA Exerpt Below, Beginning on p.6042*

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the obligations of the United States under the Agreement and this title.

CDQ PROGRAM

Mrs. MURRAY. Mr. President, as part of the conference report on the Coast Guard and Maritime Transportation Act of 2006, which is expected to be passed by the Senate shortly, there is a provision in section 416 that amends section 305(i) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)), which authorizes the Western Pacific Community Development Quota (CDQ) Program for fisheries of the Bering Sea and Aleutian Islands (BS/AI).

Mr. STEVENS. That is correct. Section 416 provides more specific authorities and direction concerning the operations and fishing allocations to and among CDQ groups, in accordance with the recommendations of a Blue Ribbon panel established by the Governor of Alaska.

Mrs. MURRAY. I am familiar with this program, which originated in the North Pacific Fishery Management Council in 1992, and I support its goals of providing economic opportunities for rural coastal communities in Western Alaska. It is my understanding that section 416 ensures the CDQ groups will continue to receive the same annual percentage allocations as they do now under existing Federal law, and that it would preserve existing treatment of such allocations consisting of a directed fishing allowance if that is the current law, i.e., the BS/AI pollock fishery, or including both directed and non-target fishing in fisheries where that is the current practice. Is that correct, Senator Stevens?

Mr. STEVENS. Yes, that is correct. Are you concerned about those provisions?

Mrs. MURRAY. No, my concerns relate to Section 416's amendment to [\*S6042] MSA section 305(i)(1)(B), which would increase CDQ group allocations for certain BS/AI groundfish fisheries, including Pacific cod, mackerel, and flatfish species, from 7.5 percent to 10 percent, and treat this allocation as a directed fishing allowance, which does not include incidental catch. All allocations in these fisheries, including the CDQ allocations, are currently-managed as total quotas, not as directed fishing allowances, which obliges all participants to keep both the directed and incidental catch within a "hard cap." Did you intend to change the current manner in which the council sets CDQ allocations in these fisheries, from a hard cap allocation to a directed fishing allowance allocation?

Mr. STEVENS. Yes, we wanted to create the same approach for these groundfish fisheries that we created legislatively for pollock. However, these allocations would become effective only upon the establishment of a quota program, fishing cooperative, sector allocation or rationalization program in the fishery, and the intent is to ensure that management measures apply equally to both CDQ and non-CDQ groups. With respect to application of this section to the Pacific cod fishery, however, the new CDQ allocations under section 416 are not intended to take effect until full rationalization of that fishery, or January 1, 2009, whichever date is earlier.

Mrs. MURRAY. We are both justifiably proud of the success of the pollock cooperatives established under the American Fisheries Act, AFA, and particularly their low bycatch rates. However, it is my understanding from speaking with NOAA and council staff that making this directed fishing allowance in statute for the CDQ portion of these other BS/AI groundfish fisheries would deprive the council of its current authority to limit incidental catch associated with these allocations, although it would retain such authority for the non-CDQ allocations. I am concerned that this lack of authority could unintentionally promote increases in incidental catch for CDQ groups. In addition, any unconstrained growth in incidental catch under the legislatively directed fishing allowances could result in less available catch allowance for the non-CDQ groups subject to incidental catch controls, which seems contrary to your intent that each set of groups be subject to the same management controls.

While the pollock fishery has very low incidental catch rates, in 2005 its incidental catch was only 0.16 percent above the directed fishery allowance, the directed fisheries of the BS/AI, other than halibut, sablefish, pollock, and crab, have a relatively higher level of bycatch. The council has taken actions to limit and reduce the amount of incidental catch allowance to all directed fishery participants in order to reduce overall bycatch levels. Prohibiting the council from establishing an incidental catch allowance is antithetical to current public policy and resource management in the BS/AI. Moreover, it is not consistent with provisions included in the Senate's version of the Magnuson-Stevens Act reauthorization, S. 2012. I suggest Section 416 (MSA section 305(i)(1)(B), as amended) be modified to include this explicit authority.

Do you agree with me that the council should retain its ability to set incidental catch allowances for the CDQ groups in the fisheries affected by section 416's amendment to MSA section 305(i)(1)(B)?

Mr. STEVENS. Yes, I agree. We did not intend to eliminate any management authorities regarding incidental catch that are currently available to the Council.

Mrs. MURRAY. In view of our agreement on these points, do you agree to authorize the council and the Secretary to establish incidental catch limits for these fisheries without prohibiting the council from providing the CDQ program with an incidental catch allowance.

Mr. STEVENS. Yes, I would agree to that clarification to subparagraph (B). However, that change must also guarantee that any management measures will apply equally to both CDQ and non-CDQ portions of the fisheries affected by subparagraph (B). Do you agree?

Mrs. MURRAY. Yes, I do agree that we must ensure fair treatment of both groups in these fisheries, and would support including such language in these changes. Do I have your commitment that you will include these changes to Section 416 in the Coast Guard Conference Report before final passage in the Senate, or, if not procedurally possible, in another bill that will be enacted this year, including the final version of the Magnuson-Stevens Act reauthorization?

Mr. STEVENS. Yes. Do you give your consent for final passage of S. 2012 today?

Mrs. MURRAY. I fully support passage of S. 2012, your and Senator Inouye's bill to reauthorize the Magnuson-Stevens Act, particularly in view of your commitment to make these changes to section 416 of the Coast Guard Conference Report. Senator Inouye, are you in agreement with Senator Stevens and me on these points?

Mr. INOUE. Yes, I would be pleased to work with you and Chairman Stevens on ensuring that the items you have agreed upon are enacted.