

“Senator Wyden Statement and Congressional Bill on the Pacific Coast Groundfish Fishery and Preservation Act”

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STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS -- (Senate - May 25, 2001)  
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The right number of fishers is key to a sustainable fishery. There are currently too many fishers in the West Coast groundfish fishery to sustain the resource. This bill authorizes the Secretary to administer and implement a capacity reduction or “buyback” plan to ease the transition to the right number of fishers. In a survey distributed by the author of the buyback plan, 70 percent of recipients completed and returned their survey and a majority of them were interested in participating in the buyback program. A buyback plan has been developed by Oregonians, in consultation with the National Marine Fisheries Service and the Pacific Fishery Management Council, and this bill incorporates key elements of it.

This is not a Federal handout. Half the funding will come from the industry and half from the Federal government. The industry portion will be a government-backed loan which will be repaid by the fishers who stay. The Secretary is authorized to enter into agreements in California, Washington and Oregon to collect the fees that will be used to repay the industry portion of the buyback fund.

Another way we seek to ease the transition away from fishing is through reform of the Capital Construction Fund. Currently, the fund allows fishers to put pre-tax funds aside for the construction of a new boat, or for upgrading their old one. It was effective in building America’s fishing fleets, but in these days of dwindling stocks and fisheries disasters it is crucial that the fisheries have an alternative use for their money, such as retirement. This bill amends the Merchant Marine Act and the Internal Revenue Code to allow funds currently trapped in the Capital Construction Fund to be rolled over into a retirement account without adverse consequences to either taxpayers or the account holders.

Ultimately, sustainable fisheries are a result of government regulation and management. When federal management fails, the government has a responsibility to help fishers and their families in a timely fashion. It has taken 18 months for the recent fishery disaster funding to hit Oregon. When you are an out-of-work groundfisher, 18 months is way too long to wait. This bill requires the Secretary of Commerce to recommend legislative or administrative changes to the existing law that would enable disaster funding to reach fishers more expeditiously.

This plan is supported by the West Coast Seafood Processors, the Fishermen’s Marketing Association, the Pacific Federation of Fishermen, the Pacific Conservation Council, and the Pacific States Marine Fisheries Commission.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows: S. 973

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 “Pacific Coast Groundfish Fishery Preservation Act”.

SEC. 2 PILOT PROJECT FOR CHARITABLE DONATION OF BYCATCH.

(a) IN GENERAL.--The Secretary of Commerce shall initiate a pilot project under which fishermen in a commercial fishery covered by the West Coast groundfish fishery are permitted to donate bycatch, or regulatory discards, of fish to charitable organizations rather than discard them. The pilot project shall incorporate a means, through the requirement of on-vessel observers or other safeguards, of ensuring that the opportunity to donate such fish does not encourage or permit the evasion of pre-vessel trip limits, total allowable catch limits, or other fishery management plan measures.

(b) REPORTS.--

(1) INITIATION.--The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, within 90 days after the date of enactment of this Act and before the pilot project is implemented, of--

(A) the fishing season in which the pilot project will be conducted; and

(B) the period during which the pilot project will be conducted.

(2) FOLLOW-UP.--Within 90 days after the pilot project terminates the Secretary shall submit to the Committee a report containing findings with respect to the pilot project and the Secretary's analysis of the ramifications of the pilot project based on those findings.

SEC. 3. REPORT ON DISASTER ASSISTANCE FOR PACIFIC COAST GROUND FISH FISHERY.

The Secretary shall report to the Senate Committee on Commerce, Science, and Transportation no later than 45 days after the date of enactment of this Act the action or actions taken under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) to provide disaster relief to fishing communities affected by the commercial fishery failure in the Pacific Coast groundfish fishery. The Secretary shall include in the report any recommendations the Secretary deems appropriate for additional legislation or changes in existing law that would enable the Department of Commerce to respond more expeditiously in the future to fisheries disasters resulting from commercial fishery failures.

SEC. 4. CAPACITY REDUCTION IN THE PACIFIC COAST GROUND FISH FISHERY.

(a) IN GENERAL.--The Secretary of Commerce shall, after notice and an opportunity for public comment, adopt regulations to implement a fishing capacity reduction plan for the Pacific Coast Groundfish fishery under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)) that--

(1) has been developed in consultation with affected parties whose participation in the plan is required for its successful implementation;

(2) will obtain the maximum sustained reduction in fishing capacity at the least cost through the use of a reverse auction process in which vessels and permits are purchased;

(3) will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions;

(4) except as otherwise specifically provided in this section, meets the requirements of that section; and

(5) incorporates the components described in subsection (c) of this section.

(b) EXPEDITED ADOPTION OF PLAN.--In carrying out subsection (a), the Secretary--

(1) shall publish notice in the Federal Register within 30 days after the date of enactment of this Act of implementation of the fishing capacity reduction plan;

(2) provide for public comment for a period of 60 days after publication; and

(3) adopt final regulations to implement the plan within 45 days after the close of the public comment period under paragraph (2).

(c) PLAN COMPONENTS.--The fishery capacity reduction plan shall--

(1) provide for a significant reduction in the fishing capacity in the Pacific Coast groundfish fisheries;

(2) permanently revoke all State and Federal fishery licenses, fishery permits, area and species endorsements, and any other fishery privileges for West Coast groundfish, Pacific pink shrimp, Dungeness crab, and Pacific salmon (troll permits only) issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) for which a Pacific Coast groundfish fisheries reduction permit is issued under section 600.1011(b) of title 50, Code of Federal Regulations;

(3) ensure that the Secretary of Transportation is notified of each vessel for which a reduction permit is surrendered and revoked under the program, with a request that such Secretary permanently revoke the fishery endorsement of each such vessel and refuse permission to transfer any such vessel to a foreign flag under subsection (f) of this section;

(4) ensure that vessels removed from the Pacific Coast groundfish fisheries under the program are made permanently ineligible to participate in any fishery worldwide, and that the owners of such vessels contractually agree that such vessels will operate only under the United States flag or be scrapped as a reduction vessel pursuant to section 600.1011(c) of title 50, Code of Federal Regulations;

(5) ensure that vessels removed from the Pacific Coast groundfish fisheries, the owners of such vessels, and the holders of fishery permits for such vessels forever relinquish any claim associated with such vessel, permits, and any catch history associated with such vessel or permits that could qualify such vessel, vessel owner, or permit holder for any present or future limited access system fishing permits in the United States fisheries based on such vessel, permits, or catch history; and

(6) notwithstanding section 1111(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f(b)(4)), establish a repayment period for the reduction loan of not less than 30 years.

(d) FUNDING FOR BUYBACK OF VESSELS AND PERMITS.--

(1) IN GENERAL.--There shall be available to the Secretary to complete the purchase of vessels and permits under the fishery capacity reduction plan the sum of \$50,000,000, of which--

(A) \$25,000,000 shall be from amounts appropriated to the Secretary for this purpose (the appropriation of which is hereby authorized for fiscal year 2002, with any amounts not expended in fiscal year 2002 to remain available until expended); and

(B) \$25,000,000 shall be from an industry fee system established under subsection (e).

(2) ADVANCE OF INDUSTRY FEE PORTION.--The industry fee portion under paragraph (1)(B) for fiscal year 2002 and thereafter shall be financed by a reduction loan under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g).

(e) INDUSTRY FEES.--

(1) IN GENERAL.--As part of the fishery capacity reduction plan, the Secretary shall establish an industry fee system under section 312(d) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(d)) to generate revenue to repay the loan provided under subsection (d)(2).

(2) ALLOCATION OF FEES.--The Secretary shall allocate the fees payable under the industry fee system among--

(A) holders of Pacific Coast groundfish permits,

(B) holders of Washington, Oregon, and California pink shrimp fishing permits,

(C) holders of Washington, Oregon, and California salmon trolling permits, and

(D) holders of Washington, Oregon, and California Dungeness crab fishing permits,

so that the percentage of the revenue generated by the fee system from holders of each kind of permit will correspond to the percentage of the total amount paid under buyback program for that kind of permit.

(f) DUTIES OF SECRETARY OF TRANSPORTATION.--

(1) The Secretary of Transportation shall, upon notification and request by the Secretary, for each vessel identified in such notification and request--

(A) permanently revoke any fishery endorsement issued to such vessel under section 12108 of title 46, United States Code; and

(B) refuse to grant the approval required under section 9(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 808(c)(2)) for the placement of such vessel under foreign registry or the operation of such vessel under the authority of a foreign country.

(2) The Secretary shall, after notice and opportunity for public comment, adopt final regulations not later than 6 months after the date of enactment of this Act, to prohibit any vessel for which a reduction permit is surrendered and revoked under the fishing capacity reduction program required by this section from engaging in fishing activities on the high seas or under the jurisdiction of any foreign country while operating under the United States flag.

(g) REGULATORY FLEXIBILITY.--Any requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, or any Executive order that would, in the opinion of the Secretary, prevent the Secretary from meeting the deadlines set forth in this section shall not apply to the fishing capacity reduction program or the promulgation of regulations to implement such program required by this section.

#### SEC. 5. COLLECTION OF INDUSTRY FEES.

(a) IN GENERAL.--The Secretary shall enter into an agreement with the States of California, Oregon, and Washington to collect program fees paid under the system established under section 4(e).

(b) WITHHOLDING FEE FROM PURCHASE PRICE.--The fee for each vessel required to pay a program fee under that system shall be deducted by the first ex-vessel fish purchaser from the proceeds otherwise payable to the seller and forwarded to the appropriate State at the same time and in the same manner as other fees or taxes are forwarded to that State.

(c) STATE TO COLLECT AND FORWARD FEES.--Upon receipt of program fees forwarded by fish purchasers under subsection (b), the State shall forward the fees to the Secretary in the manner provided for in the agreement established under subsection (a).

(d) FISH-PROCESSING VESSELS TREATED AS PURCHASERS.--A vessel which--

(1) both harvests and processes fish; or

(2) receives fish from a harvesting vessel and processes that fish on board, shall be considered to be the first ex-vessel fish purchaser with respect to the fish processed on the vessel and shall forward the appropriate fees to the appropriate State at the same time and in the same manner as other fees or taxes are forwarded to that State.

#### SEC. 6 AMENDMENT OF THE MERCHANT MARINE ACT, 1936, TO EXPAND PURPOSES OF CAPITAL CONSTRUCTION FUND.

(a) IN GENERAL.--Section 607(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(a)) is amended by striking "of this section." And inserting "of this section. Any agreement entered into under this section may be modified for the purpose of encouraging the sustainability of the fisheries of the United States by making the termination and withdrawal of a capital construction fund a qualified withdrawal if done in exchange for the retirement of the related commercial fishing vessel and related commercial fishing permits."

(b) NEW QUALIFIED WITHDRAWALS.--

(1) AMENDMENTS TO MERCHANT MARINE ACT, 1936.--Section 607(f)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1177(f)(1)) is amended--

(A) by striking "for:" and inserting "for--";

(B) by striking "vessel," in subparagraph (A) and inserting "vessel;";

(C) by striking "vessel, or" in subparagraph (B) and inserting "vessel;";

(D) by striking "vessel." in subparagraph (C) and inserting "vessel;"; and

(E) by inserting after subparagraph (C) the following:

"(D) the payment of an industry fee authorized by the fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b));

"(E) in the case of any such person or shareholder for whose benefit such fund was established or any shareholder of such person, a rollover contribution (within the meaning of section 408(d)(3) of the Internal Revenue Code of 1986) to such person's or shareholder's individual retirement plan (as defined in section 7701(a)(37) of such Code); or

"(F) the payment to a person or corporation terminating a capital construction fund for whose benefit the fund was established and retiring related commercial fishing vessels and permits; and

(F) by adding at the end the following:

"(ii) The Secretary by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized under subparagraph (F) retires the related commercial use of fishing vessels and commercial fishery permits."

(2) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.--Section 7518(e)(1) of the Internal Revenue Code of 1986 (relating to purposes of qualified withdrawals) is amended--

(A) by striking "for:" and inserting "for--";

(B) by striking "vessel, or" in subparagraph (B) and inserting "vessel;";

(C) by striking "vessel." in subparagraph (C) and inserting "vessel;";

(D) by inserting after subparagraph (C) the following:

"(D) the payment of an industry fee authorized by the fishing capacity reduction program under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a);

"(E) in the case of any person or shareholder for whose benefit such fund was established or any shareholder of such person, a rollover contribution (within the meaning of section 408(d)(3)) to such person's or shareholder's individual retirement plan (as defined in section 7701(a)(37)); or

“(F) the payment to a person terminating a capital construction fund for whose benefit the fund was established and retiring related commercial fishing vessels and permits.”; and

(E) by adding at the end the following:

“The Secretary by regulation shall establish procedures to ensure that any person making a qualified withdrawal authorized by subparagraph (F) retires the related commercial use of fishing vessels and commercial fishery permits.”.

(c) EFFECTIVE DATE.--The amendments made by this section shall apply to withdrawals made after the date of enactment of this Act.