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U.S. SENATOR PATTY MURRAY

TO: To: Phil Anderson, Don Mc Isaac
DATE: 9/12/02
FROM: Anna Knudson

Thank you for considering this and providing feedback. Given what a priority the buyback is (for the Council) we want to try to get the right authorizing language through so this can happen.

Also -- there is a chance IFQ standards will move this year, and as you know, what to do about authorizing processor quotas for the West Coast will be one of the most controversial issues.

Thanks!

PAGES SENT (INCLUDING COVER SHEET): 6

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S. 973 – Wyden Draft (003)

To expedite the implementation of a capacity reduction program for the Pacific Coast Groundfish fishery.

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Pacific Coast Groundfish Fishery Capacity Reduction Act'.

SECTION 2. 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 final regulations by August 31, 2003 to implement a fishing capacity reduction plan for the Pacific Coast groundfish fishery consistent with section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)). The fishing capacity reduction plan shall –

- (1) obtain the maximum sustained reduction in fishing capacity at the least cost through a process in which vessels and permits are purchased;
- (2) not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions;
- (3) permanently revoke all State and Federal fishery licenses, fishery permits, for Pacific 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 revoked under section 600.1011(b) of title 50, Code of Federal Regulations except that no vessel harvesting and processing whiting in the catcher/processor sector as defined in section 660.323 (a)(4)(A) of title 50, Code of Federal Regulations shall be eligible to qualify;
- (4) 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;
- (5) ensure that vessels removed from the Pacific Coast groundfish fisheries under the program are made permanently ineligible to participate in any fishery, 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;
- (6) 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,

(b) FUNDING FOR BUYBACK OF VESSELS AND PERMITS-

- (1) The fishing capacity reduction program required under this subsection is authorized to be financed through a reduction loan of \$50,000,000 under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g). 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.
- (2) The \$500,000 appropriated in section 212 of P.L. 107-206 shall be for the cost of the \$50,000,000 loan ceiling required under subsection (1) of this section in accordance with the requirements of the Federal Credit Reform Act.

(c) VOLUNTARY PARTICIPATION – Participation in the program shall be voluntary, but the Secretary shall ensure compliance by all that participate.

(d) CONSULTATION – The harvester proponents of the program and the Secretary shall consult, as appropriate, with interested parties during the development and implementation of any program under this subsection.

- (1) ELIGIBILITY – Only persons who hold a federal pacific groundfish limited entry permit under the Pacific Coast Groundfish Management Plan may participate in the fishing capacity reduction program except that no vessel harvesting and processing whiting in the catcher/processor sector as defined in section 660.323 (a)(4)(A) of title 50, Code of Federal Regulations shall be eligible.

(f) INDUSTRY FEES-

- (1) IN GENERAL – In lieu of section 312(d) and (e), the Secretary shall consult with affected industry on the necessary fee system. The Secretary shall—
 - (A) identify, to the extent practicable, and notify all permit or vessel owners who would be affected by the program;
 - (B) make available to such owners information about the industry fee system describing the schedule, procedures, and eligibility requirements for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the proposed fee system; and
 - (C) conduct public workshops with affected parties to assist with the design and development of the system.
- (2) Notwithstanding section 304(d) and after consulting with the affected industry pursuant to paragraph (1), the Secretary is authorized to establish such a system to fund the program and repay debt obligations incurred pursuant to section 1111 of the Merchant Marine Act, 1936. The fees for a program established under this section shall—
 - (A) be determined by the Secretary and adjusted from time to time as the Secretary considers necessary to ensure the availability of sufficient funds to repay such debt obligations;
 - (B) not exceed 5 percent of the ex-vessel value of all fish harvested from the fishery for which the program is established;
 - (C) be deducted by the first ex-vessel fish purchaser from the proceeds otherwise payable to the seller and accounted for and forwarded by

such fish purchasers to the Secretary in such manner as the Secretary may establish; and

(D) be in effect only until such time as the debt obligation has been fully paid.

(3) ALLOCATION OF FEES- The Secretary may allocate the fees payable under the industry fee system among—

(A) holders of Pacific Coast groundfish permits, except no fees shall be assessed for holders of groundfish permits for vessels that harvest and process whiting in the catcher/processor sector as defined in section 660.323 (a)(4)(A) of title 50, Code of Federal Regulations;

(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 the capacity reduction program for that kind of permit.

(g) PROGRAM IMPLEMENTATION-

(2) IN GENERAL – The Secretary shall propose and adopt framework regulations applicable to implementing the program under this section.

(3) NOTICE – The Secretary shall implement each program under this section by proposing in the Federal Register for public comment and subsequently adopting, a notice that establishes each such program and controls its implementation in accordance with the framework regulations.

(4) ROLE OF HARVESTER PROPONENTS – Before the Secretary proposes a notice with respect to a program under paragraph (2), the harvester proponents of the program shall provide a proposed implementation plan to the Secretary that—

(A) proposes the type and number of vessels or permits that are eligible to participate in the program and the manner in which the program shall proceed, taking into account—

(i) the requirements of this section;

(ii) the requirements of the framework regulations;

(iii) the characteristics of the fishery;

(iv) the requirements of the applicable fishery management plan and any amendment that plan may require to support the proposed program;

(v) the general needs and wants of harvesters in the fishery;

(vi) the need to minimize program costs; and

(vii) such other matters, including the manner in which the proponents propose to fund the program, as may be appropriate or necessary for the potential for the general cooperation of, and support from, a substantial number of affected harvesters

in the fishery or the portion thereof for which the program is proposed to be implemented; and

(B) establishes procedures for program participation, including any terms and conditions the harvester proponents deem to be reasonably necessary to meet the program's objectives.

(5) **CONTRACTS** – The Secretary shall execute a contract with each person participating in the program. The contract shall, in addition to any other provisions the Secretary deems appropriate or necessary, incorporate by reference as terms and conditions appropriate provisions of the framework regulations.

(6) **ASSESSMENT OR AUCTION** – Each program not involving fair market assessment shall involve a reduction auction that scores the reduction price of each bid offer by the data relevant to each bidder under an appropriate fisheries productivity factor. If the Secretary accepts bids under such an auction, the Secretary shall accept each bid in the rank order of its bid score, with each bid the reduction price of which is the lowest percentage of the productivity factor being accepted over a bid the reduction price of which is the next lowest percentage of the productivity factor.

(h) **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 of Transportation 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 prevent 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.

(i) **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.

SECTION 3. 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) 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.

