

GENERAL INFORMATION DOCUMENTS

This section contains documents of interest to the Council that are outside topics covered by the published agenda for the Council meeting. Additional material may be added during the course of the meeting.

List of Documents:

1. General Information, Attachment 1, "Senator Wyden Statement and Congressional Bill on the Pacific Coast Groundfish Fishery and Preservation Act."
2. Supplemental 4:00 PM Public Comment, if any is submitted during the meeting.

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

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS -- (Senate - May 25, 2001)

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.



June 5, 2001

LATE

JUN 07 2001

William T. Hogarth, Ph. D
Acting Assistant Administrator for Fisheries
NOAA Fisheries, SSMC3
1315 East West Highway
Silver Spring, MD 20910-3282

Dear Dr. Hogarth,

We are writing to request that National Marine Fisheries Service (NMFS) take a series of steps to ensure the success of the West Coast groundfish observer program and to implement a full bycatch assessment for Pacific groundfish. We are encouraged that NMFS is developing a West Coast groundfish observer program. This year's limited program is a long overdue step towards gathering essential data. A full and adequate observer program is a key element in the advancement of a suite of tools to quantify bycatch and total mortality in this fishery, as required by the Magnuson-Stevens Act.

The final regulation published on April 24, 2001, conceded: "Establishing an observer program to collect total catch data would bring the Pacific coast groundfish FMP closer to the Magnuson-Stevens bycatch requirements for a standardized reporting methodology on bycatch." (*Emphasis added.*) It is critical that NMFS and the Pacific Fishery Management Council move aggressively towards full compliance with the Act. NMFS could develop a more complete program by employing some combination of more observers, a full-retention program, electronic logbooks, video and other technological supplements, and logbooks that seek fisher's documentation of their bycatch and discards.

We very much appreciate the effort and commitment demonstrated by the Fisheries Resource Analysis and Monitoring (FRAM) division of the Northwest Fisheries Science Center in crafting the observer sampling and logistics plan for this year's limited observer program. While we regret that the program will not have a larger scope this year, we believe that FRAM has developed a carefully considered framework for the initial essay. Through monitoring, NMFS and the agency's constituents can evaluate the efficacy of this plan.

There have been long delays in implementing the groundfish observer program. At this point we are both encouraged and apprehensive. In some other programs, observer data were collected but not used, or problems with fleet participation affected the scientific integrity of the data collected. We also have considerable reason for concern about whether NMFS and the Council will comply with the full Magnuson-Stevens bycatch requirements on a schedule that will both prevent additional populations from becoming overfished and help ensure that rebuilding timetables are met.

We want this program to succeed. The program would benefit from a procedure that would allow public input and agency accountability. We offer below specific suggestions for steps that would enhance the transparency, effectiveness and timeliness of the program. Following these suggestions would build support for the integrity of the data collected, so that it can be more confidently used to improve management of the fishery. Implementing public reporting and feedback mechanisms would help strengthen the program while keeping constituents informed. By acting on our suggestions NMFS would not only foster good relations and nurture allies in the effective management of sustainable fisheries, but also increase the likelihood of the program's success.

REQUEST ONE: REGULAR REPORTS

The observer program staff should provide brief reports once a month. These reports should be posted to an agency web-site, with a provision for interested parties to subscribe to an email distribution list. The reports should provide basic information on how the program is progressing, in particular: 1) the number of observer days logged and from which ports; 2) instances of fleet non-participation; 3) the type of information that is being processed, and; 4) when the data will be available for fisheries management purposes. To keep the program on track, it is critical to keep the public informed about whether the sampling plan is being followed and what modifications may be necessary.

REQUEST TWO: PUBLIC MEETINGS

NMFS should promote accountability for the observer program through periodic public meetings. These meetings, while informal in approach, would nonetheless provide a formal opportunity for port coordinators to report on the progress of the program locally and to hear concerns from fishers, conservationists and other interested parties, with the goal of resolving any problems that arise. The intent of these meeting is to monitor the program and find ways to cooperatively improve its effectiveness. This protocol is typical for other programs of this type. We envision at least three meetings per year within each port group, facilitated by the port coordinator. The first meeting would be held within 45 days of program initiation so that any start-up problems could quickly be addressed. If additional communication or staff support is needed in a particular location, NMFS would have the flexibility to schedule additional meetings.

REQUEST THREE: DEVELOP A FULL BYCATCH ASSESSMENT PLAN AND SCHEDULE FOR IMPLEMENTING IT

NMFS has rightly acknowledged that this year's observer program will not complete the job of assessing bycatch. Until a more comprehensive program is in place, NMFS will remain unable to estimate total mortality accurately in groundfish fisheries and unable to evaluate the effectiveness of rebuilding plans and catch quotas. We ask that the agency forthwith develop a full bycatch assessment plan and adopt an aggressive schedule to implement it. Such a plan should be a real guide for action, not simply a menu of options. We stand ready to cooperatively assist NMFS in developing this important plan.

The basic steps in this letter are intended to ensure success of the first-year limited observer program and make it a building block for a full program. This success will help propel us towards a fully-funded superior program next year and in years to come. We are actively seeking congressional support and appropriations for the West Coast groundfish observer program. The ability to demonstrate the thoughtful and effective implementation of this year's program will assist in our advocacy.

If you have any questions about this letter, please do not hesitate to have your staff contact any or all of the undersigned.

Respectfully,

Rod Fujita, Senior Scientist
Environmental Defense

Drew Caputo, Attorney
Natural Resources Defense Council

Phil Kline, Fisheries Program Director
American Oceans Campaign

Mark Powell, Pacific Fisheries Program Manager
Center for Marine Conservation

Bob Eaton, Executive Director
Pacific Marine conservation Council

Paul Engelmeyer, Northwest Policy Analyst,
Living Oceans Program, National Audubon Society

cc:

Rebecca Lent, Ph. D., Regional Administrator
Southwest Region, National Marine Fisheries Service

Donna Darm, Ph. D., Acting Regional Administrator
Northwest Region, National Marine Fisheries Service

Victoria Cornish, Director
National Observer Program, NOAA Fisheries

Elizabeth Clarke, Ph.D., Director
Fishery Resource analysis and Monitoring Division
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Usha Varanasi, PH.D., Director
Northwest fisheries Science Center

Don McIsaac, Ph.D., Executive Director
Pacific Fishery Management Council

PUBLIC MEETINGS ANNOUNCEMENT

Groundfish Fishery Disaster Response Program

California Department of Fish and Game
in cooperation with
Employment Development Department

The State of California wants your advice on how disaster relief funds should be used. California will receive \$1.75 million in Federal funds and will provide \$583,000 in State matching funds, for a total of \$2.333 million.

Attend one of the following town hall meetings or provide written comments by June 29 to:

Intergovernmental Affairs Office
California Department of Fish and Game
PO Box 944209
Sacramento, CA 94244-2090

Monday, June 25, 2001
1:00 to 3:00 p.m.
Woodley Island Marina
Harbor District
601 Startara Drive
Eureka, CA 95501

Thursday, June 28, 2001
7:00 to 9:00 p.m.
California Dept. of Fish and Game
4665 Lampson Avenue
Suite C
Los Alamitos, CA 90720

Monday, June 25, 2001
3:00 to 5:00 p.m.
Flamingo Resort Hotel
Courtyard One
2777 Fourth Street
Santa Rosa, CA 95405-4795

Friday, June 29, 2001
7:00 to 9:00 p.m.
SLO Veteran's Building
801 Grand Avenue
San Luis Obispo, CA 93408

Tuesday, June 26, 2001
3:00 to 5:00 p.m.
Coast Guard Auxiliary
Harbor Meeting Room
365-A Lake Avenue
Santa Cruz, CA 95062-4641

—Please see reverse side for important information—

Who is eligible to receive funds?

Individuals in the commercial or charterboat groundfish fisheries who have been impacted by groundfish fishery reductions, or communities dependent on groundfish who have suffered losses. Also, entities that conduct research projects may be eligible for funds.

What kinds of activities can the money be used for?

The purpose of the program is to prevent a future failure in the fishery or an associated fishery or to assist in the recovery of the fishery, while aiding the affected individuals and communities. The State proposes that the funds be used for two major activities: 1) industry diversification and job re-training and 2) cooperative industry research. Some examples of projects include:

- direct assistance to individuals for education or job re-training;
- aid to develop new fisheries or gear that would target under-utilized stocks; and
- research projects that will provide better information to manage groundfish and prevent future fishery failures.

We are also seeking other partners to provide for additional activities such as grants for new business opportunities.

What activities do not qualify for funds?

Federal law [(Magnuson-Stevens Act Section 312(a))] places several requirements on how these funds can be used. In general, the Magnuson-Stevens Act does not allow these funds to be used for activities that expand the size or scope of the failure in the groundfish fishery or into other developed fisheries or other geographic regions. These funds have to be used in ways that restore the fishery or prevent a similar failure from happening in the future while providing assistance to fishermen and their communities. Activities that only provide financial assistance such as making cash payments to fishermen for use in paying moorage or overdue bills are unlikely to meet the requirements of the Magnuson-Stevens Act.

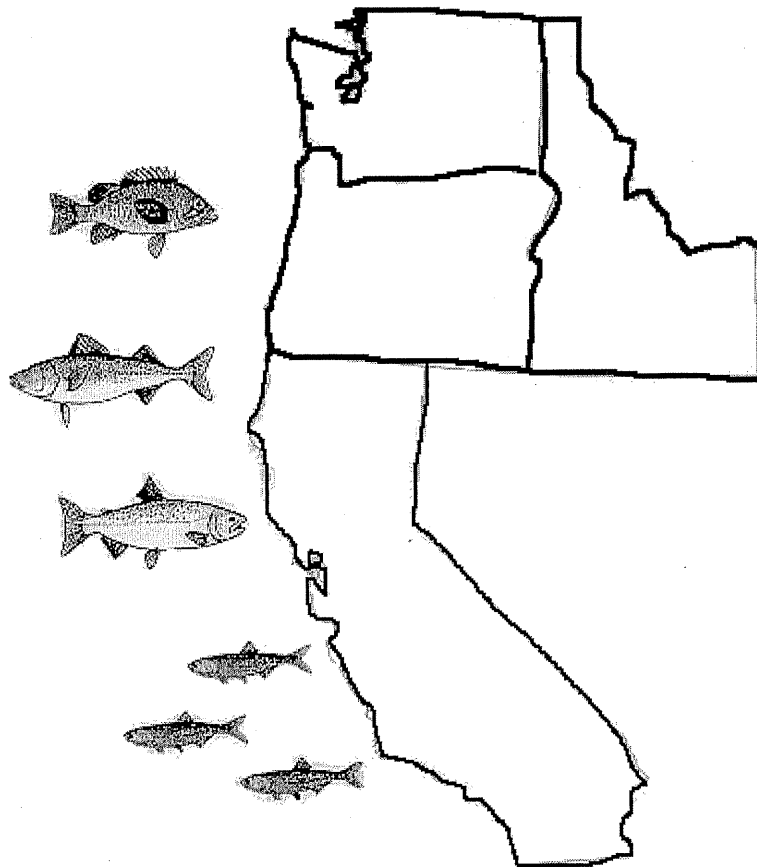
What kind of public input is needed?

The State would appreciate your ideas about what kinds of assistance are most important, and how much money should be reserved for groundfish research projects.

If you are unable to attend one of the meetings, but would like to provide input, please send your comments to:

Intergovernmental Affairs Office
California Department of Fish and Game
PO Box 944209
Sacramento, CA 94244-2090

ROSTER



Pacific Fishery Management Council
June 2001

Pacific Fishery Management Council
2130 SW Fifth Avenue, Suite 224
Portland, OR 97201
Phone (503) 326-6352
Fax (503) 326-6831
<http://www.pcouncil.org>

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Pacific Fishery Management Council

ALVERSON, MR. ROBERT

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Fishing Vessel Owner's Association

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State of Washington Official

anderpma@dfw.wa.gov

Washington Department of Fish and Wildlife
Special Assistant to the Director
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Designee: Mr. Richard Lincoln**Phone** (360)902-2720**Fax:** (360)902-2182

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BALL, MR. LINDSAY

State of Oregon Official

Oregon Department of Fish and Wildlife
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* Nonvoting members.

The regional administrator for the Southwest Region votes on issues primarily of concern to California, and the regional administrator for the Northwest Region votes on issues primarily of concern to Washington and Oregon.

Pacific Fishery Management Council

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