

AMENDMENT 15 AMERICAN FISHERIES ACT

When Congress passed the American Fisheries Act (AFA) in 1998, Congress designated the Pacific Fishery Management Council (Council) to develop conservation and management measures to protect West Coast groundfish fisheries from potential harm caused by the AFA. The AFA states that if the Council does not recommend such conservation and management measures by January 1, 2001, “the Secretary may by regulation implement adequate measures including, but not limited to, restriction on vessels which harvest pollock under a fishery cooperative which will prevent such vessels from harvesting Pacific groundfish, and restriction on the number of processors eligible to process Pacific groundfish.” In September 1999, the Council initiated Amendment 15 to the Pacific Coast Groundfish Fishery Management Plan (FMP) to address this concern and enacted a control date of September 16, 1999 regarding participation by catcher vessels in mothership and shore-based Pacific whiting fisheries, and in the inshore groundfish fishery for non-whiting species. The Council has also set a control date of June 29, 2000 which provides advance notice to the public and potential purchasers of limited entry permits held by AFA entities that, based on future Council action, groundfish limited entry permits held by an AFA entity may be revoked or restricted to a specific fishery sector. However, because of competing workload and no threatened imminent harm, the Council tabled action on Amendment 15 in 2002. Attachment 1 of this agenda item is a summary of the alternatives from the draft Environmental Assessment at the Council’s last consideration of Amendment 15 to the Groundfish FMP (September 2001).

The Council readdressed Amendment 15 at its September 2006 meeting following testimony to the Legislative Committee and the Council regarding anticipated entrance into the West Coast Pacific whiting fishery by AFA-qualified vessels with no prior history in the fishery. At the September 2006 meeting, the Council voted to move forward expeditiously to complete Amendment 15 for first use in the 2008 fishery with direction to simplify the alternatives brought forward for Council consideration.

At the March 2007 Council meeting, the Council discussed a schedule of final Council action and the June or September Council meeting. As an interim protective mechanism, the Council also voted to request that National Marine Fisheries Service (NMFS) enact an emergency rule to be implemented for the 2007 non-tribal season that prohibits sector-specific participation by American Fisheries Act qualified vessels that did not participate in the Pacific whiting fishery prior to December 31, 2005. In March 2007, based on concerns of adverse conservation, economic, and safety effects to the 2007 fishery that could result from an unrestricted derby style fishery, the Council broadened its original emergency rule request to prohibit participation in the 2007 non-tribal Pacific whiting fishery by all vessels without sector-specific history in the fishery prior to January 1, 2007.

At the September 2006 Council meeting, the Oregon Department of Fish and Wildlife (ODFW) volunteered to take the lead in preparing a preliminary draft Environmental Assessment including a simplified range of alternatives for Council consideration in March. This agenda item was moved to the April Council meeting and the ODFW report is included. (Agenda Item E.3.b, ODFW Report). Under this agenda item, the Council is to review and revise the preliminary alternatives for detailed analysis and public review.

Council Action:

- 1. Adopt a Preliminary Range of Amendment 15 Alternatives for analysis and public review.**

Reference Materials:

1. Agenda Item E.3.a, Attachment 1; Figure 1 - AFA Alternatives Considered at the September 2001 Council Meeting.
2. Agenda Item E.3.b, ODFW Report; Preliminary Revised Range of Amendment 15 Alternatives.

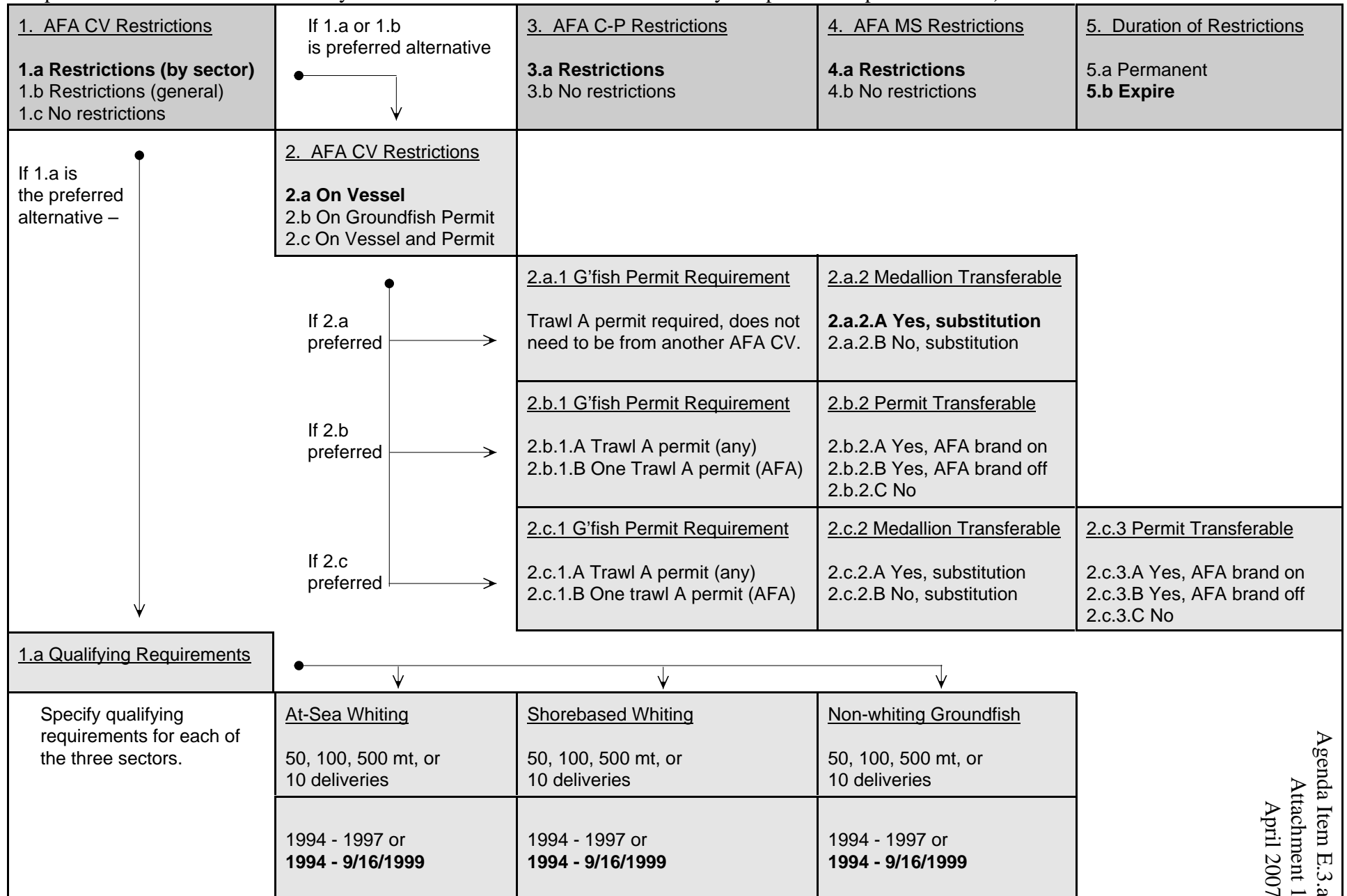
Agenda Order:

- a. Agenda Item Overview
- b. ODFW Report
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. **Council Action:** Adopt Preliminary Alternatives for Analysis

Mike Burner
Curt Melcher

PFMC
03/20/07

FIGURE 1. AFA Alternatives Considered at the September 2001 Council Meeting. (**Bold text** represents preliminary preferred alternatives for analysis and public review as recommended by the Council and the Groundfish Advisory Subpanel in September 2001.)



AMENDMENT 15: AMERICAN FISHERIES ACT

In response to the recent Pacific Fishery Management Council (Council) action in September 2006 and March 2007, the Council has indicated a strong desire to address alternatives for protecting West Coast groundfish fisheries from adverse impacts caused by vessels qualified under the American Fisheries Act (AFA). Draft alternatives are provided here for Council consideration.

Under the AFA, both the Council and National Marine Fisheries Service/Secretary were given direction to take actions to address these concerns. To date, neither agency has taken action. In the recent Council actions mentioned above, a significant amount of Council and NMFS time has been directed towards addressing two requests for short-term emergency actions to prevent adverse impacts in 2007's shoreside and at-sea whiting fishery. Staffing has not been provided to address a proactive response.

These alternatives are intended to initiate action among Council members and advisory bodies in April 2007, to avoid further delays that threaten the west coast groundfish fisheries. Future action will require a response from Council staff and NMFS staff to address this coast-wide concern. Absent such action, and in order to avoid further workload on short term emergency actions, Oregon has drafted alternatives. Further work on this critical permanent fishery protection will require concurrent support by Council staff and NMFS.

The alternatives that were developed by the Council and last reviewed at the September 2001 Council meeting were considered to be overly complex at that time. There were alternatives developed to accommodate five issues: qualifying criteria for AFA catcher vessels; whether the restrictions would apply to vessels, permits, or both; qualifying criteria for AFA catcher-processors; qualifying criteria for AFA motherships; and duration of the restrictions.

The alternatives being proposed for further analysis at this time are as follows:

1. Status Quo- No restrictions placed on AFA-qualified vessels.
2. Prohibit participation in the shoreside, catcher/processor, and mothership sectors of the Pacific whiting fishery by AFA-qualified vessels that do not have a historic participation record in those sectors prior to 2006 (i.e., participation in the shorebased, catcher-processor, or mothership sector by December 31, 2005).

3. Prohibit participation of AFA-qualified vessels separately in each of the three sectors of the groundfish fishery (at-sea whiting, shorebased whiting, and non-whiting groundfish) who had not:
 - Catcher Vessel: delivered at least 50-500 mt (to be determined) of groundfish in any year during the period of January 1, 1994 to September 16, 1999.
 - Catcher-Processor: licensed to harvest groundfish in the years 1997, 1998, or January 1, 1999-September 16, 1999.
 - Mothership: received at least 1,000 mt of Pacific whiting during the regular whiting season in 1998 or 1999.

The qualifying periods in this alternative represent those adopted by the Council at the September 2001 Council meeting as the Council preferred alternative. Additional analysis is requested to determine a preferred landing/delivery criteria for the catcher vessel sector. It is our understanding that this analysis was not completed.

Sector specific qualifying alternatives that were detailed in the Draft Environmental Assessment are shown in table 1. The restrictions contained in these alternatives would apply to the vessel, as it is the vessel which is identified and qualified under AFA and remain in effect until such time as the Groundfish Fishery Management Plan is amended to remove the restrictions.

Table 1. Other qualifying alternatives considered.

Catcher Vessel Minimum Landings/Deliveries Options		
At-Sea Whiting Deliveries	Shorebased Whiting Landings	Non-Whiting Groundfish Landings
50 mt	50 mt	50 mt
100 mt	100 mt	100 mt
500 mt	500 mt	500 mt
10 deliveries	10 deliveries	10 deliveries
Catcher Vessel Qualifying Periods		
1994-1997		
1994-October 1, 1999 (also had to have a groundfish permit by October 1, 1998)		
Catcher-Processor/Mothership Minimum Landings/Deliveries/Qualifying Period Options		
No options other than that presented in the alternatives in this report were included in the Draft Environmental Assessment		