

DRAFT AMENDMENT 15: AMERICAN FISHERIES ACT ISSUES

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. 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.

The Council readdressed Amendment 15 at its September 2006 meeting and 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 its April 2007 meeting, the Council adopted a preliminary range of alternative measures for public review and preliminary analysis. The Oregon Department of Fish and Wildlife (ODFW) has taken the lead in coordinating the development of a draft Environmental Assessment (Agenda Item E.11.b., Attachment 1) which summarizes the proposed action, the purpose and need for such action, and a description of the alternatives. The Washington Department of Fish and Wildlife and the National Marine Fisheries Service (NMFS) have provided staff time to work on portions of the required analyses and documents. Also included for Council review are draft amendatory FMP language (Agenda Item E.11.b, Attachment 2) and a NMFS report on analyses needed for Amendment 15 under the National Environmental Policy Act. The Council is scheduled take final action on Amendment 15 at the September 2006 meeting in Portland, Oregon.

As an interim protective mechanism, the Council voted in November 2006 to request that National Marine Fisheries Service (NMFS) enact an emergency rule restricting AFA vessel participation in the whiting fishery without catch history prior to 2006, to be implemented for the 2007 non-tribal season. NMFS did not approve the request. 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, including both AFA and non-AFA vessels, without sector-specific history in the fishery prior to January 1, 2007. NMFS is scheduled to report on implementation of an emergency action and temporary rule under the NMFS Report, Agenda Item E.1.

Council Action:

- 1. Review the proposed action and the purpose and need for such action.**
- 2. Review the range of alternatives and modify as necessary.**
- 3. Review the draft outline for the EA and provide guidance on future analyses.**

Reference Materials:

1. Agenda Item E.11.b, Attachment 1: Environmental Assessment of Management Measures to Prevent Harm to the Pacific Whiting Fishery Resulting from Implementation of the American Fisheries Act.
2. Agenda Item E.11.b, Attachment 2: Draft Amendment 15 FMP Language.
3. Agenda Item E.11.b, Attachment 3: NMFS Report on National Environmental Policy Act Analysis Needs for Amendment 15 to the FMP.

Agenda Order:

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

Mike Burner
Gway Kirshner

PFMC
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