

CONSIDERATION OF EFFORT LIMITATION IN THE ALBACORE TUNA FISHERY

At the November 2009 meeting the Council heard a presentation from Drs. Mike Laurs and Joe Powers on their white paper *Possible Management Options for the U.S. West Coast Albacore Fishery*. In June 2009 and again in November the Highly Migratory Species Management Team (HMSMT) and Highly Migratory Species Advisory Subpanel (HMSAS) provided comments on the draft paper. Based in part on this input the authors revised the paper and submitted a final version to NMFS in early 2010 (Attachment 1). According to its authors, “the intent of this ‘White Paper’ is to provide the PFMC with information that may assist it in deliberations regarding the initiation of a framework process to maintain or limit fishing effort by the West Coast albacore fishery.” The paper describes three categories of measures to limit fishing effort: input/output controls, limited access (e.g., license limitation or “limited entry”) programs, and limited access privilege programs (now often referred to as catch share programs).

At the November meeting the Council directed the HMSMT to provide additional comments on the white paper and gather information that would support initiating formal consideration of fishing effort limitation measures at this Council meeting. Such a decision would be the first step in the Council’s three meeting process described in Council Operating Procedure 11 for Plan Amendment Cycles. (An effort limitation program would likely require an FMP amendment.) In addition, the Council announced that they also would be considering changing the current HMS control date of March 9, 2000, at this Council meeting, which will occur under this agenda item.

Attachment 2 contains an analysis of 2004-2008 Pacific Fishery Information Network (PacFIN) vessel summary files to characterize participation in the west coast albacore pole/troll fishery. This information is intended to inform the discussion of possible effort limitation measures for the fishery.

The concept of a “control date” was developed by National Marine Fisheries Service (NMFS) and the councils; establishing a control date is not required by the Magnuson-Stevens Act (MSA) or regulations. Past guidance from National Oceanic and Atmospheric Administration (NOAA) General Counsel emphasizes the following:

- Announcement of a control date is considered an advance notice of proposed rulemaking (ANPR). This format links the control date announcement with subsequent rulemaking.
- The ANPR control date announcement should be very general. It should simply state that the Council is considering a limited access system for a particular fishery and anyone entering the fishery after the specified date is not assured they will be given access to the fishery if the system is adopted.
- Once a council announces a control date, the council should proceed quickly with development of the limited access system. If there is inaction or lengthy delay the old control date should be rescinded and a new date be announced.
- Announcing limited access criteria in the ANPR and subsequently changing the criteria could be problematic, especially if stricter criteria are subsequently adopted. This could be perceived as unfair to someone who participated in the fishery based on the announced criteria but subsequently did not qualify.

Control dates are intended to put the public on notice that if they join a fishery after a specified date they might be excluded because a limited access program is under consideration. The objective is to discourage speculative entry while such a program is being developed. Although there is no hard-and-fast rule about how recent a control date needs to be when initiating a limited access program, it is expected that when a date is announced a council will “proceed quickly” in developing the program. However, any date can be chosen as the control date, as long as sufficient rationale is provided. Furthermore, whatever the control date, it does not have to be used in any ultimate formula that may be established to determine who could qualify for a limited access permit or other access privileges. Whatever is decided, it is important to establish a good written record of the rationale for these management decisions.

Per Council guidance, the HMSMT Report contains additional information relative to a Council decision to proceed with effort limitation measures for the west coast pole/troll albacore fishery.

Council Task:

- 1. Determine whether to begin considering measures to limit fishing effort in the west coast albacore pole/troll fishery based on information provided in the white paper and reports from the HMSMT and HMSAS. If proceeding, the Council should provide further guidance to the HMSMT and HMSAS on the parameters of such measures.**
- 2. If proceeding with effort limitation measures, and specifically a limited access (limited entry) or limited access privilege program, consider changing the current March 9, 2000, control date.**

Reference Materials:

1. Agenda Item G.3.a Attachment 1: North Pacific Albacore ‘White Paper’; Possible Management Options for the U.S. West Coast Albacore Fishery.
2. Agenda Item G.3.a Attachment 2: Information on Participation in the West Coast Pole (Baitboat) and Troll Albacore Surface Fishery Relative to Consideration of Fishing Effort Limitation.
3. Agenda Item G.3.b HMSMT Report.
4. Agenda Item G.3.c Public Comment: Hank Bryson, John Harder.

Agenda Order:

- a. Agenda Item Overview
 - b. Reports and Comments of Management Entities and Advisory Bodies
 - c. Public Comment
 - d. **Council Action:** Consider Implementing Effort Limitation Measures and a Control Date in the Albacore Tuna Fishery
- Kit Dahl**

PFMC
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