

AMERICAN FISHERIES ACT MEASURES

Situation: The American Fisheries Act (AFA) mandates that, "by not later than July 1, 2000, the Pacific Fishery Management Council... shall recommend for approval by the Secretary [of Commerce], conservation and management measures to protect fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by this Act, or by any fishery cooperatives in the directed pollock fishery." If the Council does not recommend conservation or management measures to the Secretary, the AFA authorizes the Secretary to "implement adequate measures including, but not limited to, restrictions on vessels which harvest pollock under a fishery cooperative which will prevent such vessels from harvesting Pacific groundfish, and restrictions on the number of processors eligible to process Pacific groundfish."

At the September 1999 meeting, the Council reviewed proposals from the Midwater Trawlers Cooperative and West Coast Seafood Processor's Association for management measures to address impacts of the AFA. These proposals seek to protect existing participants in West Coast fisheries, including harvesters and processors.

The Council requested analysis of the proposed management measures and also requested the National Marine Fisheries Service (NMFS) to publish notice of the rules under consideration and a control date of September 16, 1999. The control date applies to participation by catcher vessels in mothership and inshore Pacific whiting fisheries, and in the inshore groundfish fishery for non-whiting species. On November 24, 1999, NMFS published an advance notice of proposed rulemaking and notice of a control date in the *Federal Register* (Attachment G.3.a.). Staff has prepared a draft discussion paper of the issues involved in developing recommended measures to protect West Coast groundfish fisheries from impacts caused by the AFA (Attachment G.3.b.).

It is important to note the Council's recommendations will need to specify the vessels and/or processors that would be excluded, and include justification for the management measures. That is, restrictions on participation in the whiting or other groundfish fisheries would have to be directly related to entities benefitting from the AFA. Moreover, it may be necessary to (1) establish that the management measures comply with National Standard 4 (*i.e.*, are fair and equitable) and (2) perform Regulatory Impact Review and Regulatory Flexibility Act analyses to assess whether economic impacts that may result from the management measures are justified.

At this time, to facilitate analysis, it would be helpful if the Council would (1) review the suite of alternatives to ensure they reflect the Council's intent; (2) specify whether restrictions apply to all AFA-qualified vessels or only those AFA-qualified vessels that join cooperatives; (3) specify how processors or processing companies that benefitted from the AFA are to be identified; (4) explain the rationale for the participation requirements (*e.g.*, 50 tons of whiting rather than some other quantity; 1994 through 1999 rather than other years); and (5) define "benefitting from the AFA."

Council Action: Direction to staff and advisory entities.

Reference Materials:

1. *Federal Register*, vol. 64, no. 226, pp. 66158-66159, November 24, 1999 (Attachment G.3.a.).
2. Measures to protect West Coast groundfish fisheries from adverse impacts as a result of the AFA (Attachment G.3.b.).

PFMC
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