

AMERICAN FISHERIES ACT

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."

It is critical the Council's recommendations specify the rationale for excluding vessels and/or processors, and include justification for the management measures. That is, participation restrictions must directly relate to protecting West Coast fisheries from harm caused by the AFA. This specificity is important for establishing that the management measures comply with National Standard 4 (i.e., are fair and equitable) and developing the Regulatory Impact Review and Regulatory Flexibility Act analyses to assess whether economic impacts that may result from the management measures are justified.

In September 1999, the Council adopted a control date of September 16, 1999 and directed staff to develop an amendment to the groundfish fishery management plan based on two industry-sponsored proposals. Measures in the Midwater Trawlers Cooperative proposal would restrict participation of AFA-qualified vessels in whiting and groundfish fisheries. Measures in the West Coast Seafood Processor's Association proposal speak to restricting participation in the whiting fishery and the West Coast groundfish fishery by processors that do not meet stated criteria.

At the March 2000 meeting, the Council reviewed a draft analysis of a set of proposed management alternatives. After hearing public comment, the Council revised several of the draft options and provided additional options. At the April meeting, the Council will review the suite of proposed alternatives and a preliminary analysis of the potential effects of the qualifying requirements and participation restrictions. Council action might include refining and narrowing the suite of alternatives, and providing direction to staff for preparing the required regulatory analyses. The Council will take action on the draft recommendations at the June 2000 meeting.

Guidance on several questions is requested (1) what specific harm from the AFA do the management measures protect against?; (2) do participation restrictions apply to vessels or limited entry permits?; (3) do vessel or permit restrictions apply to all AFA-qualified vessels or only those that join cooperatives?; (4) what is the rationale for the participation requirements (e.g., landings/processing amounts, qualifying years)?; and (5) how does the Council define processors that "benefitted" from the AFA?

Council Action:

- 1. Provide direction to Council staff and advisory entities for preparing draft conservation and management measures to protect West Coast fisheries from harm caused by the AFA.**

Reference Materials:

1. Measures to protect West Coast groundfish fisheries from adverse impacts as a result of the AFA (Supplemental Attachment B.15.a.).

PFMC
03/21/00