

FMP AMENDMENT 15 (AMERICAN FISHERIES ACT PROVISIONS)

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. However, because of competing workload and no threatened imminent harm, the Council tabled action on Amendment 15 in 2001.

Currently, it appears that the owners of a large catcher/processor vessel with no history in the West Coast groundfish fishery are acquiring the permits required to enter the catcher/processor sector of the West Coast Pacific whiting fishery. This could be very disruptive to the existing whiting cooperative that has fished cleanly with regard to the incidental catch of depleted rockfish species and salmon; these boats may abandon the cooperative and once again participate in a derby-style fishery if a new entrant does not join the cooperative. This in turn would almost inevitably lead to higher bycatch of the depleted rockfish and salmon, potentially causing the curtailment or closure of other fisheries, including shore based whiting, non-whiting groundfish, and even recreational fisheries.

The Council last addressed Amendment 15 at its September 2001 meeting when the Council reviewed a range of alternatives (Agenda Item C.5.a, Attachment 1) and initial analyses (Agenda Item C.5.a, Attachment 2). Additionally, the Council adopted the recommendations of the Groundfish Advisory Subpanel (Agenda Item C.5.a, Attachment 3) as a preferred alternative and directed Council staff to complete public review drafts of the analysis and proposed management measures. It was at this stage of the process that Amendment 15 was tabled.

At the March 2006 Council meeting, the Legislative Committee discussed a request by staff of the U.S. Senate Committee on Commerce, Science, and Transportation for Council input on draft AFA amendatory language. In turn the Council directed Council staff to send a letter to the U.S. Senate Committee (Agenda Item C.5.a, Attachment 4) recommending that “all AFA qualified vessels (original or replacement) - not just catcher/processor vessels - without West Coast landing history prior to June 29, 2000 [one of two Council approved control dates (Agenda Item C.5.a, Attachment 5 and Attachment 6)] be prohibited from participating in the Pacific whiting fishery.” At the June 2006 meeting, the Legislative Committee and the Council heard testimony regarding participation by AFA qualified vessels in the shore-based sector of the Pacific whiting fishery. Additional public comments stated that Council recommended restrictions on AFA qualified vessels would not go far enough to protect all sectors of the West Coast Pacific Whiting fishery and that sector specific “sideboards” (landing requirements) should be requested and that current efforts to address the issue through federal legislation were unlikely to address all of the

Council's concerns. In response, the Council and the Legislative Committee recommended revisiting Amendment 15 to the groundfish FMP as a potential mechanism for protecting West Coast fisheries from adverse impacts caused by the AFA.

Under this agenda item, the Council is to revisit the issues, alternatives, and prior Council actions regarding Amendment 15 and provide guidance on the need for and feasibility of restarting efforts to further develop the amendment.

Council Action:

1. Review Alternatives and Consider Need and Scope for Further Development.

Reference Materials:

1. Agenda Item C.5.a, Attachment 1; September 2001, Excerpts from the Amendment 15 Draft Environmental Assessment, including background materials and a description of alternatives.
2. Agenda Item C.5.a, Attachment 2; September 2001, Initial draft analyses of Amendment 15 alternatives.
3. Agenda Item C.5.a, Attachment 3; September 2001, Groundfish Advisory Subpanel statement regarding AFA, adopted as the Council's preferred alternative for public review and further analysis.
4. Agenda Item C.5.a, Attachment 4; March 17, 2006 letter from Dr. McIsaac to Ms. Spring regarding Council comments on potential amendment of the AFA.
5. Agenda Item C.5.a, Attachment 5; November 24, 1999 *Federal Register* notice of a September 19, 1999 control date.
6. Agenda Item C.5.a, Attachment 6, September 13, 2000 *Federal Register* notice of a June 29, 2000 control date.
7. Agenda Item C.5.e, Public Comment.

Agenda Order:

- a. Agenda Item Overview
 - b. Agency and Tribal Comments
 - d. Reports and Comments of Advisory Bodies
 - e. Public Comment
 - f. **Council Action:** Review FMP Amendment 15 Alternatives and Consider Need and Scope for Further Development.
- Mike Burner

PFMC
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