March 16, 2000

To:    Don McIsaac
From:  Neal Coenen
Subject: Whiting Exempted Fishing Permit Consideration

As requested by the PMFC at its March 2000 meeting, we have considered a number of items heard in public testimony with respect to bycatch regulation in the shoreside Pacific whiting fishery with the following results. California is not directly included in this plan in 2000 as its fishery will be underway on April 1, 2000. However, much of this process is already in place in California, and the remainder will be implemented for the 2001 fishery.

1) Consider Observers
   We discussed and rejected adding at-sea observers to vessels with high bycatch rates as part of the regulatory program this year for two reasons. First, we already collect all the information about a catch when the vessel lands the unsorted catch. Therefore, an observer is not needed to collect information at sea. Although this idea suggests onboard oversight is needed, an observer cannot know why the captain fished in a particular manner, and therefore may not be effective either. Second, maintaining an undetermined number of observers on staff for short terms at sea as a penalty is administratively unmanageable and expensive.

2) Reconsider the Need for Bycatch Rate Cap
   We understand the concern of introducing a cap is the possibility of stimulating sorting and discard if a captain believes he is approaching a bycatch rate cap with a penalty. We believe a cap with a penalty is needed to create a disincentive to exceed as well as an incentive to avoid bycatch. A bycatch rate cap is needed to provide a mechanism to penalize vessels that refuse to minimize their bycatch like other vessels in the same port, so that bycatch rates are lower than they have been in the recent past. In 1999, vessel owners and captains were asked to reduce bycatch, but the lack of a penalty and confusion regarding how the bycatch was tabulated contributed to a lack of concern for this aspect of the fishery. There is no way to have an unlimited amount of bycatch in the whiting fishery and to have responsibility for exceeding an arbitrary number imposed after the fishery is over. Given the need for a penalty, the bycatch rate cap discussed is generous and would target boats fishing well above the average for the fishery.

3) Number of Checkpoints
   With only two checkpoints (at 50% and 90% of the projected shoreside whiting harvest), a large percentage of the bycatch will have been landed by the first check, and a very short period would remain after 90% of the projected harvest is attained. If more than 3 checks are made, given some delay between the checkpoint and our collection and processing of data, ODFW will be constantly evaluating bycatch rates, compromising our ability to conduct normal fishery monitoring. Therefore, we suggest 3 bycatch rate checks (at 25%, 50%, and 85% of the shoreside whiting allocation).
4) **Expected Bycatch Reduction**

There are three main components in the regulatory program that will reduce bycatch levels in the shoreside whiting fishery.

**Education:** It is essential to understand the strategy of the EFP program, the conclusions drawn from observations of unsorted catch, and how it operates. ODFW will educate both fishers and processors about the monitoring program, bycatch accounting methods and individual responsibilities.

**Real-time feedback:** Processor-vessel agreements will provide vessel captains with more or less real-time information on their bycatch rates so they may minimize their bycatch rates. This information will be provided by the processor to all EFP vessels it has agreements with, and will also be provided to ODFW, which will post this information on an agency website so all fishermen will have access to information about areas with high bycatch, promoting a minimal bycatch amount. These vessel-processor agreements will be required by the State-Processor agreements required in the EFP and will be enforced through the State-Processor agreements. We anticipate that providing education and information will be the most effective actions to reduce bycatch. ODFW will also continue to publish individual vessel bycatch rates to promote peer review of fishing performance.

**Bycatch Rate Cap:** A bycatch rate cap will create a disincentive for vessels targeting on a bycatch species or fishing without concern for high bycatch levels. We have analyzed how a given rate cap would have worked given 1999 data (Figure 1). These reductions are minimums as they do not include the expected effects of education and real-time information feedback discussed above and only show a regulatory effect on boats fishing above the bycatch rate cap.

![Bar chart showing yellowtail bycatch data](image)
Figure 1. The yellowtail bycatch that would have been landed if an 8, 10, or 12 kg of yellowtail / mt of whiting bycatch rate cap was imposed on the shoreside whiting fishery in 1999. This assumes that vessels with bycatch rates above these trigger rates reduced their rate to meet the rate cap, and that vessels with bycatch rates below the trigger rate remained at their 1999 rate. * indicates the number of boats affected for each rate cap.

Setting a coast-wide bycatch rate cap at 12 kg yellowtail / mt whiting is liberal and would only affect the vessels with the highest bycatch rates. Picking a liberal cap should encourage the desired behaviors without promoting sorting or discard. Thus the information collection aspect of the program is supported while having an enforceable standard.

The procedures to be followed by vessels applying for EFPs and processors wishing to become designated processors for the EFP fishery have been developed and presented by the shoreside whiting industry. These procedures will result in a better educated, well-informed fishery with specific objectives to minimize bycatch while maintaining a productive fishery.
Process for Vessels to Receive and operate under an Exempted Fishing Permit (EFP) in the Pacific Whiting Fishery

1) To be eligible to receive an EFP for Oregon and Washington unsorted Pacific whiting deliveries, the vessel captain, or captains if two, must attend a pre-season educational meeting with the Oregon Department of Fish and Wildlife.
   a) There will be two opportunities in early May (Astoria, Newport) and two opportunities in early June (Astoria, Newport). Vessel captains not attending one of these meetings must wait until after June 15, 2000 to apply for an EFP to enter the fishery late.
   b) This meeting will provide information to fishers regarding the purpose and monitoring strategy for the EFP program, including bycatch accounting methods. It will also outline procedures for fishers to track their own bycatch rates in real time with cooperation from designated processors.
   c) Applications for EFPS in 2000 will be available at these meetings and will be submitted to NMFS for approval.
   d) Vessel captains fishing in the California shoreside fishery must also attend a pre-season meeting prior to having an Oregon or Washington designated processor added to their EFP.

2) Each vessel must have a signed vessel-processor agreement prior to being issued an EFP (signed by both parties). Copies of this agreement must be presented to ODFW to have the processor listed as a designated processor on the vessel’s EFP.

3) Just prior to fishing, a vessel representative must sign the vessel’s EFP and provide a signed copy of the EFP to the ODFW whiting coordinator.

4) Three times during the shoreside whiting fishery (when 25%, 50% and 80% of the shoreside whiting allocation has been harvested), a bycatch rate will be calculated for each vessel for that period (non-cumulative). Given the training at a pre-season meeting, the vessel captain(s) will already have determined this rate themselves. Having agreed to the terms of the vessel-processor agreement, vessels will be removed from the delivery schedule for one day for each kg of yellowtail / mt whiting over 12 kg yellowtail / mt whiting. For example, with a bycatch rate for that period of 15 kg yellowtail / mt whiting, a vessel would be held out of the delivery schedule for 3 days after notification (this excludes days when the processor is not processing whiting).
Process for Processors to Receive a State-Processor Agreement

1) Prior to entering an agreement with the state, a processor representative must attend a pre-season educational meeting with the Oregon Department of Fish and Wildlife.
   a) There will be two opportunities in early May (Astoria, Newport) and two opportunities in early June (Astoria, Newport). Processor representatives not attending one of these meetings must wait until after June 15, 2000 to meet receive information and will enter the fishery late.

2) Processors must contribute to the shoreside observation program. Pre-season invoices covering the first half of the season will be distributed to each processor based on the percentage of the shoreside whiting it landed in 1999. These invoices must be paid in full, confirmed by PSMFC, prior to the state entering into a state-processor agreement.

3) Before being listed as a designated processor, each processor in Oregon and Washington (in 2000) must sign an agreement with its respective state defining the responsibilities of a designated processor. Because an agreement with the state is required prior to being included as a designated processor on a vessel’s EFP, processors are encouraged to attend the early meetings and complete this requirement early.

4) Each vessel must have a signed agreement with a designated processor for that designated processor to be listed on the vessel’s EFP. Vessels cannot deliver to a designated processor if it is not listed in the vessel’s EFP appendix.
   a) Processors will conduct a pre-season meeting with vessel owner and captain(s) to discuss bycatch controls. If a vessel has two captains they are both required to attend the meeting and sign the agreement. At the pre-season meeting processors and fishermen will discuss the terms of this agreement and ways they can work together to keep bycatch at a minimum.
   b) The agreement will identify the bycatch rate cap for each vessel (12 kg yellowtail /mt whiting). This will be the same rate identified in the state-processor agreement. All processors and fishermen recognize the need to stay well below this rate.
   c) Processors will give vessels bycatch information (kg of whiting, yellowtail, widow, salmon, sablefish and halibut). This information will be available to the vessel within 6 hours of offload. This will give the captain adequate time to adjust his fishing strategies before the next day’s fishing begins. Captains will inform their processor how they want to receive their bycatch information (cell phone, fax, radio, TLX). The processor’s bycatch coordinator will log date, time, vessel name, and person receiving information. The person receiving the information onboard the vessel will do the same to assure both parties that the information was given and received. With daily bycatch information a vessel captain will be able to determine his bycatch rate on a daily basis.
d) Vessels will give the processor tow information from the day’s fishing at the time of offload. This information will consist of date, set time, latitude and longitude, bottom depth, and trawl depth, for the start and end points of each tow. The coordinator will take the tow information along with bycatch information and compile it for real-time information. This information can be posted at the plant and forwarded to ODFW to be posted on a web page for access by the entire whiting fleet. A nightly captains radio discussion to inform each other about areas of high bycatch so they may be avoided is also encouraged.

e) If, during one of the bycatch rate checks by the state, a vessel is found to be over the bycatch rate cap of 12 kg yellowtail / mt whiting, the vessel will be removed from the delivery schedule for one day for each kg yellowtail / mt whiting over the rate cap. The state will notify the vessel and all processors listed as designated in the vessel’s EFP of the penalty. Failure of a processor to enforce this penalty is grounds for the state to terminate its agreement with the processor and remove it from designated processor status for all EFP vessels.