

**A MAXIMIZED RETENTION AND MONITORING PROGRAM
FOR THE PACIFIC WHITING SHORESIDE FISHERY**

**IMPLEMENTING AMENDMENT 10
TO THE PACIFIC COAST GROUND FISH FISHERY MANAGEMENT PLAN**

PRELIMINARY DRAFT ENVIRONMENTAL ASSESSMENT

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Abstract: This Environmental Assessment (EA) analyzes the effects of establishing a maximized retention and monitoring program in the Pacific whiting shoreside fishery off the coast of Washington, Oregon, and California. A maximized retention program will allow NMFS to: account for Chinook salmon catch as specified in the Endangered Species Act section 7 Biological Opinion for Chinook salmon catch in the Pacific groundfish fishery; meet standardized bycatch reporting requirements specified by the Magnuson-Stevens Fishery Conservation and Management Act; collect biological data on catch that would otherwise not be available; and create the regulatory structure necessary to efficiently manage the Pacific whiting fishery without an exempted fishing permit. The proposed program is expected to aid in the sustainable management of the Pacific Coast salmon and groundfish stocks while benefitting the fishery participants by allowing the fishery to be prosecuted efficiently and the quality of Pacific whiting to be maintained. This EA analyzes the effects that a maximized retention program with different approaches for catch monitoring has on the socioeconomic, biological, and physical environments.

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1.0 PURPOSE OF AND NEED FOR ACTION

1.1 Introduction

The groundfish fishery in the Exclusive Economic Zone (EEZ), offshore waters between 3 and 200 nautical miles (nm), off the coasts of Washington, Oregon, and California (WOC) is managed under the Pacific Coast Groundfish Fishery Management Plan (FMP). The Pacific Coast Groundfish FMP was prepared by the Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (subsequently amended and renamed the Magnuson-Stevens Fishery Conservation and Management Act). The FMP has been in effect since 1982.

Actions taken to amend FMPs or to implement regulations to govern the groundfish fishery must meet the requirements of several Federal laws, regulations, and executive orders . In addition to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), these Federal laws, regulations, and executive orders include: National Environmental Policy Act (NEPA), Regulatory Flexibility Act (RFA), Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), Coastal Zone Management Act (CZMA), Paperwork Reduction Act (PRA), Executive Orders (E.O.) 12866, 12898, 13132, and 13175, and the Migratory Bird Treaty Act.

NEPA regulations require that NEPA analysis documents be combined with other agency documents to reduce duplication and paperwork (40 CFR§§1506.4). Therefore, this EA will ultimately become a combined regulatory document to be used for compliance with not only NEPA, but also E.O. 12866, RFA, and other applicable laws. NEPA, E.O. 12866, and the RFA require a description of the purpose and need for the proposed action as well as a description of alternative actions that may address the problem.

- Chapter One describes the purpose and need of the proposed action.
- Chapter Two describes a reasonable range of alternative management actions that may be taken to meet the proposed need.

[November 2006 PFMC Meeting Note: This document contains drafts of Chapters 1 and 2; subsequent chapters are scheduled to be available for the March 2007 PFMC meeting.]

- Chapter Three contains a description of the socioeconomic, biological, and physical characteristics of the affected environment.
- Chapter Four examines the socioeconomic, biological, and physical impacts of the alternative management actions.
- Chapter Five provides a list of references for this document.

1.2 Summary of the Proposed Action

The proposed action is to create the regulatory framework for a maximized retention program for the Pacific whiting shoreside fishery. The program would include a monitoring mechanism for catch accounting that is adequate to maintain the integrity of the program and ensure that resource management objectives are being met.

Council consideration of this action has developed from several issues and priorities under recent Council discussion and analysis. In 1996, the Council adopted a combined amendment to the groundfish and salmon FMPs: Amendment 10 for groundfish and Amendment 12 for salmon. Under that amendment, the FMPs allowed for salmonids to be retained in the whiting trawl fishery (otherwise prohibited for all net gear) when the fishery was managed with a Council-approved monitoring program. As discussed in more detail below, the shore-based whiting fishery is managed annually under an exempted fishing permit (EFP) that provides the required monitoring program. Subsequent to that FMP amendment, several new West Coast salmon evolutionarily significant units (ESUs) have been listed under the ESA, and the Magnuson-Stevens Act was amended to place greater emphasis on both rebuilding overfished fish stocks and minimizing bycatch in all managed fisheries.

Amendments 16-1 through 16-3 (2004) set rebuilding plans into the FMP, now under consideration for revision via Amendment 16-4 (2006). Amendment 16-4 would set new rebuilding parameters for seven overfished groundfish species, four of which have historically been incidentally taken in the whiting fisheries: canary rockfish, widow rockfish, darkblotched rockfish, and Pacific Ocean Perch. Amendment 18 (2006) to the FMP sets the Council's bycatch programs and policies into the FMP. The Council's developmental discussions for Amendment 18 led the Council to also re-consider its management of the shore-based whiting sector as an EFP fishery. This action is intended transition the shore-based whiting fishery from annual EFPs to management via long-term Federal regulations, in keeping with the goals and objectives of the FMP, and with Council and NMFS objectives under the ESA and the Magnuson-Stevens Act.

1.3 Purpose and Need for the Proposed Action

The Pacific whiting shoreside fishery needs to have a catch accounting system in place to: accurately track the incidental take of Chinook salmon as required in the ESA section 7 Biological Opinion for Chinook salmon catch in the Pacific whiting fishery; to meet the standardized reporting methodology defined by the Magnuson-Stevens Act; and to provide the opportunity to collect biological data necessary for stock assessments. The purpose of the proposed action is to create the regulatory structure necessary to efficiently prosecute and manage the Pacific whiting shoreside fishery without an EFP while providing accurate catch data such that the ESA and Magnuson-Stevens Act requirements are adequately met.

The purpose of the proposed action is to:

- Establish a standardized reporting methodology for the collection and verification of accurate catch data for the Pacific whiting shoreside fishery
- Establish a monitoring mechanism that is adequate to maintain the integrity of the maximized retention program.
- Establish a program that minimizes discarding of catch to the extent practicable.
- Establish a program that benefits shore-based Pacific whiting sector participants by allowing the fishery to be prosecuted efficiently.

1.4 Management of the Pacific Whiting Shoreside Fishery

In 1991, the first year that the Pacific whiting fishery was fully a domestic fishery (i.e. all available harvest was fully utilized by domestic fishing entities,) vessels in the at-sea processing sector began to voluntarily carry observers to provide much needed catch data. In 1992, when significant landings of whiting were expected to be harvested by the shore-based sector, an observer program was established through the use of EFPs. EFPs allow vessels to engage in activities that are otherwise illegal for the purpose of collecting information that may lead to a management decision or to addressing specific environmental concerns (50 CFR 600.10 and 600.745.) The Pacific whiting shoreside fishery has continued to be managed under EFPs since 1992.

Each year, EFPs have been issued to vessels in the Pacific whiting shoreside fishery to allow unsorted catch to be landed at shoreside processing facilities. The EFPs have specified the terms and conditions that participating vessels must follow to be included. The Shoreside Whiting Observation Program (SHOP), a coordinated monitoring effort by the States of Oregon, Washington, and California, was established to provide catch data from vessels fishing under the EFPs. Although the program's structure and priorities have changed over the years, the SHOP has had the primary responsibility of monitoring the Pacific whiting shoreside fishery and providing catch data to NMFS for management of the fishery.

From 1992 to 1994, catch composition sampling was given highest priority in the management of this fishery. During the 1992-1994 period, SHOP set a goal of having observers sample 30 percent of the deliveries while at sea and having observers sample 20 percent of the unobserved deliveries while at the processing facility (Saelens (ODFW,) pers. comm 10/12/06). The at-sea observer's role was to confirm retention of the catch. By 1995, the SHOP sampling goal had declined to 10 percent of the landings and the sampling priority had shifted, with more emphasis being given to the collection of biological information on Pacific whiting and select bycatch species. The sampling rate was decreased following a statistical analysis that had indicated that

there was no significant difference between the fish ticket data and observer data on this fishery. Given the fishery management needs in 1995, it was determined that fish ticket data was an **adequate representation of species composition for landed catch.**

Management of the salmon and groundfish fisheries has changed substantially since the early 1990's. Since 1992, new salmon ESUs have been listed under the ESA, and several groundfish species that are incidentally taken in the Pacific whiting fishery have been declared overfished. To allow the Pacific whiting fishery full access to the Pacific whiting OY, the bycatch of overfished species has been managed with overfished species "bycatch limits," which, if any one of the species limits are met, would result in the closure of the whiting fishery. Although the groundfish management priorities have changed and incentives to misreport catch have increased, the SHOP sampling goal for shoreside landings has remained at 10 percent of deliveries while at the processing facility.

The Pacific whiting fishery is managed under a "primary" season structure where vessels harvest whiting until the sector allocation is reached and the fishery is closed. This is different from most West Coast groundfish fisheries, which are managed under a "trip limit" structure, where catch limits are specified by gear type and species (or species group) and vessels can land catch up to the specified limits. Incidental catch of groundfish in the Pacific whiting fishery, however, is managed under the trip limits structure. Vessels fishing under the Pacific whiting EFPs are allowed to land unsorted catch, including species in excess of the trip limits, and species such as salmon that would otherwise be illegal to have on board the vessel. Without an EFP, groundfish regulations at 50 CFR 660.306(b) require vessels to sort their catch at sea. Vessels fishing for whiting without EFPs must discard as soon as practicable all prohibited species (including salmon and halibut), protected species, non-groundfish species, and groundfish species in excess of cumulative limits at sea.

50 CFR 660.370 (Groundfish) Specifications and management measures * * *

(c) *Prohibited species.* Groundfish species or species groups under the PCGFMP for which quotas have been achieved and/or the fishery closed are prohibited species. In addition, the following are prohibited species:

- (1) Any species of salmonid.
- (2) Pacific halibut.
- (3) Dungeness crab caught seaward of Washington or Oregon.

Unlike the at-sea sectors of the Pacific whiting fishery, where catch is sorted and processed shortly after it has been taken, vessels in the shoreside fishery must hold primary season whiting on the vessel for several hours or days until it can be offloaded at a shore processor. Whiting deteriorates rapidly, so it must be handled quickly and immediately chilled to maintain product quality. This is particularly true if the whiting is to be used to make surimi (a fish paste product). The quality or grade of surimi is highly dependent on the freshness of the whiting, which demands careful handling and immediate cooling or processing for the fishery to be economically feasible. Because rapid cooling can retard whiting flesh deterioration, many vessels prefer to dump their unsorted catch directly below deck into the refrigerated salt water tanks. However, dumping the unsorted catch into the refrigerated salt water tanks precludes the immediate sorting or sampling of the catch. As a primary season fishery, fishers prefer to quickly and efficiently handle the catch so they can return to port for offloading. Given the primary season structure of the fishery, quick and efficient trips result in greater catch for each

participating vessel.

1.4.1. ESA Opinions and Thresholds for the Pacific Whiting Fishery

NMFS has issued Biological Opinions under the ESA pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999. The August 1992, Biological Opinion included an analysis of the effects of the Pacific whiting fishery on listed Chinook salmon. The Biological Opinions have concluded that Chinook is the salmon species most likely to be affected by the groundfish fishery, while other salmon species are rarely encountered in the whiting and other groundfish fisheries. The analysis determined that there was a spatial/temporal overlap between the whiting fishery and the distribution of ESA listed Chinook salmon such that it could result in incidental take of listed salmon. The 1992 Biological Opinion included an incidental take statement that authorized the incidental take of 0.05 salmon per metric ton of Pacific whiting. The Biological Opinion identified the need for continued monitoring of the whiting fishery to evaluate impacts on salmon, and specifically emphasized the need to monitor the emerging shoreside fishery because fishing patterns and bycatch rates were likely to differ from those observed on the at-sea processors.

NMFS reinitiated a formal section 7 consultation under the ESA in 2005 for both the Pacific whiting midwater trawl fishery and the groundfish bottom trawl fishery. The December 19, 1999 Biological Opinion had defined an 11,000 Chinook incidental take threshold for the Pacific whiting fishery. During the 2005 Pacific whiting season, the 11,000 fish Chinook incidental take threshold was exceeded, triggering reinitiation. NMFS prepared a Supplemental Biological Opinion dated March 11, 2006, which addressed salmon take in both the Pacific whiting midwater trawl and groundfish bottom trawl fisheries. In that Supplemental Biological Opinion, NMFS concluded that catch rates of salmon in the 2005 whiting fishery were consistent with expectations considered during prior consultations. Chinook bycatch has averaged about 7,300 over the last 15 years and has only occasionally exceeded the reinitiation trigger of 11,000. Since 1999, annual Chinook bycatch has averaged about 8,450. The Chinook ESUs most likely affected by the whiting fishery has generally improved in status since the 1999 section 7 consultation. Although these species remain at risk, as indicated by their ESA listing, NMFS concluded that the higher observed bycatch in 2005 does not require a reconsideration of its prior "no jeopardy" conclusion with respect to the fishery. For the groundfish bottom trawl fishery, NMFS concluded that incidental take in the groundfish fisheries is within the overall limits articulated in the Incidental Take Statement of the 1999 Biological Opinion. The groundfish bottom trawl limit from that opinion was 9,000 fish annually. NMFS will continue to monitor and collect data to analyze take levels. NMFS also reaffirmed its prior determination that implementation of the Groundfish FMP is not likely to jeopardize the continued existence of any of the affected ESUs.

1.4.2 Amendment 10 and Subsequent FMP Developments

In 1996, to address the treatment and disposition of salmon in the shore-based sector of the whiting fishery, an EA was prepared to analyze amendments to both the groundfish FMP (FMP

Amendment 10) and salmon FMP (FMP Amendment 12). The 1996 EA analyzed two management alternatives regarding the retention of salmon taken with groundfish trawl gear. The first alternative was to maintain the then current salmon and groundfish FMPs, under which retention of salmon in the groundfish trawl fisheries would not have been permitted and the practice of retaining salmon in the Pacific whiting shoreside fishery was only authorized under an EFP. The second and preferred alternative was to maintain salmon as a prohibited species in the groundfish FMP and add trawl gear to the list of gears that may retain salmon if allowed under other pertinent regulations such as salmon fishing regulations at 50 CFR Part 660, Subpart H. The preferred alternative also included a provision for the salmon FMP to be amended to allow retention of salmonids in the trawl fishery when a Council approved monitoring program, one that meets certain minimum guidelines, was established in the shore-based whiting fishery (PFMC 1996). At their October 21 - 25, 1996, meeting the Council recommended the preferred alternative including the temporary use of EFPs to monitor the incidental take of salmon until a permanent monitoring program could be implemented. Both the salmon and groundfish FMPs were amended to include the provisions of the preferred alternative, however implementing regulations for the Pacific whiting shoreside fishery were never adopted.

In 1996, the Sustainable Fisheries Act (SFA) amended the Magnuson Fishery Conservation and Management Act (and renamed it to the Magnuson-Stevens Fishery Conservation and Management Act). The SFA required that FMPs establish a standardized reporting methodology to assess the amounts and types of bycatch in a fishery, and required that FMPs identify and rebuild overfished stocks. The Council set a standard, added to the FMP via Amendment 16-1, that groundfish stocks with depletion levels that fall below 25 percent of estimated unfished biomass level are to be considered overfished. At this time, seven stocks continue to be managed via overfished species rebuilding plans: bocaccio, canary rockfish, cowcod, darkblotched rockfish, Pacific ocean perch (POP,) widow rockfish, and yelloweye rockfish.

Amendment 16-1 set a framework for overfished species rebuilding parameters and requirements into the FMP and set an initial requirement that NMFS implement an observer program in the groundfish fishery through a Council-approved federal regulatory framework. Amendments 16-2 and 16-3 revised the FMP to include rebuilding plans for the seven overfished species identified above, plus lingcod. Lingcod was most recently assessed in 2005 and declared rebuilt at that time, the coastwide stock having exceeded the FMP's rebuilding goal of a stock size of at least 40 percent of estimated unfished biomass level. Amendment 16-4, which is currently under NOAA review for approval, partial approval, or disapproval, would revise the rebuilding parameters for the seven species currently managed via rebuilding plans.

Amendment 18 to the FMP, approved September 2006, revised the FMP to include the Council's bycatch minimization policies, programs, and requirements. Among other requirements, the FMP as revised by Amendment 18 now includes a detailed discussion of the groundfish fishery's standardized total catch reporting and compliance monitoring program (Section 6.4). At the same time that the Council was developing Amendment 18, it was also taking a look back at Amendment 10 to determine how to move the shore-based sector of the whiting fishery out of EFP management. Amendment 18 includes provisions that facilitate that move to a long-term Federal regulatory structure: parameters for electronic monitoring programs in Section 6.4.1.1,

and parameters for full retention programs in 6.5.3.1.

1.5 Environmental Review Process and Public Scoping

The purpose of the environmental review process is to determine the range of issues that the NEPA document (in this case the EA) needs to address. The environmental review process is intended to ensure that problems are identified early and properly reviewed; issues of little significance do not consume time and effort; and that the draft NEPA document is thorough and balanced. The environmental review process should: identify the public and agency concerns; clearly define the environmental issues and alternatives to be examined in the NEPA document; eliminate non-significant issues; identify related issues; and identify state and local agency requirements that must be addressed. The following public review and scoping presented in this document is in reference to the development of a regulatory amendment for a full retention and monitoring program in the Pacific whiting shoreside fishery.

An EA was prepared in 1996 and considered amending both the groundfish FMP (FMP Amendment 10) and salmon FMP (FMP Amendment 12) to address the treatment and disposition of salmon in the Pacific whiting shoreside fishery. This EA considers an action to revise Federal groundfish regulations to move the shore-based whiting fishery out of EFP management, in support of FMP provisions from Amendment 10 and the subsequent FMP amendments described above. The Council began discussions on this current iteration of shore-based whiting sector management discussions at its 200X meeting.

In April 2003, NMFS Northwest Region staff met with the Northwest Fisheries Science Center (NWFS) and West Coast groundfish Observer Program (WCGOP) staff to begin discussion on the development of a monitoring program to support a full retention management structure in the Pacific whiting shoreside fishery. This was followed in May 2003, by a meeting with the staff from Washington Department of Fish and Wildlife (WDFW), Oregon Department of Fish and Wildlife (ODFW), and California Department of Fish and Game (CDFG) to further discuss the development of Federal regulations for a full retention and monitoring program.

In September 2003, NMFS brought a preliminary EA before the Council that contained a range of alternatives for the Council to consider. The Council recommend that the range of alternatives be further developed prior to public review, therefore NMFS held a public scoping meeting on December 8, 2003, in Newport, Oregon to further engage Federal and State personnel and to involve industry in the development of the alternatives. NMFS Northwest Region staff met with staff from WDFW, ODFW, and CDFG as well as with individuals from Archipelago Marine Research Ltd.¹ (Archipelago) and the Pacific whiting shoreside industry to discuss full retention and monitoring.

¹Archipelago Marine Research Ltd is a world leader in the field of fisheries monitoring and marine environmental assessment. Based in Victoria, British Columbia, Archipelago has been providing marine biological services since 1978.

At its June 2004, meeting in Foster City, California the Council reviewed the initial EA and adopted a revised range of alternatives for public review. Following this meeting, the alternatives were revised and a draft EA was sent out for public review in August 2004. The Council was scheduled to select a preferred alternative at their October 31 - November 5, 2004, meeting in Portland, Oregon, however the selection of a preferred alternative was delayed.

In November 2004, NMFS Northwest Region staff meet with representatives from NMFS Office for Law Enforcement (OLE), WCGOP, WDFW, ODFW, and CDFG to discuss the 2005 Pacific whiting shoreside fishery, the application of EMS technology, and the development of full retention requirements. In 2005, the fishery was managed under EFPs.

In November 2005, NMFS Northwest Region staff meet with representatives from NMFS OLE, the WCGOP, ODFW, and CDFG to discuss the 2006 fishery, available resources for monitoring, sampling at shoreside processing facilities, and the use of an EFP for the 2006 fishery. In 2006, the fishery was managed under EFPs.

In addition to the meetings described above, prior to the start of the 2004, 2005 and 2006 whiting seasons, NMFS and Archipelago staff have attended the ODFW-sponsored meetings for EFP participants. The outcome of data collection to evaluate EMS and monitoring as well as the range of alternative management actions have been discussed at these meetings. Fruitful discussions at these meetings helped shape the range of alternatives presented and analyzed in this EA.

In May 2006, NMFS Northwest Region staff met with representatives from, WCGOP, WDFW, ODFW, and CDFG to further discuss the development of a Federal program to replace the need for annual EFPs. In July 2006, NMFS Northwest Region staff meet with technical staff from, WCGOP, WDFW, ODFW, and CDFG to discuss technical issues associated with implementing a monitoring program in the Pacific whiting shoreside fishery. The purpose of the monitoring program was reaffirmed during the meeting. Discussions focused on the data reporting needs and the current reporting structures in each states; the need to reduce under reporting and delayed fish ticket submissions; the different state approaches to sampling catch at shoreside processing facilities; and the use of bycatch limits to reduce impacts on overfished species. In August 2006, NMFS Northwest Region staff and representatives from, WCGOP, WDFW, ODFW, and CDFG discussed the outcome of the technical meeting and held further discussions on the implementation of a Pacific whiting shoreside fishery monitoring program.

At the Council's September 2006, meeting in Foster City, California, NMFS presented a summary of the discussions it had held with the states, and suggested a process and schedule for implementing Federal regulations for a maximized retention and monitoring program for the shore-based whiting sector. The Council received public comment on the issue before providing guidance to NMFS on the range of alternatives for consideration in the EA. At this same meeting, the Council recommended that NMFS host a listening session to allow the states and fishery participants to further present NMFS staff with information concerns on the Pacific whiting shoreside monitoring program development. The listening session was held on September 29, 2006, and participants included NMFS staff, WCGOP, ODFW, CDFG, and

industry stakeholders.

1.5.1 Issues and Concerns Raised Through Scoping

While the initial purpose of the proposed action was to develop and implement a monitoring program for the treatment and disposition of incidentally taken salmon in the shore-based whiting fishery, the importance of establishing full retention and monitoring options to reduce bycatch and track multiple aspects of the shore-based whiting fishery became apparent through the scoping process. Below is a summary of issues that stakeholders asked NMFS to take into consideration when preparing the EA and regulatory amendment:

Full/Maximized retention:

- The need to consider the merits of a full retention program
- The need to define full retention
- Need for an allowance to sort catch at sea
- The need to discontinue annual EFPs
- The importance of having industry support for a monitoring program
- The need to verify catch shoreside

Monitoring:

- The need to have clearly defined objectives for the monitoring program
- The need for the monitoring program to be built on the existing EFP infrastructure
- The need for consistency across states
- Resources available to implement a monitoring program differ by state
- The need for appropriate monitoring levels
- Allowing discard at sea would require observers to be aboard the vessels
- Using Federal observers on catcher vessels is an inefficient use of resources
- The logistics of port sampling is difficult/unusual for NMFS's WCGOP
- Implementation of a monitoring program must be appropriate for IFQs
- Having PSMFC administer a NOAA directed observation program
- How the need for industry samplers changes
- If weighmasters are appropriate

EMS:

- Letting vessel owner/operators have access to their EMS images
- Insurance and liability concerns for industry with video cameras
- The need to protect vessel owner/operators
- The need to address data confidentiality and privacy rights
- The adequacy of EMS testing for supporting a rulemaking
- The need to have more than one company providing EMS services
- The failure rate of EMS
- The time it takes to do analysis

Overages:

- The need to ensure that overages are handled appropriately
- The need for port-specific market values of overage fish

Recordkeeping and Reporting:

- The ability to track bycatch with an audit process
- The ability to audit logbooks for discard
- The need for almost realtime data to monitor bycatch limits
- The applicability of current paper logbooks for this fishery
- The need to have a way to correct fish tickets
- If program includes electronic fish ticket, there is a need to meet the requirements of all three states
- Processors need to have a specific person responsible for bycatch accounting

Costs:

- The funding source
- The need for improved cost estimates
- The cost to the fishery of full retention monitoring program
- The costs relative to the economic importance of the fishery to each state
- The inclusion of Federal, State, and/or Industry funding options
- The shore-based whiting fleet's ability to fund a monitoring program

Other:

- The use of Pacific whiting shoreside fishery hard bycatch caps
- The use of individual vessel bycatch caps
- The possible use of a "penalty box" system
- The importance of the States and industry to be involved in the process
- The need to accommodate the early California fishery
- The use of permit endorsements

1.6 Decision to be Made

From the information in this EA, NMFS must decide whether or not to establish a maximized retention and monitoring program for the Pacific whiting shoreside fishery. It must also be determined if the proposed action and/or preferred alternative would or would not be a major Federal action, significantly affecting the quality of the human environment. If NMFS determines that the proposed action would not significantly affect the quality of the human environment, then a Finding of No Significant Impact (FONSI) may be prepared and a full retention and monitoring program may be implemented in the shore-based whiting fishery. If the NMFS determines that the action would significantly affect the Pacific Coast groundfish fishery, then preparation of an Environmental Impact Statement will be required.

1.7 Applicable Federal Permits, Licences, or Authorizations Needed in Conjunction with Implementing this Proposal

A Pacific Coast groundfish limited entry permit with a shoreside whiting endorsement is being considered as part of Alternatives 3 and 4. Such an endorsement would not be restrictive, except that it would only be available to vessels with trawl-endorsed limited entry permits. The purpose of the endorsement is to support fishery monitoring logistics; the endorsement would be an annual declaration by a vessel owner/operator of an intent to fish in the primary Pacific whiting shoreside fishery, so that the pool of vessels requiring monitoring is known to managers in advance of the season.

2.0 ALTERNATIVES

2.1 Introduction

This chapter describes the alternative management actions that could be taken to eliminate the need to issue EFPs for management and monitoring the Pacific whiting shoreside fishery. When developing the alternatives, the primary issues taken into consideration were:

- The management approach for the fishery,
- Federal permits and endorsements,
- Recordkeeping and reporting,
- Methods of monitoring catcher vessels at sea, including the funding mechanisms,
- Methods for monitoring catch at the shoreside processors, including the funding mechanisms, and,
- The disposition of overage fish and prohibited species.

Four different approaches to managing and monitoring the Pacific whiting shoreside fishery are defined and analyzed in this EA. The following four alternatives are being considered:

- Alternative 1: (No Action) - Require all vessels participating in the Pacific whiting shoreside fishery to sort their catch at sea. Vessels would be included in the pool of vessels that are sampled by the existing WCGOP.
- Alternative 2: (Status Quo) - Continue to use EFPs and manage the fishery as a maximized retention fishery. NMFS would continue to support video monitoring and analysis, while the states would continue to manage the EFPs.
- Alternative 3: (Groundfish Observers) - Adopt Federal regulations for a maximized retention program with Federal or industry funded observers. Observers would monitor catch retention at sea and collect catch data at the processing facility for fish ticket verification.
- Alternative 4: (Electronic Monitoring System) - Adopt Federal regulations for a maximized retention program with Federal or industry funded EMS and catch monitors. EMS would be used to monitor full retention at sea and catch monitors would collect catch data at the processing facility for fish ticket verification.

The No Action Alternative (Alternative 1) defines the default management structure that would occur if EFPs were discontinued and no other program were implemented for the Pacific whiting shoreside fishery. Alternative 2 defines the Status Quo management structure under annual EFPs. Alternatives 3 and 4 define different approaches for establishing a standardized reporting methodology. The purpose of the programs specified under Alternatives 3 and 4 is to minimize the discarding of catch, while allowing for the collection of accurate total catch data such that the integrity of the management structure chosen for the Pacific whiting shoreside fishery can be

maintained. Alternatives 3 and 4, offer suboptions for funding provisions and processing of overage fish that are identified as 3A, 3B, 4A and 4B. Alternatives 2, 3, and 4 are expected to benefit the Pacific whiting shoreside fishery by allowing the fishery to be prosecuted efficiently, and by allowing the quality of Pacific whiting products to be maintained. Table 2.1, outlines and compares the four alternatives as they relate to the primary issues identified at the beginning of this section.

| Table 2.1. A comparison of different monitoring programs for the shore-based whiting fishery. | | | | |
|--|---|---|---|---|
| Issues | Alternative 1 (No Action) Trip Limit Regime | Alternative 2 (Status Quo) Maximized Retention with annual EFPs | Alternative 3 (Groundfish Observers) Maximized Retention with Observers | Alternative 4 (EMS and Catch monitors) Maximized Retention with EMS and Catch Monitors |
| Management structure | <ul style="list-style-type: none"> • Trip limits for species other than whiting • Catch sorted at sea • Whiting OY likely to be constrained by projected bycatch of overfished species | <ul style="list-style-type: none"> • Issue annual EFPs • Maximized retention • Whiting OY may be fully available with fleetwide bycatch limits for overfished species | <ul style="list-style-type: none"> • Implement Federal regulations • Maximized retention • Whiting OY may be fully available with fleetwide bycatch limits for overfished species • With high coverage level, may be adequate to support sector bycatch limits. | <ul style="list-style-type: none"> • Implement Federal regulations • Maximized retention • Whiting OY may be fully available with fleetwide bycatch limits for overfished species • With high coverage level, may be adequate to support sector bycatch limits. |
| Federal permits and endorsements | <ul style="list-style-type: none"> • Vessels required to have limited entry permit with trawl endorsement | <ul style="list-style-type: none"> • Vessels required to have limited entry permit with trawl endorsement • Voluntary EFP permit issued annually | <ul style="list-style-type: none"> • Vessels required to have limited entry permit with trawl endorsement • Annual whiting endorsement to identify intent to fish | <ul style="list-style-type: none"> • Vessels required to have limited entry permit with trawl endorsement • Annual whiting endorsement to identify intent to fish |
| Recordkeeping and reporting | <ul style="list-style-type: none"> • Paper trawl logs • Paper fish tickets • No Federal reporting requirements | <ul style="list-style-type: none"> • Paper trawl logs - with discard events noted • Paper fish tickets • Begin field testing of electronic logbooks and fish tickets in 2007 | <ul style="list-style-type: none"> • When fully developed, (as early as 2008) require electronic logbooks and fish tickets • Daily fish ticket submission requirements for bycatch limit monitoring | <ul style="list-style-type: none"> • When fully developed, (as early as 2008) require electronic logbooks and fish tickets • Daily fish ticket submission requirements for bycatch limit monitoring |

| Issues | Alternative 1 (No Action) Trip Limit Regime | Alternative 2 (Status Quo) Maximized Retention with annual EFPs | Alternative 3 (Groundfish Observers) Maximized Retention with Observers | | Alternative 4 (EMS and Catch monitors) Maximized Retention with EMS and Catch Monitors | |
|--|---|--|---|--|---|---|
| | | | 3A Federally | 3B Industry funded | 4A Federally funded | 4B Industry funded |
| Monitoring shore-based catcher vessels at-sea | <ul style="list-style-type: none"> • WCGOP observers quantify discards at sea; vessel selected at random from pool of all trawl vessels | <ul style="list-style-type: none"> • EMS on vessels to monitor maximized retention • NMFS issues EFPs • States manage EFP participation • NMFS coordinates EMS monitoring | <ul style="list-style-type: none"> • Observers monitor maximized retention at sea and quantify discard | | <ul style="list-style-type: none"> • EMS used to monitor maximized retention at sea | |
| | | | <ul style="list-style-type: none"> • WCGOP selects vessels at random from pool of all trawl vessels • NMFS deploys observers | <ul style="list-style-type: none"> • Direct pay by industry a/ • NMFS funds infrastructure • Vessels procure observer from permitted provider | <ul style="list-style-type: none"> • WCGOP observers selected at random from pool of all trawl vessels • NMFS coordinates EMS • NMFS funds EMS analysis | <ul style="list-style-type: none"> • Direct pay by industry a/ • NMFS funds EMS analysis • Vessels procure EMS service from permitted provider |
| Monitoring shoreside processors | <ul style="list-style-type: none"> • OR - Port samplers collect fish tickets, prepare landing and prohibited species summaries. Industry samplers collect species composition samples and biological data • WA & CA – Port samplers collect fish tickets, species composition samples and biological data | <ul style="list-style-type: none"> • OR - Port samplers collect fish tickets, prepare landing and prohibited species summaries. Industry samplers collect species composition samples and biological data • WA & CA – Port samplers collect fish tickets, species composition samples and biological data • States collects and summarize fish ticket data inseason | <ul style="list-style-type: none"> • Observers sample deliveries at processing facility to collect data for fish ticket verification; salmon counts; and biological data; • State port sampler effort may be used elsewhere | | <ul style="list-style-type: none"> • Monitors observe weighing and collect data for fish ticket verification; • State port samplers continue to collect biological data | |
| | | | <ul style="list-style-type: none"> • WCGOP observers b/ • NMFS deploys observers | <ul style="list-style-type: none"> • Direct pay by industry a/ | <ul style="list-style-type: none"> • WCGOP observers b/ | <ul style="list-style-type: none"> • Direct pay by industry a/ |

| Issues | Alternative 1 (No Action) Trip Limit Regime | Alternative 2 (Status Quo) Maximized Retention with annual EFPs | Alternative 3 (Groundfish Observers) Maximized Retention with Observers | | Alternative 4 (EMS and Catch monitors) Maximized Retention with EMS and Catch Monitors | |
|--|--|---|--|--|--|---|
| | | | 3A State system (Status Quo) | 3B Federal system | 4A State system (Status Quo) | 4B Federal system |
| Disposition of Overage Fish | <ul style="list-style-type: none"> No overages landed | <ul style="list-style-type: none"> Overages reported on fish tickets or overage tickets Vessel abandons overage and value remitted to state upon landing Prohibited species donated State enforcement tracks compliance | <ul style="list-style-type: none"> Overages reported on fish tickets and sales abandoned or donated to charity | | <ul style="list-style-type: none"> Overages reported on fish tickets and sales abandoned or donated to charity | |
| | | | <ul style="list-style-type: none"> Overage fish abandoned to state Prohibited species donated State enforcement tracks compliance | <ul style="list-style-type: none"> Profit from sale of overage fish illegal Donation program | <ul style="list-style-type: none"> Overage fish abandoned to state Prohibited species donated State enforcement tracks compliance | <ul style="list-style-type: none"> Profit from sales of overage fish illegal Donation program |

a/ The legal and policy issues for new direct pay observer programs, where industry members pay directly for observer services, have not yet been fully explored.

b/ Vessel and processor observers may or may not be the same individual and would depend on the chosen sample design.

2.2 Alternatives

2.2.1 Alternative 1 (No Action): Trip Limit Regime

Management Structure: Under this alternative the management of the Pacific whiting shorebased fishery would revert to a trip limit regime. All catch would be required to be sorted at sea. Vessels using midwater trawl gear in the Pacific whiting shoreside fishery would be subject to prohibitions specified at 50 CFR 660.306 (a)(2) and (6), and 50 CFR 660.405 (a)(1), which prohibit the retention of prohibited species as defined at §§ 660.302 and 660.370 (e), and prohibit the retention of groundfish in excess of cumulative trip limits.

Federal permits and endorsements: A Pacific Coast groundfish limited entry permit with a trawl endorsement would be required to participate in the fishery.

Recordkeeping and Reporting: No Federal reports are required of fishers or processors under the No Action Alternative. Federal regulations at 50 CFR 660.303 would continue to require vessels to make and/or file, retain, or make available any and all reports (i.e., logbooks, fish tickets, etc.) of groundfish harvests and landings as required by the applicable state law.

Monitoring Shore-based Catcher Vessels At Sea: Under the No Action Alternative, the WCGOP would be responsible for providing at-sea observer coverage for Pacific whiting shoreside vessels as specified at 50 CFR 660.314 (c)(2). When notified by NMFS of any requirement to carry an observer, the regulations at 50 CFR 660.303 (i)(5) prohibit a vessel from taking and retaining, possessing, or landing any groundfish without a WCGOP observer.

The sampling priorities for WCGOP observers deployed to trawl vessels are to collect data that are used for total catch estimates of each groundfish species or species group over the entire fishing year, and to collect fishery dependent biological data that are otherwise not available on shore. The WCGOP sets coverage priorities for different fisheries and fleets that comprise the groundfish fishery. Observers are deployed on vessels in the active sampling unit or pool of vessels selected for coverage. Vessels in the pool are generally selected at random. However, in the case of the open access fishery observers may be deployed on vessels of opportunity². The proportion of a particular fishery or fleet that receives observer coverage is based on the WCGOP coverage plan.

Although the WCGOP strives for a 20 percent coverage level of vessels in the bottom trawl fisheries, it is likely the Pacific whiting shoreside fishery would be given a lower coverage priority when considering: 1) the data needs of the Pacific whiting fishery relative to the total catch data needs for the entire groundfish fishery, 2) the limited number of observers available to be deployed, 3) current data available from other sectors of the Pacific whiting fishery, and 4) the availability of historical data that can be factored in to catch estimates.

Monitoring Shoreside Processors: Under the No Action Alternative, each state would continue to hire, train, and pay for port biologists to: collect fish ticket data; complete landing summaries;

²A vessel of opportunity is a vessel that was not prescheduled for coverage; rather, it is a vessel that was contacted prior to leaving on a fishing trip and was willing and able to carry an observer for that trip.

and, to collect biological data. Additional port samplers may also be funded by the Pacific States Marine Fish Commission (PSMFC). In the state of Oregon, industry samplers may continue to be used to collect biological data from whiting and other groundfish that are landed on whiting trips.

Disposition of Overage Fish: Under this alternative there are no allowances for landing legal overages. Therefore, all overage fish would need to be abandoned.

2.2.2 Alternative 2 (Status Quo): Maximized Retention under Annual Exempted Fishing Permits

Management Structure: Under the Status Quo Alternatives, the fishery would continue to operate under annual EFPs. Each year, the three states would submit an EFP request to NMFS and NMFS would issue EFPs. The three states would continue to coordinate all EFP activities including: identification of interested vessels; hosting mandatory meetings; preparing designated shoreside whiting processor agreements; coordination of inseason data collection and transmission to NMFS; and, preparation of year end summaries.

Under this alternative, a maximized retention program would be defined within the terms and conditions of the EFPs. Vessels targeting Pacific whiting with midwater trawl gear during the primary season for the shore-based sector would be allowed to land unsorted catch that may include species that are currently prohibited by regulations at 50 CFR 660.306 (a)(2) and (6), and 50 CFR 660.405 (a)(1). Maximized retention encourages full retention of all catch while recognizing that minor discard events that include large animals (>6ft in length) and minor levels of operational discard may occur.

Federal permits and endorsements: A Pacific Coast groundfish limited entry permit with a trawl endorsement would be required to participate in the fishery. In addition, each participating vessel would need to apply for and be issued an EFP.

Recordkeeping and Reporting: Under the No Action alternative, Federal regulations at 50 CFR 660.303 would continue to require vessels to make and/or file, retain, or make available any and all reports (i.e., logbooks, fish tickets, etc.) of groundfish harvests and landings as required by the applicable state law. Recordkeeping and reporting requirements needed to support the maximized retention program would be specified within the terms and conditions of the EFP.

Field testing of electronic logbooks could be conducted under the EFP. When requested by the states, NMFS or PSMFC, selected vessels would be required to use electronic logbooks. As the system became more fully developed, the terms and conditions of the EFPs could require all vessels to carry and use electronic logbooks.

Under the terms and conditions of the EFP, vessels may only land catch at processing facilities that are listed as a designated processor. Each state would continue to hold designated processor agreements with the Pacific whiting shoreside processing facilities. Specific requirements for how deliveries of Pacific whiting must be sorted and reported, and how overage fish and prohibited species are to be handled would continue to be specified in the designated processor agreements and state regulations. In the absence of a temporary rulemaking that puts recordkeeping and reporting requirements for Pacific whiting shoreside processing facilities into regulation for 2007, field testing of electronic fish tickets would be on a voluntary basis.

Monitoring Shore-based Catcher Vessels At Sea: Under the Status Quo Alternative, observer and other monitoring requirements would continue to be specified in the terms and conditions of the EFPs.

Vessels could be required to carry a state-sponsored sampler or a WCGOP observer to collect data at-sea when requested. The terms and conditions of the EFPs specify that observer regulations at 50 CFR 660.306 and 50 CFR 660.314 regarding vessel responsibilities and prohibitions, would apply to both state samplers and WCGOP observers. Observer coverage requirements at 50 CFR 660.360 and 50 CFR 660.314 are independent of the EFP, meaning when notified by NMFS of any requirement to carry an observer under regulations specified at 50 CFR 660.314 (c)(2), a vessel is prohibited from taking and retaining, possessing, or landing any groundfish without a WCGOP observer (50 CFR 660.303 (i)(5)). However, given the full retention management approach for the fishery, the Pacific whiting shoreside fishery would likely be a low priority for WCGOP observer coverage.

Requirements for vessels to have EMS would continue to be specified in the terms and conditions of the EFP and NMFS would continue to maintain a service contract with a qualified EMS provider. Vessel responsibilities specified in the EFP would continue to include: requirement to have EMS coverage to conduct EFP fishing; requirement for EMS installations; prohibition from intentionally damaging EMS equipment; responsibility for scheduling EMS equipment maintenance and data retrieval; need to conduct regular system checks; and, responsibility for scheduling EMS removal. Violations of the terms and conditions of an EFP would continue to be a violation of Federal regulations at 50 CFR 660.306 (a) (4).

Monitoring Shoreside Processors: Under the Status Quo Alternative, the State would continue to hire, train, and pay for port biologists to collect fish ticket data; complete landing summaries, and collect biological data; and verify salmon counts. Additional port samplers may also be funded by the PSMFC. In the state of Oregon, industry samplers would continue to be used to take species composition data, and to collect biological data from groundfish.

Disposition of Overage Fish: Under the Status Quo Alternative, unless otherwise specified, the terms and conditions of the EFP would continue to require vessels to abandon overage fish and prohibited species to the state of landing. Each state would be responsible for the distribution, tracking, and sales of the overage fish. How overages are handled would likely vary between states.

2.2.3 Alternative 3 (Groundfish Observers): a Maximized Retention Program with Observer Monitoring

Management Structure: Under Alternative 3, a maximized retention program would be specified in Federal regulation. The groundfish regulations would be revised to allow vessels targeting Pacific whiting with midwater trawl gear during the primary season for the shore-based sector to land unsorted catch that may include species that are currently prohibited by regulations at 50 CFR 660.306 (a)(2) and (6), and 50 CFR 660.405 (a)(1). Maximized retention encourages full retention of all catch while recognizing that minor discard events that include large animals (>6ft in length) and minor levels of operational discard may occur.

Federal permits and endorsements: A Pacific Coast groundfish limited entry permit with a trawl endorsement would be required. A Pacific whiting shoreside endorsement is being considered as part of this alternative. Such an endorsement could be attached to any limited entry permit with

a trawl endorsement. The purpose of the endorsement would be to indicate the vessels' intent to fish in the Pacific whiting shoreside fishery.

Recordkeeping and Reporting: Under Alternative 3, recordkeeping and reporting requirements would be specified in Federal regulation. The recordkeeping and reporting requirements would be adequate to support a real-time inseason data system (i.e. preliminary catch weights would be available in a central data base within 24 hours of catch being weighed at the processing facility) as is needed for managing fleetwide or sector bycatch limits. To the extent possible, Federal recordkeeping and reporting requirements would be consistent with state regulatory requirements so that the burden of unnecessary duplication can be avoided.

As software becomes more fully developed and is adequately field tested, vessels may be required to submit electronic vessel logbooks. Requirements for vessels to use electronic logbooks could be as early as 2008. However, it should be noted that implementation of a maximized retention program under this alternative would not be delayed by the electronic logbooks development process. If such software is not adequately developed by the effective date of the final action, interim action would be taken and electronic logbook requirements would be adopted into final regulation at a later date.

As software for electronic fish tickets becomes more fully developed and is adequately field tested, processors would be required to submit electronic fish tickets daily. Requirements for processors to use electronic fish tickets could be implemented as early as 2008. Additional submission requirements for consistency with state law may be necessary, with requirements varying between states. Processors may be required to submit printed electronic fish tickets or state paper fish tickets to meet state regulatory requirements. As with electronic vessel logbooks, it should be noted that implementation of a maximized retention program under this alternative would not be delayed by the electronic fish ticket development process.

To support electronic recordkeeping and reporting, computer hardware and software requirements for vessels and processing facilities would be specified in Federal regulation. Vessels and processors would be required to provide particular computer hardware, operating system, and basic software (i.e. Microsoft Access version 2000 or later). Logbook and fish ticket software would be provided at no cost by NMFS or PSMFC.

Monitoring Shore-based Catcher Vessels At Sea: Under Alternative 3, observer coverage requirements would be specified in Federal regulation for vessels that target Pacific whiting during the primary season for the shore-based sector. Observers would be deployed on vessels in the Pacific whiting shoreside fishery to monitor compliance with maximized retention regulations and to estimate species and weight of catch that may be discarded at sea. Observers would: provide documentation on compliance with maximized retention regulations; may be able to estimate species and quantities of discarded groundfish; and may collect biological data that would otherwise not be available at the processing facility (i.e. marine mammal and seabird interactions).

Alternatives 3A and 3B: Alternative 3 is further divided into Alternatives 3A for Federally funded observers and Alternative 3B for industry funded observers.

Under Alternative 3A, NMFS would use Federally appropriated funds to provide observers for monitoring whiting vessels at-sea. This is the funding approach currently used in the non-whiting groundfish fisheries. At this time, the WCGOP funds are the

only Federal funds appropriated for hiring observers for the Pacific Coast groundfish fishery. Under this alternative, existing WCGOP funds would be used to provide observer coverage for the Pacific whiting shoreside fishery. Selection of vessels for observer coverage would likely be similar to that described under Alternative 1, the No Action Alternative, or WCGOP could choose to include the whiting vessels in the same coverage pool as non-whiting trawl fisheries. In the non-whiting or bottom trawl fisheries, vessels are randomly selected from the pool of all trawl vessels. Because existing resources would need to cover a larger pool of vessels, coverage levels in the non-whiting fisheries would be reduced below current levels during the summer months.

Under Alternative 3B, vessel owners or operators would be required by regulation to procure the services of a NMFS-certified or -permitted observer from a NMFS permitted observer provider. This type of observer is commonly referred to as a “pay-as-you-go” or “third party” observer³. This is the funding approach currently used in the mothership and catcher processor sectors of the whiting fishery. NMFS would be required to use existing funds for administrative and analytical infrastructure unless an amendment to the Magnuson-Stevens Act was made to allow NMFS to accept funds directly from industry for administrative and analytical infrastructure costs. Under a Federally regulated pay-as-you-go or third party system fishery participants would be responsible for: making arrangements with a NMFS permitted observer provider; having an observer available for their vessels; and, paying the observer providers directly for the observer costs. The observer providers collect the fees directly from the vessels, recruit qualified individuals, provide insurance and benefits to the observers, deploy the observers, and assure that the observer data is delivered to NMFS.

Monitoring Shoreside Processors: Under Alternative 3, processors would be required to have an observer: to collect data for estimating total catch of groundfish and verifying the accuracy of fish tickets; and, to quantify the total catch of prohibited species, particularly salmon. Because observers are biological technicians they may also collect biological data on Pacific whiting and other marine species that are landed with Pacific whiting. If adequate observer coverage were obtained under this alternative, industry and port sampler efforts may be available for use in collecting data from non-whiting fishing activities.

³ Although third party observer programs are a legally viable option, at this time the NOAA Fisheries National Observer Program Office is discouraging the agency from approving new third party observer programs. In other fisheries where third party observer programs have been used, there have been: allegations of conflict of interest with some observer providers; competition between observer providers that has been in direct conflict with the agency’s need for high quality observers; and, concerns about the direct relationship between the observer provider and the vessels, which may leave observers vulnerable to coercion and misreporting catch data (*Options for Funding a Fishery Observer Program for The West Coast Groundfish Fishery, June 2000 Report to Congress. Submitted to the Committee on Appropriations, US Senate and House of Representatives, US DOC, NOAA, NMFS*).

Alternatives 3A and 3B: Alternative 3 is further divided into Alternatives 3A for Federally funded observers and Alternative 3B for industry funded observers.

Under Alternative 3A, NMFS would use Federally appropriated funds to provide observers to monitor Pacific whiting deliveries at the shoreside processing facilities. The mechanics of this structure are the same as that described in the previous section (monitoring shore-based catcher vessels at sea) under Alternative 3A. At this time, the WCGOP funds are the only Federal funds appropriated for hiring observers for the Pacific Coast groundfish fishery. Under Alternative 3A, WCGOP observer coverage would be extended to the Pacific whiting shore-based processors. Individual observers assigned to sample at Pacific whiting shoreside processors may be different individuals from the vessel observers and therefore the coverage level would likely to be similar to that described for vessels under Alternative 1, the No Action alternative. Under Alternative 1, the number of observers available to sample at Pacific whiting shoreside processors would be weighed against the need for those same observers to sample other groundfish fisheries to meet the Magnuson-Stevens Act requirements on bycatch accounting. If WCGOP chooses to use the same observer for both the Pacific whiting shoreside vessel and processor, they would likely be included as part of the same coverage pool as non-whiting trawl fisheries. In the non-whiting or bottom trawl fisheries, vessels are randomly selected from the pool of all trawl vessels. Because existing resources would need to cover a larger pool of vessels and processors, coverage levels in the non-whiting fisheries would be reduced below current levels during the summer months.

Under Alternative 3B, Pacific whiting shoreside processors would be required by regulation to procure the services of a NMFS-certified or -permitted observer from a NMFS permitted observer provider. This type of observer is commonly referred to as a “pay-as-you-go” or “third party” observer, and this the funding approach is currently used on processors in the mothership and catcher processor sectors of the whiting fishery. NMFS would be required to use existing funds for administrative and analytical infrastructure because an amendment to the Magnuson-Stevens Act would be required for NMFS to accept funds directly from industry for administrative and analytical infrastructure costs. Under a Federally regulated pay-as-you-go or third party system, fishery participants would be responsible for: making arrangements with a NMFS permitted observer provider; having an observer available for their processing facility; and, paying the observer providers directly for the observer costs. The observer providers collect the fees directly from the processor, recruit qualified individuals, provide insurance and benefits to the observers, deploy the observers, and assure that the observer data is delivered to NMFS.

Disposition of Overage Fish: Federal regulations would specifying how overage fish and prohibited species must be handled.

Alternatives 3A and 3B: Alternative 3 is further divided into Alternative 3A for a state system in which overage fish and prohibited species are abandoned to the state of landing and Alternative 3B for a federal system in which overage fish and prohibited species cannot be sold.

Under Alternative 3A, overage fish would continue to be abandoned to the state of landing. Vessels would be required to abandon all overage fish and prohibited species. The weight and/or number of species being abandoned would be required to be reported

on fish tickets. Payment from the sales of overage fish that are required to be remitted shall be at “fair market” value. This structure was defined above under Alternative 2.

Under Alternative 3B, Federal regulations would prohibit the sale of overage fish and prohibited species. However, overage fish and prohibited species could be donated to a hunger relief organization.

2.2.4 Alternative 4 (Electronic Monitoring System): a Maximized Retention Program with an EMS for Monitoring Vessels at Sea and Catch Monitors for Verification of Fish Ticket Data.

Management Structure: Under Alternative 4, a maximized retention program would be specified in Federal regulation. The groundfish regulations would be revised to allow vessels targeting Pacific whiting with midwater trawl gear during the primary season for the shore-based sector to land unsorted catch that may include species that are currently prohibited by regulations at 50 CFR 660.306 (a)(2) and (6), and 50 CFR 660.405 (a)(1). Maximized retention encourages full retention of all catch while recognizing that minor discard events that include large animals (>6ft in length) and minor levels of operational discard may occur.

Federal permits and endorsements: A Pacific Coast groundfish limited entry permit with a trawl endorsement would be required. A Pacific whiting shoreside endorsement is being considered as part of this alternatives. Such an endorsement could be attached to any limited entry permit with a trawl endorsement. The purpose of the endorsement would be to indicate the vessels’ intent to fish in the Pacific whiting shoreside fishery.

Recordkeeping and Reporting: Under Alternative 4, recordkeeping and reporting requirements would be specified in Federal regulation. The recordkeeping and reporting requirements would be adequate to support a real-time inseason data system (i.e. preliminary catch weights available in central data base within 24 hours of catch being weighed at the processing facility) as is need for managing fleetwide or sector bycatch limits. To the extent possible, Federal recordkeeping and reporting requirements would be consistent with state regulatory requirements so that the burden of unnecessary duplication can be avoided.

As the software becomes more fully developed and is adequately field tested, vessels may be required to submit electronic vessel logbooks. Requirements for vessels to use electronic logbooks could be implemented as early as 2008. However, it should be noted that implementation of a maximized retention program under this alternative would not be delayed by the electronic logbooks development process. If such software is not adequately developed by the effective date of the final action, interim action would be taken and electronic logbook requirements would be adopted into final regulation at a later date.

As software for electronic fish tickets becomes more fully developed and is adequately field tested, processors would be required to submit electronic fish tickets daily. Requirements for processors to use electronic fish tickets could be implemented as early as 2008. Additional submission requirements for consistency with state law may be necessary, with requirements varying between states. Processors may be required to submit printed electronic fish tickets or state paper fish tickets to meet state regulatory requirements. As with electronic vessel logbooks, it should be noted that implementation of a maximized retention program under this alternative would not be delayed by the electronic fish ticket development process.

To support electronic recordkeeping and reporting, computer hardware and software requirements for vessels and processing facilities would be specified in Federal regulation. Vessels and processors would be required to provide particular computer hardware, operating system, and basic software (i.e. Microsoft Access version 2000 or later). Logbook and fish ticket software would be provided at no cost by NMFS or PSMFC.

Monitoring Shore-based Catcher Vessels At Sea: Under Alternative 4, EMS coverage requirements would be specified in Federal regulation for vessels that target Pacific whiting during the primary season for the shore-based sector. EMS would be installed on vessels in the Pacific whiting shoreside fishery to monitor compliance with maximized retention regulations. EMS has been used to document retention and/or discard of catch. EMS is a data collection tool that uses a software operating system connected to an assortment of electronic components, including video recorders, to create a data collection of vessel activities. The EMS is designed to independently monitor vessel fishing activities and provide accurate, timely, and verifiable data. Because EMS would be used as a compliance monitoring tool, NMFS believes it is necessary for 100% of the Pacific whiting trips to be monitored.

EMS requirements specified in Federal regulations would include: EMS service provider permitting process; EMS service provider responsibilities; EMS service provider data confidentiality standards, EMS coverage requirements for vessels; prohibitions against intentionally damaging EMS equipment on vessels; vessel responsibilities for scheduling EMS installations, equipment, maintenance and data retrieval; and, vessel responsibilities for scheduling EMS removal.

Alternatives 4A and 4B: Alternative 4 is further divided into Alternatives 4A for Federally funded EMS and Alternative 4B for industry funded EMS.

Under Alternative 4A, (Status Quo) NMFS would use existing WCGOP funds to provide EMS for monitoring Pacific whiting vessels at-sea. Currently, no money has been specifically appropriated for the implementation of an EMS monitoring program in the Pacific whiting shoreside fishery. Under Alternative 4A, only a small number of EMS units may be provided. Vessels chosen to use EMS could be selected at random from the pool of all Pacific whiting shoreside vessels. Given the need to use WCGOP base funds for observer coverage in non-whiting groundfish fisheries, the availability of Federal funds to provide for EMS coverage in the Pacific whiting shoreside fishery would likely be quite low.

Under Alternative 4B, vessel owners or operators would be required by regulation to procure EMS services from a permitted EMS service provider. NMFS would be required to use base funds for administrative costs and analysis without an amendment to the Magnuson-Stevens Act to allow NMFS to accept funds directly from industry for administrative and analytical infrastructure costs. The fishing industry would be responsible for: making arrangements with an EMS permitted observer provider; having an EMS available for their vessel; and, paying directly for the EMS costs. The EMS service providers collect the fees directly from the vessels; purchase and maintain EMS equipment; provide for timely installation and removal of EMS equipment; and, assure that the EMS data analysis is delivered to NMFS.

Monitoring Shoreside Processors: Under Alternative 4, dockside monitoring at Pacific whiting shoreside facilities would be conducted by catch monitors. The phrase “catch monitor” is being

used in a general sense to describe individuals whose duty station is at the Pacific whiting shoreside processing facilities and who collect independent data that can be used for verification of fish tickets or used to evaluate the accuracy of fish tickets.

Catch monitors under this action could be defined as any of following individuals or be specifically defined to meet the identified needs of the proposed program:

- *Observers* are biological technicians, educated in the natural sciences, trained in species identification and biological sampling. They collect catch and effort data used to estimate total catch;
- *Weigh masters* are standards inspectors that are employed by the states, by independent third parties or are self employed and who are licensed or certified as a weigh master. These individuals are trained in the types and use of commercial scales, species identification, recordkeeping, and non-compliance. Weigh masters monitor weighing activities for accuracy, and sign or certify fish ticket weights;
- *Enforcement technicians* are individuals employed by NMFS OLE who are trained in compliance standards and species identification and who monitor the weighing process for compliance with weighing and sorting requirements (see section 2.3 Alternatives considered but rejected from detailed analysis);
- *Port samplers* are biological aides who are employed by the states or PSMFC and trained in interviewing fishermen, species identification, recordkeeping, and summarizing basic field data;
- *Industry samplers* are individuals directly employed by the processors who have basic training in biological data collection and species identification and who collect basic biological information on the catch and catch composition.

Alternatives 4A and 4B: Alternative 4 is further divided into Alternatives 4A for Federally funded catch monitors and Alternative 4B for industry funded catch monitors.

Under Alternative 4A, NMFS would use Federally appropriated funds to monitor Pacific whiting deliveries at the shoreside processing facilities. At this time there are no Federal funds specifically appropriated for catch monitors for Pacific whiting shoreside processors. Therefore, a Federally funded program would use observers as catch monitors unless other funds became available. This is the same structure as was described above for Alternative 3A in the section titled “monitoring shoreside processors”.

Under Alternative 4B, Pacific whiting shoreside processors would be required by regulation to procure the services of a catch monitor. NMFS would be required to use existing funds for administrative and analytical infrastructure because an amendment to the Magnuson-Stevens Act would be required for NMFS to accept funds directly from industry for administrative and analytical infrastructure costs. Under a Federally regulated third party system, the fishing industry would be responsible for: procuring the services of a catch monitor; having the catch monitor available at the processing facility; assuring that the specified coverage requirements are met; and, paying for the services of the catch monitor.

Disposition of Overage Fish: Federal regulations would specifying how overage fish and prohibited species must be handled.

Alternatives 4A and 4B: Alternative 4 is further divided into Alternative 4A for a state system in which overage fish and prohibited species are abandoned to the state of landing and Alternative 4B for a federal system in which overage fish and prohibited species cannot be sold.

Under Alternative 4A, overage fish would continue to be abandoned to the state of landing. Vessels would be required to abandon all overage fish and prohibited species. The weight and/or number of species being abandoned would be required to be reported on fish tickets. Payment from the sales of overage fish that are required to be remitted shall be at “fair market” value. This structure was defined above under Alternative 2.

Under Alternative 4B, Federal regulations would prohibit the sale of overage fish and prohibited species. However, overage fish and prohibited species could be donated to a hunger relief organization.

2.3 Alternatives Considered but Eliminated from the Detailed Analysis

Approaches that were considered but not analyzed in this document, include:

- Amending the Pacific Coast Groundfish and Pacific salmon FMPs to allow salmon taken with trawl gear to be retained and landed without the development of an adequate monitoring mechanism;
- Using existing Federally funded WCGOP observers at coverage levels that are greater than coverage levels in the non-whiting trawl fisheries to monitor maximized retention at sea;
- Having NMFS enforcement agents or enforcement officers monitor maximized retention at sea or to monitor weighing activities at shoreside processing facilities;
- Having state funded maximized retention monitors at sea or for monitoring weighing activities at shoreside processing facilities;
- A maximized retention program with unmonitored fishing at sea;
- A maximized retention program with less than 100% of the hauls being monitored at sea;
- Vessel owned EMS equipment or EMS equipment from non-permitted service providers;

[Amending the Pacific Coast Groundfish and Pacific Salmon FMPs to allow salmon taken with trawl gear to be retained and landed without the an adequate monitoring mechanism.](#)

Management of the salmon and groundfish fisheries has changed substantially since the mid-1990's, when it was first determined that monitoring of salmon retained by vessels using trawl gear was necessary. Since the mid-1990s, new salmon ESUs have been listed under the ESA, commercial salmon fisheries have been severely restricted, and the importance of bycatch reduction and accounting have been mandated by the Magnuson-Stevens Act. Allowing

unmonitored landings of trawl caught salmon would not be consistent with the ESA or the Magnuson-Stevens Act.

Using existing Federally funded WCGOP observers at coverage levels that are greater than coverage levels in the non-whiting trawl fisheries to monitor maximized retention at sea.

The sampling priorities for WCGOP observers deployed to trawl vessels are to collect data that are used for total catch estimates of each groundfish species or species group over the entire fishing year, and to collect fishery dependent biological data that are otherwise not available on shore. The WCGOP sets coverage priorities for different fisheries and fleets that comprise the groundfish fishery. Observers are deployed on vessels in the active sampling unit, and vessels are selected at random for coverage. The target coverage level for a particular fishery or fleet is based on the WCGOP coverage plan, which is driven by total catch and bycatch data needs.

It is likely the Pacific whiting shoreside fishery would be given one of the lowest coverage priorities by the WCGOP when considering: 1) the data needs of the Pacific whiting fishery relative to needs for the entire groundfish fishery, 2) the limited number of observers, 3) data availability from other sectors of the Pacific whiting fishery, and 4) the availability of historical data. To require greater observer coverage would have a direct effect on the ability of the WCGOP to monitor other fisheries and to meet the Magnuson-Stevens Act mandates.

Having NMFS enforcement agents or enforcement officers monitor maximized retention at sea or to monitor weighing activities at shoreside processing facilities.

No funds have been appropriate for the development a catch monitoring program by NMFS OLE.

Having state funded maximized retention monitors at sea or for monitoring weighing activities at shoreside processing facilities.

None of the three states operating in this fishery have funds available for the development or ongoing support of a monitoring program for the Pacific whiting shoreside fishery. Resources available for catch monitoring are limited and can vary greatly between years. Basing future regulatory requirements on an unknown funding base could result in either the fishery being severely constrained or data and monitoring needs being unmet.

A maximized retention program with unmonitored fishing at sea or a maximized retention program with less than 100% of the hauls being monitored at sea.

To verify maximized retention of catch in the Pacific whiting shoreside whiting fishery, it is necessary for all vessels to be monitored from the time that the first haul is retrieved until the time that the catch is offloaded at the processing facility. The sampling scheme applied to the Pacific whiting shoreside fishery is a census, meaning that the total catch values are not derived from estimates or extrapolations, but from actual counts or weights of each species or species complex. NMFS determined that a level of 100% monitoring was the only monitoring level that was appropriate for accurately documenting compliance with maximized retention.

Because the catch of prohibited species and overfished species are rare and intermittent, any discarding at sea of these species would also be rare and intermittent. As only high levels of monitoring are appropriate for documenting such occurrences.

Vessel owned EMS equipment or EMS equipment from non-permitted service providers.

Having equipment that meets a specific performance standard is critical to the success of an EMS based monitoring program. At this time this is a relatively new monitoring tool for

fisheries managements and there are no Federal equipment or performance standards for EMS systems, nor has there been a type approval process developed for EMS systems. The development of either Federal standards or a type approval processes are timely and costly. In the absence of either Federal standards or a type approved process, and given the rapid change in technology, NMFS believes that permitting EMS providers will assure that the EMS equipment used to monitor the Pacific whiting fishery meets the needs of the fishery and fisheries management, while allowing new EMS providers to enter the fishery.

Permitting EMS service providers allows for better oversight of the businesses that handle confidential EMS data. Allowing EMS services to be provided without a permitting process may impair the ability to remove or sanction business who do not provide adequate service or who do not abide by the defined responsibilities.

APPENDIX-A

PACIFIC COAST GROUND FISH FISHERY EXEMPTED FISHING PERMIT (EFP)
AUTHORITY: Title 50, Code of Federal Regulations
Sections 600.745 and 660.406, and Subpart G of part 660

**MONITORING INCIDENTAL CATCH IN THE SHORE-BASED
PACIFIC WHITING FISHERY**

F/V Vessel name

PERMIT # 06-HAK-XX
Pacific Coast Groundfish
Limited Entry Permit # xx

The Administrator of the Northwest Region of the National Marine Fisheries Service (NMFS), acting on behalf of the Secretary of Commerce, hereby permits the fishing vessel **[insert vessel name]**, documentation number **[insert documentation number]**, to engage in the exempted harvest of Pacific Coast groundfish over which the United States exercises fishery management authority under the Magnuson-Stevens Fishery Conservation and Management Act, 16 United States Code 1801 et seq. (Magnuson-Stevens Act), and implementing groundfish regulations at 50 CFR Part 660, Subpart G and section 600.745, and under salmon regulations at 50 CFR 660.406. The exempted fishing must be conducted in accordance with the provisions of the Magnuson-Stevens Act and 50 CFR Parts 600 and 660, Subpart G except as provided in the attached terms and conditions incorporated herein.

This permit implements a cooperative state/Federal/industry observation program to monitor the bycatch of salmon and groundfish in the shore-based component of the Pacific whiting fishery. This permit is valid when signed by both the Regional Administrator and the authorized representative of the vessel owner (hereinafter referred to as the "EFP holder"). It expires 24 hours after notification by the Regional Administrator of termination of this permit, or when any of the provisions listed at E.2. are met, or on 11:59 p.m. PST December 31, 2006, whichever is earlier. It also may be terminated or modified earlier by regulatory action pursuant to 50 CFR Part 660, Subpart G, or revocation, suspension, or modification pursuant to 15 CFR Part 904, or successor regulations, or by the terms and conditions of this permit.

| | | | |
|---|----------------------|---|----------------------|
| _____ Signature D. Robert Lohn, Regional Administrator Northwest Region National Marine Fisheries Service | _____ Date Signed | _____ Signature XX , EFP holder. | _____ Date Signed |
|---|----------------------|---|----------------------|

By signing this document, the EFP holder agrees that the EFP holder, the vessel owner(s), all vessel operators, and crew members of the vessel will comply with the intent and the terms and conditions of this permit. Further, the EFP holder is responsible for seeing that conditions of this permit are understood by the vessel owner(s), the vessel operator(s) and vessel crew.

EFP Holder's Name/Address:
name, address, phone, fax XX

EXEMPTED FISHING PERMIT

MONITORING INCIDENTAL CATCH IN THE SHORE-BASED PACIFIC WHITING FISHERY

TERMS AND CONDITIONS

A. PURPOSE.

The purpose of this exempted fishing permit (EFP) is to evaluate a maximized retention and monitoring program in the shore-based Pacific whiting fishery off the coasts of Washington, Oregon, and California.

The objectives of this maximized retention and monitoring program are to allow efficient prosecution of the shore-based whiting fishery, track total catch in the shore-based whiting fishery, and minimize discard to the extent practicable. If these objectives can be achieved in an efficient and enforceable manner, this maximized retention and monitoring program may be transitioned into Federal regulations. If these objectives cannot be achieved in an efficient and enforceable manner, the shore-based whiting fishery may be required to operate under the Pacific Coast groundfish trip limit management system and sort all catch at sea.

B. BACKGROUND.

A maximized retention program would reduce discards in the Pacific Coast groundfish fishery by enabling the shore-based whiting fleet to land prohibited species as well as groundfish species taken in excess of cumulative trip limits. By allowing vessels to land unsorted catch at processing plants, a maximized retention program helps ensure quality whiting products by enabling catch to be placed in refrigerated seawater tanks immediately after capture. Additionally, a maximized retention and monitoring program will improve the ability of fishery management agencies to track the catch of whiting as well as the incidental catch, including prohibited species as defined in Federal regulation at 50 CFR 660.302 and 660.370(e) (i.e., Pacific salmon, Pacific halibut, and Dungeness crab) and overfished groundfish species (i.e., widow rockfish, darkblotched rockfish, canary rockfish, Pacific ocean perch) in the shore-based whiting fishery, thereby, helping to establish a standardized reporting methodology for this fishery.

Using this EFP to target any species other than whiting is contrary to the intent of this EFP. Use of this EFP to target species other than whiting may result in Federal fishery violations and early attainment of the 2006 optimum yields (OYs) for groundfish species other than whiting. Early OY attainment for groundfish species other than whiting could result in NMFS having to close the coastwide fishery and/or having to terminate the EFPs. If the EFP were terminated, the participants in the shore-based whiting fishery would be required to sort their catch at sea and operate under groundfish trip limit management.

C. SCOPE.

1. This permit applies to all fishing activities by the permitted vessel targeting on Pacific whiting during the effective dates of the permit. **In addition to all applicable terms and conditions in this document, the EFP holder is responsible for instructing all vessel**

operators and crew members concerning the terms and conditions of this permit.

2. This permit authorizes, for limited purposes as described in this permit, the following activities which would otherwise be prohibited by 50 CFR 660.306 (a)(2) and (6) and 50 CFR 660.405 (a)(1):
 - a. Retention, until offloading, of prohibited species (defined at §§660.302 and 660.370(e)) incidentally caught in a midwater trawl;
 - b. Retention, until offloading, of groundfish in excess of trip limits.
3. All other provisions of 50 CFR Part 660, Subpart G, including restrictions specified by or pursuant to 50 CFR 660.323, apply to fishing conducted under this permit.

D. PERMIT CONDITIONS.

1. This permit is valid only for a vessel participating under the States' observation program that is using legal midwater trawl gear to target Pacific whiting, as defined at D.3. during the primary season of the shore-based fishery.
2. All fishing trips by the permitted vessel targeting on Pacific whiting, as defined at D.3., during the effective dates must be conducted in accordance with this permit.
3. A fishing trip targeting on Pacific whiting is defined for the purposes of this permit as a fishing trip resulting in the landing of 10,000 pounds or more of Pacific whiting.
4. If a vessel lands less than 10,000 pounds of Pacific whiting from a fishing trip, then that trip will not be considered as "targeting on Pacific whiting," and therefore that trip will not be governed by this permit. Consequently, for that trip, the vessel must comply with all applicable trip limits and sorting requirements and all fish landed for such a trip will count toward any cumulative trip limits in effect.
5. All groundfish caught in excess of the trip limits set out in this EFP or otherwise implemented by Federal regulation, but required to be retained under this EFP, must be abandoned to the State of landing immediately upon offloading. No vessel can receive payment for any fish landed in excess of any cumulative trip limits in effect, whether those limits are specified in this EFP or in Federal regulation. For 2006, the following incidental groundfish cumulative limits are in effect with this EFP:
 - Lingcod: 600 lb per calendar month
 - Minor slope rockfish, including darkblotched rockfish: 1,000 lb per calendar month
 - Minor shelf, shortbelly, widow and yellowtail rockfish: In trips of at least 10,000 lb of whiting, combined widow and yellowtail limit of 500 lb per trip, with a cumulative widow rockfish limit of 1,500 lb per calendar month, and with a cumulative yellowtail rockfish limit of 2,000 lb per calendar month.
 - Pacific ocean perch: 600 lb per calendar month
 - Pacific cod: 600 lb per calendar month
 - Sablefish: 1,000 lb per calendar month

For all other groundfish species or species groups, the trip limits in Table 3 of 50 CFR Subpart G apply to this fishery. For species that do not have specific midwater trawl trip limits listed in Table 3, the “multiple bottom trawl gear” trip limits apply to vessels fishing under this EFP, even though the participating vessels are required to use midwater gear to participate in this fishery. A copy of the current version of Table 3 is attached to this EFP; Table 3 may be revised as early as July 1, 2006.

6. All prohibited species (defined at §660.302 and 660.370(e)) incidentally caught in a midwater trawl, and required to be retained under this EFP, must be abandoned to the State of landing immediately upon offloading.
7. Regulations governing participation in both the Pacific whiting primary season under this EFP and the bottom trawl groundfish fishery in the same cumulative limit period are found at 50 CFR 660.373(b)(3). During the groundfish cumulative limit periods both before and after the primary whiting season, vessels may use either small and/or large footrope gear, but are subject to the more restrictive trip limits for those entire cumulative limit periods. During the primary whiting season for a sector of the fishery, the limits in D.5., above, apply and are additive to the trip limits for other groundfish species for that fishing period.

E. EFFECTIVE DATES.

1. This permit is effective when signed by the NMFS Regional Administrator and the EFP holder. If the permit is signed by the NMFS Regional Administrator and the EFP holder on different dates, the effective date is the date of the EFP holder’s signature.
2. This permit is only valid while the vessel is participating in the 2006 Pacific whiting primary season for the shore-based sector, as announced Federal regulations at §660.373, unless terminated at an earlier date by one of the following actions:
 - a. At the request of the vessel owner, in which case the permit is terminated on the date requested and no further notification from the Regional Administrator or State is required. The vessel owner is responsible for advising the EFP holder of the termination of the permit.
 - b. At the request of the cooperating State, when the State observation program ends, or when the processing plant(s) designated in Appendix A are no longer included in the sampling program conducted by the State, in which case written notification from the State to the vessel owner is required and termination occurs 24 hours after delivery of the notification or any later time specified in the notification. The vessel owner is responsible for advising the EFP holder of the termination of the permit.
 - c. When the Regional Administrator determines it is necessary to issue amended permits containing additional restrictions, in which case termination occurs upon NMFS receipt of a signed amended permit, or seven days after the NMFS mailing date of the amended permit, whichever occurs first. The vessel owner is responsible for advising the EFP holder of the termination of the permit.
 - d. When the shore-based sector of the Pacific whiting fishery is closed because of

achievement of the allocation, commercial harvest guideline, or species' harvest guideline, in which case termination occurs concurrent with the closure, as announced in the Federal Register, in which case further written notification of the vessel owner is not required.

- e. When the shore-based sector of the Pacific whiting fishery is closed because a commercial whiting fishery bycatch limit has been reached, as announced in the Federal Register, in which case further written notification of the vessel owner is not required.
 - f. When the closure of the shore-based sector of the Pacific whiting fishery is announced in the Federal Register.
3. A copy of this EFP must be carried on board the vessel while EFP fishing and whenever fish caught while fishing under the EFP are onboard the vessel.

F. FISHING RESTRICTIONS.

1. Maximized Retention. All catch, with the exception of unavoidable discards (see paragraph 2.b. below), must be brought onboard the vessel and retained until offloading.
2. Discard. For the purpose of this EFP, discard is defined as any marine organism, such as any groundfish species (including whiting), prohibited species, marine mammals, seabirds, and sea turtles, captured as a result of fishing activity and returned to the sea. **When fishing under this EFP, efforts must be made to minimize discard.** Only certain types of discard, as described below, are authorized under this EFP.
 - a. Size: Large individual marine organisms, such as marine mammals, seabirds, or fish species longer than 6 ft in length, may be discarded. If a large individual marine organism is discarded, the species and reason for discarding must be recorded and labeled "discard" in the logbook required by the State of landing.
 - b. Unavoidable Discard: Unavoidable discard, or discard that results from such things as hazardous weather conditions, unusual codend condition, school density, and net cleaning, must be minimized to the extent practicable. If unavoidable discard occurs, an estimate of the total discard amount for each species, to the extent possible, location of the tow, and reason for discarding must be recorded, and labeled "discard" in the logbook required by the State of landing.
 - c. Avoidable Discard: Avoidable discard, or discard that results from such events as malfunctioning net sensors and/or catching more fish than is necessary to fill the hold, must be minimized to the extent practicable. Vessels will be required to take whatever gear-related steps are necessary (e.g., shortening the codend, operational net sensors) to avoid discard by preventing overfilling of the net and/or hold.
2. Disposition of salmon. Salmon caught under this permit must be retained and abandoned to the State of landing immediately upon offloading.
3. Groundfish trip limits.

- a. Groundfish trip limits will apply to vessels operating under this permit, except that overages in trip limits will not be in violation of 50 CFR 660.306 (a)(6) so long as such overage is surrendered to the State of landing.
 - b. The Regional Administrator may place limits on the overages of groundfish trip limits during the course of the exempted fishery. If such restrictions are necessary, the Regional Administrator will terminate this permit and issue an amended permit containing the additional restrictions on groundfish trip limits as determined necessary by NMFS in consultation with the states.
4. Fishing shoreward of latitude and longitude coordinates approximating the 100-fathom contour
- a. In the Eureka area: This permit **does not** authorize a vessel to take and retain more than 10,000 pounds of Pacific whiting per trip shoreward of latitude and longitude coordinates approximating the 100-fathom contour in the Eureka area (43°00' N. lat. - 40°30' N. lat.).
 - b. Coastwide: If NMFS projects the catch of Chinook salmon in the Pacific whiting fishery to exceed the 11,000 fish, a Salmon Conservation Zone, wherein all fishing for whiting would be prohibited, will be established until the EFP is terminated. NMFS will officially announce the effective date of the Salmon Conservation Zone by email (wcgroundfish@noaa.gov), facsimile and/or email to the state representatives identified in section I.1. of this permit, and/or a Notice to Mariners. Written notice will also be provided to all EFP holders. The Salmon Conservation Zone is defined as: All waters shoreward of a boundary line approximating the 100-fm (183- m) depth contour. Latitude and longitude coordinates defining the boundary line approximating the 100-fm (183-m) depth contour are provided at § 660.393(a).

G. GEAR RESTRICTIONS.

1. Only legal midwater trawl gear described at §660.381 may be used for fishing under this EFP.

H. OBSERVER AND OTHER MONITORING REQUIREMENTS.

1. At-sea observations. If requested, a vessel must carry a state-sponsored sampler or Federal observer to collect data that can be used to evaluate data collected by the EM system identified under H.3. Any state sampler must be approved by NMFS before at-sea deployment. Regulations at 50 CFR 660.306 and 50 CFR 660.314 regarding vessel responsibilities and prohibitions apply to both state samplers and Federal observers.
2. Federal observer coverage requirements at 50 CFR 660.360 and 50 CFR 660.314 are independent of state sampler requirements. Vessels that carry a state-sponsored sampler may also be required to carry a NMFS observer. A state sampler is not a substitute for a Federal observer and a vessel carrying a state sampler is not exempt from Federal observer requirements.
3. Electronic Monitoring (EM) Equipment A vessel fishing under this EFP will be required to

carry electronic monitoring equipment to monitor for at-sea discarding of catch, unless the requirement is specifically waived by NMFS.

- a. A vessel intending to fish under this EFP must schedule a time with the NMFS-specified EM provider for installation of the system. The installation must be scheduled before the vessel leaves port on the next EFP fishing trip. If an EM system is not installed before the next EFP fishing trip, the permit is invalid. However, on a trip-by-trip basis NMFS may choose to waive the requirement for installation if the equipment cannot be installed within 12 hours of the scheduled time.
- b. As necessary, the vessel operator must schedule maintenance of EM equipment and data removal by the NMFS-specified EM provider by scheduling an appointment. If the vessel operator does not schedule these services, it will be a violation of the terms and conditions of this permit.
- c. While EM equipment is aboard the vessel, the system must not be interfered with, damaged, or the power source turned off. If the EM system is interfered with, damaged, or the power source turned off, it will be a violation of the terms and conditions of this permit and the permit.
- d. Vessel operator must regularly check status lights located on the EM system control box to confirm that the EM system is functioning properly. If status lights indicate an EM system malfunction, the vessel must contact the NMFS specified EM provider immediately. For 2005, the NMFS specified EM provider is Archipelago Marine Research Ltd. Contacts: Project manager - Howard McElderry (1-800-663-7152).
- e. At the end of the shore-based whiting primary season or termination of the EFP, the EFP holder must schedule removal of the EM system with the NMFS specified EM provider.

I. NOTIFICATION REQUIREMENTS.

1. If requested, the EFP holder must provide departure and arrival notification to the State or observer program coordinator including reasonable notice of unexpected changes in fishing plans, to allow installation and maintenance of electronic video monitoring equipment, and for deployment of at-sea observers, if any. State coordinators are:

California: Mike Fukushima, California Dept. of Fish and Game, 707- 441-5797.

Oregon: Mark Saelens, Oregon Dept. of Fish and Wildlife, 541-867-0300

Washington: Brian Culver, Wash. Dept. of Fish and Wildlife, 360-249-4628

2. For landings in California, the vessel operator must notify CDFG at least 12 hours before departing port to commence fishing under this permit.

J. REPORTING REQUIREMENTS. It is unlawful to fail to report catches as required while fishing pursuant to an exempted fishing permit (50 CFR 600.725(l)). Failure to maintain the required documents may result in a vessel's inability to obtain a future permit.

1. Trawl Logs. Trawl logbooks must be maintained by the vessel operator as required by the applicable state law. "Exempted Fishing Trip" (or "EFP") must be written in the log for each trip conducted under this permit.

- a. Estimated weight (in pounds) of all species, including, but not limited to, whiting, other groundfish, salmon, Pacific halibut, and Dungeness crab, observed in each tow must be recorded in the logbook.
 - b. If discard occurs, an estimate of the total discard amount for each species, to the extent possible, location of the tow, and reason for discarding must be recorded and labeled "discard" in the logbook, on the line associated with that tow, as required by the State of landing.
 - c. If discard occurs as a result of gear malfunction, a description of the event must be recorded in the logbook and labeled "gear malfunction" in the logbook, on the line associated with that tow.
2. Other Reports. This permit does not relieve any person from any other state or Federal reporting requirements.
 3. Public Release of Information. The fishing activities carried out under this permit, which are otherwise prohibited, are for the purpose of collecting information. The vessel owner, operator, and EFP holder agree to the public release of any and all information obtained as a result of activities conducted under this permit, including EM provider access to logbooks to record information during periodic EM maintenance and service.

K. LANDINGS.

1. All landings must be at processing plants that are listed in the Designated Processor List (DPL) in Appendix A to this EFP. Vessel owners with vessels that participate in both the April 1 shore-based whiting fishery opening (south of 42° N. lat.) and the June 15 fishery opening (coastwide, including north of 42° N. lat.) must ensure that they get an updated DPL prior to June 15, 2006 in order to participate in that coastwide fishery opening.
 - a. The DPL in Appendix A may be revised, after consultation between NMFS and the State observation program coordinator. The observation program coordinators for each state are as follows:

In California: Mike Fukushima, California Dept. of Fish and Game, 707- 441-5797.
In Oregon: Mark Saelens, Oregon Dept. of Fish and Wildlife, 541-867-0300
In Washington: Brian Culver, Washington Dept. of Fish and Wildlife, 360-249-4628
2. All fish caught during an exempted fishing trip must be offloaded at only one designated processing plant (i.e. the offloading of catch from one trip cannot be split between processing plants). Once offloading has begun at a designated processing plant, all fish onboard the vessel must be offloaded at that plant.

L. SANCTIONS.

Failure of the vessel owner, operator, EFP holder, or any person to comply with the terms and conditions of this permit, a notice issued under 50 CFR Part 660, Subpart G, any other applicable provision of 50 CFR Parts 600 and 660 Subpart G, the Magnuson-Stevens Act, or any other regulations promulgated thereunder, may be grounds for revocation, suspension, or modification

of this permit as well as civil or criminal penalties under the Magnuson-Stevens Act with respect to all persons and vessels conducting activities under the EFP (50 CFR 600.745(b)(8)).

M. WAIVER.

The EFP holder on his/her own behalf, and on behalf of all persons conducting activities authorized by the permit under his/her direction, waives any and all claims against the United States or the State, and its agents and employees, for any liability whatsoever for personal injury, death, or damage to property directly or indirectly due to activities under this permit.

APPENDIX A

EXEMPTED FISHING PERMIT
MONITORING INCIDENTAL CATCH IN THE PACIFIC WHITING FISHERY

Vessel Name: xx

EFP#: 06-HAK-xx

1. Designated processor(s):

2. Changes to this appendix:

| Item Changed | Date Approved | Authorizing Official | |
|--------------|---------------|----------------------|--------|
| | | Name | Agency |