

Donna Parker. Arctic Storm Management Group.

Council Testimony. April 12, 2010

Agenda Item I.1.b Trawl Rationalization

**Deeming of Amendment 20 & 21 Regulations**

**1) NMFS request for Clarification on Deadline for Co-op Declarations. Issue #7.**

Section B-2.4.1 Formation and Modification of Processor Tie Obligations which describes the Council action from the Council Preferred Trawl Rationalization Programs reads as follows:

***“By September 1 of the year prior to implementation and every year thereafter, each CV(MS) permit is required to contact NMFS and indicate whether CV(MS) permit will be participating in the co-op or non-co-op fishery in the following year. If participating in the co-op fishery, then CV(MS) permit must also provide the name of the MS permit that CV(MS) will be linked to in the following year (i.e., annual catcher vessel, mothership linkage that may be changed each year without requirement to go into the non-coop fishery.) Once established, the catcher vessel, mothership linkage shall remain in place until changed by CV(MS) permit. By July 1 of the year prior to implementation and every year thereafter, if CV permit would be participating in the co-op fishery in the following year, then CV permit must notify the MS permit that the CV permit QP will be linked to in the following year.”***

**The purpose of this action was to replace catcher vessel and processor linkage. The dates chosen were central to the issue rather than a paperwork filing deadline.**

**2) MS/CV Severability and Coop participation:**

*Issue #4. NMFS Interpretation of Council Intent and. Issue #9 Endorsements.*

*Initial Issuance Rule MS Coop Program. Page 120. 660.150 (1)General and (iii) Non-severable .*

The severability and transferability of catch history from a MS/CV endorsement and MS coop needs clarification because some of the language the description of these issues seems confusing. **We support the WDF&W Supplemental Report on this agenda Item in your briefing book. It does an excellent job of sorting out this issue and clarifying the intent.**

The Initial Issuance Rule at (1) on page 120 read: *“(1) General. After January 1, 2011, any vessel that delivers whiting to a mothership processor in the Pacific whiting fishery mothership sector must be registered to a MS/CV endorsed permit, except that a vessel registered to a limited entry trawl permit without a MS/CV or C/P endorsement may fish in a coop with permission of a coop. Within the MS Coop Program, a MS/CV endorsed permit may participate in a MS coop or in the non-coop fishery.”* and at *“(iii) Non-severable. The MS/CV endorsement and its catch history*

*assignment are not severable from the limited entry trawl permit. A MS/CV endorsement and its catch history assignment are permanently affixed to the original qualifying limited entry permit, and cannot be transferred separately from the original qualifying limited entry permit.*

**This is a critical issue that, because of its complexity, would benefit from Council clarification at this meeting.**

**Clarification of MS/CV Severability and Coop Participation Rules**

- 1) A MS/CV endorsement is not severable from its LE permit.
- 2) However, MS/CV *catch history* is severable from the endorsement.
- 3) MS/CV shoreside sector catch history can be transferred for ownership to a CV(SS) LE permit without a MS/CV endorsement.
- 4) MS/CV mothership sector catch history can be transferred for ownership to a LE Permit with a MS/CV endorsement.
- 5) If MS/CV mothership catch history is transferred for ownership to a L.E. permit without a MS/CV endorsement, the MS/CV endorsement and permit would have to be transferred with the catch history.
- 6) Only MS/CV endorsed permit holders can be party to a MS sector coop.
- 7) Only MS/CV endorsed permit holders can participate in the MS sector non-coop fishery.
- 8) MS/CV catch history can be leased to any west coast LE Permit holder as long as the harvester agrees to abide by the processor obligations and terms and conditions of the coop to which the catch history is assigned even though it is not a member of the coop.

**The intent language drafted by WDF&W in its supplemental report on Agenda Item 1.1.b. clarifies these issues.**

**3) Sector Specific Rationalization Programs.**

**During its development of Amendment 20, the Council deliberated at length whether the Amendment 20 action should be a single trawl rationalization program or three or four programs. It was decided that the character and trails of the sectors was significantly different and would require the development of three separate programs. Specifically, the Council has a long and detailed record that the rationalization program be sector specific. This is discussed on page 28 of Appendix A to the Amendment 20 EIS and in much more detail in TIQ documents.**

**The Council should express its intent in this regard.**

- 4) **At-Sea Observers/ Monitoring** . We strongly support the purpose and goals of these rationalization programs including accurate catch accounting which we believe can be achieved without observers placed on MS/CV.

Current groundfish regulations at 660,306(i)(2) prohibit interfering with or biasing the sampling employed by an observer aboard the MS. This language was intended to include the dumping of catch at sea by mothership catcher vessels. In addition, a prohibition was added to the Maximized Retention Rule that prohibits the sorting and discarding of any portion of the catch taken by a catcher vessel in the mothership sector prior to the catch being received on a mothership, and prior to the MS observer being provided access to the unsorted catch, with the exception of minor amounts of catch that are lost when the cod end is separated from the net and prepared for transfer.

Council action has not directed the agency to implement an observer coverage requirement aboard MS catcher vessels. Specifically, Council action on this issue has included the following language as included in the Council Preferred Trawl Rationalization Alternative.

D.5.1 At-sea whiting sector management under coop.: (page 26: *“Given the high level of monitoring already in place in the whiting fishery, only moderate changes in monitoring are needed to implement this program for the at sea whiting fishery. For the at-sea segment of the fishery, 100 percent coverage aboard mothership and catcher processors will continue.”*

B-1.4 At-sea Whiting Fishery: (page 30) *“100 percent observer coverage aboard mothership and catcher processors will continue. Observers would be required in addition to or as a replacement for video monitoring. For some coverage, cameras may be used in place of observers (feasibility to be determined). It is the Council intent to provide NMFS flexibility sufficient to design and implementation a tracking and monitoring program that will achieve the goals and objectives of the trawl rationalization program.”*

DRAFT Proposed Regulations. Initial Issuance Rule. Trawl Fishery – Observer Requirements (page 85-89).

Page 85: **Catcher Vessels.** *When NMFS notifies the owner, operator, permit holder, or manager of a catcher vessel, specified 660.16 © of any requirement to carry an observer, the catcher vessel may not be used to fish for groundfish without carrying an observer.”*

In its description of observer coverage at 660-116 (2) (d) vessel responsibilities, an operator of a vessel required to carry one or more observers must provide; Page 85 of the proposed Initial Issuance Rule:

A long list follows for three pages including hardware and software most catcher vessels do not carry, requirements for an observer sampling station including minimum space to sort catch and observer flow scales to weigh fish that are prohibited from coming aboard an at-sea catcher vessel by the Maximized

Retention Rule for MS/CV which requires a CV to transfer its codend directly from the water to the Mothership.

Regulations on Page 83 of Initial Issuance Rule as currently drafted are also in conflict with proposed observer coverage aboard MS/CV. : "Prohibitions: (7) Sort or discard any portion of the catch taken by a catcher vessel in the mothership sector prior to the catch being received on a mothership, and prior to the observer being provided access to the unsorted catch, with the exception of minor amounts of catch that are lost when the codend is separated from the net and prepared for transfer."

**Observer Monitoring aboard a Mothership Catcher Vessel should reconcile contradictory regulations and provide for the flexibility to require the use of cameras or observers aboard catcher vessels.**

- With the exception of some language on "flexibility" and "moderate changes" in the use of cameras and observers, the Council action describes only 100 percent observer coverage aboard motherships, catcher-processors and vessels that sort at sea in the at-sea whiting coop fisheries.
- The draft initial issuance regulations in NMFS Report #6 that address at-sea observer regulations for motherships, catcher-processors and whiting vessels that sort at sea do not translate for use aboard catcher vessels. Observer duties to sort, sample and weigh catch are in conflict with the maximized retention regulations that require transfer of a codend to a mothership. Observers cannot sort, sample and weigh fish that are prohibited from coming aboard a MS catcher vessel.
- Observers are highly trained technicians requiring a four-year BS college degree. They are not enforcement officers. Observers aboard a MS/CV cannot do the sampling, sorting and weighing job they were trained for and are required to do. Cameras aboard a MC/CV catcher vessel can best confirm logbook recorded estimates of a minor loss of fish when the codend is separated and transferred to the mothership. Cameras can also easily record illegal dumping of fish at sea.
- **At a minimum, the proposed NMFS regulations should reconcile contradictory regulations.**
- **To best accommodate the Council intent for "moderate changes" and "flexibility" in the design of a monitoring program as reflected in the above described language, the regulations should allow the agency flexibility to require the use either cameras or observers aboard catcher vessels. Regulations should be drafted for both options.**