

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 **XXXXXX**, 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 current trip limits, 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. Consistent with §660.373(b)(3), 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.
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. When the vessel is targeting Pacific whiting and fishing under this permit as well as participating in the Pacific Coast groundfish fishery and not fishing under this permit

during a single cumulative limit period, groundfish caught will count against a vessel's cumulative trip limits for those species.

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 shall 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 (westcoastgroundfish@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.S. 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); Field services – XXX
- 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: Steve Parker, 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 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: Steve Parker, 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 commenced 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):

xx[EXAMPLE:]
Eureka Fisheries, Inc.
P.O. Box 217
Field's Landing, CA 95537
attn: Tom Devere

ph: (707) 463-1673
fx: (707) 463-7952

2. Changes to this appendix:

<u>Item Changed</u>	<u>Date Approved</u>	<u>Name</u>	<u>Agency</u>
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Authorizing Official