

**NMFS Report 1: Discard Species List Changes
Prepared by NMFS West Coast Regional Office
PFMC Meeting, November 14-20, 2017**

NMFS provides this report to support the Council’s final action on electronic monitoring (EM) regulations for groundfish bottom trawl and non-whiting midwater trawl vessels. Among the issues that the Council will decide at this meeting is how to implement changes to the list of species that may be discarded by EM vessels. This report outlines regulatory options NMFS developed for the Council’s consideration based on the Council’s request at the April 2017 meeting. NMFS previously provided this information in a supplemental report for the September 2017 meeting, but the Council was not able to discuss it at that time because the issue had not been listed on the September meeting agenda.

Changes to the List of Discard Species

At the April 2017 meeting, the Council requested that NMFS identify a process for changes to the list of species that can be discarded by EM vessels that would not require rulemaking. The Council stipulated that the process include an opportunity for the Council to consider any adjustments prior to finalization of any changes. NMFS agrees that consideration of any changes to the discard species list must involve a public process, whether through rulemaking or notice and discussion by the Council. Therefore, NMFS developed the following options for consideration by the Council.

Option 1

Option 1 is the “status quo” option in the draft regulations reviewed by the Council at their April 2017 meeting. This language makes changes to the discard species a “routine action,” which would involve a single Council meeting followed by a proposed and final rulemaking, with the possibility of just a final rule if there is good cause to waive the notice requirement of a proposed rule.

“(q) *Changes to retention requirements.* Retention requirements have been designated as “routine,” which means that they can be changed after a single Council meeting following the procedures described at § 660.60(c).”

Option 2

Option 2 was developed by NMFS to address the Council’s request. This option would allow NMFS to make changes to retention requirements within individual Vessel Monitoring Plans (VMPs) after consultation with the Council. In addition, this option provides notice to the public through the Council process of what standard NMFS would use to evaluate any proposed changes to retention requirements – “...must be sufficient to provide NMFS with the best available information to determine individual accountability for catch, including discards, of IFQ species, and compliance...” This is the same standard NMFS proposed to apply to evaluating levels of video review, EM units and software, and other flexible provisions of the EM program, and that the Council deemed in April 2016.

“(q) *Changes to retention requirements.* NMFS may specify alternate retention requirements in a NMFS-accepted VMP through the process described at § 660.604(f), after consultation with the Council and issuance of a public notice notifying the public of the changes. Alternate retention requirements must be sufficient to provide NMFS with the best available information to determine individual accountability for catch, including discards, of IFQ species and compliance with requirements of the Shorebased IFQ Program (§ 660.140) and MS Coop Program (§ 660.150).”