

ENFORCEMENT CONSULTANTS REPORT ON ELECTRONIC MONITORING—FINAL
PACIFIC HALIBUT DISCARD MORTALITY RATES, DISCARD SPECIES LISTS, AND
THIRD-PARTY REVIEW

The Enforcement Consultants (EC) were briefed by National Oceanic and Atmospheric Association's (NOAA's) Acting Branch Chief, Melissa Hooper, on Supplemental NMFS Report 2: Final Action on Electronic Monitoring Regulations for Groundfish Bottom Trawl and Non-Whiting Midwater Trawl Vessels, and has the following comments.

The EC cautions that the trend of widespread and increasing unauthorized discards by whiting vessels with Maximized retention, as illustrated in TABLE 1 has the potential to undermine the bycatch accounting objectives of the electronic monitoring (EM) program. The trend is comparable to how the EM program in the Pacific whiting fishery started in 2004. Compliance was initially high and then came into question in 2007 when a vessel turned off its EM and approximately 3 tons of undocumented Widow Rockfish bycatch was discarded, but was only discovered when many of the fish washed up on Long Beach, Washington, as the EC presented to the Council soon after the event.

During 2008-2009, the EC recalls regulations were put in place to allow the fleet a two basket discard, equivalent to 50 pounds. Even then, high volumes of discard occurred for reasons described as "safety concerns" which instead are believed to have consisted of topping off the hold and dumping the remaining fish. 18 cases were sent to NOAA General Counsel (GC), but the aforementioned "safety concerns" prevented GC from prosecuting the cases. This behavior by the fleet ultimately lead the Council to reject cameras and instead require 100 percent human observer coverage in the Trawl Rationalization program.

The EC recognizes that the difference under the current discard incidents is that a camera was not turned off and the discards were documented with an estimated volume. We also recognize that individual vessel accounts were deducted. The concern the EC has is the obvious increase in pounds discarded when the current exempted fishing permit terms clearly prohibit any discards.

The EC has significant concerns regarding the trend demonstrated in TABLE 1 as it pertains to regulations for proper catch accounting. We understand that having the discards accounted for is positive, however no one really knows the species composition within these discards. Per Table 1, 22 of 24 vessels have made substantial unauthorized discards, indicating an apparent 92 percent non-compliance rate. On average, those 22 vessels made over 4 discards each with a total discard of over 159,000 pounds. That is the average. For many of those vessels it was a one-time event, but for some there were many more discards with much higher amounts.

The industry, Council, and management agencies have worked long and hard to create a viable EM alternative to the 100 percent human observer requirement. As we enter into this final phase of implementation, let us not erode the success steps we have already achieved. The EC strongly urges the Council to maintain the maximum retention requirement for the whiting fishery as currently constructed to ensure proper catch accounting of all species under EM.