



Phil Anderson, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220-1384

RE: Agenda Item E.5. Groundfish Inseason - Request for Whiting EM EFP Amendments for 2018

Dear Chair Anderson & Council Members:

These comments are presented on behalf of Midwater Trawlers Cooperative (MTC). MTC represents 28 trawl catcher vessels. MTC is a cosponsor of the whiting electronic monitoring (EM) EFP and there is a total of 24 vessels using EM in the 2018 whiting fishery. The industry has worked closely with National Marine Fisheries Service (NMFS) over the last several years to design and implement a successful EM system for the whiting fishery. I appreciate the efforts that NMFS has made to create and support EM development on the west coast. To continue that success, the whiting industry is requesting changes to the EM EFP to more accurately match-up with how the whiting fishery operates.

I am writing to ask the Council to make two recommendations to National Marine Fisheries Service (NMFS):

- 1. Amend the current 2018 EFPs to allow additional limited discards on camera that increase efficiency but do not undermine the catch accounting or personal accountability components of the catch share program**
- 2. Delay publishing the final rule that implements the Whiting EM regulations until discard rules can be better defined and until the 3rd party review issue is resolved**

Amend the Current EFP to Allow Additional Discards

We are requesting that the Council recommend to NMFS that the current EFP be amended to include some of the discards that are allowed when the vessel is carrying a human observer (still a maximized retention fishery). It will increase vessel efficiency and decrease costs. In order to maintain the personal accountability and catch accounting components of the catch share program, we are recommending the following (which is more restrictive than what can be done with a human observer) in addition to the currently allowed discards:

- Allow a vessel to discard up to 35,000 pounds of whiting as a “working” discard per trip – this is extra fish that is caught when a vessel is attempting to fill the boat, but which does not all fit into the hold
- Whiting must be discarded through a designated chute and on camera
- All discards must be recorded in the logbook
- In order to get a species composition of fish being discarded:
 - Alternative 1: Shoreside Catch Monitor compiles species composition on the fish in the hold and extrapolates it out to the discarded fish

- Alternative 2: Crew samples discarded fish the same way a human observer would (basket sample)
- Alternative 3: Crew sorts prohibited species while the whiting is being discarded
 - Crew retains prohibited fish for Shoreside Catch Monitor to account for
 - Crew accounts of prohibited fish and discards along with whiting

Fishermen are reporting that they are able to control the discard speed to allow for the sorting of prohibited species from the discard. On May 30th I submitted a request to Pacific States for specific video from the 2017 season where the fisherman has noted he slowed down the discard speed in order to sort prohibited species – I plan to show this video at the Council meeting in order to demonstrate the assertion that the crew is able to control the discard speed.

Justification for Amendments

The reason we are asking for these changes is to maximize efficiency and reduce costs. A vessel may take anywhere from 1 to 3 hauls to fill up the boat, depending on the size of the hold. If a vessel’s hold is 60% full after the first haul and they set-back to fill the hold (as most good fishermen do), the current EFP rules define that activity as “topping off”. The EFP further dictates that if a vessel is topping off and the fish caught on that second haul does not all fit into the hold, it cannot be discarded and must still be retained as a deck load. This is problematic for several reasons:

- Deck loads can pose serious safety concerns- especially crossing river bars
- Deck loads result in terrible quality (Pacific whiting flesh begins to break down quickly due to an enzyme in the fish, that is why whiting must be deposited into the Refrigerated Sea Water tanks as quickly as possible)
- Seafood processing plants do not want whiting deck loads and they pay less (or nothing) for them
- In some cases, vessels are penalized for bringing in deck loads
- In some cases, vessels are required to offload deck loads at separate locations resulting in lost time

If a vessel wants to avoid a deck load, then he may not set-back. This results in vessels having to come ashore with less than a full hold. This too is undesirable, especially if the plant is expecting a certain amount of fish. Requiring a boat to come to shore with less than a full hold is inefficient and costs the crew additional time and money. Not to mention, it increases the overall carbon footprint of the vessel – having to make more trips in order to catch their quota utilizing more fuel in the process. This may also increase interactions with species of concern – the vessel could leave good, clean fishing grounds in order to deliver and when they return to the grounds conditions could change.

Background

In order to understand the genesis of these requested changes, some background is warranted. Last November NMFS raised concerns about an increase in discards in the 2017 whiting fishery compared with

discards in the 2015 & 2016 seasons. Between the November and March meetings, I explored with the impacted industry the reason for the increase in discards and I also met with both Melissa Hooper from the Sustainable Fisheries Division and Dayna Matthews from Office of Law Enforcement. Brent Paine from United Catcher Boats (a cosponsor with MTC on the EM EFP) joined me in Seattle at both of these meetings last February.

At the March meeting the Council heard a status update from NMFS on the increased discarding that had occurred in the whiting EM EFP during the 2017 season. In Supplemental NMFS Report 4 https://www.pcouncil.org/wp-content/uploads/2018/03/H1a_Sup_NMFS_Rpt4_EM_EFP_Mar2018BB.pdf NMFS notes “NMFS and PSMFC will be working on updating review protocols with more specific discard definitions in preparation for the start of the 2018 whiting season.” Additional steps outlined in the report that NMFS and the industry had agreed too included:

- More comprehensive, frequent feedback with captains and vessel owners following video review
- Incorporate EFP sponsors in the feedback loop
- Mandatory training webinar for captains and vessel owners before the state of the next whiting season

As I testified to the Council in March, at the meetings in February we discussed the failure in communications between all parties regarding the discards. We discussed how the industry had recorded all discards in their logbooks and that they all occurred on camera- that the industry was not attempting to hide any activity. We acknowledged the sensitivity around potential salmon and rockfish bycatch that needed to be accounted for. We also discussed how we could work to better define what discards are and are not allowed in the EFP for the 2018 season. I reported to the Council that until the discard definitions could be refined I would recommend to boats that they do not top off. I left the March meeting with an understanding that I would be working with NMFS to amend the EFP to better match the realities of whiting fishing – to allow normal discards in the whiting fishery that would take place on camera, that were recorded in the logbook and that did not undermine either the catch accounting or personal accountability components of the catch share program. I believed that this was the intention of NMFS as well.

I reached out to NMFS repeatedly as the weeks passed and the season approached. Unfortunately, there was no continued dialog with NMFS, even though I kept asking to have the conversation that we had planned for leaving the March Council meeting. Again, these conversations were supposed to include refined discard definitions, a process for providing more comprehensive feedback to captains and the EFP sponsors and the mandatory pre-season meeting agenda. Finally, two weeks before the season started I asked NMFS to please set the mandatory pre-season meeting (which had not been scheduled). The meeting was set for May 11th, which was four days before the season started. At that time, we learned that NMFS was not going to make any changes to the EFP for the 2018 season. This is the opposite of what we had expected. Also, nothing was shared on incorporating the EFP sponsors into the feedback loop or what the process was for PSMFC to provide more comprehensive and frequent feedback to each captain after each trip. As of May 30th, two

weeks into the season, captains are reporting very little feedback has been received. In the majority of cases, captains are reporting no feedback has been received at all to-date.

Complicating the uncertainty in the fleet, OLE reported in March that they had opened investigations into the EM-related activities of 14 whiting vessels. As of May 30th, none of the vessels being investigated have received anything one way or another regarding potential violations.

The information received at the mandatory meeting combined with the uncertainty about pending NOVA's left the fleet scrambling – If the season start wasn't only a few days away, many would have decided to take human observers instead of EM.

The NMFS Observer Manual reports that over 98% of what hake fishermen catch is hake with very little bycatch. Captains and crew have done a terrific job of estimating and recording discards – the data from each year shows that the video reviewers and captains are very close in their estimations. Allowing vessels limited working discards as described above will increase efficiencies and decrease costs without undermining the catch accounting and personal accountability components of the program. We strongly recommend that the Council recommend to NMFS that this additional allowance be made in the 2018 EFP provisions.

Delay Publishing the Final Rule to Implement Whiting EM Regulations

Rushing to implement federal regulations that encourage inefficiency and that are not reflective of how the whiting fishery actually operates seems problematic. What is the rush? The fishery is operating under an EFP and can continue to do so until the regulations are more reflective of the fishery and support a rational operational approach. We would rather see a delay in the implementation of the regulations than a rush to get them in. Allowing the EFP to run with the changes suggested above would provide more information to help inform the regulations. While we realize that NMFS is anxious to get the final rule published, we believe it makes more sense to get the rule right, not implementing something that might need to be changed in the near future. Changes to regulations have proven challenging in the recent past. Lastly, the industry has strong concerns about the 3rd party review options and while we did not present comments on the proposed rule on this issue (because we weren't fully aware of the problems) – we do see a delay in publishing the rule as necessary in order to ensure the regulations regarding 3rd party review is workable.

Thank you for your consideration of these recommendations. We believe they are critical to ensuring a successful EM program for whiting. We look forward to continuing to comanage this very important fishery and we very much appreciate the Council and NMFS and their dedication to implementing and sustaining a successful EM program for Pacific whiting.

Sincerely,
Heather Mann
Midwater Trawlers Cooperative