

SCOPING WHITING FISHERY UTILIZATION ISSUES, INCLUDING  
DRAFT PURPOSE AND NEED AND A RANGE OF ALTERNATIVES

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# Contents

Contents .....	1
I. Overview .....	2
II. Draft Purpose and Need Statement .....	2
Assessment of Purpose and Need.....	3
Under Attainment .....	3
Economic Rationale.....	5
Catcher Vessel Harvest Opportunities.....	12
Eastern Bering Sea Walleye Pollock Interactions .....	14
Potential Regulatory Barriers .....	19
Evaluation of the Draft Purpose and Need Statement.....	23
III. Preliminary Scoping of Options.....	24
Start Date.....	24
Background.....	24
Biological Impacts .....	25
Other Considerations .....	32
Obligation Deadline .....	38
Background.....	38
Other Options for the Council to Consider.....	39
MS Processor Cap .....	39
Background.....	39
Discussion.....	40
Other Options for the Council to Consider.....	40
Permit Transfer.....	41
Background.....	41
Interactions with Other Options .....	42
Other Options for the Council to Consider.....	42
III. List of Preparers.....	43

## I. Overview

In November 2019, the Council directed the Groundfish Advisory Subpanel (GAP) to develop the scope of action and draft purpose and need (P&N) statement for the mothership (MS) sector utilization item during the GAP's March and April 2020 meetings. At its April 2020 meeting, the Council requested the GAP submit an informational report on these items for June. In September 2020, the Council adopted a [purpose and need statement for public review](#) and will continue to scope the following issues:

1. Primary whiting season start date (which could apply to other whiting sectors),
2. Processor obligation deadline,
3. MS processor cap, and
4. MS/Catcher-Processor (CP) permit transfers.

The Council delayed further consideration of at-sea processing south of 42° N. lat. due to the potential impact on salmonids and other managed species but may consider an exempted fishing permit (EFP) as part of the 2023-2024 biennial management measure process.

Council staff provide this scoping document to analyze the industry-developed purpose and need statement and supporting options forwarded by the Council in September 2020 for public review. In addition, staff provide a revised purpose and need statement as well as other options to consider.

## II. Draft Purpose and Need Statement

The following P&N was developed by the fishing industry and adopted for public review by the Council in September 2020:

“This action is needed because the mothership (MS) sector of the Pacific whiting fishery has experienced lower average attainment than the other non-tribal whiting sectors since the start of the trawl catch share program, particularly since 2017, leading to social and economic losses for participants. The Council's five-year review of the Trawl Rationalization Program confirmed that mothership sector participants were not realizing the same economic gains as their counterparts in the shoreside and catcher processor whiting sectors. During the last five seasons, more than 350 million pounds of whiting worth more than \$28 million in ex-vessel revenue has been left unharvested in the mothership sector. Some catcher vessels have been unable to harvest and deliver their full MS sector allocations and, in certain cases, catcher vessels have been stranded without a mothership processor to deliver to for a season or year. Many MS whiting sector participants, including all six MS processor vessels and several MS catcher vessels, participate in the Alaska walleye pollock (pollock) fishery. The Alaska pollock fishery's record high catch limits in recent years has limited the availability of processor vessels, and some catcher vessels, to participate in the Pacific whiting fishery during the primary whiting season, between May 15 and December 31. This reduced availability of processor vessels has coincided with record high catch limits in the Pacific whiting fishery.

These factors, combined with regulatory barriers that have hindered flexibility, have contributed to decreased utilization rates in the mothership sector. The purpose of this action is to improve MS sector utilization and flexibility, and to better meet the National

Standards of the Magnuson-Stevens Act and elements of the Council's Trawl Rationalization Program goals to "create and implement a capacity rationalization plan that increases net economic benefits, creates individual economic stability, [and] provides for full utilization of the trawl sector allocation.

The purpose is to address the underutilization in the MS sector. However, alternatives such as an earlier start date may apply to all whiting sectors through participants in common."

## Assessment of Purpose and Need

### Under Attainment

The proposed P&N identifies that the MS sector is experiencing lower than average attainment than the other whiting sectors during the trawl rationalization program. This section finds that:

- The MS sector has under attained their 2017-2019 post-reapportionment allocations by over 36 percent (64 percent attainment), compared to the CP sector at 90 percent attainment and SS IFQ at 83 percent attainment (Table 1).
- As allocations have increased from 2011-2013 to 2014-2016 by 51 percent and from 2014-2016 to 2017-2019 by 29 percent (Table 2).
  - The CP sector appears to be capturing most of the allocation increase over the nine-year period.
  - The SS sector did not see a concurrent landings growth from 2011-2013 to 2014-2016 (declined by four percent) but saw a 73 percent increase in landings in 2017-2019 compared to 2014-2016 suggesting the ability to utilize the higher whiting allocations.
  - The MS sector growth in landings is unequal to the growth in allocations, suggesting there are limits to attainment.

The primary need for action as identified in the proposed P&N is that the MS sector has experienced lower than average attainment than the other commercial whiting sectors since 2011. In September, the GMT provided a thorough analysis of attainment trends noting that the MS sector has under attained their post-reapportionment allocation in the last three years by over 30 percent with their average attainment from the previous three year period declining by 6.4 percent from the initial allocation and 4.2 percent of post-reapportionment allocations ([Agenda Item D.2.a, Supplemental GMT Report 3, September 2020](#); Table 1). Comparatively, the CP sector has seen utilization rates averaging 92 percent of their post-tribal reapportionment since the implementation of the catch shares program in 2011. Attainment in the last three years (2017-2019) has increased by 0.3 percent of the initial allocation and 2.2 percent of the post-tribal reapportionment compared to the prior three years ([Agenda Item D.2.a, Supplemental GMT Report 3, September 2020](#)). Finally, the shoreside (SS) sector has seen the largest growth among all three sectors with an increase of 20 percent attainment from 2014-2016 to 2017-2019. The overall average attainment is ~83 percent of the post-reapportionment allocation in the latter three years ([Agenda Item D.2.a, Supplemental GMT Report 3, September 2020](#)). Note that a degree of under-attainment is

expected with the SS whiting sector given that it operates within the shorebased individual fishing quota (IFQ) and non-whiting strategies require whiting QPs to cover any bycatch of whiting.

**Table 1. Pre-Catch Share Program average attainment (in percentage) of the Pacific whiting allocation for 2008-2010 and three-year average attainment for the years 2014-2016 and 2017-2019 by the Pacific whiting sectors. Attainment is shown for both pre- and post-tribal apportionment and any within-sector re-apportionment. Data are from GEMM. Reproduced from [Agenda Item D.2.a, Supplemental GMT Report 3, September 2020](#).**

Sector	Tribal Apportionment	Three-Year Average Annual Attainment 2008-2010	Three-Year Average Annual Attainment 2011-2013	Three-Year Average Annual Attainment 2014-2016	Three-Year Average Annual Attainment 2017-2020	Change in Three-Year Average Attainment, 2014-2019
MS	Pre	110.5	106.4	77.6	71.2	- 6.4
MS	Post	104.4	95.1	68.2	64	- 4.2
CP	Pre	124.6	109.6	99.6	99.9	+ 0.3
CP	Post	98.6	97.9	87.7	89.9	+ 2.2
SS IFQ	Pre	91.7	108.8	70.2	92.1	+ 21.9
SS IFQ	Post	95.3	97.4	61.7	82.9	+ 21.2

While overall attainment has declined, it is important to also consider that the Total Allowable Catches<sup>1</sup> (TACs) in recent years have been at a recent historic high ([Agenda Item D.2.a, Supplemental GMT Report 3, September 2020](#)). Table 2 shows the average catch and post-reapportionment allocations by sector from 2011-2013, 2014-2016, and 2017-2019 and the percent change of the catch and allocations from the prior period. The average allocation values increased by over 50 percent for each sector from 2011-2013 to 2014-2016, yet average catch actually declined by four percent in the SS sector. For the at-sea sectors, the MS sector saw a disproportionate growth in catch compared to the allocation, with catch increasing by only 9.8 percent, while the CP sector was able to capture a large proportion of the growth in allocation with catch increasing by nearly 37 percent. However, if you exclude 2015 catches from all three sectors, as there were anomalous ocean conditions leading to each sector having the lowest attainment percentage during the IFQ era, the SS sector actually had over a nine percent increase in the catch, followed by the MS sector at 35.3 percent and the CP sector at almost 55 percent. This suggests that the CP sector was able to capitalize on the growth in allocation, while the MS and SS sectors proceeded to underutilize their allocations.

Moving to the more recent period of 2017-2019, TACs have continued to increase by 24 percent from the previous three years. While there was little to no growth in the SS sector between 2011-2013 and 2014-2016, the sector was able to increase their average catch by over 73 percent in 2017-2019. Even if 2015 was excluded (as it brought down the average catch), the average catch was 34 percent higher in the most recent three years (2017-2019) compared to 2014 and 2016.

<sup>1</sup> The U.S. TAC is allocated 17.5 percent to tribal fisheries and the remaining non-tribal allocation (after accounting for research and incidental open access fisheries) is allocated 42 percent to shoreside, 34 percent to CP and 24 percent to MS.

The CP sector continued to catch at rates close to the increases in the allocation, with a percent change of almost 32 percent. However, the MS sector increased their average catch by only 20 percent from the previous three-year period, which is approximately nine percent less than the allocation growth. Without the 2015 catch, the average catch actually declined by 2.5 percent (2014 and 2016 average catch=63,528 mt). Overall, this pattern of unequal growth does support the idea that there are issues limiting the MS sector in catching more fish and therefore increasing their overall utilization.

**Table 2. Average catch (mt) and average allocations (post-reapportionment; mt) for the commercial whiting sectors and the percent change in the averages from the prior period, 2011-2019.**

Period	Average Catch (mt)	Percent Change Catch from previous period	Average Allocation (mt)	Percent Change Allocation from previous period
<b>Shoreside</b>				
2011-2013	84,500		86,592	
2014-2016	81,002	-4.14%	131,150	51.46%
2017-2019	140,234	73.12%	169,267	29.06%
<b>Mothership</b>				
2011-2013	46,956		49,481	
2014-2016	51,573	9.83%	74,943	51.46%
2017-2019	61,945	20.11%	96,724	29.06%
<b>Catcher Processor</b>				
2011-2013	68,458		70,098	
2014-2016	93,518	36.61%	106,169	51.46%
2017-2019	123,186	31.72%	137,025	29.06%

## **Economic Rationale**

In terms of economic impacts, this section finds that:

- The MS sector has seen less growth in ex-vessel revenue compared to the other two whiting sectors from 2014-2019.
- In terms of efficiency, defined as net revenue as percentage of total revenue, of the complete harvesting to processing system,
  - The CP sector had the highest efficiency.
  - The MS and SS sectors have seen a decline in efficiency since 2011 when considering variable cost net revenue.
- Since 2016, there has been a shift in the percent of total revenue coming from the SS sector compared to the MS sector for those vessels that participate in both fisheries.
- Each whiting sector has different product types that are produced for markets.

As noted in the proposed P&N, the [five-year review](#) noted that the MS sector was not seeing the same economic gains as the other two whiting sectors under trawl rationalization. The GMT also pointed to this fact in their September 2020 statement as “the increase in three-year average inflation-adjusted ex-vessel revenue from 2014 to 2019 was only 2.3 percent and 0.8 percent of the CP and SS increases in that time period.”

One metric used in the five-year review to assess economic performance was efficiency, defined as the net revenue as a percentage of total revenue. In the review, the efficiency of each whiting sector from pre-catch shares was compared to 2011-2015. In general, the CP sector had the highest efficiency (although it had not changed substantially over time) while there was no clear trend in the MS sector. For the shoreside whiting fleet, there was an increase in efficiency under the catch shares program. However, it was noted that the vertical integration of some mothership vessels and catcher vessels that deliver to motherships (i.e., common ownership) could affect business decisions. In other words, this means that the earnings from the catcher vessels may be shared by motherships; therefore, in some cases, net revenue for motherships alone may not be the most precise representation of profitability. With help from NOAA NWFSC staff, this analysis was updated to take a more holistic approach in assessing the three sectors’ efficiency.

Table 3 shows the average efficiency for pre-catch shares (2009-2010) compared to the IFQ average (2011-2019) calculated for each sector as a whole. That is, looking at the sectors from a complete harvesting to processing system. This allows for a more intuitive comparison across sectors and helps to remove the potential complications of shared ownership. The efficiency metric aims to illustrate the percentage of production revenue that remains after the fixed and variable costs of harvesting and processing are paid (i.e., total cost net revenue; TCNR). For the CP sector, as whiting is both harvested and processed, this simply is the CP net revenue divided by the CP revenue. As shown, efficiency on average has decreased only by 0.4 percent for this sector from 2009-2010. For the MS sector, efficiency is calculated as the MS net revenue plus the MSCV net revenue over the MS revenue. While there has been no change in the average from pre-catch shares to the IFQ era, the efficiency is 25 percent less than the CPs.

The shoreside whiting sector is presented in two ways, one in combination with the first receivers (FR) who process whiting and then separately as catcher vessels (SSCV) and FR. By considering these groups together, it provides a more relatable comparison to the MS and CP lines. However, it is important to keep in mind that the shoreside sector differs from the at-sea sectors in terms of management regimes, whiting products sold, and overall species processed. Efficiency in the shoreside sector has increased from the pre-catch share average; however, whiting first receivers have seen an overall negative total cost net revenue since 2015.

**Table 3. Pre-catch shares (2009-2010) and catch shares (2011-2019) average efficiency by whiting sector based on TCNR. Efficiency is calculated as net revenue divided by total revenue.**

Sector	Pre-catch Shares	Catch Shares
CP	39.3	38.9
MS + MSCV	13.9	13.9
FR (whiting) + SSCV	-25.3	6.9
SSCV	-18.6	19.5
FR (whiting)	-21.6	1.0

While the TCNR provides a long term look at efficiency, efficiency in the short term can also be shown using variable cost net revenue (VCNR; Table 4). VCNR excludes fixed costs that can include large outlays on buildings or machinery. This aims to illustrate the percentage of production revenue that remains after the variable costs of harvesting and processing are paid. While the CP sector has again maintained similar efficiency, the MS sector as a whole has declined by 11 percent since the IFQ program began and is 14.4 percent less than the CP average in 2011-2019. For the shoreside sector, there has been a similar decline as the MS sector since the start of the IFQ program at 9.8 percent.

**Table 4. Pre-catch shares (2009-2010) and catch shares (2011-2019) average efficiency by whiting sector based on variable cost net revenue.**

Sector	Pre-catch Shares	Catch Shares
CP	58.8	54.0
MS + MSCV	50.6	39.6
FR (whiting) + SSCV	40.2	30.4
SSCV	37.9	42.8
FR (whiting)	32.3	17.3

Given that a majority of catcher vessels in the MS sector also participate in the shoreside fishery (Table 5), it is important to consider if the changes in attainment seen in the shoreside sector in 2017-2019 are impacting the MS sector and how this is affecting the vessels overall. As noted in the [September 2020 GMT report](#), “there is substantial (greater than 75 percent) overlap in participation by MS catcher vessels in the shoreside fishery. This effort appears to be steadily shifting from the MS to SS fishery. From 2008-2010, MS sector boats caught 0.85 lbs. in the SS sector for every pound of MS catch. From 2018-2020 (to date), that ratio has flipped, to 2.3 lbs. of SS catch for every pound in the MS sector.”

**Table 5. Number of catcher vessels that participated in the shoreside (SS) whiting, mothership (MS) sector, or both sectors from 2011-2020**

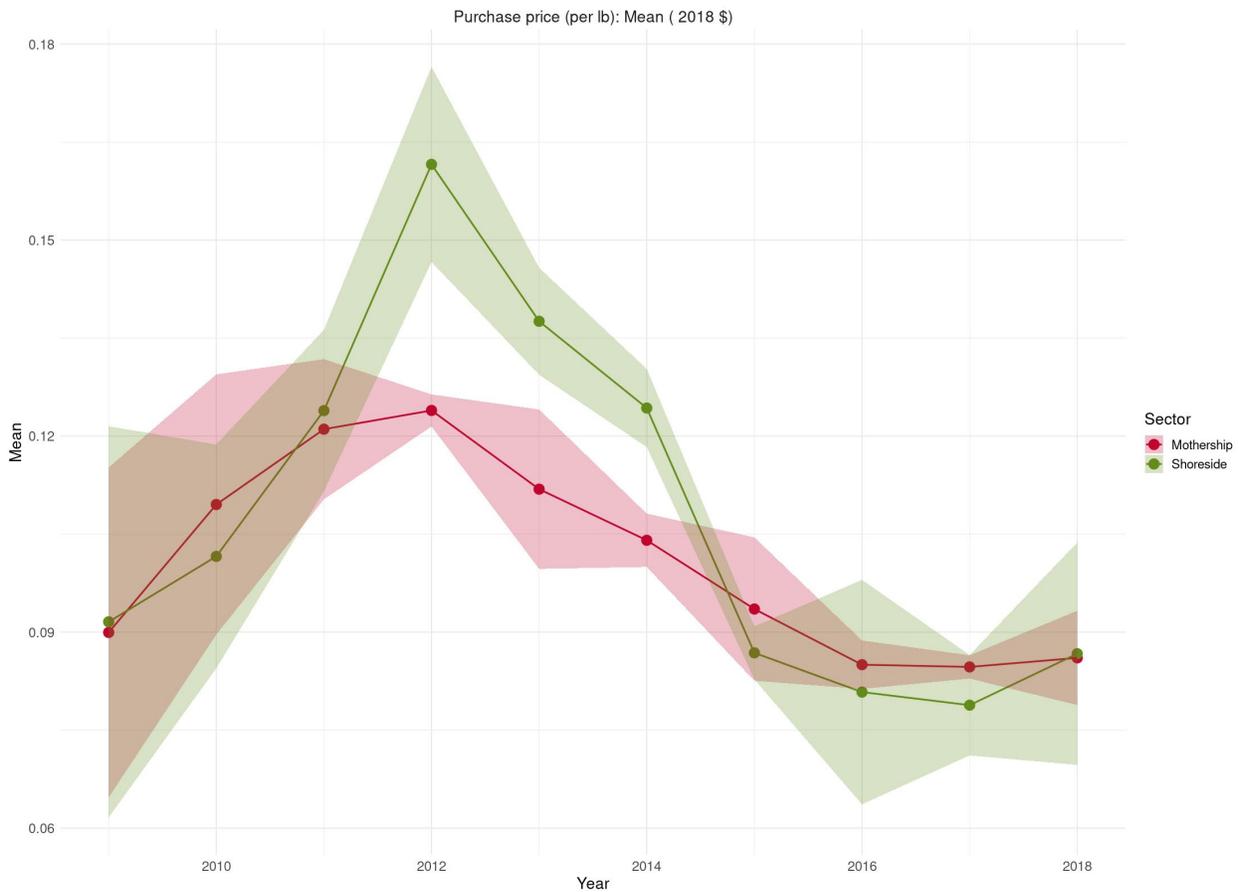
<b>Year</b>	<b>Both</b>	<b>MS only</b>	<b>SS only</b>
2011	13	5	13
2012	12	4	12
2013	13	5	11
2014	14	5	11
2015	10	4	12
2016	12	5	11
2017	11	4	14
2018	13	4	13
2019	14	5	13
2020	10	5	18

Of those vessels that participated in both the shoreside and MS fisheries from 2011-2019, there has been a decrease in the percentage of revenue coming from the MS sector compared to the SS sector since 2016 (Table 6). Given that in 2017-2019, shoreside catch increased by over 70 percent from the previous three years (Table 2) and attainment by 21 percent (Table 1), this may suggest that vessels that crossover between fisheries may be participating more in the shoreside sector to the detriment of the MS sector. The reason behind this shift in effort may be due to a lack of capacity to process in the MS sector, the prioritization of Alaska pollock over Pacific whiting, or other factors. Also, some entities may have interests across multiple whiting sectors which may affect the prioritization in one fishery or another. Further analyses will be needed to understand these connections and potential impacts of various alternatives.

Overall, catcher vessels are seeing average revenues nearly \$4,000 higher in 2017-2019 compared to 2014-2016 but are seeing less than that in the first three years of the catch shares program by approximately \$1,500. However, overall purchase price per pound for both SS and MS sectors are down in comparison to the first three years of the program as shown in Figure 1, with recent years having similar prices in both sectors.

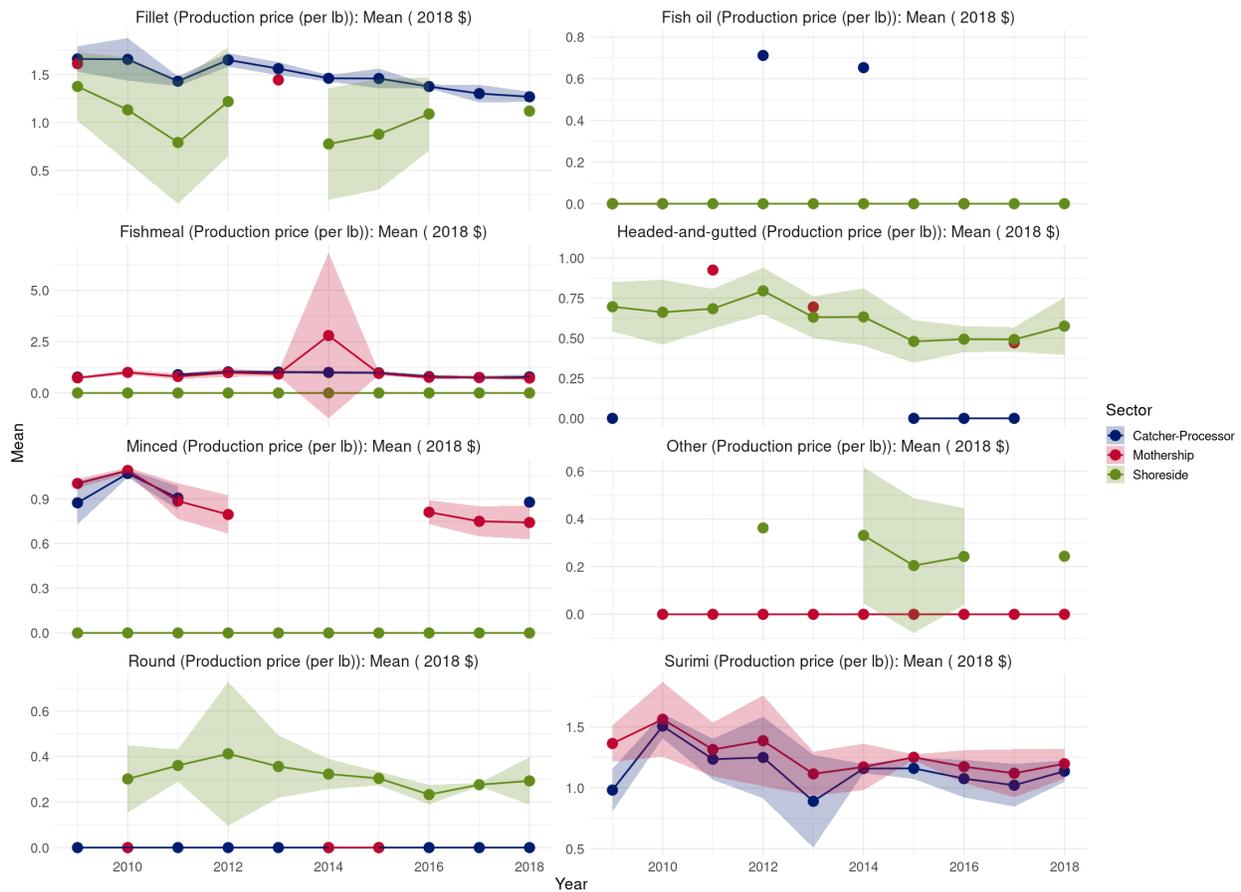
**Table 6. Average percent of adjusted revenue by sector, average total revenue (1000s of \$2019) and average whiting landings (mt) for catcher vessels that participated in both MS and SS sectors, 2011-2019.**

Year	Percent of Revenue		Average Revenue (1000s AFI)	Average Total Whiting Landings (mt)
	MS	SS		
2011	35.3%	64.7%	18.9	6,989
2012	37.3%	62.7%	15.6	5,052
2013	33.1%	66.9%	20.6	7,558
2014	39.3%	60.7%	16.9	7,018
2015	43.2%	56.8%	10.3	5,413
2016	54.6%	45.4%	11.9	6,847
2017	47.1%	52.9%	17.7	9,950
2018	45.6%	54.4%	15.4	8,363
2019	34.6%	65.4%	17.5	8,549

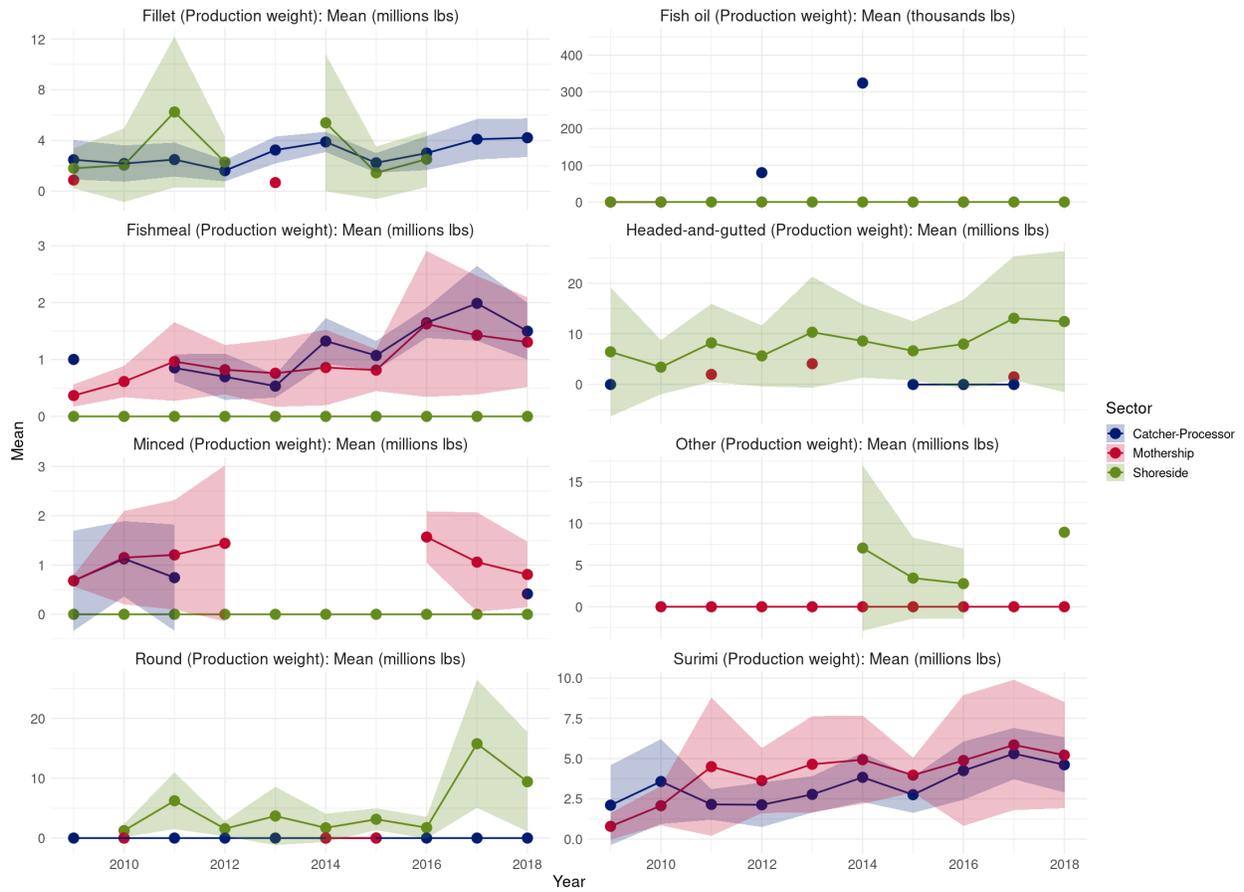


**Figure 1. Average purchase price per pound of whiting (\$2018) for shoreside and mothership catcher vessels, 2009-2018. Source: FISHEyE Whiting Report.**

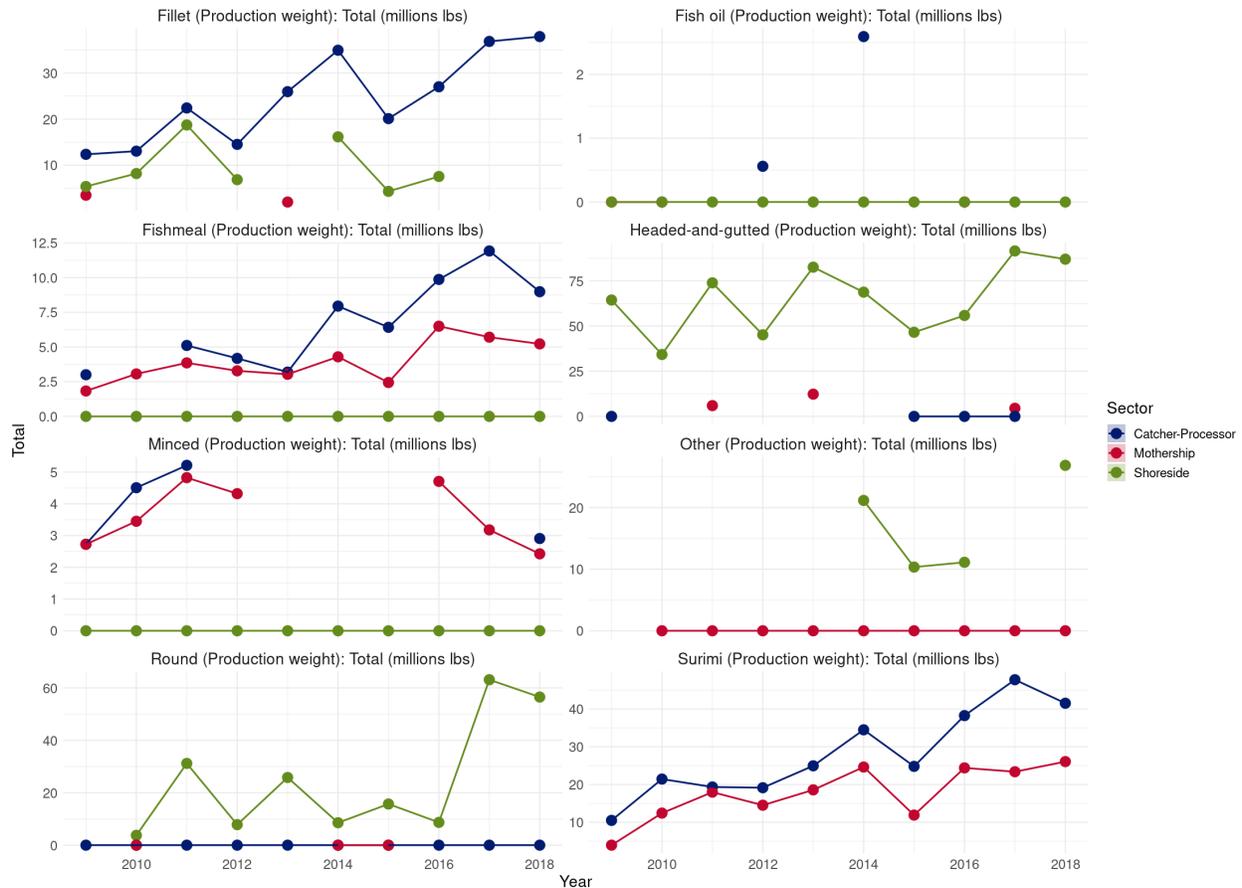
Finally, the markets in which whiting sectors compete may impact the overall economics of the fishery. The following series of figures show the average production price, average production weight, and total production weight by sector and product type for 2009-2018. Each sector has a different portfolio of species that it produces for the whiting market. The CP sector typically produces fillets, fishmeal, and surimi, the MS sector fishmeal, surimi, and minced, and the SS sector in recent years has focused on headed-and-gutted and frozen round product types. It appears as though the CP and MS sectors compete in similar markets for both surimi and fishmeal. The MS sector has recently received a higher price for surimi on average compared to the CP sector (although the 95 percent CI overlap suggesting limited difference). Fishmeal prices appear to be constant.



**Figure 2. Average production price per pound by sector and product type, 2009-2018. Source: FISHEyE Whiting Report. Gaps in data are suppressed for confidentiality. Unprocessed product not shown.**



**Figure 3. Average production weight (millions of lbs) by sector and product type, 2009-2018. Source: FISHEyE Whiting Report. Gaps in data are suppressed for confidentiality. Unprocessed product not shown.**



**Figure 4. Total production weight (millions of lbs) by sector and product type, 2009-2018. Source: FISHEyE Whiting Report. Gaps in data are suppressed for confidentiality. Unprocessed product not shown.**

### Catcher Vessel Harvest Opportunities

The proposed P&N states that catcher vessels in the MS sector have been unable to harvest their allocations due to a lack of a processor. This section finds that:

- From 2011-2020, an average of 47 percent of MSCVs harvested zero percent of their allocation.
- The number of active MS processors typically declines as the season progresses.

One cause of under attainment identified in the proposed P&N is the inability for MS catcher vessels (MSCV) to harvest their full allocations, or even harvest any fish at all due to lack of a processor and, in certain cases, catcher vessels have been stranded without a MS processor to deliver to for a season or year. Examining catcher vessel data from 2011-2020, Table 7 provides a summary of the number of vessels with zero percent of their permitted catch history assignment (CHA), which is a percent of the sector allocation based on the vessel’s qualifying history, compared to the number of participating vessels by year and the number of latent permits (i.e., those unregistered to a vessel during the primary season). On average, approximately 47 percent of registered MSCVs have no associated catch against their CHA from 2011-2020. While it is difficult to assess if another vessel harvested their CHA or simply no platform was available and

there was no harvesting opportunity, there appears to be a significant issue with catcher vessels not harvesting their allocation. Based on industry communication, if a vessel's CHA is harvested by another vessel, they are compensated in some manner (e.g. monetarily or other quota)- however, it's likely that the compensation is less than that which they would receive harvesting the fish themselves.

**Table 7. Count of vessels with no recorded catch against their CHA, vessels with landings history, total registered MSCVs, number of latent MSCV endorsed permits, and total number of MSCV endorsed permits.**

Year	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Vessels with 0 harvest	13	16	14	16	16	14	17	14	13	18
Vessels Participating	19	16	18	19	14	17	15	17	19	15
Total Registered Vessels	32	32	32	35	31a/	31	32	31	32	33
Number of Latent Permits	5	4	4	1	3	3	2	3	1	1
Number of MSCV LEPs	37	36	36	36	34	34	34	34	34	34

a/ 2 vessels assigned to a single permit

The GMT noted in their September 2020 statement that “Processor availability (as measured by days with deliveries) in the MS sector appears to vary from year to year within seasons relative to the CP sector, possibly related to opportunities for catcher vessels and processing platforms in other fisheries.” As shown in Table 8, the number of active MS processors that took deliveries generally decreases throughout the season. On average, there is one less processor on the ground in the fall fishery (starting in August) and then decreases to fewer than two processors in November-December.

**Table 8. Number of MS processors that took deliveries by month range and year, 2009-2020. “C” denotes confidential strata.**

<b>Landing Year</b>	<b>May-July</b>	<b>Aug-Oct</b>	<b>Nov-Dec</b>
2009	6	0	0
2010	6	c	0
2011	3	3	4
2012	4	5	c
2013	4	5	c
2014	4	5	3
2015	3	3	0
2016	5	4	0
2017	3	3	c
2018	4	4	3
2019	6	c	4
Avg. (2009-2019)	4.4	3.2	1.6

### **Eastern Bering Sea Walleye Pollock Interactions**

One of the causes of underutilization described in the proposed P&N was that the majority of whiting vessels participate in the Alaska pollock fishery where record high pollock limits have resulted in limited availability of processor vessels and some catcher vessels during the primary whiting season. In this section we describe the Alaska pollock fishery to illustrate the connection and overlap of participation between both fisheries.

This section finds that, the majority of at-sea processors and a large portion of catcher vessels participate also in the Alaska pollock fishery. Recent high catch limits for Alaska pollock are thought to have limited available processor vessels during the primary whiting season.

- 17 of the 19 processors registered to fish Pacific whiting from 2011-2020 were also registered to fish Alaska pollock in the same year.
- 82 percent of processors registered to fish in both whiting and pollock fisheries actually fished in both, while the remaining processors only fished pollock.
- Over half of MSCVs and SS whiting catcher vessels are registered to fish or participate in both whiting and Alaska pollock.

The American Fisheries Act (AFA) was signed into law in October 1998. The purpose was to tighten U.S. ownership standards that had been exploited under the Anti-reflagging Act, and to provide the Bering Sea pollock fleet the opportunity to conduct their fishery in a more rational manner, while protecting non-AFA participants in the other fisheries. The AFA established sector allocations in the Bering Sea pollock fishery, determined eligible vessels and processors, allowed the formation of cooperatives, set limits on the participation of AFA vessels in other fisheries, and imposed special catch weighing and monitoring requirements on the AFA vessels.

The pollock annual TAC is divided into an “A season” and a “B season”. “A season” starts in late January and can go until mid-April and is allocated 45 percent of the TAC (40 percent prior to 2017).<sup>2</sup> The “B season” lasts from June 10-October 31. Pollock “A season” is a profitable fishery due to the diversification of products, including pollock fillets, surimi, and roe. Based on industry communication, some processors finish pollock “A season” between mid-March and early April and take approximately a week to travel back to the West Coast.

Over the last decade the TAC has been increasing with total catch generally trending in an upward direction as well (Table 9). It is important to consider that the P&N as proposed for public review noted that there have been “record high catch limits in recent years”. While the last decade has seen an overall increasing trend in terms of the TAC, the 2002-2006 TACs were actually higher than those in the last ten years (2010-2020; Figure TAC).

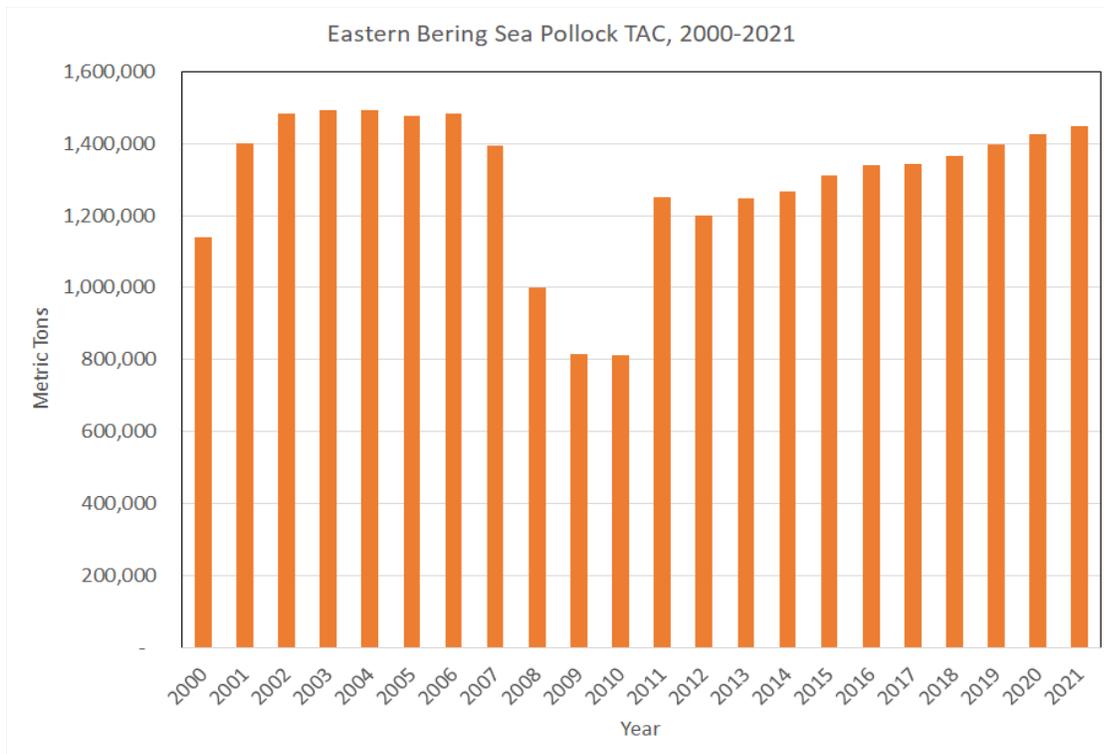
**Table 9. Time series of Eastern Bering Sea walleye pollock ABC, TAC, and catch, 2010-2021, all values are in metric tons. Data is from 2019 Eastern Bering Sea walleye pollock assessment<sup>3</sup>.**

Year	ABC	TAC	Catch
2010	813,000	813,000	810,206
2011	1,270,000	1,252,000	1,199,041
2012	1,220,000	1,200,000	1,205,212
2013	1,375,000	1,247,000	1,270,768
2014	1,369,000	1,267,000	1,297,420
2015	1,637,000	1,310,000	1,321,581
2016	2,090,000	1,340,000	1,352,707
2017	2,800,000	1,345,000	1,343,217
2018	2,592,000	1,364,341	1,379,306
2019	2,163,000	1,397,000	1,387,000
2020 a/	2,043,000	1,425,000	N/A
2021 a/	1,716,000	1,450,000	N/A

a/ <https://www.govinfo.gov/content/pkg/FR-2020-03-09/pdf/2020-04475.pdf>

<sup>2</sup> Note that this increase in allowance for take during A season was to reduce salmon impacts during B season.

<sup>3</sup> <https://archive.afsc.noaa.gov/refm/docs/2019/EBSPollock.pdf>



**Figure 5. Annual Eastern Bering Sea walleye pollock total allowable catch. Data from 2019 stock assessment and 2020-2021 harvest specifications regulations.**

From 2011-2020, there have been two processors annually registered to participate in only the U.S. whiting fishery, compared to 17 processors annually that were registered to participate in both the Bering Sea pollock fishery and the U.S. whiting fishery. Seven processors were only registered in Alaska. Note that this does not mean that the vessel participated in that year for that fishery (or both fisheries where applicable). Therefore, most processors are registered to participate in both fisheries. Most processors have a consistent registration record in that they either continuously participate in one or both fisheries in the last decade. Four vessels have had changes in their participation history.

Overall, an average of 14 of the 17 processing vessels (82 percent) registered to fish in both the pollock and whiting fisheries have actually fished in both. In some years, up to four vessels chose to only participate in Alaska instead of coming back south to fish whiting. As noted by the Groundfish Management Team (GMT) in their September 2020 statement, “Many Pacific whiting vessels earn the majority of their revenue in Alaska fisheries, and most West Coast permitted MS and CP processors process about 60-90 percent of their annual product in Alaska each year”. Therefore, depending on market conditions in both the pollock and whiting fisheries, processors may choose to prioritize pollock over whiting, thereby decreasing the number of available processors in the whiting fishery. As noted in the GMT statement though, “processors may be responding to the higher volumes in both the walleye pollock and Pacific whiting fisheries by increasing capacity, as public comment indicates that a new mothership processor vessel currently being developed is expected to be larger than any existing vessels in the fishery and is planned for use in primarily the Alaska walleye pollock fishery.”

Furthermore, MSCVs also participate in the pollock fisheries in Alaska. Table 10 shows the number of catcher vessels that were registered to fish in the MS fishery compared to those that were registered to fish in the pollock fisheries as catcher vessels (either mothership, inshore, or catcher processor<sup>4</sup>) from 2011-2020. An average of 42 percent of vessels with MSCV endorsements participate only in the whiting fisheries, with the other vessels being registered to participate in at least one of the AK pollock fisheries.

**Table 10. Number of catcher vessels from 2011-2020 that were registered to participate as CVs in the AK pollock fishery and the West Coast MS whiting fishery, number of CVs that were registered in the MS whiting fishery only (not registered in AK), and CVs that were only registered to fish in the AK pollock fishery.**

Vessel Category	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Registered in Both AK Pollock and MS whiting	24	19	19	21	18	18	19	16	18	19
MS whiting Only	14	14	13	15	13	13	14	15	14	15
AK Only	85	89	86	83	85	85	84	86	81	79

Unlike the at-sea fisheries, which have specific endorsements for both processor and catcher vessels, the shoreside whiting fishery only requires a trawl endorsed permit to participate. Therefore, a slight variation on the previous cross participation tables is provided in Table 11 to look at the crossover between participating SS whiting vessels (i.e. those with at least one shoreside whiting landing) and those registered in Alaska as a catcher vessel. Just over half of active SS whiting vessels in most years are also registered to participate as a catcher vessel in Alaska for pollock.

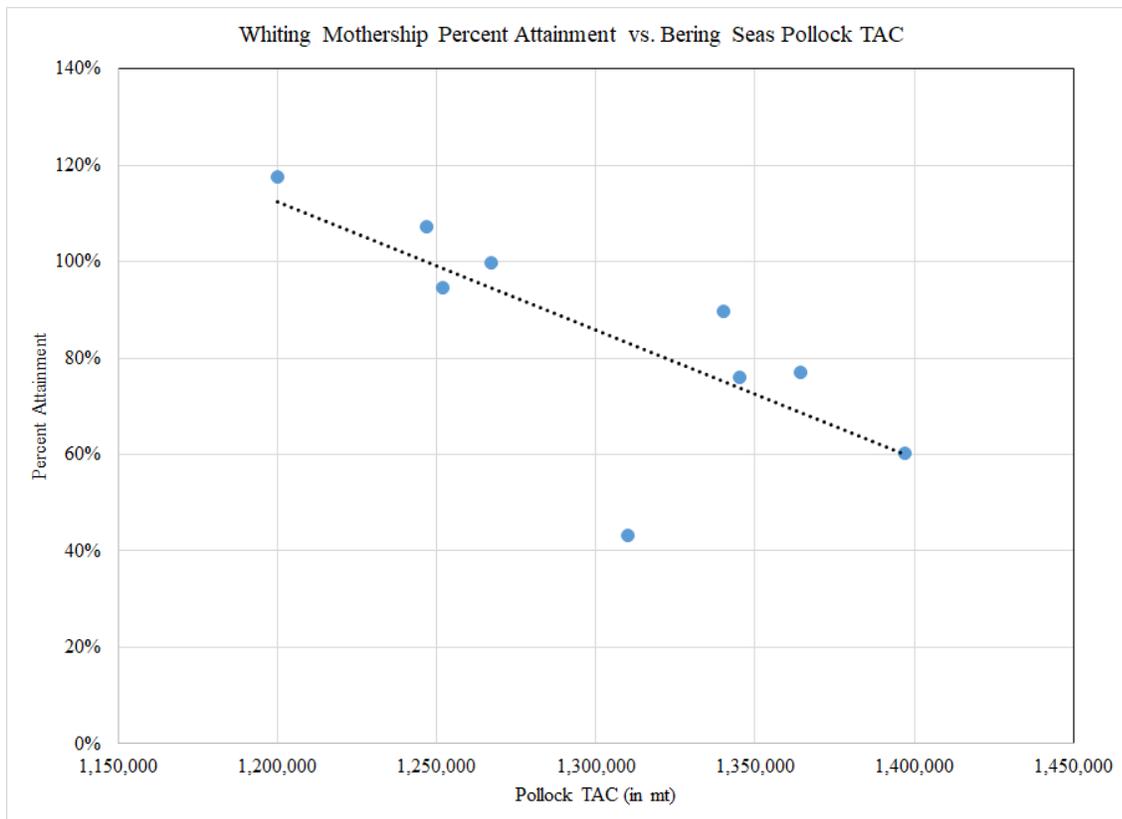
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<sup>4</sup> Under the Section 208 of the AFA, seven catcher vessels are permitted to fish in the CP sector in that they can either deliver their catch to a CP or lease the quota to the CP to catch themselves.

**Table 11. Number of vessels from 2011-2020 that were registered to participate as CVs in the AK pollock fishery and participated in the shoreside whiting fishery, number that participated in the shoreside whiting fishery only (not registered in AK), and CVs that were only registered to fish in the AK pollock fishery.**

Vessel Category	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Registered for AK pollock and active in SS whiting	12	12	12	12	12	12	13	14	16	15
Active SS whiting Only	14	12	12	13	10	11	12	12	11	13
Registered for AK pollock only	97	96	93	92	91	91	90	88	83	83

Ultimately, there does appear to be an inverse relationship between the attainment of the initial whiting allocation for the MS sector and the walleye pollock TAC as shown in Figure 6.



**Figure 6. Percentage of mothership whiting attainment of initial allocation versus the Bering Sea pollock TAC, 2011-2019.**

## Potential Regulatory Barriers

In the draft P&N, “regulatory barriers” are noted as a potential factor affecting utilization. This phrase can potentially encompass several issues, and therefore this section attempts to characterize the operations of each of the whiting sectors and the limits impacting each of the sectors harvest, ownership, and participation, with an in-depth focus on the MS sector. Note that while the current season start date of May 15th could be discussed as a barrier, it is further discussed in Section III. This section is intended to provide a brief overview and description of the potential “regulatory barriers” cited.

This section finds that,

- The CP and MS sectors operate under a co-op structure, while the SS whiting sector operates within the shorebased IFQ program. The majority of SS whiting vessels also participate voluntarily in the Shoreside Whiting Cooperative.
- The at-sea sectors are limited in participation by the number of sector-endorsed permits, while participants in the SS whiting fishery are limited only by the requirements of the shorebased IFQ program (i.e. trawl endorsed permit and quota to cover catch).
- Catcher vessels are limited to harvesting 30 percent of the MS whiting allocation and 15 percent of the shoreside whiting allocation. There are no harvest limits for the CP sector.
- MS processors can process 45 percent of the allocation. There are no processing limits for the CP or SS sectors.
- Each sector is subject to ownership limits (determined by the individual and collective rule) as follows:
  - An entity can own no more than 20 percent of catch history assignment for the MS sector.
  - If the CP co-op dissolves, then under the IFQ program that would follow, no entity could own more than five CP-endorsed permits.
  - Under the IFQ program, an entity can only own 10 percent of the quota share.

## *Operations*

While there are similarities across the three whiting sectors, there are distinct differences in their operations and regulations that may be inherent to the issues of utilization. This section provides a brief overview of each of the sector's management.

### Mothership

Under Amendment 20 to the Groundfish Fishery Management Plan (FMP), the Council created a cooperative system for the MS sector. As described in [Appendix B of the Amendment 20 Final Environmental Impact Statement](#) (FEIS), the MS co-op system is

“a LAPP [Limited Access Privilege Program] that allocates portions of the mothership sector allowable catch level to catcher vessel permits licensed to participation in the mothership sector. Participants in the mothership sector only have defensible access to their assigned catch if they join a cooperative. If a permit fails to join a cooperative, the share of catch attributed to that permit is placed in the noncooperative fishery (a common quota

fishery where participants are likely to fish competitively). Permits that join a cooperative have access to their own catch history through the “golden rule” provision, but can share catch with other vessels in that cooperative voluntarily. Furthermore, cooperatives in the mothership sector may form inter-cooperative agreements and voluntarily share allowable catch across cooperatives.”

In March of 2011, the owners of all 37 MSCV permits formed a co-op called the “Whiting Mothership Cooperative (WMC)”. As stated in the WMC 2019 annual report, one of the primary purposes of the WMC is to minimize the bycatch of constraining rockfish species and Chinook salmon. The WMC retains Sea State Inc. as the monitoring agent for the co-op, which provides daily reports on bycatch to all WMC members and the processors. Multiple strategies including inseason hot spot closures, night fishing restrictions, and move-along rules are used to mitigate bycatch. One of the key features of the MS co-op is the use of seasonal pools. The WMC divides the whiting allocation into five pools through the fishing year based on the amount of whiting declared by a MSCV to that pool. All other groundfish species (which are all now managed as set asides as of 2020) are shared pro-rata to the pools. According to the agreement, if the pool reaches its bycatch share prior to harvesting its whiting allocation, then the pool must cease fishing. It is possible that management under set-asides could provide the co-op with more flexibility in managing seasonal pool closures, but industry communication indicates that the fleet still operates in ways that avoid reaching the set aside limit to the best of their ability. Note that if the whiting share is not fully harvested by a MSCV in the pool they declared in, they can continue fishing for that whiting in the open pool, or another pool, later in the year. For further details on recent inseason closures, bycatch rate rules, and season dates, please see [Supplemental Information Report 5, April 2020](#).

#### Catcher Processor

Catcher processors (CP) have been operating under a co-op, the Pacific Whiting Conservation Cooperative (PWCC) since 1997, which was formalized for management with the implementation of Amendment 20. The CP sector utilizes similar management measures as the MS sector to mitigate bycatch, such as information sharing, use of Sea State, and move-along rules. Further details, including actions taken inseason by the co-op, can be found in [Supplemental Information Report 4, April 2020](#).

#### Shoreside Whiting

While there was initial consideration in the development of Amendment 20 to have the SS whiting sector be its own sector, the sector was ultimately grouped into the shorebased IFQ program. Vessels in this fishery target Pacific whiting with midwater gear; whiting catch and associated bycatch must be covered by quota pounds (QPs). As noted above, about half of the shoreside whiting vessels also cross participate in the MS fishery (i.e., MSCV).

Within the shoreside whiting fishery, there is the Shoreside Whiting Cooperative, which is voluntarily made up of participating vessels, and is not formally recognized in the groundfish regulations. Historically, approximately two-thirds of shoreside whiting vessels have participated in the co-op between 2012-2018 ([Agenda Item H.9. Attachment 1, November 2019](#)).

## ***Regulatory Limits***

Each of the sectors varies in the types of limits controlling participation and ownership within each fishery. This section provides a brief history and description of those limits.

### *Participation*

#### *Mothership*

In the development of Amendment 20, the Council elected to have six MS-endorsed trawl limited entry permits for those vessels that would be able to process at-sea as MS. Under Amendment 15, the Council had previously limited the number of MS to seven, however, one vessel did not qualify under Amendment 20 as they had only a single year of participation after the control date and two years of participation were required to receive an MS permit. Note that Amendment 15 was also the first participation requirement for MS. Under Amendment 20, the Council did initially consider issuing quota to processors in the MS sector, which could have allocated up to 50 percent of the whiting allocation to processors and limited capacity overall (page 468 of A-20 EIS). However, they chose to instead maintain the closed class of processors. Between five to six MS vessels generally participate each year, with there being only one occurrence of a latent (i.e. unregistered) permit in 2013 and one occurrence of only three MS vessels processing in 2015.

Of the 174 trawl endorsed permits, there are 34 MSCV endorsed permits as of 2021. Three of the original 37 MSCV endorsed permits were combined with other permits to increase the endorsement length.

#### *Catcher Processor*

Similar to the MS sector, the CP fleet is capped in terms of participation by the ten CP endorsed permits. As shown in Table 12, in all but one year since 2011, there have been only nine participating vessels, as the tenth permit was either latent (i.e. unregistered) or unused.

#### *Shoreside Whiting*

The SS whiting sector is limited in terms of participation by the same regulations that apply to the entirety of the shorebased IFQ program. That is, vessels must possess a limited entry trawl permit and have QPs to cover any catch. With the implementation of the IFQ program, there was a significant decline in participation with the average number of vessels declining from 36 (2008-2010) to 25 (2011-2020). Yearly participation counts have ranged from 22 in 2015 to a high of 28 in 2020 with only a total of 32 distinct vessels participating since 2011.

**Table 12. Number of vessels with landings by whiting sector, 2008-2020**

Year	Mothership		CP	Shoreside
	Processors	Catcher Vessels		
2008	5	19	8	37
2009	6	19	6	34
2010	6	21	7	36
2011	5	18	9	26
2012	5	16	9	24
2013	5	18	9	24
2014	5	19	9	25
2015	3	14	9	22
2016	6	17	9	23
2017	5	15	9	25
2018	5	17	9	26
2019	6	19	9	27
2020	5	15	10	28

#### Catch Limits

For those vessels participating in the fishery, there are harvest limits for catcher vessels in the MS sector and the shorebased sector. For catcher vessels in the MS sector, they may harvest no more than 30 percent of the allocation. Specifics regarding allocation of the CHA to co-ops may be found at [50 CFR 660.150\(c\)\(2\)\(ii\)](#). There are no harvest limits for the CP sector. Shorebased vessels are governed by the annual vessel limits for both whiting and non-whiting, which is a percentage of the allocation that can be caught by a vessel. The limit for Pacific whiting is 15 percent. A list of other annual vessel limits can be found on the [NMFS IFQ database](#) website.

#### Processing Limits

Under Amendment 20, the Council set a processing cap for the MS sector at 45 percent, which was intended to inhibit consolidation by ensuring that at least three MS companies would participate in the fishery.<sup>5</sup> As described in [Agenda Item G.4.a, Supplemental WDFW Report 1, November 2018](#), it was thought at the time that even if two MS companies processed 45 percent, the remaining ten percent would provide enough incentive for a third MS company to participate in the fishery. Note that the MS sector is the only sector with a processing limit. A processing limit was considered for the CP sector as a part of the follow-on catch share actions; however, it was rejected in favor of an ownership limit (similar to the MS sector). For the shoreside IFQ program, first receivers are not restricted on the amount of IFQ fish they can process.

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<sup>5</sup> Note that limit is determined by the individual and collective rule as described

## Ownership

Each of the sectors is also subject to ownership provisions. For all three sectors, where applicable, “Determination of ownership interest will be subject to the individual and collective rule.” That is, the accumulation limit is determined by the amount of quota, permits, etc. owned by that person and the portion owned by an entity in which that person has an economic or financial interest.

For the MS sector, accumulation limits are determined by calculating the percentage of ownership interest a person has in any MS permit (50 CFR 660.150). Each MSCV endorsed trawl permit has a CHA which is defined at [50 CFR 660.111](#) as “a percentage of the mothership sector allocation of Pacific whiting based on a limited entry permit's qualifying history and which is specified on the MS/CV-endorsed limited entry permit.” These assignments cannot be divided or separated from the initial permit it was issued to under Amendment 20. A person may own no more than 20 percent of the MS whiting allocation (i.e., 20 percent of the total CHA).

For the CP sector, the Council took action under Amendment 21-4 to implement an ownership limit on the number of permits (five) that could be owned by a single entity in the case the CP co-op were to dissolve. Under that situation, the co-op would become an IFQ system. The individual and collective rule utilized by the IFQ program would then apply to permit ownership.

For the SS sector, there is a limit on the amount of quota share someone can own. These values can be found in 50 CFR 660.140 in the table titled “Accumulation Limits”. For Pacific whiting, the ownership limit is 10 percent.

## Evaluation of the Draft Purpose and Need Statement

Based on the analysis above, it appears that a combination of factors is contributing to the underutilization of the MS sector allocation. However, the P&N as currently proposed may not sufficiently describe the need for the action. The following P&N was drafted by staff as an attempt to utilize the core elements of the proposed problem statement to further define the need for additional harvesting opportunity and resulting flexibility in operations across all three whiting sectors.

“This action is needed because the mothership (MS) sector of the Trawl Catch Share Program is underattaining its post-reapportionment allocations for whiting. Causes of underattainment identified by the industry include limited availability of motherships for delivery of catch due to seasonal overlap of the Alaska pollock fishery. In addition, existing regulations may be limiting some catcher vessels’ ability to harvest or deliver fish to MS processors, or limiting the ability for available processors to accept fish from catcher vessels. The purpose of this action is to improve the MS sector’s ability to utilize their whiting allocation by identifying and revising regulations that may be constraining to the sector.

This action is also needed to create flexibility in harvest opportunities for the MS, catcher processor, and shorebased IFQ sectors of the Trawl Catch Share Program. The purpose of this action is to balance the use of the whiting fishery resource while maintaining fair and equitable allocation of the resource amongst all sectors of the program.

The actions identified support elements of the Council’s Trawl Catch Share Program goals to “create and implement a capacity rationalization plan that increases net economic benefits, creates individual economic stability, [and] provides for full utilization of the trawl sector allocation. Specifically, the action may meet Management Goals 2 and 3 of the Pacific Coast Groundfish Fishery Management Plan respectively seek to maximize the value of the groundfish resource as a whole and to achieve the maximum biological yield of the overall groundfish fishery. In addition, this action supports National Standard 1 of the Magnuson-Stevens Act to achieve the optimum yield from the fishery.”

The Council could adopt this revised version as the final P&N statement or modify it as needed based on the desire to address the management needs of only the MS sector or all sectors of the whiting fishery. The options described in Section III could be adopted in support of all or a portion of the P&N statement.

### III. Preliminary Scoping of Options

The following section provides industry-developed options from [Informational Report 4, June 2020](#) that the Council recommended for continued scoping during the March 2021 meeting. In addition, staff has added several options for consideration and possible development. The Council could add other options or suboptions as needed. If the Council decides to start a fishery plan amendment process, these options and suboptions could be selected by the Council as a range of alternatives for further development and analysis.

#### Start Date

Industry-developed Option: Analyze changing the whiting season start date to something earlier than May 15 for all whiting sectors.

Sub-options proposed:

1. April 1;
2. April 15; and
3. May 1

#### Background

North of 40° 30' N. lat., the primary whiting season for all three whiting sectors begins on May 15th. [Agenda Item D.2.a, Supplement GMT Report 3, September 2020](#) provides a brief overview of the history of the start date:

“The start of the Pacific whiting season has varied since the conversion of the fishery from foreign to domestic, when the start date was set at January 1. Foreign fisheries typically moved into the fishery in April when “fishable concentrations of whiting were available”, and the start date was moved to April 15 in 1992 to approximate this natural start time (PFMC 2015). In 1996, the season was moved back to May 15 in some areas to minimize bycatch of Chinook salmon, which was unusually high in 1995. The dates have fluctuated between April and June in the shorebased fishery to accommodate participation in shoreside, at-sea, and Alaska fisheries. The Final Environmental Impact Statement (EIS)

for Amendment 20 noted that, “the spatial/temporal overlap between the Pacific whiting fishery and the distribution of Chinook salmon... could result in incidental take of listed salmon. The season start dates are, in part, meant to limit targeting on whiting fishing when listed Chinook salmon are most likely to be taken incidentally” (PFMC 2010). The June 15 start date for shoreside whiting (North of 40° 30' N. lat.) was moved to be consistent with the May 15 start date in the at-sea sectors in 2016. Fishing south of 40° 30' N. lat. can start April 15 (80 FR 19034, April 9, 2015).”

It is important to consider that Term and Condition 2.d. of the 2017 Salmon Incidental Take Statement (ITS) states that “The Council and NMFS shall retain the following restrictions to minimize Chinook bycatch for the duration of this opinion: .... The delay of the start of the primary Pacific whiting season until May 15th for all sectors, north of 40° 30' N. latitude”. Therefore, if the Council chooses to include this item in the range of alternatives and depending on the outcome of this action, a reinitiation of consultation of the Biological Opinion (BiOp) may occur.

This section is intended to provide a preliminary assessment of the available information that could be used to inform a change in the season start date as well as potential economic benefits and regulatory issues that may arise from the change.

## **Biological Impacts**

### ***Salmon Interactions***

One of the primary concerns with moving the season start date earlier in the year has historically been interactions with salmon. As noted in the 2017 BiOp<sup>6</sup>, “Significant uncertainty exists in the magnitude of ESU-specific impacts for fisheries in locations or time periods outside the available data. Areas south of 42° N. latitude and during the January-to-May period have particularly limited information. For example, ESUs with early freshwater entry timing, like Upper Willamette spring and Snake River spring/summer stocks, may be underrepresented in the genetics data. These stocks are thought to be present in ocean areas in the winter period; however, whiting fisheries have not occurred in the January- to mid-May period since the mid-1990s. Historical CWT recoveries indicate that about one third of the recoveries for the Upper Willamette Chinook were prior to the current May 15th start date for the fishery” (page 189).

As described in the Environmental Assessment (EA) to support the change in the shoreside whiting fishery start date to be May 15th for all areas north of 40° 30' N. lat., “With respect to salmon bycatch rates in the early season, the 1997 whiting season EA observed that prediction of bycatch rates by season is difficult, and the greatest risk of elevated salmon bycatch for the shorebased whiting fishery appeared to be in late April and early May.” Weekly bycatch rate estimates shown in Table 4-9 of the 2015 EA show that of the 13 seasons of data available, six had the peak rates in April and early May. Yet, it is important to consider that these samples were based on salmon donated to processors in Oregon only (i.e. does not take into account any Washington or California landings) for 1995-2004. Most significantly, the shorebased fishery (and the at-sea sectors) were under a different management scheme. From 1994-1996, 40 percent of whiting TAC was allocated to shorebased operations while the remaining 60 percent was competed for between the MS and

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<sup>6</sup> <https://www.pcouncil.org/documents/2018/03/agenda-item-h-5-attachment-1.pdf/>

CP sectors. The formal sector allocations (42 percent SS, 34 percent CP, and 24 percent MS) were put into regulation in 1997 (PFMC 1997<sup>7</sup>). Note that formal bycatch allocations were not put into place until 2009, with the sectors operating under a common bycatch pool from 2004-2008 (again, leading to the race to fish mentality as all sectors would close if the bycatch cap was taken).

Even with this data and looking at moving the start date from June to May in the northern areas and April to May in the southern area, the EA still concluded the same as the 1997 EA in that “It would be difficult to predict the impact of changing season timing on salmon bycatch, especially on a year-to-year basis, as could occur under the proposed framework.” The proposed framework for the season and criteria for modifying season dates as adopted is now described in 50 CFR 660.131 (b)(2)(ii):

“(2) Different primary season start dates. North of 40° 30’ N. lat., different primary season starting dates may be established for the C/P Coop Program, the MS Coop Program, and the Pacific whiting IFQ fishery for vessels delivering to IFQ first receivers north of 42° N. lat. and vessels delivering to IFQ first receivers between 42° and 40° 30’ N. lat....

ii. Criteria. The start of a Pacific whiting primary season may be changed based on a recommendation from the Council and consideration of the following factors, if applicable: Size of the harvest guidelines for whiting and bycatch species; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; the period between when catcher vessels make annual processor obligations and the start of the fishery; environmental conditions; timing of alternate or competing fisheries; industry agreement; fishing or processing rates; and other relevant information.”

Given that there is limited bycatch information in the whiting fisheries pre-May 15th, staff examined potential sources of information that may help determine possible bycatch impacts prior to May 15th.

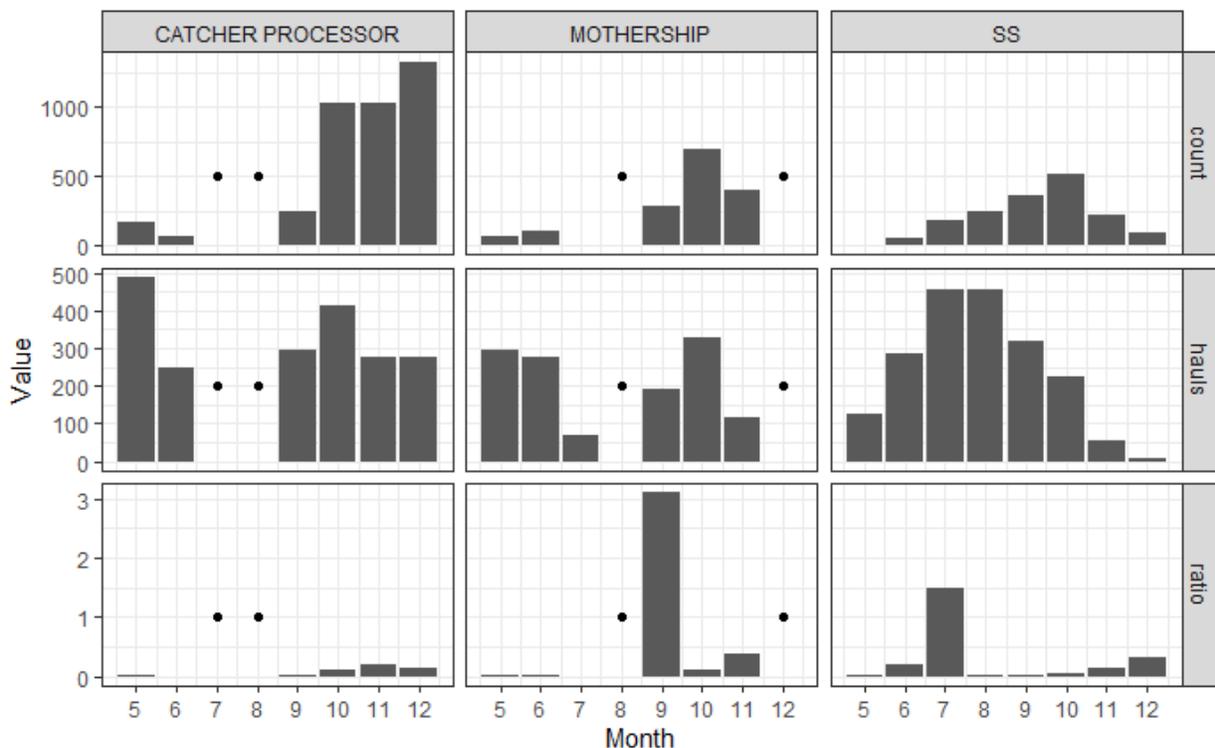
#### Current Whiting Bycatch Trends

While at-sea whiting fisheries haven’t occurred prior to May 15th in over 25 years and there is limited SS whiting occurring prior to May 15th (an average of just over two percent of total whiting landings per year from 1994-2020), looking at seasonal bycatch patterns (both catch and ratios) could provide some estimates in potential salmonid bycatch. Figure 13 shows the average number of Chinook salmon, average number of hauls, and the average ratio of Chinook salmon bycatch (number per mt of whiting) on hauls within each month by sector from 2011-2019. While there are observations for the fisheries prior to 2011, 100 percent monitoring was only in effect for the SS whiting sector starting in 2011. Therefore, the time series provides the best comparison. For the SS whiting sector, as electronic monitoring trips only record discard by haul and all Chinook salmon are to be retained under maximized retention, the Chinook salmon caught were apportioned based on target species weight (i.e., Pacific whiting) across hauls associated with a fish ticket. Note that months that did not meet confidentiality standards are noted with a dot. Overall, average

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<sup>7</sup> PFMC 2017. Environmental Assessment of Regulatory Impact Review of the Anticipated Biological, Social, and Economic Impacts of a Proposal to Allocate Pacific Whiting Among Non-Tribal Sectors and Establish a Framework for Modifying Season Opening Dates.

bycatch rates and counts tend to increase into the fall and winter for all three sectors. For the at-sea sectors, this is even though the average number of hauls in May (which accounts for only half of the month) are typically the highest. For the SS whiting sector, the fishery typically kicks off after the MS processors go to Alaska to fish for pollock, but rates are still low compared to winter. On the individual haul level, bycatch ratios also appear similar across May and June with rates in the fall months (October and November) being higher. Due to confidentiality, graphical representations of haul level data are not provided. Given this information, it is likely that moving the start date earlier than May 15th by a few weeks could see similar bycatch estimates as the first few months of the regular season.

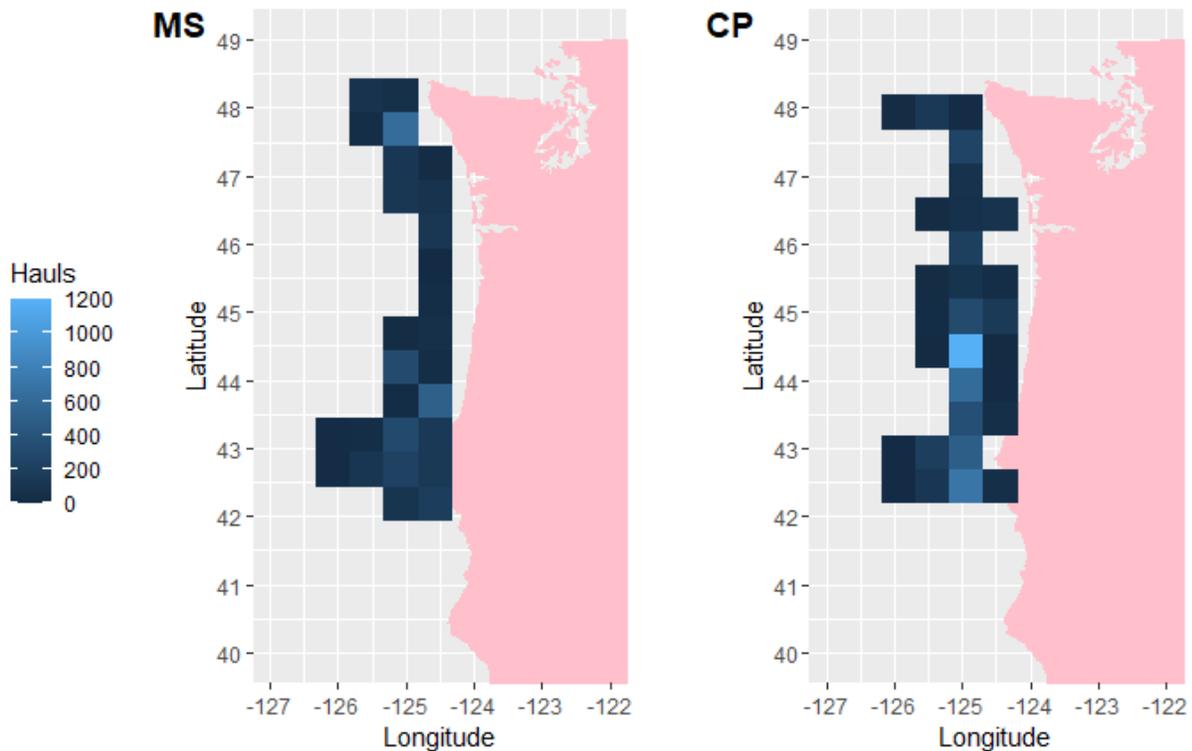


**Figure 13. Average number of salmon by month, number of hauls per month, and ratio of Chinook per mt of whiting on hauls by Month by Sector. Dots represent confidential months.**

Even with the potential for increased bycatch with extending the season by a couple weeks to a month, the overall risk of exceeding the Chinook salmon threshold is likely low, as the whiting sectors as a whole have taken less than 6,000 Chinook salmon in each of the last three years. This averages out to 52 percent of the 11,000 Chinook salmon (See [Regulatory Impact Review for Proposed Regulatory Amendment Endangered Species Act Salmon Bycatch Mitigation Measures under the Pacific Coast Groundfish Fishery Management Plan](#) and [PacFIN reports for salmon bycatch accounting](#)).

However, the risk of exceeding the threshold depends on either a more northerly or more southerly distribution in fishing effort ([NMFS 2017](#)). Specifically, the 2017 BiOp concludes that the projected bycatch and risk of exceeding the guideline (and the Reserve) is higher when fishing effort is concentrated in more southern areas than in northern ones.

Yet, comparing the distribution and density of hauls in the at-sea sectors from 2015-2017 (Figure 14) to 2018-2020 (Figure 15) even as the effort has shifted to the south slightly in both sectors (shown in the lighter shades) in the recent years, the total bycatch remains well within the threshold. The MS sector has even had an increase in the number of hauls taken south of 42° N. lat. in the last three years (2018-2020) compared to the previous three years (2015-2017). While bycatch rates in the southern latitudes are typically higher than northern latitudes, supporting the BiOp’s conclusion that there is an increased risk of bycatch with a more southern distribution, the interannual variation present within even these six years is important to consider (Table 13). In 2020, both sectors saw the greatest number of hauls south of 42° 50’ N. lat., but the bycatch ratios were close to 400 times lower for the MS sector and 5x lower for the CP than the 2018-2019 average. Therefore, while the bycatch impacts may be similar to the start of the season, the location of that effort will be another determining factor. However, given the management of the co-ops and the record of salmon avoidance, the risk level could further be mitigated.



**14. Count of hauls by at-sea sector from 2015-2017 shown in 0.5x0.5-degree cells (Source: WCGOP; WGS84 Coordinate System)**

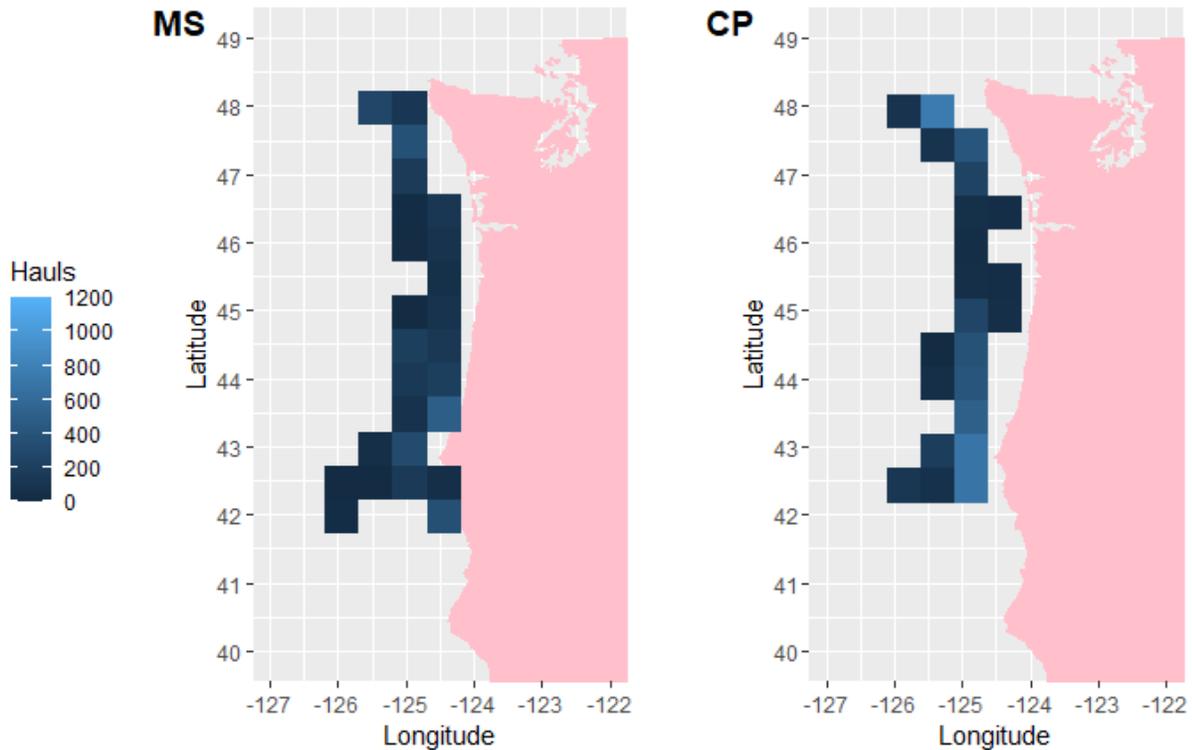


Figure 15. Count of hauls by at-sea sector from 2018-2020 shown in 0.5x0.5-degree cells (Source: WCGOP; WGS84 Coordinate System)

Table 13: Bycatch rate (number of Chinook per 1000 mt of whiting) by region and sector, 2015-2020. Latitude stratifications are the same as those provided in the NMFS salmon bycatch report. “C” denotes stratification with fewer than 3 vessels.

Sector	Region	2015	2016	2017	2018	2019	2020
MS	N of 45° 16' N. lat. (WA/OR border)	0.061	0.002	0.031	0.011	0.002	0.006
	45° 46' to 42° 50' N. lat.	4.447	0.007	0.008	0.108	0.048	0.000
	42° 50' to 40° 10' N. lat.	c	0.008	0.026	0.325	0.297	0.001
CP	N of 45° 16' N. lat. (WA/OR border)	0.011	0.002	0.003	0.003	0.005	0.003
	45° 46' to 42° 50' N. lat.	0.050	0.042	0.026	0.058	0.051	0.011
	42° 50' to 40° 10' N. lat.	0.013	0.017	0.011	0.034	0.047	0.008

#### Midwater Rockfish EFP

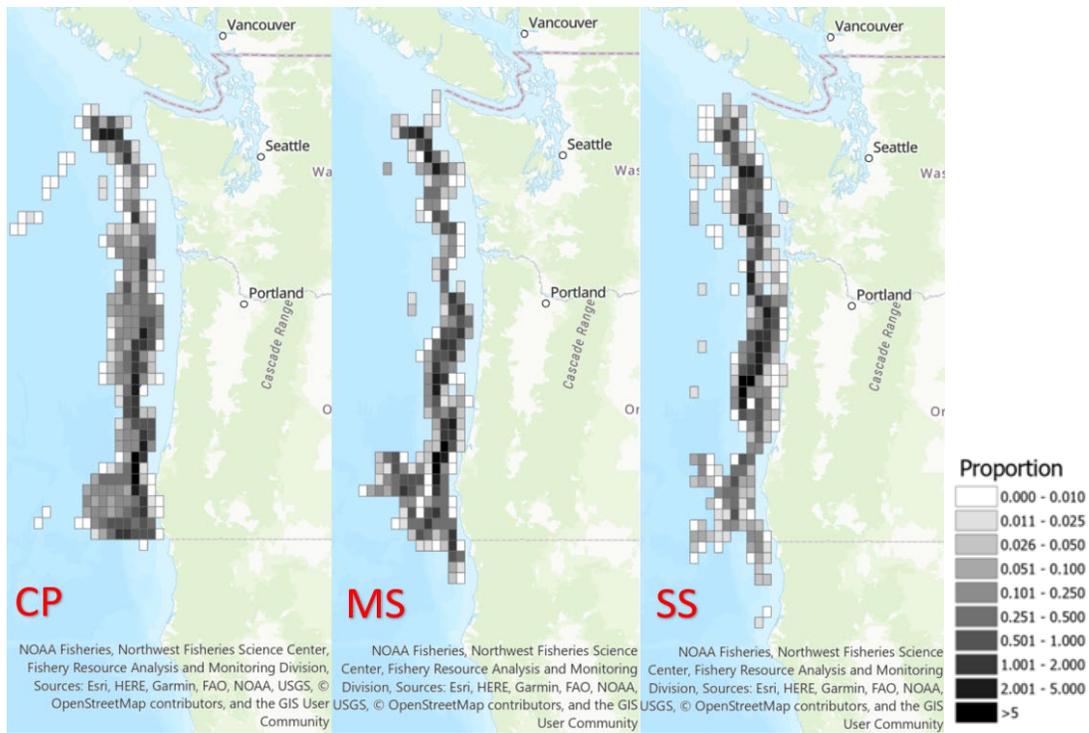
In 2017, NMFS issued an EFP allowing for targeting of healthy underutilized midwater rockfish year-round. The first year included exemptions for portions of the trawl gear rule (e.g., no selective flatfish trawl [SFFT] gear required shoreward of the rockfish conservation area [RCA]) and vessels used modified bottom trawl gear to harvest midwater rockfish. Subsequent years allowed for a

year-round midwater fishery, which allowed vessels to use standard midwater gear pre-May 15th both within and outside of the RCA to harvest midwater rockfish. While these vessels and whiting vessels both use midwater gear for targeting rockfish and whiting respectively, the operations are different in terms of salmon interactions and areas fished between the midwater rockfish fisheries and the whiting fisheries (and then within the whiting fisheries themselves). As noted in the 2017 BiOp “The stock composition of Chinook bycatch and the magnitude of impacts on individual ESUs are influenced primarily by location (latitude and depth), distribution of groundfish catch and the bycatch rate between the different sectors.”

For example, the horsepower of the vessels participating in each of the fisheries, which impacts where and how they fish, is different. This has previously been discussed in the 2019-20 harvest specifications and management measure process ([Agenda Item E.4, Supplemental REVISED Attachment 4, June 2018](#)) in relation to the effectiveness of bycatch reduction areas (BRAs) and the potential impacts of implementing BRAs on the various sectors. Table 14 describes the average horsepower for both processing vessels in the at-sea sector compared to the catcher vessels participating in both the MS and shoreside sectors in 2018. While CP vessels are able to harvest in deeper waters (~89 percent of hauls occurring outside of 200 fathoms from 2011-2017; [Agenda Item E.4, Supplemental REVISED Attachment 4, June 2018](#)), MSCVs do not possess the horsepower to fish effectively in deeper waters even if the MS processors are capable of being in deeper depths. As noted above, there is a significant crossover of catcher vessels participating in both the SS whiting and MS sectors. Based on conversations with industry and the similar horsepower, these vessels likely fish in similar depths which is supported by Figure 16. However, midwater rockfish vessels possess about 36 percent less horsepower than the SS whiting vessels (and thereby MSCVs) and based on previous analyses, fish stocks targeted by midwater rockfish vessels (e.g. canary, yellowtail, and widow rockfishes) are typically found closer to shore and in shallower depths than whiting ([Agenda Item E.4, Supplemental REVISED Attachment 4, June 2018](#)). Note that a comparable figure for the midwater rockfish fishery was not available at the time of publication. Therefore, utilizing the midwater rockfish EFP data to inform potential salmon bycatch prior to May 15th may not be appropriate.

**Table 14. Average horsepower of vessels by midwater sector, 2018 (Source: [EDC FISHEye](#))**

Sector	Mean Horsepower
Catcher Processor	6,518
Motherships	5,428
MS Catcher Vessels	1,513
SS Whiting	1,239
Midwater Rockfish	791



**Figure 16. Fishing effort by whiting sector for 2011-2017. Data are from the database [Fishing Effort in the 2002-2017 U.S. Pacific Coast Groundfish Fishery](#), compiled by NOAA Fisheries, Northwest Fisheries Science Center, Fishery Resource Analysis and Monitoring Division. CP = Catcher Processor; MS = Mothership; SS = Shoreside whiting.**

### ***Salmon Mitigation Plans***

While there is some additional risk to increased take of salmon by moving the start date earlier, the Council should also consider the actions that they took to implement the option of salmon mitigation plans (SMPs) as part of the salmon mitigation follow on actions. While intended to be part of the mechanism to potentially access the Reserve in anomalous bycatch conditions, SMPs would outline a group of vessels' (e.g., WMC) mitigation tools and strategies for minimizing bycatch of Chinook salmon throughout the year. The SMPs are designed to minimize incidental Chinook salmon catch through a defined set of industry developed tools ([Regulatory Impact Review for Proposed Regulatory Amendment- Endangered Species Act Salmon Bycatch Mitigation Measures under the Pacific Coast Groundfish Fishery Management Plan](#)). The Council also has the authority to recommend NMFS implement measures through routine inseason action to reduce incidental take of Chinook salmon should industry's SMPs not prove effective.

### ***Groundfish Interactions***

With the moving of the start date, there would need to be some consideration of the additional bycatch of other groundfish, and non-groundfish, species that could be harvested in those weeks. Under the 2021-22 harvest specifications, set asides in the at-sea sectors for all co-occurring groundfish species were set at recent maximum levels, or some level that industry agreed would cover expected bycatch. For a majority of those species, any additional catch would likely remain within the set-asides given that the set-aside is well above recent mortality or if not, there would not be a risk to the trawl allocation given that these species are under attained (Table 4-19, Table 4-20, and Table 4-21, [Agenda Item F.1, Attachment 8, June 2020](#)). Some species, such as sablefish

north and widow rockfish, are highly attained in the trawl sector; however, bycatch monitoring and reactive inseason responses by the at-sea sectors and recently adopted set-asides, the likelihood of needing significant additional set-asides is low. Ultimately, considerations of set-asides and additional catch could be made within the biennial harvest specifications process that would align with this proposed action if it moves forward.

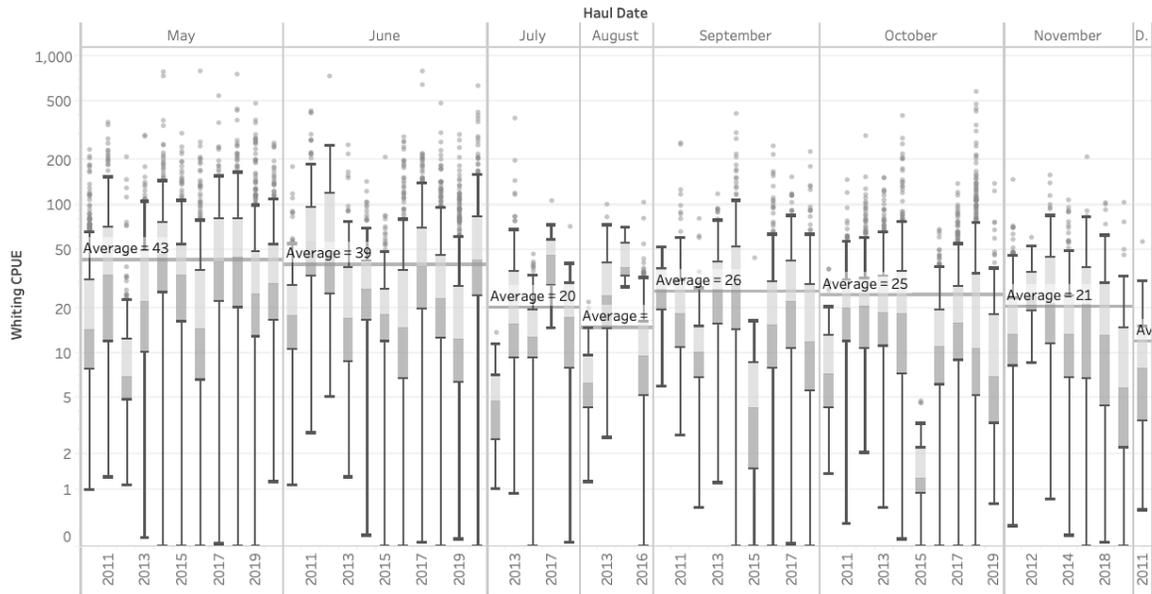
## **Other Considerations**

### ***Economic Impacts***

One of the primary benefits of adjusting the start date to before May 15th is that it would provide additional days to harvest whiting between the Alaskan Eastern Bering Sea walleye pollock seasons. For some processors, there are only about 18 days to harvest whiting before heading to Alaska to start harvesting on the opening day of pollock “B season”. Based on WMC records, vessels typically fish whiting through early to late June in the spring fishery, which would put them in Alaska for “B season” by late June to July at the earliest. If the whiting season start date were to be moved earlier, it seems plausible that processors could be back from Alaska in time to start fishing whiting in April. By moving the start of the whiting fishery season earlier, this would allow processors to get to the pollock “B season” earlier in the year, and then return to the West Coast earlier for the fall whiting fishery to provide even more opportunity to harvest whiting quota.

Additional time at the start of the season may provide a significant opportunity for harvest of whiting, leading to increased utilization and economic benefits. For example, the catch per unit effort (CPUE) for the MS fishery for whiting is the highest in the first two months of the season as shown in Figure 17. During 2011-2020, an average of ~53 percent of the total whiting caught in the MS sector, 45 percent in the CP sector, and 18 percent in the shoreside sector was harvested in May and June (Table 15). Recent years have shown a general increasing trend in the percentage of total catch taken through June for all three sectors. For this reason, it is plausible that vessels will take advantage of an additional month of harvest opportunity at the start of the season.

### Monthly Whiting CPUE by Year



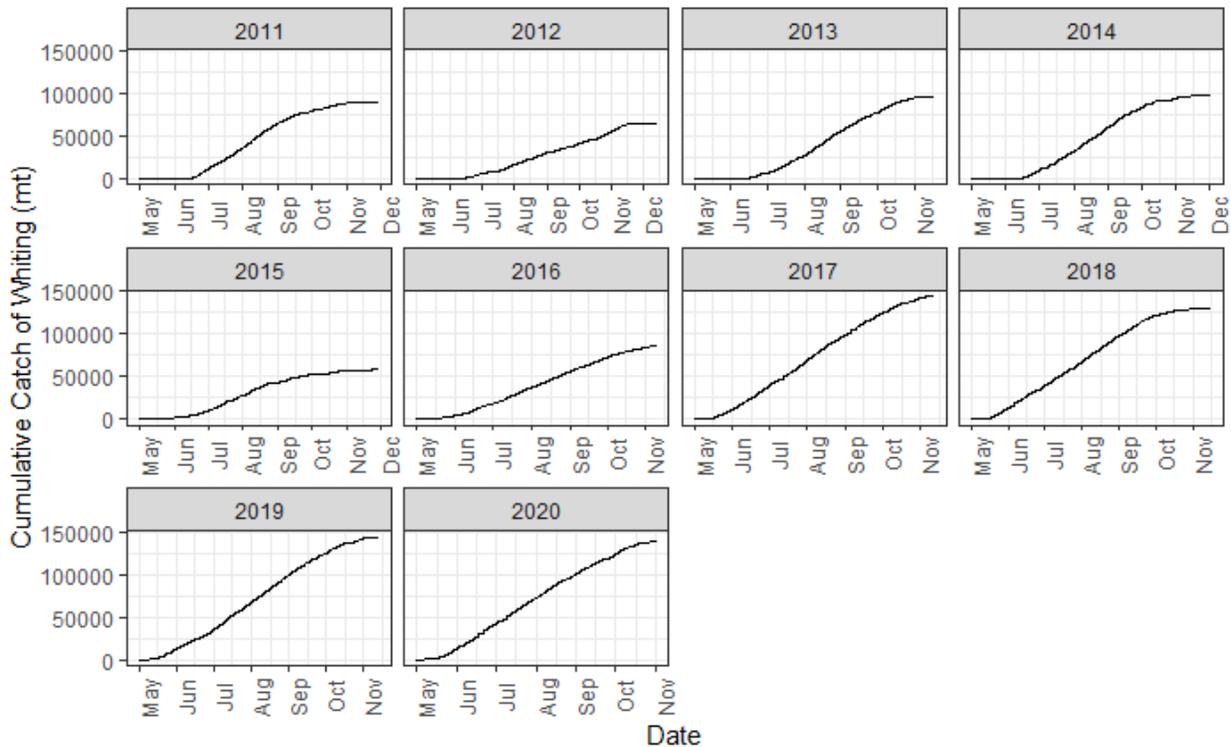
Whiting CPUE for each Haul Date Year broken down by Haul Date Month. Details are shown for various dimensions. The data is filtered on Vessel Type, Fmp Area, Trip Target and Duration. The Vessel Type filter keeps M. The Fmp Area filter keeps PNW. The Trip Target filter keeps Whiting. The Duration filter includes values greater than or equal to 0.0001. The view is filtered on Haul Date Year, which excludes 2008 and 2009.

**Figure 17. Mothership Whiting CPUE for each month, year. Provided by Sea State on October 5, 2020.**

**Table 15. Total whiting catch through June from 2011-2020 compared to the total catch and corresponding percent of total catch through June by Sector. Shoreside catch includes all whiting caught in the shorebased IFQ fishery (whiting and non-whiting) as all QPs debited from shoreside whiting quota. CP and MS values are catch weight (mt).**

Year	Shoreside			CP			MS		
	May June	Total	Percent Total	May June	Total	Percent Total	May June	Total	Percent Total
2011	10,815	90,390	12.0%	26,450	71,665	36.9%	18,426	50,150	36.7%
2012	4,889	65,307	7.5%	20,341	55,668	36.5%	7,018	38,197	18.4%
2013	5,968	96,925	6.2%	28,075	78,041	36.0%	13,067	52,522	24.9%
2014	9,738	98,022	9.9%	35,268	103,266	34.2%	23,080	62,038	37.2%
2015	9,423	58,010	16.2%	42,516	68,484	62.1%	24,489	27,664	88.5%
2016	17,563	85,499	20.5%	47,417	108,804	43.6%	27,136	65,018	41.7%
2017	38,980	144,435	27.0%	48,019	137,130	35.0%	28,450	66,257	42.9%
2018	38,584	129,405	29.8%	51,628	116,050	44.5%	39,151	67,163	58.3%
2019	33,667	144,019	23.4%	69,846	116,379	60.0%	48,226	52,417	92.0%
2020	41,599	139,468	29.8%	64,230	111,144	57.8%	32,285	37,978	85.0%
Average			18.2%			44.7%			52.6%

While the shoreside sector overall may appear to not be as active in the earlier months, one of the reasons is that a proportion of those vessels (Table 10) are fishing in the MS sector prior to the MS processors going to Alaska for pollock “B season”. At that time, the catch rate increases as shown in Figure 18.



**Figure 18. Cumulative landings of whiting (mt) in the shoreside whiting sector, 2011-2020.**

In considering whether to keep this action specific to the MS sector rather than all three sectors, it is important to consider that each of these sectors are competing in the same market for various whiting products. In other words, if the Council was to consider moving the start date to earlier than May 15th for only one or two sectors, they could create a market advantage for that sector(s). The Council would therefore need to consider National Standard 4 in determining the scope of this action, which requires fishing privileges be allocated in a fair and equitable manner. As defined in [50 CFR 600.325](#):

“An “allocation” or “assignment” of fishing privileges is a direct and deliberate distribution of the opportunity to participate in a fishery among identifiable, discrete user groups or individuals. Any management measure (or lack of management) has incidental allocative effects, but only those measures that result in direct distributions of fishing privileges will be judged against the allocation requirements of Standard 4. Adoption of an FMP that merely perpetuates existing fishing practices may result in an allocation, if those practices directly distribute the opportunity to participate in the fishery. Allocations of fishing privileges include, for example, per-vessel catch limits, quotas by vessel class and gear type, different quotas or fishing seasons for recreational and commercial fishermen, assignment of ocean areas to different gear users, and limitation of permits to a certain number of vessels or fishermen.”

In considering whether or not to allow one sector to harvest earlier than another, the Council must consider if the allocation is “fair and equitable, must be reasonably calculated to promote conservation, and must avoid excessive shares” in addition to other factors relevant to the

groundfish FMP. Tests for each of these factors can be found in paragraphs (c)(3)(i) through (c)(3)(iii) of section 50 CFR 660.325:

“(i) *Fairness and equity.* (A) An allocation of fishing privileges should be rationally connected to the achievement of OY or with the furtherance of a legitimate FMP objective. Inherent in an allocation is the advantaging of one group to the detriment of another. The motive for making a particular allocation should be justified in terms of the objectives of the FMP; otherwise, the disadvantaged user groups or individuals would suffer without cause. For instance, an FMP objective to preserve the economic status quo cannot be achieved by excluding a group of long-time participants in the fishery. On the other hand, there is a rational connection between an objective of harvesting shrimp at their maximum size and closing a nursery area to trawling.

(B) An allocation of fishing privileges may impose a hardship on one group if it is outweighed by the total benefits received by another group or groups. An allocation need not preserve the status quo in the fishery to qualify as “fair and equitable,” if a restructuring of fishing privileges would maximize overall benefits. The Council should make an initial estimate of the relative benefits and hardships imposed by the allocation, and compare its consequences with those of alternative allocation schemes, including the status quo. Where relevant, judicial guidance and government policy concerning the rights of treaty Indians and aboriginal Americans must be considered in determining whether an allocation is fair and equitable.

(ii) *Promotion of conservation.* Numerous methods of allocating fishing privileges are considered “conservation and management” measures under section 303 of the Magnuson-Stevens Act. An allocation scheme may promote conservation by encouraging a rational, more easily managed use of the resource. Or, it may promote conservation (in the sense of wise use) by optimizing the yield in terms of size, value, market mix, price, or economic or social benefit of the product. To the extent that rebuilding plans or other conservation and management measures that reduce the overall harvest in a fishery are necessary, any harvest restrictions or recovery benefits must be allocated fairly and equitably among the commercial, recreational, and charter fishing sectors of the fishery.

(iii) *Avoidance of excessive shares.* An allocation scheme must be designed to deter any person or other entity from acquiring an excessive share of fishing privileges, and to avoid creating conditions fostering inordinate control, by buyers or sellers, that would not otherwise exist.

(iv) *Other factors.* In designing an allocation scheme, a Council should consider other factors relevant to the FMP's objectives. Examples are economic and social consequences of the scheme, food production, consumer interest, dependence on the fishery by present participants and coastal communities, efficiency of various types of gear used in the fishery, transferability of effort to and impact on other fisheries, opportunity for new participants to enter the fishery, and enhancement of opportunities for recreational fishing.”

### ***Issues related to the Whiting Treaty Implementation***

Pacific whiting is co-managed by the US and Canada under the Pacific Hake/Whiting Treaty. This agreement established the US's right to 73.88 percent of the overall TAC and the other 26.12 percent to Canada. As described by [NMFS](#):

“The annual coastwide TAC-setting process begins with a stock assessment completed by the Joint Technical Committee in January. The Scientific Review Group reviews the stock assessment at their annual meeting (February or March) and provides scientific advice, which is incorporated into the final stock assessment. The Advisory Panel and Joint Management Committee meet to review the stock assessment and to provide advice to the governments of Canada and of the United States on an annual coastwide TAC by March 25th of each year. Once approved by the respective governments, the TAC advice is in turn implemented in accordance with each countries' laws and regulations.”

Typically, NMFS issues the final rule for whiting harvest specifications prior to the season start date each year. However, in 2020, the Joint Management Committee (JMC) and Advisory Panel (AP) were unable to reach agreement on the coastwide TAC. NMFS therefore published the proposed rule on April 17 after assessing a range of potential TACs and considering the best available science and information ([85 FR 21372](#)) and did not issue the final rule until June 18, 2020. ([85 FR 36803](#)) NMFS therefore issued interim allocations to the whiting sectors based on the lowest analyzed TAC in the proposed rule for 2020 ([NMFS-SEA-2020-15](#)) which were then amended once the final rule was published. This is similar to how the IFQ sector is issued initial QPs when the harvest specifications are delayed. If the start date is moved earlier in the year, there would need to be consideration of the impact to the process and whether a more formal interim allocation process would need to be established.

### ***Interaction with Other Options***

In combination with the ability to be a MS and CP in the same year and an increase in the number of permit transfers allowed, it is also possible that an earlier start date would enable companies to optimize participation in the MS sector because the pressure is reduced to choose which fish to get out of the water at which time (CP or MS). For example, a vessel could choose to operate as a CP at the start of the earlier season, which could provide more time to transit to Alaska and fish their B season pollock, and then come back down to the West Coast to operate as an MS in the fall fishery providing additional platforms to MSCVs.

## Obligation Deadline

Industry-developed Option: Propose changing the date that a MSCV-endorsed permit owner has to obligate their catch history assignment to a mothership processor permit from November 30th of the prior year.

Sub-options proposed by industry:

1. February 1,
2. March 1,
3. March 31 (which would align with MS coop application deadline), and
4. If the season start date changes (under previous alternative) then analyze obligation dates 45, 60, or 90 days before the start of the season.

Additional Option: Develop reciprocal agreement for MS to commit to MSCV.

Additional Option: Remove commitment requirement from the regulations.

## Background

When the Council was deliberating on the co-op formations under Amendment 20, the initial proposal for how the MS co-op would operate was for it to be similar to the Alaska fisheries in that a MSCV would be tied to a processor and in order to obligate to another MS, a CV would have to enter the open access or non-co-op fishery for a year. However, the Council chose to forgo the processor tie or linkage provision alternative and adopted the following as the preliminary preferred alternative in March 2009:

“No processor tie. By September 1 of the year prior to implementation and every year thereafter, CV permit is required to contact NMFS and indicate whether CV 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 permit must also provide the name of the MS permit that CV permit QP will be linked to in the following year (i.e., annual CV-MS linkage that may be changed each year without requirement to go into "open access" fishery). Once established, the CV-MS linkage shall remain in place until changed by CV 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.”

At its April 2010 meeting though, the Council changed its final motion to make the commitment date November 30 as opposed to July 1. The final preferred alternative as written was “intended to provide for some certainty to the mothership on a short-term basis without raising some of the legal complexities that were raised by National Oceanic and Atmospheric Administration (NOAA) General Counsel (GC) over the linkage provision.” It also avoided some of the penalty components associated with the linkage provision (i.e., having to go into the open access fishery for a year before committing to a new processor) but also provided some short-term certainty for MS companies in business planning for the upcoming fishing season. Note that this data aligns with the process for limited entry permits to renew for the following fishing year.

From the [Informational Report 4, June 2020](#), the idea behind changing the obligation date was that it “could provide more flexibility and timely information to be able to choose an MS processor who is going to be able to accommodate the vessel’s catch, which could ultimately improve MS

utilization. This alternative also could remove some discomfort of obligating to a processor for the following year during fishing in the current year.”

The changing of the obligation date would have no biological impacts, and likely little to no analytical burden. The majority of the impacts would be any associated administrative costs as currently the obligation date aligns with the renewal of all limited entry permits.

### **Other Options for the Council to Consider**

While not a part of the initial scope forwarded by the Council from September 2020, the Council may also wish to consider adding a reciprocal clause to [50 CFR 660.150 \(d\)\(iii\)\(A\)\(1\)\(iii\)](#) to require an MS processor to commit to the MSCV that has obligated its catch history. Note that this is not the first time this idea has been brought forward under discussions of MS utilization issues. The idea for a two-way obligation between a MS processor and a MSCV has been raised before, but there was no consensus in favor of the notion during an October 2018 MS sector meeting where a majority of MS participants, both processors and catcher vessels, participated ([Agenda G.4.b, Supplemental Public Comment 2, November 2018](#)) and it was not brought forward by the GAP in [Information Report 4, June 2020](#). Based on industry testimony in September 2018, there have been instances in which MSCVs have obligated their CHA to a MS, however, the MS has not processed their catch because of prioritizing Alaska pollock catch, or prioritizing its own co-owned vessels. While a vessel can be released from its commitment and allowed to deliver to another processor, a lack of available processors and/or the processing cap have prevented other vessels from harvesting all of their quota in the past. Some vessels were forced to lease their allocation to other vessels in order to make some profit in the MS sector. Overall, this combination of issues has led to some vessels stranding quota for multiple years, affecting the owners, crew, and communities in which those individuals live and deliver to.

Furthermore, the Council could also consider whether or not the obligation is necessary to keep in regulation, or if this could be removed from regulations and be handled internally by the co-ops or companies. Currently, if there is a need to change the commitment for a CV to a MS, it requires contacting NMFS and doing a formal request. However, given the co-op agreements, this may be unnecessary and more of an administrative burden for NMFS.

### **MS Processor Cap**

Industry-developed Option: Analyze increasing the processing cap to something higher than 45 percent. Note: Examples percentages were not provided by the industry; therefore, the Council may want to consider providing a range.

Additional Option: Develop a TAC-dependent cap.

Additional Option: Develop divisible catch history assignments.

### **Background**

As described above, there have been instances in which MS vessels have been available to process the quota of MSCVs that lost their processing platform; however, due to indivisible CHAs and the processing cap, the MS was unable to process all of the quota potentially available. Industry testimony from September 2018 when this issue was previously discussed noted that an increased

processing limit might create some additional, but healthy, competitions amongst processing vessels. However, some testified that they were not in favor of an unlimited limit (i.e. 100 percent) which creates a single processor dominated sector. This was further discussed by the GMT in [Agenda Item I.7.a, Supplemental REVISED GMT Report 1, September 2018](#):

“Increasing processor limits or as suggested in public hearings, opening the MS permit class to new entrants, would likely benefit MS catcher vessels unable to find year-round buyers. Public comment during five-year review hearings indicated that the small number of MS companies may put downward pressure on offload prices (see Newport Community Hearing). The SS sector does not currently have processing limits. In 2017, three companies (including affiliates) purchased 93 percent of SS whiting, an increase from 74 percent when the program began in 2011. Current MS and SS regulations would effectively allow for as few as two companies to determine harvest schedules and pricing for most whiting catcher vessels (all but ten percent of the MS allocation).

With attainment typically less than full in both the SS and MS sectors, the vessels who have both at-sea permits and shoreside quota likely select their level of annual participation in either fishery depending on price incentives. Consolidation across the MS and SS sectors would be of particular concern for this group of harvesters, and monopsonistic pricing could be expected to lead to decreased revenue for this class of catcher vessels over time. As predicted in the analysis to support Amendment 20 and reiterated in the Five-year Review Report, further processor consolidation may lead to increased efficiency and utilization of the resource. However, resulting benefits would accrue to a smaller number of entities at the expense of some groups of catcher vessels and communities. The Council may wish to reconsider sector-specific and program-wide whiting processing limits as a separate agenda item in the future. “

## **Discussion**

In considering alternatives, the Council should consider whether they still want to ensure that at least three MS vessels would be required to participate in the fishery to harvest the full allocation (i.e., consider something up to 50 percent) or if one or two vessels would be fair and equitable. However, in this deliberation, it is also important to consider that even under the current limit, with the exception of 2015, there have been five to six MS vessels actively processing each season (Table 8). Further, since the development and implementation of the catch shares program, industry has noted that ownership of the MS permits and vessels has changed. These changes could result in companies being more limited in the ability to process fish and therefore be restricted by the 45 percent limit. In a lower whiting TAC year, it is possible that the benefit of acting as a MS processor may not be sufficient enough to cover the cost. For example, if only two companies' processors participated under the current regulations, it would result in the inability to harvest the full allocation (45 percent x 2 vessels = 90 percent maximum attainment).

## **Other Options for the Council to Consider**

If the Council chooses to move this issue forward, they should consider the range of processing limits to be analyzed prior to the next meeting. This could include additional processing limits (e.g. 60 percent), the elimination of a processing limit all together, or could consider an approach that would have the processing limit that is TAC-dependent, meaning that in years that the whiting

TAC falls some threshold, the processing cap would be a larger percentage to allow for greater opportunity and provide an incentive for MS vessels to participate in the fishery. With the potential for increased capacity as noted above, the current processing limits may be constraining if some motherships are able to prioritize whiting deliveries.

While not directly related to changes in processing limits, the Council may also want to consider making CHAs divisible. As mentioned above, some processors are limited in the MSCVs they can take if the entity is already close to the processing limit, as the MSCV's total CHA may put the processor above the 45 percent limit. While there is no restriction prohibiting a processor from accepting over 45 percent of the CHAs in a given year, if the MS is able to process all 45 percent, there could be MSCVs that are unable to get all their quota out of the water because the entity has hit their cap. Further, based on industry feedback, this may affect relationships between MSCVs and MS, as the MS would have to potentially prioritize CVs. By having CHA be divisible, a MSCV might be able to find another platform or work with different companies within a fishing year to ensure that all of their quota can be processed given other factors. However, by making CHAs divisible, it may be counter to the successes and flexibility of co-op style management.

## Permit Transfer

Industry-developed Option: Analyze alternatives that would allow a vessel that has been registered to a catcher processor permit to be registered to a mothership permit in the same calendar year, and vice versa, and increase the number of transfers available for MS and CP permits annually.

Additional Option: Increase the number of available MS endorsed trawl permits.

## Background

Currently, there is a prohibition for processors in the at sea Pacific whiting fishery from operating as both an MS and CP during the same calendar year. As noted in [85 FR 37027](#), the initial prohibition was implemented “to help ensure market stability in the separate sectors.” While some vessels can catch and process at sea, others can only process; therefore, only some would be able to switch back and forth under the proposed alternative.

In April of 2020, the Council recommended that NMFS implement an emergency rule suspending this prohibition after one company that owned a MS permit would not be able to process as a MS in the 2020 season due to unforeseen health, economic, and safety risks and would be operating only as a CP. This left three MSCVs who had previously committed to this MS from having a platform to deliver their catch. However, no CPs chose to utilize the emergency rule in 2020.

Additionally, as described in [50 CFR 660.25](#), CP or MS endorsed permits are only allowed two transfers within their respective sectors in a calendar year, and the second transfer can only be back to the original vessel.<sup>8</sup> Under Amendment 20, the Council considered having zero or only one transfer allowed ([Appendix B to the Amendment 20 FEIS](#)). However, the Council chose a two-transfer allowance to provide flexibility if a MS were unable to process catch (e.g. due to fire or a

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<sup>8</sup> The original vessel is defined as “either the vessel registered to the permit as of January 1, or if no vessel is registered to the permit as of January 1, the original vessel is the first vessel to which the permit is registered after January 1.”

breakdown) or if unexpected opportunities arose in other fisheries (such as pollock) and another MS would be able to fill that role. The Council noted in Appendix B that, “A restriction on the number of transfers ensures that participation in the mothership processing portion of the fishery remains limited. This helps maintain stable relations between motherships and catcher vessels. In a fishery managed with processor linkages, stable relations between processors and catcher vessels translate into more stable operation of cooperatives.”

This alternative would allow permits to be transferred more than twice, which if combined with the allowance for processing vessels to move between the CP and MS fisheries, might allow for additional processing capacity for MSCVs needing to deliver catch. Furthermore, if combined with an increase in the number of MS permits, it may offer more competition by vessels interested in operating as both a MS and a CP. Based on preliminary discussions with industry, the Council may want to evaluate four transfers or having the upper bound be unlimited, even if for only analytical purposes.

One thing that the Council may need to consider is that under this alternative, it would be possible for a typical MS vessel to operate as a CP if they were able to acquire a CP-endorsed permit. As noted in the Limits section above, there have been limited instances of latent CP-endorsed permits, with all permits registered in 2020. Therefore, the likelihood of accessing a permit to operate in the CP sector may be limited unless there was common ownership. Currently, of the six MS vessels that are linked to a MS permit, only three are licensed as a CP in Alaska and therefore could also potentially participate as a CP in the whiting fishery. The three remaining MS vessels are not operational CPs and therefore would be unable to participate in the CP sector, which may bring up some issues of inequity. However, the choice to allow this privilege may be outweighed by the possibility to increase the capacity of processors in the MS sector.

### **Interactions with Other Options**

As described above, this proposed action, in concert with the movement of the start date of the fishery, could provide additional processor capacity in both the Spring and Fall fisheries.

### **Other Options for the Council to Consider**

The Council could consider changes to the current closed class of permits for the MS sector. Since that time, there has only been two years (2016 and 2019) when six processors were available at some time throughout the year (Table 8). Public testimony at the catch share review hearings and as described above in the GMT report indicated that by increasing the number of potential processors, it could expand opportunity for MS catcher vessels to deliver throughout the season. The potential for a larger number of MS registered vessels participating in the fishery, whether by opening the closed class of permits or allowing CPs to operate as MS vessels (or both), could increase competition amongst MS processors.

While there could be increased competition if the closed class were opened up to additional vessels, there are considerations to be made on whether or not there would be vessels willing, and able, to act as processors given the costs, time, and overall needs required to act as a MS. Even with the emergency rule and generally at least one MS permit unutilized in every year, new entrants have not yet elected to lease in order to participate. It is not clear why there has been a lack of interest in processing in the MS sector to date, possibly a combination of factors influences this decision.

With biomass predicted to decline, if vessels can harvest quickly in their typical fishery, there may be renewed interest in participating in the MS processing sector later in the year, which would increase competition and potentially slow or reverse trends towards consolidation at the processing company level.

## IV. List of Preparers

Council Contractor – Jessi Doerpinghaus

Council Staff – Brett Wiedoff

NMFS Staff – Stacey Miller, Stephanie Warpinski,

NWFSC Staff – Marie Guldin, Ashley Vizek

Oregon Department of Fish and Wildlife Staff – Lynn Mattes, Katie Pierson

Washington Department of Fish and Wildlife Staff – Whitney Roberts