

Mr. Dan Wolford, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220

RE: Open Comment Period – Industry Concerns and Industry’s Actions on Trailing Amendment Process

March 7, 2013

Dear Mr. Wolford & Council Members:

As you are well aware there are several unresolved issues related to trailing amendments for the west coast groundfish catch share program. The unimplemented actions as well as the delay in consideration of other trailing actions/activities are causing additional burden to an industry that seems to be facing only increased costs. The fleet has taken a pro-active approach to ensuring that this process moves forward and I would like to take this opportunity to explain why these actions are necessary and how we are working to accomplish our goals. Lastly I include a list of meaningful actions that will move the process forward. Our catch share program is viewed from around the country as a mighty success. And it is true that we have been able to see first-hand many of the benefits from the program, like virtual elimination of discards. Unfortunately what looks gorgeous from the outside is slowly rotting from within. If we cannot figure out a way to reduce the burgeoning costs associated with monitoring and cost recovery in addition to the other fees (state landings taxes and the Buyback loan payments) and at the same time extract more value out of this fishery by eliminating redundant or irrelevant regulations, we are on a collision course with failure. All of the accrued benefits will be eroded and we will be no better off than we were pre-catch share. The only difference is there will be even less boats, less processing infrastructure and frankly, much fewer folks ready and willing to work together at the table. It is urgent that we prioritize trailing amendments and move forward now.

Background

The trailing amendment process was intended to address issues and implement regulatory fixes following final action and implementation of the west coast catch share program.

There are three categories of trailing amendments. First are those actions that the Council has taken final action on but have yet to be implemented by the National Marine Fisheries Service (NMFS). Next are those actions/activities the Council has identified but that the agency has requested that the Council hold off on considering for the time being. Last are those amendments that are a priority for the industry and while they have been discussed all throughout the development of the IQ program, they may not be on the Council or the Agency’s priority list (for example, eliminating the Rockfish Conservation Zone now that fishermen are 100% accountable for their catch).

The trailing amendment process started off fairly strong with a number of actions and regulatory fixes implemented in 2011. However, the process has become stymied and the lack of action on important issues is causing consternation as well as general distrust and disgust with the process.

Why We Need Action

In 2012 the shoreside fleet only caught about 30% of the non-whiting TAC for IQ species leaving a tremendous amount of fish in the water and/or on paper. Much of this is due to unimplemented trailing amendments from all three categories described above.

For example – the Council took final action in April of 2012 to eliminate the end-of-the-year ban on quota transfers effectively allowing transfers of quota through the last day of the year versus December 15th. National Marine Fisheries Service did not implement the recommendation prior to December of 2012 and thus the prohibition remained in place through the end of the year. During that two-week time period several fishermen had various issues as a result of the continued ban. One fisherman had a large tow of Pacific Ocean Perch during this two-week period – and while only x% of the TAC had been caught – due to the prohibition he was unable to lease 2012 quota to cover his catch. Instead he was forced to lease 2013 fish to cover the trip which was both more expensive and also came off of 2013 accounting even though the fish was caught in 2012 effectively reducing the amount of POP pounds available in 2013. Another fisherman received word from the observer program months after he fished that he had higher halibut bycatch than he had anticipated or accounted for. Again, he couldn't lease 2012 halibut IBQ to cover it even though it was readily available. Instead he had to lease 2013 fish, which was again more expensive and affects the 2013 accounting for halibut IBQ. These are both examples of “paper” fish being left in the water – the fish were caught in 2012 but due to the prohibition on trades during the last two weeks of the year, 2013 accounting was affected. The fact that the Council took action in April and NMFS was unable to implement the change prior to the end of the year has caused significant ire with the industry. It is unclear why this particular regulatory fix was too onerous to implement in a timely manner.

Other examples of regulations preventing a greater amount of the TAC from being harvested include gear and area restrictions that no longer seem necessary now that each individual fisherman is 100% accountable for his catch. These restrictions are preventing fishermen from getting into the areas where they can harvest healthy stocks. These discussions seem to be delayed indefinitely even though the Council spent considerable time and resources on a gear workshop that produced important recommendations. At the same time, the Council has taken final action twice on chafing gear and it is still unclear whether the regulations will be in place prior to the start of the whiting season or whether, once again, virtually the entire whiting fleet will be out of compliance with the rules.

In November the Agency asked the Council to delay action on electronic monitoring. The Council pushed back and made the case that moving forward with electronic monitoring is critical to assisting with observation costs associated with the fishery. Even under a best-case scenario it will be at least 2016 before electronic monitoring is a viable alternative to human observers for the bottom trawl fishery. All indications are that the costs associated with electronic monitoring will be less than those for human observers. In order to provide the fleet with this cost saving and more flexible alternative we simply cannot delay this process.

At the same time, in November the Agency related its intent to push forward with Cost Recovery and its desire to move forward with the development of the Adaptive Management Program. While the Council voted to delay Adaptive Management (though it isn't clear that NMFS was supportive of this delay), the agency did find the time to develop and publish a proposed rule for cost recovery. There is uncertainty about whether the agency's priorities are in sync with the industry and the Council.

What We Are Up To

The industry is frustrated by the lack of movement on trailing amendments. We understand that the Agency's resources are limited and that resources were diverted to deal with the remand order on whiting reconsideration that resulted from the Pacific Dawn lawsuit. We are also well aware that during the design and implementation process the agency brought in additional personnel from around the country to accomplish what was needed. Unfortunately those resources were reprogrammed once the initial job was complete leaving less than adequate staffing and resources to deal with trailing amendments.

A small group of industry representatives have begun working more closely with NMFS headquarters – specifically Sam Rauch, in an attempt to highlight this issue and demonstrate the urgency of making trawl-trailing amendments a priority. We have visited twice with Sam - once in Seattle and then again a few weeks ago in Silver Spring (the follow-up to these meetings is attached). The industry committed to producing a paper that examines the costs to the industry of not implementing the trailing amendments (of which there are more than 2 dozen). These costs coupled with the additional costs the industry is currently facing including the Buyback loan, impending cost recovery and the increasing costs of observers – not to mention the fixed costs associated with participating in the fishery - all result in an untenable and unsustainable situation. Especially when we are only extracting 30% of the available non-whiting TAC out of the water. Presumably there are costs to the agency as well – managing to archaic regulations that are no longer relevant – however we are not necessarily privy to that type of information and we will be seeking the release of an updated budget from the region that shows how much it costs to administer this program including detailed line items. I'll be discussing the framework of the paper with stakeholders here at this meeting and preparing to submit a final paper to the Council during the April meeting. I invite any additional comments that the Council or agency would like to provide.

We have also met with our congressional delegation to discuss the need to make trailing amendments a priority and we have received tremendous support from our representatives who understand the perilous situation the industry is in and the severe negative effects to rural communities and coastal infrastructure if the program falters. We are currently working on a bi-artisan west coast congressional letter to NOAA Fisheries that addresses these concerns as a way to highlight the urgency of these issues and the need for immediate action.

Lastly we are becoming fully engaged in the appropriations process to help ensure that the funding for the Council and the region are adequate to accomplish the necessary tasks to support this fishery. Obviously the current sequestration and looming deadline for the current continuing resolution are causing chaos and uncertainty. One thing is certain, however. If we can't find a way to delay or decrease some of the escalating costs and simultaneously extract more value out of this fishery the benefits that have been realized to date (increased flexibility, decreased discards, etc.) will be eroded and the catch share system

that is currently held up as a national model will collapse under its own weight – hurting the fish, the fishermen, the processors and infrastructure and our coastal communities.

A Reasonable Path Forward

There are several items that we would like to see moving forward and we are willing to work on all of these in partnership with the Council and the Agency, both at the regional and national level.

- 1 NMFS, the Council, and stakeholders agree on trailing amendment priorities – we believe that the amendments that result in the most value back to the industry should top this list
- 2 Identification of a timeline and complete budget necessary to complete said priorities – we'd like to see a transparent budget that describes who and how much is necessary to complete these items
- 3 Identification of a budget for managing, monitoring and enforcing the program as it stands now – this will be helpful in determining where we can eliminate or reduce costs to better match what is needed for the program
- 4 Identification of areas where industry collaboration can move process forward –there are ways that the industry can collaborate and take on some of the work and analysis to assist with the resource shortfall at the region
- 5 Delay in cost recovery implementation until other amendments that allow the fleet to extract more value out of the fishery are viable and implemented
- 6 Delay in transfer of additional observer costs onto the fleet until electronic monitoring is a viable alternative
- 7 Adequate funding to support the Council and the Agency in these endeavors – as noted above, the industry which is one of the strongest voices in terms of lobbying for the agency's budget, will work on both FY 13 and FY 14 to maintain budget needed for this program

Agenda Item B.1.b
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