

TRAWL RATIONALIZATION TRAILING ACTIONS

ISSUE: WHITING SEASON AND SOUTHERN ALLOCATION

Draft Council Decision Analysis Document

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CHAPTER 1 PURPOSE AND NEED FOR THE PROPOSED ACTION

1.1 Introduction

This document provides background information about, and analyses for, modifications affecting regulations for the shore-based whiting fishery. The proposed action would require an amendment to the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP). The proposed action must conform to the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the principal legal basis for fishery management within the Exclusive Economic Zone (EEZ), which extends from the outer boundary of the territorial sea to a distance of 200 nautical miles from shore.

In addition to addressing MSA mandates, this document is an environmental assessment (EA), pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended. This document is organized so that it contains the analyses required under NEPA.

1.2 Description of the Proposed Action

The action considered under this issue is to amend the regulations governing the groundfish fishery by modifying the season opening date for the shore-based primary whiting season and the allocation cap on the amount of the allocation taken and retained early in the season in the area south of 42° N. lat.

1.3 Purpose and Need for the Proposed Action

The trawl rationalization program generates benefits over the previous management program to the degree that previous management constraints can be relieved and flexibility provided in the new program. The opportunity for regulatory relief is generated by the individual and collective responsibility for staying within allowed catch levels that is imposed by the rationalization program. The self responsibility of the trawl rationalization program is generated through a system of catch shares (in the form of IFQs or catch limits assigned to co-operatives). Flexibility in the new program is provided by providing the opportunity for individuals to trade catch shares among themselves. This flexibility is expected to allow the industry to optimize the value it derives from the fishery, subject to those regulations which need to remain in place to achieve conservation objectives and address socio-economic concerns which would not otherwise be expected to result from the influence of market forces.

A substantial portion of the regulatory relief provided to the shore-based trawl fishery was the near elimination of the system of 2-month trip limits which was used to control harvest of nonwhiting species under the previous management regime. However, the trawl rationalization program made no automatic adjustments to the season structure used to control harvest in the shore-based and at-sea whiting fishery. There may be an opportunity to further enhance benefits of the trawl rationalization program by relieving constraints imposed by the season regulations. The Amendment 20 trawl rationalization program specifically identified consideration of modification of the whiting seasons to be a matter for a trailing action.

CHAPTER 2 DESCRIPTION OF THE ALTERNATIVES

2.1 Alternatives

2.1.1 Background

In 1996, the northern shore-based fishery (north of 42° N. lat) and at-sea whiting fisheries (mothership and catcher-processor) all began on May 15, the central shore-based fishery (between 42° N lat. and 40° 30' N lat.) began on March 1 and the southern fishery (south of 40° 30' N lat.) began on April 15. For 1997 the Council adopted, and NMFS approved, a preferred alternative which changed the opening date for the northern shorebased fishery to June 15, and moved the start date for the central fishery to April 1. Additionally, an allocation decision was made to limit the central and southern fisheries (the California fisheries) to taking a total of 5% of the shorebased allocation prior to the start of the northern fishery. These regulations have remained in place and continue under the trawl rationalization program.¹

In addition to modifying the season dates and establishing a California early season allocation, the Council's action for the 1997 fishery also established a framework for modifying the season opening dates on an annual basis. The framework for taking action is discussed in Section 2.3.

The alternative to status quo would return the northern shore-based season start date to May 15 and would also move the California fishery season start dates to May 15. The 5% limit on the

¹ The Council's action implemented for the 1997 fishery:

Adopted alternative: establish a season framework. Under the proposed framework, the Council may set separate season opening dates for each of the three sectors. Objectives and criteria for making these decisions are included in the discussion document. The season for northern California (40°30' N to 42° N latitude) would be modified to open April 15 in 1997 (60 days prior to the opening of the northern shorebased season) and be subject to a limit of 5% of the shore-based allocation (about 4,300 mt in 1997). The 1997 season opening date for mothership processors and catcher-processors will remain May 15, but the shore-based season north of 42°N will be June 15. Seasons may be adjusted annually to achieve the stated objectives. In addition, at-sea processors would be authorized to process whiting waste products when other at-sea whiting operations are prohibited, except for 48 hours before and after the at-sea whiting season is open.

amount of fish taken in the California fisheries prior to the start of the northern fishery becomes nonsensical if the California and northern fisheries start at the same time. Therefore, the alternative to status quo would also eliminate the early season allocation to the California shore-based whiting fishery (south of 42° N. lat).

The environmental assessment for the 1997 action is available from the Council website: http://www.pcouncil.org/wp-content/uploads/02_1997_EA_RIR_Whiting.pdf.

2.1.2 Description of Alternatives

The following are the alternatives being considered for this action.

Status quo: No Action. The current regulations for the start date and southern allocation are as follows.

660.131(B)(2) Different primary season start dates. North of 40°30' N. lat., different starting dates may be established for the catcher/processor sector, the mothership sector, and in 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° through 40°30' N. lat. . .

(iii) Primary whiting season start dates and duration. After the start of a primary season for a sector of the whiting fishery, the season remains open for that sector until the sector allocation of whiting or non-whiting groundfish (with allocations) is reached or projected to be reached and the fishery season for that sector is closed by NMFS. The starting dates for the primary seasons for the whiting fishery are as follows:

- (A) Catcher/processor sector—May 15.
- (B) Mothership sector—May 15.
- (C) Shorebased IFQ Program, Pacific whiting IFQ fishery.
 - (1) North of 42°N. lat.—June 15;
 - (2) Between 42°–40°30'N. lat.—April 1; and
 - (3) South of 40°30'N. lat.—April 15.

660.55 (f)(2) . . . No more than 5 percent of the Shore based IFQ Program allocation may be taken and retained south of 42° N. lat. before the start of the primary Pacific whiting season north of 42° N. lat. . . .

Alternative (recommendation by the GAP endorsed by the Council, November 2011):

Use a single May 15 start date for all whiting sectors including California fisheries and eliminate the 5 percent California early season whiting fishery cap, to the extent that a fishery management plan (FMP) amendment is not required. This change would be implemented through the two-meeting process already authorized under the framework of the Pacific Coast Groundfish FMP.

2.1.3 Rationale

A number of considerations influenced the decision to move the season opening date for the northern shore-based fishery from May 15 to June 15, including providing an opportunity for some catcher vessels to participate sequentially in the mothership sector fishery (opening May 15) and the shore-based fishery (opening June 15), and allowing vessels to complete their May-June DTS cumulative limits before the start of the fishery (it was not permissible to land more than 60% of the DTS limit in a particular month). The shift from a May 15 to a June 15 opening (and from March 1 to April 1 for the central area) was also expected to have some effect in allowing the fish to grow to a larger size prior to harvest (decreasing the total number of individual fish taken to achieve the allocations and having some marginal effect on increasing stock productivity). On the down side was an expectation that shifting a portion of the season to later in the year might increase bycatch rates of rockfish because more of the whiting stock biomass would be in northern areas where rockfish such as yellowtail and widow are more available to midwater gear. With respect to the salmon fishery, the 1997 EA summarized:

The salmon bycatch data do not show a consistent pattern other than to indicate that high salmon bycatch rates may occur in the at-sea fishery later in the year. The shore-based fishery has experienced low salmon bycatch rates during most summer periods. It would be difficult to predict the impact of changing the season timing on salmon bycatch, especially on a year-to-year basis as could occur under the proposed framework” (Council 1997, p. ES-4).

The change in the shore-based season opening dates was supported by all sectors of the industry, including the shore-based processors in northern California.

The 5% limitation on early season whiting catch in the California fishery was seen as “prevent[ing] expansion and further capitalization in that area, contributing to further stability as well as minimizing cost to the nation from further capitalization” (Council 1997, p. ES-4).

For the shorebased industry in the north, the alternative to status quo would increase flexibility to determine the most optimal time to harvest the whiting allocation by adding one month to the season length. The actual timing of harvest would likely take into consideration numerous factors including bycatch rates of other species (bycatch of groundfish is constrained by the quota pounds fishermen hold and bycatch of salmon above certain levels may trigger a reinitiation of consultation under the ESA²), opportunity costs related to other fishing opportunities (such as participation in the mothership whiting fishery or pink shrimp fishery), optimal size and condition of whiting for processing and marketing. Moving the season start dates for California fisheries would simplify regulations and eliminate the 5% early season cap (eliminate a management measure requiring a possible inseason action that would constrain participants in the IFQ program) and may have an effect on salmon bycatch. The tradeoff for the California fisheries is a decrease in flexibility due to the shortened season.

With regard to the alternative the TRREC stated in their November 2011 report to the Council:

² The standard for reinitiation of consultation is 0.5 Chinook per mt for any sector or a total of 11,000 Chinook for all sectors including the whiting fishery

The proposed change would simplify the regulations and allow the northern area fisheries to start at the same time as the at-sea vessels. The California fisheries have been relatively dormant in recent years thus the change would be expected to have little impact on those fisheries. Having a uniform start date will provide all sectors a consistent basis on which to plan their operations in the context of other fisheries and provide the shore-based sector with additional flexibility.

2.2 Alternatives Considered But Rejected from Detailed Analysis

The scope of the current alternatives is limited to moving the whiting season opening for the shore-based fisheries to May 15, coastwide, and a complementary adjustment (elimination of the 5% cap on the early season catch in the south). Moving the whiting season opening date even earlier, or other modifications of the whiting season regulations might also be considered but would require a more extensive analysis that could not likely be completed on time to be implemented for the 2013 fishery, given current workload constraints. Therefore, unless directed otherwise by the Council and in line with the Council's direction from November 2011, the current priority is to determine whether some interim regulatory relief can be provided until more substantial adjustments to the whiting regulations can be considered.

2.3 Process for Taking Action

The Council's action for the 1997 fishery (see footnote 1) established a framework for modifying the season opening date on an annual basis. That framework was codified in the following regulations:

660.131(B)(2) Different primary season start dates. North of 40°30' N. lat., different starting dates may be established for the catcher/processor sector, the mothership sector, and in 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° through 40°30' N. lat.

(i) Procedures. The primary seasons for the whiting fishery north of 40°3' N. lat. generally will be established according to the procedures of the PCGFMP for developing and implementing harvest specifications and apportionments. The season opening dates remain in effect unless changed, generally with the harvest specifications and management measures.

(ii) Criteria. The start of a 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.

The framework does not provide for the modification of the southern allocation nor does it include modifying the season start date for the southern most area (south of 40°30' N. lat.). Additionally, NMFS has made a preliminary determination that an EA will be required for this action. Given that the Council will need to go through the process of adopting a preliminary and preferred alternative, that the framework does not appear to provide any relief in terms of the analytical requirements, and that the current scope of the alternative goes beyond that covered by the framework, it is not readily apparent

that use of the framework provisions for changing the whiting season provides any advantage over use of the socio-economic framework contained in the FMP. The socioeconomic framework requires a full rule making process including two decision meetings for the Council (preliminary and final actions).

CHAPTER 3 **IMPACTS**

3.1 Direct and Indirect Impacts to the Physical Environment, Including Habitat and Ecosystem, and Biological Environment

The 1997 EA (Council 1997) found that the likely biological and physical environment impacts from shifting the whiting season opening dates would accrue to the whiting resource, salmon (mostly chinook), and other groundfish species (primarily yellowtail and widow rockfish). A summary of the main conclusions of the EA is provided in the following sections. Some of this information may need to be updated for this EA.

3.1.1 Whiting

The 1997 EA stated

Delaying all or part of the whiting harvest to later in the season allows the whiting to grow, and thus fewer would be caught to achieve the harvest guideline. This could equate to as much as a 10% increase in longterm yield if the entire harvest were delayed until September each year, compared to the entire harvest being taken in April.

Under consideration here is a one month move (from June 15 to May 15) of the shorebased sector's allocation of whiting (42%). The 1997 EA provided results for a four month delay in harvest, a September harvest as compared to a harvest taken entirely in April. Given that the change here is for a one month move in only a portion of the total harvest the maximum impact on long term yield would likely be relatively small. Moreover, movement of the opening date to May 15 does not mean the timing of the entire shore-based harvest will be moved forward by a one month increment. The IFQ program provides an opportunity for harvest to be spread out over a longer period of time. It may be with the extension of the season duration by one month processors and others may encourage a steady but lower rate of harvest, spread out over a longer time.

3.1.2 Bycatch Species

The 1997 EA stated

Non-target species are affected in that if whiting operations occur in areas where the non-target species are relatively more abundant, bycatch rates will increase. Again, the dynamic nature of the marine ecosystem makes prediction of bycatch rates difficult. For example, salmon bycatch in the whiting fishery is not uniform, but rather patchy, and most tows are free of any salmon. A report by NMFS scientists indicates that in the 1995 at-sea fishery, two sampled tows accounted for 10% of the total salmon bycatch, and 25 tows account for approximately 60% of the total estimated salmon bycatch. These 25 tows represent about 1% of the total of 2,222 tows recorded and 2% of the 1,131 tows sampled. Improved communication among participants in the fishery could help reduce this bycatch by identifying areas of local salmon abundance. Rockfish bycatch is somewhat more uniform, but again a few tows account for the majority of the bycatch.

With respect to salmon in particular, the EA went on to state

An early season (especially in late April and early May) has been associated with higher salmon bycatch rates, especially in the shore-based fishery. However, during the joint venture period of the 1980s, salmon bycatch generally increased after June, peaked in July, and increased again in October. A NMFS report dated May 25, 1992 concluded "there is little apparent seasonality. The late season seems especially variable. (Appendix D.) In recent years, the at-sea fishery has not operated extensively in the summer or fall, so salmon bycatch information is absent. However, in 1992 at-sea processors operated in September and October, and in 1994 operated for 5 days in October. Salmon bycatch in September 1992 was very low, but samples from vessels delivering to motherships in early October showed an extremely high chinook salmon bycatch rate. Catcher-processors during that time period had a very low chinook bycatch rate. After the first week of October, the mothership bycatch rate went to zero and the catcher-processor bycatch rate exceeded the voluntary 0.05 salmon per mt guideline. Thus, the data do not show a consistent pattern other than to indicate that high salmon bycatch rates may occur late in the year. The shore-based fishery has experienced low salmon bycatch during most summer periods. 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.

This information needs to be updated with more recent data. When the season was moved from May 15 to June 15 NMFS found that the rule change was within the scope of the consultation in place at that time.³

With respect to rockfish in particular, the EA went on to state

Rockfish are the primary groundfish taken as bycatch in the whiting fishery, especially widow and yellowtail rockfish. Bycatch of these species could tend to increase if seasons are set late in the year

³ The ESA Biological Opinion on salmon provide criteria that would require reinitiating an ESA consultation. In September 2010, NMFS issued a public notice which read, in part, as follows:

The National Marine Fisheries Service (NMFS) is concerned that current Chinook salmon bycatch rates in the 2010 shoreside Pacific Whiting fishery have been consistently higher than 0.05 Chinook/mt of whiting. This catch ratio is the guideline outlined in the 1999 Biological Opinion addressing potential effects of incidental Chinook salmon mortality in the whiting fishery. Consultation shall be reinitiated if: the shoreside catcher/processor, mothership, or Tribal components of the fishery exceed or are expected to exceed the bycatch rate of 0.05 chinook/mt of whiting; and the expected total bycatch of chinook in the fishery is expected to exceed 11,000 fish." (NMFS, 2010)

when the bulk of the whiting biomass is in northern waters where rockfish are more available to midwater trawl gear. As with salmon, if areas of rockfish concentration can be identified and avoided, bycatch could be reduced.

Irrespective of the effects of a move of the season on the amount of rockfish taken as bycatch, the effects would largely be allocational since total trawl related mortality is limited by sector allocations and the amount of fish allocated to each quota holder. The allocations to each QP holder provide individual vessel incentive to avoid bycatch for IFQ species that may constrain total harvest.

3.2 Direct and Indirect Impacts to the Socioeconomic Environment

3.2.1 Fishery and Business Impacts

Under the trawl rationalization program businesses will time the harvest and processing of product to maximize revenues from all fishing opportunities. Extending the shorebased season by a month will increase the choices available for the northern fishery, providing an opportunity to improve private economic benefits if those benefits are higher in the May 15-June 15 period than later in the year. If the benefits cannot be increased by harvesting during that period then it is unlikely that the change in harvest date will have any effect on the distribution of harvest in the northern fishery. For the southern area, for up to 5% of the shorebased harvest there would be a contraction in flexibility to harvest, with the season opening moving from April 1 (in southern California) and April 15 (in northern California) to May 15. It is reported that little harvest is occurring in this period. Data on the distribution of harvest by area and time period will be provided in the next version of this report. However, even if that data shows little or no harvest is currently occurring, introducing a constraint would reduce the opportunity to take advantage of any newly developing opportunities which may occur with shifts in stock distribution or shifts in other local economic factors.⁴

3.2.2 Impacts on Communities

To the degree the whiting are less available off of California after May 15, as compared to between the status quo April openers and the Alternative May 15 opener, communities in California into which whiting is landed may be disadvantaged. Fish are more likely to have moved out of the area early in warmer water years than colder water years. While the opportunity to own QS ensures the right to harvest the whiting, if whiting are not available after May 15 in concentrations and conditions that allow economically competitive fishing then harvest in the California area might be dampened. Anecdotal reports are that directed whiting harvest in that area has been limited, though in recent years there has been an EFP application to allow whiting fishing earlier in the season. Data on the geographic distribution of whiting landings will be provided in a subsequent draft of this analysis.

3.3 Impacts on Agencies

The alternative would eliminate the need for agencies to monitor the 5% early season cap on the California whiting fishery and create a more consistent whiting management regime for on the water monitoring (vessels using midwater gear in the RCA between May 15 and June 15 would be allowed to do so regardless of whether they were delivering to shore or at-sea). Under status quo, from May 15 to

⁴ In the event that extraordinarily favorable conditions occurred in the southern early season, the 5% cap combined with a much larger amount of quota pounds available for harvest, could result in a mini-derby, a race to harvest whiting QP prior the 5% cap being reached.

June 15 vessels are allowed to use midwater gear in the RCA if they are delivering to motherships but not if they are delivering to shore.

References

Council. (1997). **Pacific Whiting Allocation And Seasons:** Environmental Assessment And Regulatory Impact Review Of The Anticipated Biological, Social And Economic Impacts Of A Proposal To Allocate Pacific Whiting Among Non-Tribal Sectors And To Establish A Framework For Modifying Season Opening Dates. Portland OR: Pacific Fishery Management Council.

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