

field of biology or natural resource management. Observers must be capable of performing strenuous physical labor, and of working independently under difficult conditions without direct supervision. To date, only individuals who have successfully completed at least one cruise as an observer in the federal groundfish fishery off Alaska have been deployed as observers in the whiting fishery.

Under the existing voluntary observer program, hiring procedures, minimum qualifications, certification requirements, responsibilities, or prohibited behaviors are not defined by regulations. In addition, there are no provisions that allow NMFS to sanction individuals who are found to have violated program requirements or unsatisfactorily performed the duties of an observer.

Defining certification requirements and prohibited behaviors will ensure that observers are qualified, and understand their responsibilities and duties. Establishing a suspension/decertification process will allow NMFS to deal with observer performance or behavioral issues while allowing observers an opportunity to file an administrative appeal prior to a final determination.

In small fleets, such as the at-sea catcher-processor and mothership sectors of the whiting fishery, a single observer's data collection represents a substantial portion of the data available to manage the fishery. As a result, poor quality data may have a strong influence on fleetwide estimates of total catch by species. Although poor performance by observers has not been a significant problem to date, it is important to have procedures available to address performance concerns in order to maintain data integrity.

Vessels

In recent years, approximately twelve processing vessels, have annually participated in the WOC at-sea whiting fishery. There are currently no regulations that require at-sea processors to provide safe and adequate working conditions for observers. Operational or mechanical barriers can easily prevent an observer from sampling according to the protocols defined by NMFS. The observer's ability to accomplish their duties, and thereby maintain data integrity, requires that the vessel provide: (1) notification of fish being brought aboard, (2) access to unsorted catch, (3) sufficient time to collect a sample, and (4) adequate space in which to collect and work up samples. When there are no regulatory requirements defining the conditions

necessary for an observer to carry out their duties, individual operations may intentionally or inadvertently neglect to provide these necessities.

Observer health and safety is of primary importance to NMFS. Instituting a mandatory observer program will ensure that the health and safety standards specified at 50 CFR 600.725 and 600.746 will apply to whiting observers. Under these regulations, owners and operators of fishing vessels that carry observers must comply with specific requirements in order to ensure that their vessels are adequate and safe for the purposes of carrying an observer. In addition to the national regulations, existing regulations specific to the treatment and well being of Pacific coast groundfish observers at 50 CFR 660.360 will also apply to observers on board at-sea processing vessels.

Observer Coverage

This proposed rule includes requirements for each at-sea processing vessel over 125 feet (38.1 m) in length to carry two observers while participating in the fishery and each at-sea processing vessel less than 125 feet (38.1 m) in length to carry one observer while participating in the fishery. Since 1991, all processing vessels participating in the at-sea whiting fishery have voluntarily carried at least one observer. Since mid-1997, when the Department of Justice approved allocation of quota shares among members of the Whiting Conservation Cooperative, all catcher-processors have generally carried two observers on a voluntary basis. Having two observers allows all or almost all hauls to be sampled. This level of sampling also provides the Whiting Conservation Cooperative members with additional data for managing their voluntary quota program among vessels that are members of the Cooperative.

In contrast, the mothership sector did not begin carrying two observers until 2000. Beginning in 2000, most motherships in the sector chose to increase their observer coverage to obtain additional data for estimating incidental catch of salmon and overfished species. Since 2001 all motherships have carried two observers. The treaty Indian tribal mothership, which processes catch taken by catcher vessels harvesting the Makah tribal whiting allocation, has typically carried two observers since 1996.

Because the large whiting processing vessels process whiting twenty four hours per day, seven days a week, a single observer typically samples less than half of all hauls taken by an

individual vessel. Requiring two observers would increase the number of observed hauls and is likely to increase the proportion of each individual haul that is sampled. The increased sampling coverage provided by two observers is necessary to increase the precision in estimates of incidentally caught species. Having more precise estimates is especially important for infrequently occurring species (those that are encountered in large numbers in only a few hauls or occurring in low numbers in most hauls) such as ESA listed salmon and overfished groundfish species.

Requiring each vessel to carry two observers deviates from the Council's April 1999 recommendation to require one observer per processing vessel. As discussed above, requiring each processing vessel to carry two observers will provide the data necessary for monitoring the fishery. Because all processors have carried two observers since 2001, this change from the Council's 1999 recommendation is not expected to be controversial nor to increase economic impacts upon the large processing vessels.

The proposed rule also requires at-sea processing vessels less than 125 ft (38.1 m) in length to carry one observer, should they choose to enter the processing sector of the fishery. This would be a new regulatory requirement for small vessels operating as processors. Currently, NMFS funds the observer program for similar sized catcher vessels, and the vessels themselves are not required to pay for anything but food and incidentals for the observers. Under this proposed rule the small processing vessels would be required to pay for their observer coverage.

Biological Impacts

Requiring large processing vessels to carry two observers, and smaller vessels to carry one observer, is expected to improve the accuracy of catch projections and reduce the likelihood of overestimating or underestimating the harvested amounts of target and incidentally caught species. Data inaccuracies could affect the long-term biological stability and yield of whiting or incidentally caught species. The ESA terms and conditions for incidental take of chinook salmon in the whiting fishery are also more likely to be met.

Socio-Economic Impacts

NMFS believes this action will benefit management of the Pacific whiting fishery by providing information needed for enforcement of fishery regulations. Regulations at 15 CFR part 905 preclude