

COASTAL PELAGIC SPECIES ADVISORY SUBPANEL REPORT ON IMPLEMENTATION
OF THE MAGNUSON-STEVENS REAUTHORIZATION ACT (MSRA)

The Coastal Pelagic Species Advisory Subpanel (CPSAS) and the Coastal Pelagic Species Management Team (CPSMT) held a work session via teleconference on August 19, 2008 to review and discuss the revised National Standard 1 (NS 1) Guidelines proposed by the National Marine Fisheries Service (Agenda Item C.5.b, Attachment 1). The CPSAS recommends that the Council consider the following comments for inclusion in a Council response under the comment period for this proposed Action.

The CPSAS agrees with the CPSMT that the harvest policy found in the Coastal Pelagic Species Fishery Management Plan (FMP) is flexible enough to accommodate the annual catch limit provisions of the MSRA. However, CPSAS members expressed concern that the proposed rule appears to address precautionary management for stocks managed at maximum sustainable yield (MSY) and does not acknowledge, or credit, the precautionary measures already in place for stocks managed below MSY. Industry members believe the proposed rule as drafted is unclear regarding stocks already managed below MSY, and could be interpreted to require yet another layer of precaution that would unnecessarily reduce optimum yield (OY). We recommend that the final rule specify that in cases for FMP stocks where a CUTOFF value is included to prevent overfishing for ecological considerations, or for uncertainty, or additional percentage is set aside to account for incidental catch that acceptable biological catch (ABC), annual catch limit (ACL) and OY should be equivalent, and the annual catch target (ACT) should be the harvest amount of stock for the directed fishery.

The CPSAS concurs with views expressed by all industry members that sardines are now one of the most conservatively managed species in the United States; possibly the world. There is much disagreement amongst most CPSAS members that the present scientific surveys and formulas employed to establish the ABC and harvest guideline accurately measure and account for sardine populations that are presently seen in California, the Pacific Northwest, Canada, and Alaska. The concern of the majority of CPSAS members is that without recognition of the multiple layers of precaution presently built into existing management measures, future interpretation of new regulatory requirements could lead to confusion and complications resulting in further constraints in harvest, thus precluding the fishery from achieving optimum yield. This is after all, still a stated goal of NS 1.

Considering the relationship between the overfishing level (OFL), ABC, ACL and ACT (Figure 2 on page 32534 of the Proposed Rule), a majority of the CPSAS suggest the following interpretation, should apply to the statement in the CPSMT Report:

- From the comprehensive harvest control rule formula ($H = (\text{BIOMASS-CUTOFF}) \times \text{FRACTION} \times \text{DISTRIBUTION}$) the estimate of MSY and OFL for sardine in U.S. waters would be the (estimated Spawning Stock Biomass x sliding-scale harvest rate x distribution in U.S. waters). The estimated MSY in U.S. waters is further reduced by (CUTOFF x sliding-scale harvest rate x distribution in U.S. waters) to obtain the ABC in U.S. waters.

- The 150,000 mt CUTOFF is provided to address forage needs, scientific uncertainty, and to prevent overfishing. This cutoff value could be adjusted in the future if needed based on scientific evaluation.
- Also incorporated into the harvest formula is a sliding harvest rate (five percent–15 percent), based on sea surface temperature, addressing environmental variability.
- The distribution term apportions the coastwide ABC amongst waters in the lower U.S., Mexico, Canada, and Alaska.
- For the U.S. fishery the ABC, is the product of the harvest control rule, should be equivalent to the ACL.
- Accountability measures (AM) to address management uncertainty and account for incidental catches, live bait, and future set aside for collaborative research are provided in the percentage allowance subtracted from the ABC/ACL [currently ten percent]. The incidental/research set aside percentage can be adjusted annually if needed. The sardine stock is protected from over-fishing due to the 150,000 mt buffer, the sliding scale harvest rate and the 10 percent set aside for incidental take, live bait, future research and management uncertainty. In light of annual stock assessments and in-season accountability measures, no further buffer should be necessary to protect against overfishing: thus OY should be equivalent to the ABC/ACL.
- The ACT would then represent the portion of the sardine harvest guidelines allocated for directed fishing.

A majority of the CPSAS believe the above scenario realizes the goals of MSRA and NS 1 by protecting against overfishing and maximizes the value of the resource by achieving OY.

Without clarification of how the MSRA applies to stocks managed below MSY, industry fears that the new NS1 regulations could result in further restrictions and legal challenges. Some industry members also wish to point out that the present 2008 sardine HG has precipitated an economic disaster to some in this business.

The CPSAS commends the Pacific Northwest sardine industry for launching and funding a significant effort to develop a collaborative research program, which seeks to establish a second index of abundance that better explains the huge numbers of sardines that fishermen and pilots are seeing from San Pedro to Sitka. Although we must adhere and follow whatever regulatory framework is adopted by NMFS, all but one of the CPSAS strongly believe that any new regulations which could be interpreted to further constrain harvest, or provide a wider venue for litigation, could be the obituary for our industry. We need to be sure we understand all implications for fisheries management, harvest constraints, and the economic consequences to industry, before these new regulations are finalized.

We appreciate the Council's consideration of these concerns.

The CPSAS also agrees with the CPSMT recommendations regarding;

- their interpretation exempting market squid with its sub-annual life cycle from ACL and AM provisions,
- the recommendation for flexibility and a management category for monitored stocks,

- the addition of “depleted” stock status describing a conservation concern triggered by factors other than harvest,
- the recommendation that krill may be deserving of special recognition in the proposed NS-1 guidelines, and that
- the potential for overfishing a CPS stock outside U.S. waters has been a continuing concern in the absence of comprehensive CPS conservation and management.

PFMC
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