

## COASTAL PELAGIC SPECIES ADVISORY SUBPANEL REPORT ON UNMANAGED FORAGE FISH REGULATIONS

The Coastal Pelagic Species Advisory Subpanel (CPSAS) and Coastal Pelagic Species Management Team (CPSMT) participated in a joint webinar on September 3, 2015 to discuss issues related to unmanaged forage fish regulations and Council Operating Procedure (COP) 24. After reviewing related documents, including the Supplemental National Marine Fisheries Service (NMFS) Report and Ecosystem Workgroup Report on Unmanaged Forage Fish Regulations, the CPSAS offers the following comments.

The CPSAS highlights two points stated in the NMFS Report:

- *“This action is not intended to supersede tribal or state fishery management for these species, and coordination would still occur through the existing Council process.”*
- “The Council’s intent for this action ... was to “prohibit new directed commercial fishing in Federal waters” for Shared EC Species, not to necessarily eliminate all existing catch and bycatch.” (emphasis added)

At its March 2015 meeting, the Council also gave NMFS further direction on drafting CEBA 1 regulatory language, asking that it meet the intent, including:

1. Does not constrain existing directed fisheries
- 4b. Holds individual vessels accountable (at the trip level) for landing these species, but allows for unique events.

To account for most historic landings of shared EC species while allowing for different fishing patterns in diverse west coast fisheries, NMFS recommended a daily, per vessel limit of 10 mt, with an annual per vessel limit of 30 mt, rather than percentage of weight of all fish onboard. Limits were based on analysis of PacFIN landings aggregated over the past ten-year period (2005-2014). NMFS also recommended that limits not exceed the highest landings that have occurred for that period, which would be a daily, per vessel limit of 52 mt, with an annual per vessel limit of 225 mt.

We assume this second recommendation, although not specifically stated in the regulatory language in draft regulations, was intended to account for unique events. This distinction should be clarified in the regulatory language.

Regarding the Ecosystem Workgroup Report on Unmanaged Forage Fish Regulations, addressing revisions to *Proposed Council Operating Procedure 24*, the proposed CPS Fishery Management Plan (FMP) section again “confirmed that incidental catch and bycatch in CPS fisheries is dominated by other CPS and that bycatch/incidental catch of non-CPS is extremely low. However, jacksmelt and Pacific herring are infrequently caught with CPS gear and were therefore added to the FMP under Amendment 13 to ensure continued monitoring...: The CPSAS appreciates that the proposed revised FMP language simply adds a new section 1.4.1 to address Shared EC Species, with a footnote acknowledging that silversides include jacksmelt,

per our earlier recommendation.

The CPSAS notes that the EWG additions to the proposed language for exempted fishing permits (EFPs) both decrease the likelihood and increase strict requirements to qualify for an EFP for shared EC species. For example, an EFP is obtainable only in “exceptional circumstances” and it must satisfy Scientific and Statistical Committee (SSC) evaluation of, among other things, “the methodology for determination of potential ecological and economic impacts.” While COP 24 does not explicitly prohibit future fisheries, based on this proposed language, the barrier may be insurmountable. It is virtually impossible to “prove” a negative.

The CPSAS supports the requirement in the draft COP 24 for review by other relevant advisory bodies in addition to the Ecosystem Advisory Subpanel (EAS). We hope that this policy will be reviewed periodically with the potential for revision to consider future fisheries of shared EC species if and when these species become abundant in the California Current System due to climate change.

Finally, the CPSAS is very concerned that the proposed regulations do not account for “unique” events that are unintentional, but may exceed the daily 10 mt or annual 30 mt cap. Because the data in the EWG report is aggregated, it could be masking such unique events. In addition, the forage fish regulations are intended to prevent new fisheries developing on currently unmanaged forage fish, and are not intended to impact current fishery operations. For these reasons, the CPSAS urges caution regarding enforcement of the new regulations and any associated penalties, during the first two years of the program. The program should undergo a streamlined review after two years, and at least every five years thereafter.

PFMC  
09/11/15