

ENDANGERED SPECIES ACT CONSULTATION ON EULACHON

The 2012 Biological Opinion on the Continuing Operation of the Pacific Coast Groundfish Fishery addressed a number of non-salmonid species listed under the Endangered Species Act (ESA) that may be adversely affected by the proposed action including the Southern Distinct Population Segment (DPS) of eulachon (*Thaleichthys pacificus*). The Incidental Take Statement (ITS) in that Opinion concluded that incidental take of the eulachon southern DPS resulting from the proposed action would not be expected to exceed 1,004 fish per year.¹ NMFS also provides the 2012 Biological Opinion for reference only (Agenda Item I.3.a, NMFS Report 1, *electronic only*).

Based on take in the Pacific Coast groundfish fishery exceeding ITS levels in 2011, 2013, and 2014, National Marine Fisheries Service (NMFS) decided to reinstate ESA Section 7 consultation, to address how the fishery impacts eulachon, on April 5, 2016. (Note that bycatch estimates are currently only available through 2015. The Groundfish ESA Workgroup will meet in early 2019 to review bycatch/take estimates for all the species subject to the 2012 Biological Opinion through 2017.) NMFS, in developing its biological opinion on this reinstatement, is ready to provide a draft of conditions that it proposes to include in the new ITS (Agenda Item I.3.a, NMFS Report 2).

The draft conditions include a new approach to calculating and tracking the take estimate, which describes take in a way that better accounts for the high variability in bycatch amounts, and better considers the fishery's full expected effect on eulachon. The Council should review the draft conditions and recommend any refinements on how to describe incidental take so as to reduce the likelihood that consultation has to be reinstated at a future date while still attaining recovery goals for the species. An ITS also contains nondiscretionary steps (referred to as reasonable and prudent measures, R&PM) to minimize the amount or extent of take as well as terms and conditions specific to each R&PM. These measures could affect management of the Pacific Coast groundfish fishery, and the Council also may wish to make recommendations to NMFS on these requirements and their implementation. NMFS will consider Council recommendations when finalizing the biological opinion and attached ITS.

Council Action:

Review Draft Incidental Take Statement for Eulachon and Provide Recommendations for NMFS considerations as Appropriate.

Reference Materials:

1. Agenda Item I.3.a, NMFS Report 1: 2012 Biological Opinion - Continuing Operation of the Pacific Coast Groundfish Fishery (**Electronic Only**).
2. Agenda Item I.3.a, NMFS Report 2: Draft Incidental Take Statement for the Southern DPS of Eulachon.

¹ "Take" as defined for Endangered Species Act purposes extends beyond just landed catch to include any pathway that could reasonably be expected to result in adverse effect on a species or its critical habitat, where designated. The actual definition of take is given in section 3 of the Act: "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."

Agenda Order:

I.3 Endangered Species Act Consultation on Eulachon

Kit Dahl

- a. Reports and Comments of Management Entities and Advisory Bodies
- b. Public Comment
- c. **Council Action:** Review Draft Incidental Take Statement for Eulachon and Provide Recommendations as Appropriate

PFMC

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