

COASTAL PELAGIC SPECIES FISHERY MANAGEMENT PLAN

AS AMENDED THROUGH AMENDMENT 16

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intention of the measures may be to share conservation burdens while minimizing disruption of the CPS fishery, but under no circumstances may the intention be simply to provide more fish to a different user group or to achieve other allocation objectives.

2.2 Other Management Measures

2.2.1 *Generic*

These management measures apply to all vessels participating in the CPS fishery.

2.2.1.1 Observers

All fishing vessels operating in this management unit, including catcher/processors, at-sea processors, and vessels that harvest in Washington, Oregon, or California and land catch in another area, may be required to accommodate NMFS certified observers on board to collect scientific data. An observer program will be considered only for circumstances where other data collection methods are deemed insufficient for management of the fishery. Implementation of any observer program will be in accordance with appropriate procedures outlined under this framework.

As determined by the NMFS Regional Administrator, there may be a need for observers on at-sea processing vessels to collect data normally collected at shore-based processing plants. Processing vessels must accommodate on-board observers and may be required to provide the NMFS certified observers prior to issuance of any required Federal permits. Observers are required on foreign vessels operating in U.S. waters.

2.2.1.2 Essential Fish Habitat

The MSA requires councils to include descriptions of EFH in all Federal FMPs. In addition, the MSA requires Federal agencies to consult with NMFS on activities that may adversely affect EFH. Appendix D of Amendment 8 to this FMP includes a description of EFH for the CPS included in the plan at that time, fishing effects on EFH, non-fishing effects on EFH, and options to avoid or minimize adverse effects on EFH or promote conservation and enhancement of EFH. This definition was reviewed and reaffirmed by the Council in 2005. Amendment 12 to the CPS FMP defined EFH for prohibited harvest species (Euphausiids).

Magnuson-Stevens Act Directives Relating to EFH

MSA directives and NMFS guidance on implementation are addressed in greater detail in Appendix D. The MSA defines EFH as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.” To clarify this definition, the following interpretations are made: “waters” include aquatic areas and their associated physical, chemical, and biological properties that are used by fish, and may include areas historically used by fish where appropriate; “substrate” includes sediment, hard bottom, structures underlying the waters, and associated biological communities; “necessary” means the habitat required to support a sustainable fishery and the managed species’ contribution to a healthy ecosystem; and “spawning, breeding, feeding, or growth to maturity” covers the full life cycle of a species. The definition of EFH may include habitat for an individual species or an assemblage of species, whichever is appropriate to the FMP.

The MSA requires councils to describe in FMPs any fishing activities that may adversely affect EFH. The MSA also requires FMPs to include management measures that minimize adverse effects on EFH from fishing, to the extent practicable.

In addition, the EFH regulations require identification of non-fishing adverse impacts on EFH. The MSA specifies that councils may comment on and make recommendations to the Secretary and any Federal or state agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded or undertaken, by any state or Federal agency that, in the view of the Council, may affect the habitat, including EFH, of a fishery resource under its authority. If the Secretary receives information that an activity of a state or Federal agency would adversely affect EFH, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat. Nonfishing impacts on EFH and corresponding potential conservation measures are included in Appendix D.

Definition of Essential Fish Habitat for CPS

The CPS fishery includes four finfish (Pacific sardine, Pacific [chub] mackerel, northern anchovy, and jack mackerel) the invertebrate, market squid, and all euphausiid (krill) species that occur in the West Coast EEZ. CPS finfish are pelagic (in the water column near the surface and not associated with substrate), because they generally occur or are harvested above the thermocline in the upper mixed layer. For the purposes of EFH, the four CPS finfish are treated as a complex because of similarities in their life histories and similarities in their habitat requirements. Market squid are also treated in this same complex because they are similarly fished above spawning aggregations.

The definition of EFH for CPS finfish is based on a thermal range bordered by the geographic area where CPS occur at any life stage, where CPS have occurred historically during periods of similar environmental conditions, or where environmental conditions do not preclude colonization by CPS. The identification of EFH for CPS accommodates the fact that the geographic range of CPS varies widely over time in response to the temperature of the upper mixed layer of the ocean.

The east-west geographic boundary of EFH for CPS is defined to be all marine and estuarine waters from the shoreline along the coasts of California, Oregon, and Washington offshore to the limits of the EEZ and above the thermocline where sea surface temperatures range between 10°C to 26°C. The southern boundary is the United States-Mexico maritime boundary. The northern boundary is more dynamic, and is defined as the position of the 10°C isotherm, which varies seasonally and annually. Appendix D provides a more detailed description of this variability.

The EFH designation for all species of krill extends the length of the West Coast from the shoreline to the 1,000 fm isobath and to a depth of 400 meters. The designation of essential habitat for krill is based on information about EFH for the two principal species, *Euphausia pacifica* and *Thysanoessa spinifera*. It was not possible at the time of Amendment 12 to discern consistent differences in distribution of the various life stages, other than coastwide, the larvae of both species tend to occur closer to shore, often over the shelf. Isobaths (depth contours) are used below as outer boundaries of EFH, but only because they roughly approximate the outer bounds of reported densest concentrations of the populations, and because static boundaries are preferred for the legal definition of EFH. These contours also roughly form the outer boundaries of some of the major upwelling areas (though perhaps not some of the larger offshore jets), within which consistently high concentrations of phytoplankton occur. The boundaries are not meant to imply the strict association of these highly dynamic macroplanktonic species with fixed bottom topography. No habitat areas of particular concern were identified.

Management Measures to Minimize Adverse Impacts on EFH from Fishing

The Council may use any of the following management measures to minimize adverse effects on EFH from fishing, if there is evidence that a fishing activity is having an identifiable adverse effect on EFH. Currently, there is not evidence that a fishing activity is having an identifiable adverse effect on CPS EFH. Such management measures shall be implemented under the point-of-concern framework as described in Section 2.1.2.

- Fishing Gear Restrictions
- Time/Area Closures
- Harvest Limits, or other applicable measures

In determining whether it is practicable to minimize an adverse effect from fishing, the Council should consider whether, and to what extent, the fishing activity is adversely impacting EFH, including the fishery; the nature and extent of the adverse effect on EFH; and whether management measures are practicable. This determination should take into consideration the long- and short-term costs and benefits to the fishery and EFH, along with other appropriate factors, consistent with National Standard 7 (conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication).

2.2.1.3 Vessel Safety Considerations

The Council will consider and may provide, after consultation with the U.S. Coast Guard and persons utilizing the fishery, temporary adjustments for access to the fishery by vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safety of the vessels.

2.2.1.4 Limited Entry

This FMP authorizes changes and modifications to any effort limitation programs established herein and development of additional effort limitation programs. Changes may include, but are not limited to, requirements for obtaining, maintaining, and renewing permits in any effort limitation system.

2.2.2 Domestic Commercial Management Measures

All measures, unless otherwise specified, apply to all domestic vessels.

2.2.2.1 Permits

Federal permits may be required for individuals or vessels that harvest CPS, and for individuals or facilities (including vessels) that process CPS or purchase live CPS. In determining whether to require a harvesting or processing permit, and in establishing the terms and conditions for issuing a permit, the Council may consider any relevant factors including whether a permit:

1. Will enhance the collection of biological, economic, or social data.
2. Will provide better enforcement of laws and regulations, including those designed to ensure conservation and management and those designed to protect consumer health and safety.
3. Will help achieve the goals and objectives of the FMP.
4. Will help prevent or reduce overcapacity in the fishery.
5. May be transferred, and under what conditions.

Separate permits or endorsements may be required for harvesting and processing, or for vessels or facilities based on size, type of fishing gear used, species harvested or processed, or such other factors that may be appropriate. The permits and endorsements are also subject to sanctions, including revocation, as provided by Section 308 of the MSA.

In establishing a permit requirement, the Council will follow the rulemaking procedures as described in Section 2.1.

2.2.2.2 Permit Revocation and Reinstatement

This FMP allows National Oceanic and Atmospheric Administration (NOAA), under procedures of 15 CFR Part 904, to revoke or suspend any Federal LE permit issued under authority of the CPS FMP.