



Pacific Fishery Management Council

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Philip Anderson, Chair | Charles A. Tracy, Executive Director

DRAFT

September X, 2019

The Honorable Robert Bishop
House of Representatives
123 Cannon Building
Washington, DC 20515

Dear Mr. Bishop:

Thank you for your September 6 request for comments by the Pacific Fishery Management Council on HR 1979 (the Driftnet Modernization and Bycatch Reduction Act) and HR 2236 (the Forage Fish Conservation Act). The Council and its Legislative Committee reviewed the bills and have the following remarks.

HR 1979: The Driftnet Modernization and Bycatch Reduction Act

Your letter asks the Council to explain the current status of “alternative fishing practices that minimize the incidental catch of living marine resources” and to assess “what alternatives to the current fishing gear are being considered.”

The Council is mandated under National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act to prevent overfishing while achieving the optimum yield (OY) for each fishery. The Council has several methods for minimizing the incidental catch of living marine resources in the highly migratory species fishery (where drift gillnetting currently takes place). These include:

- The Pacific Leatherback Conservation Area, which prohibits drift gillnet fishing from August 15 to November 15 in roughly 213,000 square miles within the exclusive economic zone (EEZ).
 - A closure to protect Pacific loggerhead turtles from drift gillnet gear during a forecasted or concurrent El Niño event, located south of Point Conception, California and west of 120° W. longitude from June 1 – August 31.
 - Closures to protect common thresher sharks within 75 miles of California mainland from June 1 through August 14 and in the entire EEZ from February 1-April 30.
 - Closures around the Channel Islands.
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- Regulations that require large mesh drift gillnet fishing off the West Coast to be equipped with acoustic pingers and net extenders, primarily to deter entanglement of marine mammals.

Other commercial gear types authorized under our Highly Migratory Species Fishery Management Plan (HMS FMP) include harpoon, surface hook-and-line, purse seine, and pelagic longline¹. In addition, exempted fishing permits (EFPs) are currently being used to study alternative gears. EFPs are part of the process of evaluating new gear configurations. Current EFPs are exploring fishing with pelagic longline within the EEZ (currently prohibited) and multiple EFPs to test deep-set buoy gear, a new gear type.

Deep-set buoy gear is a line fishing gear in two configurations: standard buoy gear and linked buoy gear. Both configurations require the hooks to be set below a minimum depth, and require that buoys are configured to avoid entanglement. The gear is fished during specified hours and must be actively tended.

As you may know, at its September meeting the Council approved a new Federal fishery for deep-set buoy gear. At its November meeting, the Council is scheduled to review relevant information including public testimony in order to decide whether or not it will initiate a process to consider a possible HMS FMP amendment to authorize shallow-set pelagic longline gear.

HR 2236: Forage Fish Conservation Act

In your letter, you asked the Council to comment specifically on the need for further management and conservation of forage fish and the feasibility of developing management plans that meet the requirements outlined in HR 2236.

As you know from the recent letter we sent to Senator Cantwell (attached), the Pacific Council strongly believes in the importance of protecting forage fish not only on the Pacific Coast, but throughout U.S. coastal waters. The Pacific Council has taken action to proactively protect managed and unmanaged forage fish resources without legislative guidance beyond the MSA. The letter to Senator Cantwell outlines these many actions in our region.

We do have some specific comments of specific provisions. Section 5 requires Councils' Scientific and Statistical Committees to provide advice on maintaining a sufficient abundance, diversity, and localized distribution of forage fish populations to support their role in marine ecosystems. If this advice presumes reliance on quantitative rather than qualitative information, we anticipate some limitation on the availability of detailed information on an ecosystem scale, given its complexity and the dynamic nature of such factors. The Pacific Council does currently

¹ Under the HMS FMP, shallow-set longline, used to target swordfish, is prohibited based on the Endangered Species Act section 7 consultation for the original implementation of the fishery management plan. Deep-set longline, used to target tunas, is permitted outside the west coast EEZ east of 150° W longitude. However, vessels permitted under the WPFMC's Pelagics FEP are permitted to fish with shallow-set longline gear outside the west coast EEZ both east and west of 150 W longitude and land in west coast ports. Those vessels may also fish using deep-set gear and land in west coast ports.

receive annual reports on the status of ecological indicators within the California Current Marine Ecosystem.

Section 7 requires Councils, when setting annual catch limits (ACLs) for managed forage fish fisheries, to assess and reduce ACLs by the dietary needs of fish species and other marine wildlife, such as marine mammals and birds, for which forage fish is a significant part of their diet. As above, the Pacific Council currently takes into consideration the dietary needs of fish and marine wildlife species that rely on forage fish in our management process, with explicit provisions in our Pacific sardine harvest management policy. We would be concerned, however, if legislation required detailed quantitative estimations of factors such as population sizes, dietary needs, trophic interactions and significant interannual variation across the wide ranges of species and environmental conditions in the California current ecosystem that are likely beyond feasible technical capacity and financial resources.

We believe the Pacific Council has crafted a feasible approach to managing forage fish within a complex ecosystem with variable environmental conditions by managing our coastal pelagic species fisheries conservatively, and to establish protections for unmanaged forage species and a process for considering future management of those species. We consider the impact of forage fish to the ecosystem and fishing communities to inform optimum yield and annual catch limit decisions for managed forage species in our Coastal Pelagic Species Fishery Management Plan. One of the eleven goals and objectives in the plan is to “Provide adequate forage for dependent species.” In addition, our harvest control rules for coastal pelagic species include built-in reductions in allowable harvest if biomass estimates and ecosystem indicators point to declining stock status. This harvest control rule closed the directed sardine fishery in 2015, four years before the stock reached its current overfished status due to changing environmental conditions. We have also prohibited the development of fisheries for krill and other unmanaged forage stocks, as described further in our letter to Senator Cantwell.

To summarize, we believe strongly in protecting forage fish stocks. We have concerns that some requirements in this section of HR 2236 would be infeasible to implement if they were interpreted to require detailed quantitative estimates and analyses for ecosystem factors for which available data may be limited. We believe the Pacific Council has demonstrated an ability to take a regionally tailored and responsive approach to protecting the forage base which is effective and meets the intent of the proposed legislation.

Thank you again for the opportunity to comment on these bills. Should you have any additional questions, please do not hesitate to contact us.

Sincerely,

Philip Anderson
Chairman
JDG:xxx

cc: