

ENFORCEMENT CONSULTANTS REPORT ON
ENDANGERED SPECIES ACT MITIGATION MEASURES FOR SALMON –
FINAL ACTION

The Enforcement Consultants (EC) have reviewed the material associated with Agenda Item H.9, Endangered Species Act (ESA) Mitigation Measures for Salmon – Final Action, and met with National Marine Fisheries Service (NMFS) staff member, Brian Hooper, to review Agenda Item H.9.a, Supplemental NMFS Report 1. The following is the EC's evaluation of the Preferred Preliminary Alternatives (PPAs):

1. **Block Area Closures (BAC)** – Implementation of BAC's as a management measure are enforceable, including the use of selective application (e.g. applying to midwater or bottom gear only).
2. **Selective Flatfish Trawl (SFFT) Net Requirement** – The EC has no enforcement concerns associated with the adoption of SFFT net requirements as currently defined in regulation.
3. **Pacific Whiting Cooperative (Coop) Operational Rules** – Enforcement of specific provisions within Salmon Mitigation Plans (SMP) may be challenging and the EC recommends that regulatory prohibitions be developed for the specific measures the Council would like to be addressed through enforcement action, versus being addressed administratively by the Cooperatives or NMFS. The EC is also concerned with the enforceability of SMP's if unique plans can be submitted by individual vessels or a group of non-Coop vessels.

The EC also considered the ability to enforce possible BAC or Bycatch Reduction Area (BRA) exemptions for vessels with approved SMP's. BRA/BAC exemptions are enforceable provided those vessels fishing under an approved SMP are clearly identified, preferably through use of a unique Vessel Monitoring System declaration code.

4. **Automatic Authority to Close Trawl Sectors** – The EC has no enforcement concerns with this provision.
5. **Development of Reserve Rule Provision** – The EC requests that any NMFS or Council action taken with respect to a particular sector include measures allowing for the enforceability of those provisions, such as through the use of SMP related VMS declaration codes or specific prohibitions for non-compliance.