

Excerpts from Coastal Pelagic Species FMP as Amended Through Amendment 17

4.8 Annual Specifications and Announcement of Harvest Levels

Each year, the Secretary will publish in the *Federal Register* the final specifications for all CPS Actively managed by the Council. The total U.S. harvest will be allocated to the various fisheries as ACLs, HGs or ACTs, or as quotas.

In calculating ACLs, ACTs, HGs and quotas for each species, an estimate of the incidental catch of each species caught while fishermen are targeting other species will be taken into account. Therefore, the total HG will consist of an incidental catch portion and a directed fishery portion. In general, HGs or ACTs will be used to describe direct and incidental take, will set in accordance with harvest control rules, and will be below the ACL to take into account management uncertainty and additional known sources of mortality such as discards, bycatch, research take, and live bait fisheries. This will be done to minimize the chances of exceeding the target harvest levels and the ACL.

If the HG, ACL, or ACT for the directed fishery is reached the directed fishery will be closed by an automatic action and incidental catch will continue to be allowed under the incidental catch allowance, which is expressed in an amount of fish or a percentage of a load (Section 5.1). Minor directed fishing will also be allowed to continue after a directed fishery is closed, unless otherwise specified by the Council, or an ACL is anticipated to be exceeded (Section 5.2). If the estimated incidental catch portion of the HG, ACL, or ACT has been set too high, resulting in the probability of not attaining the target harvest level by the end of the fishing season, the remaining incidental catch portion may be allocated to the directed fishery through the "routine" management procedures. This reallocation of the remaining incidental catch portion of the HG to the directed fishery is not likely to be necessary unless substantial errors are discovered in calculations or estimates.

5.0 Bycatch, Incidental Catch, and Allocation

This FMP establishes incidental catch allowances for CPS and an allocation formula for Pacific sardine.

5.1 Incidental Catch Allowances

"Bycatch" is defined in the MSA as "fish which are harvested in a fishery, but not sold or kept for personal use and includes economic discards and regulatory discards." In the CPS fisheries, fish are caught and sold incidental to catching other species, because they sometimes school together. Incidental catch allowances permit fishermen to land a certain percentage of fish that would otherwise be considered bycatch. Incidental catch allowances can be expressed as an amount or percentage of catch, landings, or deliveries.

Incidental catch allowances will be set by the Council, based on recommendation from the CPSMT, and consistent with Sections 5.1.1 through 5.1.6 of this FMP. Estimates of total incidental catch expected under the incidental catch allowances will be factored into HG, quota, or other ACT recommendations. As described in Section 4.8, estimates of total incidental catch will normally be combined with the directed fishery HG to arrive at a total OY. The purpose of

this adjustment is to ensure that overfishing does not occur due to incidental catch.

Incidental catch allowances are the primary method for managing bycatch in the CPS fishery. Other management approaches, such as fishing seasons or area restrictions, might also be required to reduce bycatch or incidental catch. The incidental catch allowances described here do not exclude the possibility of trip limits or other regulations imposed to reduce bycatch, prolong the directed fishery, or for other purposes.

5.1.1 Incidental Catch Allowances When Stocks are Overfished

When a stock is overfished according to the definition of overfishing in this FMP, incidental catch allowances for commercial fishing shall be set at 0 percent to 20 percent of landed weight, as recommended by the Council.

5.1.2 Incidental Catch Allowances When Stocks are Not Overfished

When a stock is not overfished according to the definition of overfishing in the FMP, incidental catch allowances for commercial fishing shall be set at 0 percent to 45 percent of landed weight, as recommended by the Council.

5.1.3 Pacific (chub) Mackerel Landed Incidentally

When the Pacific (chub) mackerel resource is not overfished, and total landings for the directed fishery established under an HG have been caught, the Council may set an allowable incidental trip limit of one mt or lower.

5.1.4 Catch Allowances for Live Bait When Stocks are Overfished

When a stock is overfished according to the definition in the FMP, catch allowances for live bait fishing may be determined by the Council. Allowing a directed live bait fishery when a stock is overfished is contingent on Council consideration of biological, environmental, and socio-economic factors. The Council is required to minimize fishing mortality on an overfished stock to the extent practicable and to undertake a rebuilding program, which may be implicit to the harvest control rule or explicit.

5.1.5 Incidental Catch Allowances for Live Bait When Stocks are Not Overfished

When a stock is not overfished according to the definition of overfishing in the FMP and an ACL is not anticipated to be exceeded, no restrictions are placed on live bait harvest.

5.1.6 Guidelines and Criteria for Setting Incidental Catch Allowances

In setting incidental catch allowances, Council will consider existing regulations, goals and objectives of this FMP, best available data, scientific and management advice available, guidelines given below, and other policies established by the Council. If decision by the NMFS Regional Administrator about incidental catch allowances is necessary due to time constraints, it will be made based on consultation with the Council Chair, Director of the California Department of Fish and Game, CPSMT, CPSAS, other representatives appointed by the Council, and interested parties as appropriate.

5.1.6.1 Overfished Stocks

In order of priority, the Council's goals in setting incidental catch allowances for overfished stocks should be to (1) minimize fishing mortality on overfished stocks, and (2) minimize discards of overfished stocks. Incidental catch allowances for overfished stocks should approximate rates of

incidental catch when fishing is conducted in a manner that minimizes catch of the overfished stock.

The Council must set incidental catch allowances for all overfished stocks. Once set, incidental catch allowances for overfished stocks remain in force until they are changed. Incidental catch allowances for overfished stocks can be revised during the fishing season if conditions warrant or new information becomes available.

5.1.6.2 Stocks Not Overfished

Incidental catch allowances for stocks that are not overfished are enforced once a directed fishery HG has been reached, and the directed fishery has been closed. Goals in setting incidental catch allowances for stocks that are not overfished should be to (1) avoid unnecessary discard, (2) ensure that HG is taken, but not exceeded, and (3) promote efficiency and profitability in the fishery. Estimates of total incidental catch (based on past or current incidental catch rates, incidental catch allowances, HGs and other conditions in the fishery) are normally considered when HGs are set. Thus, incidental catch allowances should be set at the same time and in concert with HGs.

Incidental catch allowances are meant to accommodate catches that are difficult to avoid during normal fishing directed at other species. Therefore, incidental catch allowances should be set at levels that approximate incidental catch rates during normal fishing activities and do not result in landings in excess of an ACL or ABC.

5.1.7 *Incidental Catch Allowance for Shared EC Species*

Shared EC Species could continue to be taken incidentally without violating Federal regulations, unless regulated or restricted for other purposes, such as with bycatch minimization regulations. The targeting of Shared EC Species is prohibited.

5.2 **Minor Directed CPS Finfish Fisheries**

A very small sector of the CPS fishery harvests minor amounts of CPS not as part of the primary commercial directed fishery. This component of the fishery typically sells catch as specialty dead bait to recreational and commercial fisheries, or for human consumption to restaurants and the public. Total landings from this sector typically make up less than one percent of the total landings of any particular CPS stock. These operations do not fall under standard incidental landing exemptions and do not meet the incidental landing allowances described above when the directed fishery is closed. Setting minor directed harvest limits when other directed fishing has been closed, and managing this harvest under the ACL similar to other harvests allowed after the closure (e.g., live bait and incidental) allows these very small catches to continue under certain scenarios when this catch would otherwise be precluded, such as the Pacific sardine biomass dropping below the CUTOFF value, or when the directed fishery allocation for the year or a fishing period has been reached.

Minor directed fishing will be allowed to continue after a directed fishery is closed, unless otherwise specified, or an ACL is anticipated to be exceeded. The allowance for minor directed fishing is that no vessel or person may land more than one mt per day and vessels may not make more than one trip per day. Minor directed fishing will not be allowed after the ACL is met or exceeded, or is projected to be exceeded.