

ECOSYSTEM PLAN DEVELOPMENT TEAM REPORT ON THE ECOSYSTEM FISHERY MANAGEMENT PLAN

The Ecosystem Plan Development Team (EPDT) wishes to thank the suite of Council advisory bodies for their many thoughtful comments on and insights into the Council's ecosystem fishery management planning process. Should the Council move forward with an ecosystem fishery management planning process, the ideas provided in those comments will be helpful in developing that process and any planning documents.

Plan Purpose and Need

The EPDT reviewed the advisory body and public comments received on drafting a Purpose and Need statement. Based on that review, and the EPDT's statement from its September 2010 report, the EPDT drafted the following revised statement, which is intended to be applicable to any planning document, regardless of whether that document has regulatory authority.

The purpose of an [ecosystem planning document] is to enhance the Council's species-specific management programs with more ecosystem science, broader ecosystem considerations and management policies that coordinate Council management across its FMPs and the California Current Ecosystem (CCE). An [ecosystem planning document] should provide a framework for considering policy choices and trade-offs as they affect FMP species and the broader CCE.

The needs for ecosystem-based fishery management within the Council process are:

- 1. Improve management decisions and the administrative process by providing biophysical and socio-economic information on CCE climate conditions, climate change, habitat conditions and ecosystem interactions.*
- 2. Provide adequate buffers against the uncertainties of environmental and human-induced impacts to the marine environment by developing safeguards in fisheries management measures*
- 3. Develop new and inform existing fishery management measures that take into account the ecosystem effects of those measures on CCE species and habitat and that take into account the effects of the CCE on fishery management.*
- 4. Coordinate information across FMPs for decision-making within the Council process and for consultations with other regional, national or international entities on actions affecting the CCE or FMP species.*
- 5. Identify and prioritize research needs and provide recommendations to address gaps in ecosystem knowledge and FMP policies, particularly with respect to the cumulative effects of fisheries management on marine ecosystems and fishing communities.*

The EPDT refers the Council and the public to its March 2011 Discussion Document, particularly Section 4.2, "Science Questions for Future Considerations," for the EPDT's initial recommendations on scientific information and analyses the EPDT believes are important to informing the Council process on many of the science and research issues defined within the above *Needs* list.

Regulatory Authority

With regard to the Council's second task to "Provide guidance on whether the Ecosystem Plan should have regulatory authority and management unit species," the EPDT broadly sees three potential choices:

1. *Status quo*: This option would mean not moving forward with coordinated ecosystem fishery management planning at this time and risks derailing the forward progress the Council and its advisory bodies have already made in bringing more ecosystem science into the Council process. This option could result in uncoordinated and inefficient implementation of ecosystem considerations within the individual FMPs.
2. Advisory Fishery Ecosystem Plan (FEP): The benefit of this option is that, consistent with the EPDT's Purpose and Needs statement, above, it would foster coordinated progress to bring ecosystem science into Council decision-making processes. This option also has the benefit of focusing Council attention on the interactions across FMP species and between FMP and non-managed species. If the Council ultimately wishes to move toward new regulatory programs outside of its existing FMPs, this option would bring new scientific analyses into the Council process, and more time for the Council to evaluate that scientific information and determine whether it needs regulatory authority beyond that provided in its species-specific FMPs. The main cost associated with this option is a potential delay in implementing new regulatory programs for species that are currently outside the scope of existing FMPs. The EPDT also discussed the potential to draft an FEP that was initially structured to facilitate future conversion to an EFMP—should the Council decide to do so.
3. Ecosystem Fishery Management Plan (EFMP): This option would also foster coordinated progress on bringing ecosystem science into the Council process. An additional benefit of this option is that the Council would have regulatory authority to develop conservation and management measures for non-managed species that do not easily fit within current FMPs. However, for this process to be effective, the Council would need to define an initial list of species for as an EFMP's fishery management unit for potential regulation and the conservation objectives they wish to achieve for those species. The main cost of this option in the near-term is more focus on species-by-species management, at the expense of a broader ecosystem approach that explores interactions across FMP species and between FMP species and non-managed species.

The EPDT met with Mr. Judson Feder, NOAA General Counsel Southwest to request clarification on several issues concerning the need for regulatory authority that might be relevant to the Council's choice of ecosystem planning document. We list the most relevant questions below, with a paraphrasing of his answers provided in italics:

1. How could a fishery management plan prohibit all fishing activities or the removal of living marine resources (i.e. "no-take" regulations) in an area? Can this be achieved under the Council's existing authorities and FMPs? *Possibly, depending on the administrative record; must be related to the conservation and management needs of management unit species or*

their essential fish habitat, and must comply with the Magnuson-Stevens Act at §303(b)(2)(C) – see EPDT September 2010 discussion document at page 7.

2. May a fishery management plan have only ecosystem component species, and no fishery management unit species? *No.*
3. May a vessel fish in the US exclusive economic zone, or land a fish species on the West Coast, without a license or other permission if the species is neither an FMP species nor managed by a State? *Yes, unless otherwise prohibited by a State or Tribe, or by the federal list of fisheries at 50 CFR 600.725.*

Recommendations

Regardless of whether the Council chooses an FEP or an EFMP, the EPDT recommends the following next steps:

1. Continue to develop science and research plan in accordance with recommendations from EPDT's March 2011 report, comments of the SSC Ecosystem-Based Management Subcommittee and the SSC itself, and input from Council advisory bodies.
2. Upon adopting a Purpose and Need Statement and making recommendations on regulatory authority, the Council might provide guidance on a future EPDT report that would draft options for an outline and structure for the recommended planning document.

PFMC
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