

Agenda Item Summary

BACKGROUND

State rules governing fisheries for Coastal Pelagic Species (CPS), including Pacific sardine, Pacific mackerel, jack mackerel, northern anchovy, market squid, and krill are based on rules adopted federally. The Pacific Fishery Management Council (Council) conducts a significant public process when determining harvest limits and regulatory recommendations, which are considered and implemented (occasionally with adjustments) by the National Marine Fisheries Service (NMFS).

For these fisheries, the Oregon Fish and Wildlife Commission (Commission) incorporates federal regulations annually as the basis for additional or more conservative regulations adopted through the state process. The state has the latitude to adopt concurrent or more conservative regulations, not more liberal.

Aside from regulations associated with a limited-entry system, state regulations for the Pacific sardine fishery are designed to reduce impacts to other species and reduce the potential for wastage.

Three issues are set forth here for the Commission to consider: 1) adoption of federal harvest specifications for Pacific sardine and Pacific mackerel fisheries for the July 2016 through June 2017 fishing period, and multi-year specifications for jack mackerel, northern anchovy and krill; 2) adoption of state fishery management regulations for CPS other than Pacific sardine; and 3) adoption of inspection authority related to commercial licenses, fishing gear, and fish and wildlife.

PUBLIC INVOLVEMENT

A significant public process was conducted by the Council in development of the federal harvest specifications for commercial CPS fisheries.

State regulation proposals for CPS other than Pacific sardine were adopted via temporary rule during part of 2016. Industry participants were consulted directly by the Department as part of that process. In addition, Department staff sought public input on state regulation proposals for CPS fisheries at a public meeting to evaluate the market squid fishery on May 11 in Newport. About 19 industry and other participants attended.

ISSUE 1

FEDERAL HARVEST SPECIFICATIONS AND MANAGEMENT MEASURES FOR COMMERCIAL COASTAL PELAGIC SPECIES FISHERIES

ANALYSIS

Under the Council's CPS Fishery Management Plan, CPS are classified under three management categories: 1) Pacific sardine and Pacific mackerel are actively managed stocks; 2) jack mackerel, market squid and two subpopulations of northern anchovy are monitored stocks; and 3) all species of krill (euphausiids) are prohibited stocks. Harvest and

management measures are specified annually for each actively managed stock, and on a multi-year basis for monitored stocks. Coastwide (WA/OR/CA), all species except jack mackerel and krill are subject to active directed commercial fisheries. In Oregon, CPS fisheries primarily target and harvest Pacific sardine, although targeting and harvest of other CPS has occurred, especially in recent years.

ACTIVELY MANAGED CPS STOCKS

Pacific Sardine

For the 2016-2017 coastwide Pacific sardine fishery, the Council recommended at the April 2016 meeting that no harvest be allowed by the directed non-tribal commercial fishery (Attachment 4, page 5). This decision continues the closure began last fishing year on the west coast (Figure 1). For comparison, the harvest allocated for the non-tribal directed sardine fishery was set at 17,793 metric tons (mt) for the 2014-2015 season.

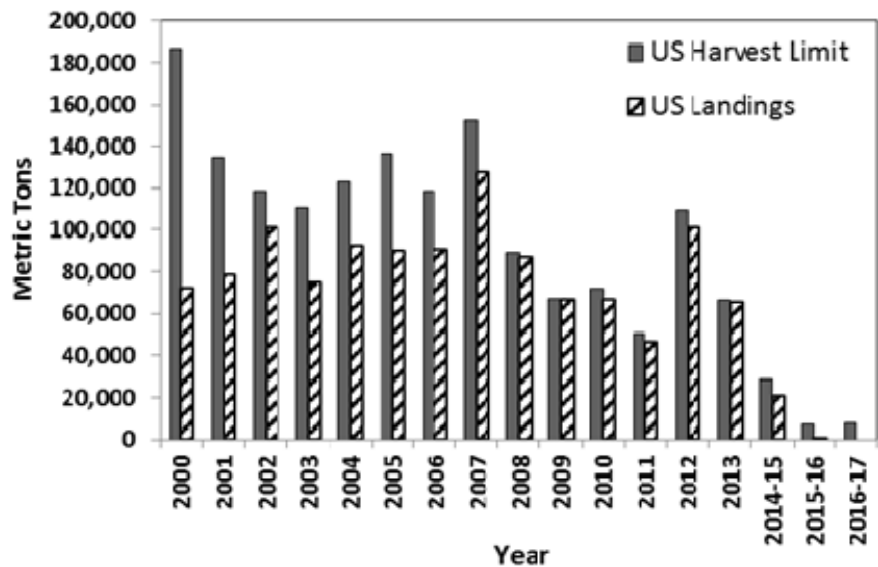


Figure 1. Annual US harvest limits and landings for Pacific sardine since the implementation of federal management.

The large decline in allowable harvest is due to continued observed declines in sardine biomass estimated by a model using fishery and survey data. The abundance of eggs, larvae and young fish observed in surveys has been very low for the past several years. The population trajectory estimated by the model shows the population declining each year since peaking in 2006, then recovering slightly in 2016 (Figure 2). The small increase in biomass estimated for 2016 is based on indications that the abundance of young fish (less than one year old) may be larger than in recent years.

The population for 2016 was estimated at 106,137 mt, smaller than the 150,000 mt level below which directed commercial fishing is not allowed

(Cutoff) under the CPS Fishery Management Plan to protect the spawning population. Sardines would be designated as overfished if the biomass falls at or below 50,000 mt, the minimum stock size threshold (MSST) in Figure 2.

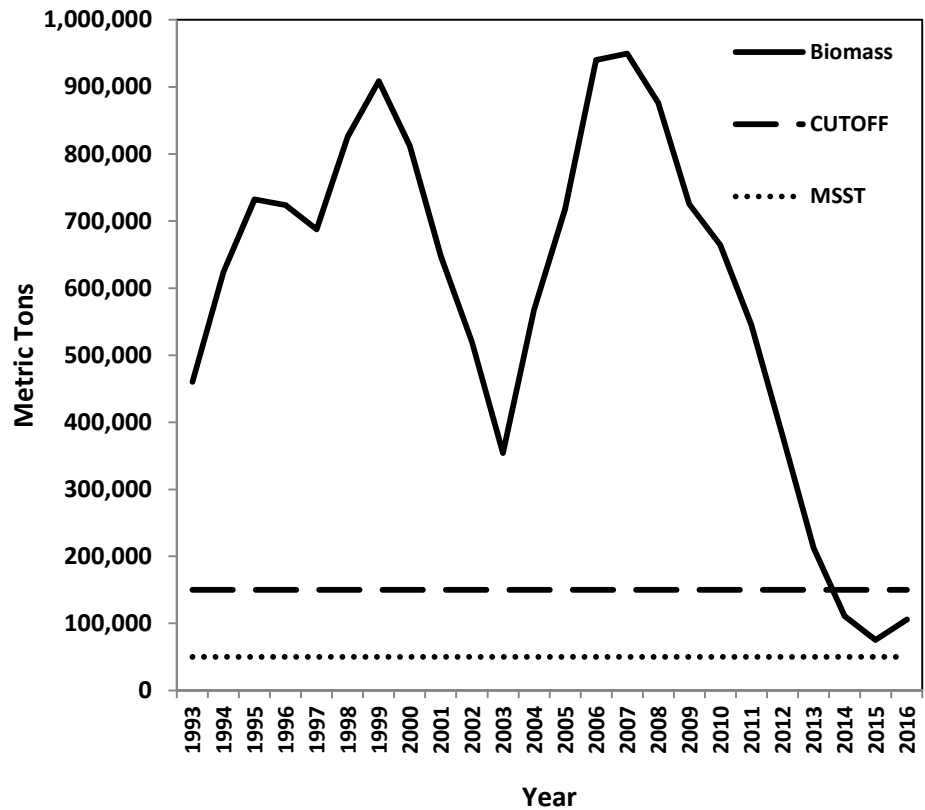


Figure 2. Sardine population trajectory (biomass, ages 1+) estimated by the 2016 assessment in metric tons (mt). The dashed horizontal line represents the level below which non-tribal directed commercial fishing is not allowed (CUTOFF). The solid horizontal line at the bottom indicates the level at which the stock is defined as overfished (MSST).

Although a commercial directed fishery is not allowed, the Council provided for limited harvests of sardines in other fisheries. The Council adopted a limit of 8,000 mt for all harvests of sardines on the west coast, including tribal fisheries, incidental harvests in other commercial fisheries, and a live bait fishery, plus small recreational fisheries and research.

The Council adopted the following automatic inseason actions for non-tribal CPS fisheries:

- An incidental per landing allowance of 40 percent Pacific sardine (by weight) until a total of 2,000 mt of Pacific sardine are landed.
- When the 2,000 mt is achieved, the incidental per landing allowance would be reduced to 20 percent, until a total of 5,000 mt of Pacific sardine are landed.
- When 5,000 mt have been landed, the incidental per landing allowance

would be reduced to 10 percent for the remainder of the 2016-2017 fishing year.

In addition, the Council adopted a 2 mt incidental per landing allowance in non-CPS fisheries for the 2016-2017 fishing year.

Pacific Mackerel

At its June 2015 meeting, the Council recommended an annual catch target (ACT) for the directed mackerel fishery of 20,161 mt for the 2016-2017 fishing season and a harvest guideline (HG) of 21,161 mt (Attachment 5, page 5). Pacific mackerel are primarily landed by commercial purse-seine vessels operating along the US west coast and off Baja California by a fleet based in Mexico. The US purse seine fishery primarily operates from California ports, but some activity has occurred in Oregon and Washington in more recent years. Directed fishing for Pacific mackerel has been constrained to some degree by the incidental catch allowance levels for Pacific sardine during the directed sardine fishery closure. US landings have been well below harvest limits (Figure 3).

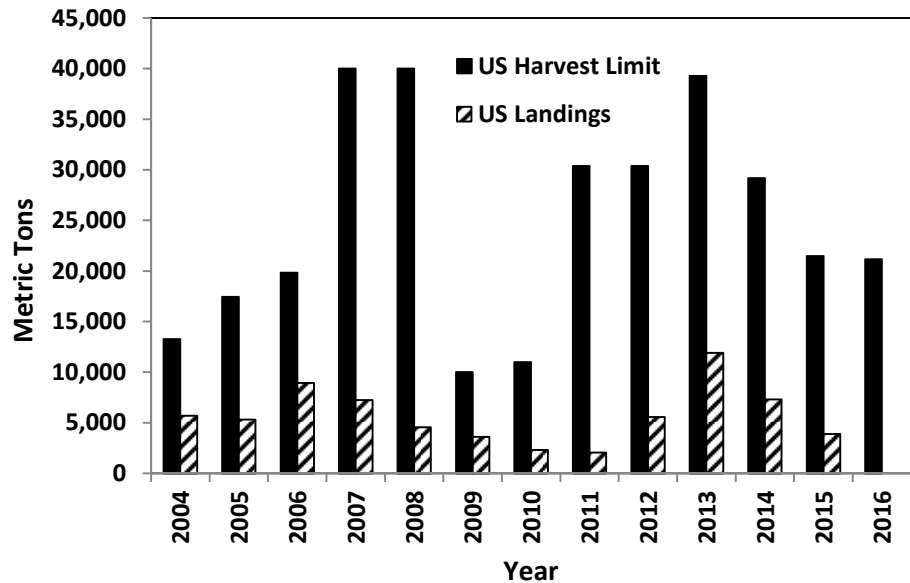


Figure 3. US harvest limits and landings by fishery year (July 1 through June 30) since harvest limits have been specified. Harvest limits for 2015 and 2016 are proposed limits recommended by the Council. US landings for 2015 are preliminary as of May 1, 2016 (before the fishery year ends).

The Council recommended management measures for the 2016-2017 fishery based a Pacific mackerel assessment in 2015. The population size for 2016 is projected at 118,968 mt, slightly smaller than the 120,435 mt estimated for 2015, but larger than the past decade (Figure 4).

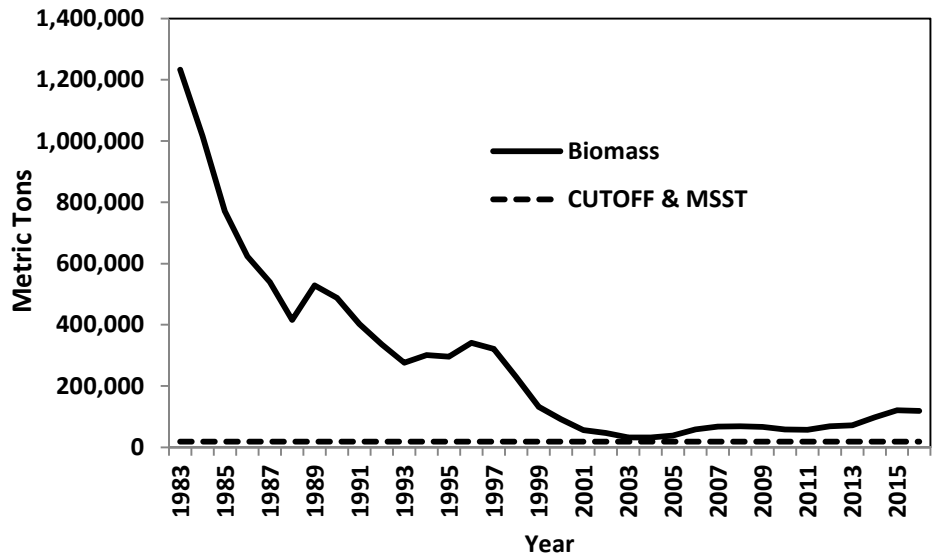


Figure 4. Pacific mackerel biomass trajectory (ages 1+), estimated by the 2015 assessment in metric tons. The dashed horizontal line represents the level (18,200 mt) below which non-tribal directed commercial fishing is not allowed (CUTOFF) and the level (MSST) at which the stock is defined as overfished.

The population size (biomass) of Pacific mackerel is estimated by a model using fishery and survey data. The abundance of eggs, larvae and young fish observed in surveys has been low from the mid-1990s to 2012, with somewhat higher levels observed more recently. With fishery landings below allowed levels, the low abundances of young contributed substantially to the comparatively small population sizes during this period. The population trajectory estimated by the model shows the population slowly improving (Figure 4).

The 1,000 mt difference between the ACT and HG allows for limited incidental harvests in other fisheries. If the ACT is attained, the directed fishery would close and incidental landings of 45% per landing in other CPS fisheries would be allowed. If the HG is attained, no retention of Pacific mackerel in CPS fisheries would be allowed. The Council provided an incidental landing allowance of 3 mt per landing in non-CPS fisheries.

MONITORED AND PROHIBITED CPS STOCKS

Management of monitored CPS stocks usually involves tracking landings against relevant harvest limits and reference points and qualitative comparison to available abundance data. Federal rules are proposed as shown in Attachment 6 to implement changes to the CPS Fishery Management Plan approved in 2011 to conform to revised Magnuson-Stevens Act National Guidelines. The proposed rules as shown in Table 1 are simpler and more precautionary than those used for actively managed stocks in recognition of the low fishing effort and low landings for these stocks, as well as the lack of current estimates of stock biomass. An

annual catch limit (ACL) is proposed for each stock except market squid because it is a very short-lived species (less than one year). If the ACL is reached for any stock, then fishing for that stock will be closed until it reopens at the start of the next fishing season. For krill the proposed ACL is zero, consistent with its designation as a prohibited species.

Stock	Overfishing Level	Acceptable Biological Catch	Annual Catch Limit	Annual Catch Target
Jack mackerel	126,000	31,000	31,000	
Anchovy, Northern Subpopulation	39,000	9,750	9,750	1,500
Anchovy, Central Subpopulation	100,000	25,000	25,000	

Table 1. Proposed annual catch limits (in metric tons) and other management specifications for monitored CPS finfish stocks.

Staff recommends that the Commission adopt, by reference, federal regulations and harvest specifications for CPS fisheries into Oregon Administrative Rule (OAR) without modification. Final federal rules for Pacific sardine and Pacific mackerel harvest specifications were not yet published at the time this document was submitted, but are expected to publish by the July 1 start of the fishing year.

OPTIONS

1. Adopt concurrent rules for Coastal Pelagic Species fisheries as shown in Attachment 3.
2. Adopt more conservative measures.

STAFF RECOMMENDATION

Option 1

ISSUE 2

PERMANENT STATE REGULATIONS FOR CPS

ANALYSIS

Pacific sardine has been the primary target of the CPS seine fishery in Oregon since sardine stocks recovered in the early 2000’s. With the closure of the directed commercial fishery for sardine for two seasons (2015-16 and 2016-17), some seine vessels have shifted effort to targeting other CPS stocks such as Pacific mackerel, anchovy, and market squid. Based on the number of inquiries received from fishers and processors regarding regulations and opportunities for fishing other CPS, staff expects the observed effort shift to continue or increase in the near term. Therefore, staff recommends extending several state regulations that currently apply to seine fishing for sardine to seine fishing for other CPS in order to protect non-target species, increase efficiency, reduce waste, and increase regulatory consistency. In summary, these regulations

would:

- 1.) Prohibit reduction fisheries for CPS by making it unlawful to convert more than 10% of CPS landings to products for purposes other than human consumption or fishing bait (e.g., fish meal or fertilizer);
- 2.) Require that every effort be made to dipnet groundfish and salmon out of the seine net before they go through a pump system, and return them immediately to the water;
- 3.) Allow a CPS catching vessel to pump up to 20% of each landing from the pursued seine of another CPS catching vessel;
- 4.) For all CPS except market squid, require a grate with at least 2 3/8 inches between the bars be placed over the intake of the hold to sort out larger species of fish; and
- 5.) Add Pacific mackerel to the list of species which may not be taken from the Cape Perpetua Seabird Protection Area.

OPTIONS

1. Status quo
2. Adopt concurrent rules for Coastal Pelagic Species fisheries as shown in Attachment 3.

**STAFF
RECOMMENDATION**

Option 2

ISSUE 3

INSPECTION AUTHORITY

ANALYSIS

Recent case law (*State v. Paskar*) has undermined the inspection authority of peace officers and Department representatives for commercial licenses, fishing gear, and fish or wildlife. District Attorneys in Coos and Hood counties have declined and/or will no longer prosecute cases that rely on statutes or rules authorizing searches without informed or implied consent, reasonable suspicion that a crime was committed, or probable cause to investigate a crime. Through consultation with Oregon State Police, staff recommends the Commission adopt a new rule to establish implied consent to inspection of licenses, fishing gear, and fish or wildlife when a commercial fishing license is purchased, and to make it explicitly unlawful to fail to present licenses, fishing gear, or fish or wildlife for inspection when requested by any peace officer of the state or an authorized representative of the Department. If adopted, license purchasers would be informed of this provision in writing at the time of purchase.

OPTIONS

1. Status quo
2. Adopt inspection authority as shown in Attachment 3

**STAFF
RECOMMENDATION**

Option 2

DRAFT MOTION

I move to adopt the staff recommendations for Coastal Pelagic Species fisheries and inspection authority as proposed in Attachment 3.

EFFECTIVE DATE

Upon filing.