



# CALIFORNIA WETFISH PRODUCERS ASSOCIATION

PO Box 1951 • Buellton, CA 93427 • Office: (805) 693-5430 • Mobile: (805) 350-3231 • Fax: (805) 686-9312 • [www.californiawetfish.org](http://www.californiawetfish.org)

June 6, 2019

Mr. Phil Anderson, Chair  
And Members of the Pacific Fishery Management Council  
7700 NE Ambassador Place #200  
Portland OR 97220-1384

RE: Agenda Item B.1 ~ Socio-Economic Point of Concern for the sardine fishery

Dear Mr. Anderson and Council members,

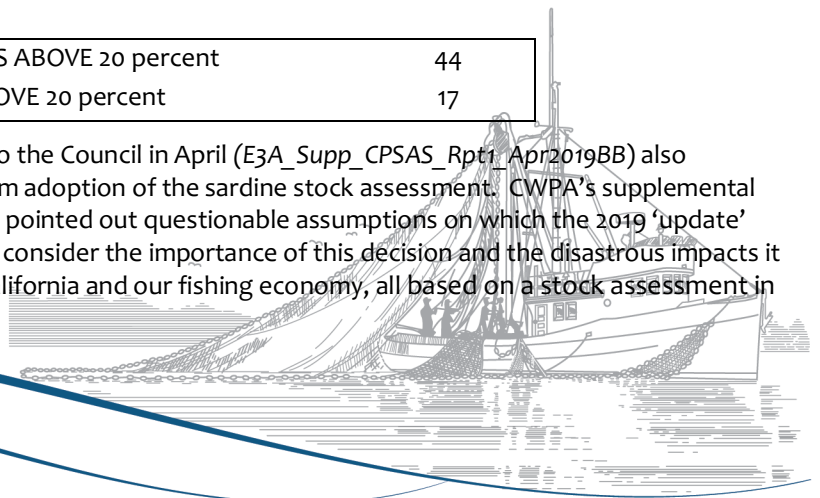
On behalf of California’s historic sardine industry, I’m writing to appeal to the Council and National Marine Fisheries Service (NMFS) for relief on a **Socio-Economic Point of Concern**, after receiving dozens more reports recently of the sheer abundance of sardines in California waters, extending from San Diego as far as Monterey and beyond. This evidence sharply contradicts the 2019 sardine stock assessment, projected to be only 27,547 mt in U.S. waters from Canada to Mexico, in July, 2019. This estimate drops the sardine biomass below the 50,000 mt MSST “overfished” level, which will automatically cut incidental catch rates from 40 to 20 percent by weight in all other CPS fisheries, according to the prescriptive framework embedded in the CPS Fishery Management Plan.

While the directed sardine fishery remains closed, California’s wetfish industry has been hanging on by focusing on other CPS, virtually all of which school with sardine. Therefore, the incidental take rate of sardine in these fisheries is critically important. The reduction to 20 percent by weight, coupled with report after report of sardines schooling with anchovy, mackerel, even squid, at rates far above 20 percent, has prompted this letter, appealing to you for help to avoid a social and economic disaster in California.

Submitted for the April Council meeting, an analysis by the California Department of Fish and Wildlife reported: “On average, **138 landings per year containing incidental sardine have been made from the 2015-2016 to 2018-2019 fishing seasons (Table 1). These supported landings on average of more than 2,300 mt of target species with an ex-vessel value of more than \$1.75 million (Table 1).**” ([https://www.pcouncil.org/wp-content/uploads/2019/04/E3a\\_Supp\\_CDFW\\_Rpt2\\_APR2019BB.pdf](https://www.pcouncil.org/wp-content/uploads/2019/04/E3a_Supp_CDFW_Rpt2_APR2019BB.pdf)). Table 2 of that report displayed the relative percentage of incidental sardine caught in various CPS fisheries. Based on that report, in at least 40 percent of CPS fisheries containing sardine, the incidental rate exceeded 20 percent. The major impacts were to anchovy and Pacific mackerel fisheries, but even market squid was implicated. In aggregate, for the years 2015-2019, following closure of the sardine fishery, **61 landings of CPS and squid (44 percent) would be in violation under the new 20 percent incidental catch requirement: (see full table on page 2)**

TOTAL OTHER CPS LANDINGS ABOVE 20 percent	44
TOTAL SQUID LANDINGS ABOVE 20 percent	17

The CPS Advisory Subpanel supplemental statement to the Council in April (*E3A\_Supp\_CPSAS\_Rpt1\_Apr2019BB*) also highlighted severe socio-economic impacts arising from adoption of the sardine stock assessment. CWPA’s supplemental letter (*E.3.b, Supplemental Public Comment, April 2019*) pointed out questionable assumptions on which the 2019 ‘update’ stock assessment was based and asked the Council to consider the importance of this decision and the disastrous impacts it would likely precipitate, particularly on the State of California and our fishing economy, all based on a stock assessment in



which assumptions – such as the subtraction of 33,000 mt of sardine that the Acoustic Trawl survey estimated in Southern California on the premise that those sardines were from the ‘southern’ stock – could not be challenged because this is an ‘update’ year, although including that biomass would have increased the sardine population estimate above the trigger 50,000 mt MSST ‘overfished’ level.

TARGET SPECIES & PROPORTION OF INCIDENTAL SARDINE		NUMBER OF LANDINGS & PROPORTION OF INCIDENTAL SARDINE 2015 – 2019
Anchovy		
0-10%		15
11-20%		5
21-30%		19
31-40%		14
P. Mackerel		
0-10%		27
11-20%		15
21-30%		9
31-40%		2
Mkt Squid		
0-10%		263
11-20%		26
21-30%		14
31-40%		3
TOTAL OTHER CPS LANDINGS ABOVE 20%		44
TOTAL SQUID LANDINGS ABOVE 20%		17
Adapted from Table 2 – E3a_Supp_CDFW_Rpt2_Apr 2019		

The Council’s adoption of the sardine stock assessment now precipitates a declaration of ‘overfished,’ according to policy, although one Council member acknowledged that fishing had nothing to do with this sorry situation. Nevertheless, the prescriptive policies embedded in the CPS FMP for rebuilding ‘overfished’ stocks are likely to precipitate a socio-economic crisis in California’s wetfish industry, which will impact our fishing economy and the State of California.

According to the CPS FMP Point-of-Concern (POC) Framework, Section 2.1.2, Point-of-concern criteria are intended to assist the Council in determining when a focused review on a particular species is warranted and may require implementation of specific management measures. **This framework provides the Council authority to act based solely on a point-of-concern.** A point of concern may occur if:

- An error in data or a stock assessment is detected that significantly changes estimates of impacts due to current management.
- Control rule (harvest policy) parameters or approaches require modification

The POC framework also provides a socio-economic framework. Section 2.1.3 states:

- **Non-biological issues may arise which require the Council to recommend management actions to address certain social or economic conditions in the fishery or to achieve FMP objectives.**
- **Actions that are permitted under this framework include all categories of actions authorized under the point-of-concern framework with the addition of direct resource allocation and access-limitation measures**

Among FMP objectives are:

- Promote **efficiency and profitability in the fishery, including stability of catch**
- Achieve OY
- **Accommodate existing fishery segments**

- *Acquire biological information and develop long-term research program*

The CWPA supplemental letter referenced above highlighted harsh socio-economic impacts that are likely to befall this industry following implementation of a strict 20 percent by weight incidental catch rate of sardine in other CPS fisheries.

Please consider:

- The Department's data were compiled after the sardine fishery was closed, with the incidental rate at 40 percent. The analysis did not (could not) include the many times fishermen bypassed or released mixed fish schools of anchovy or mackerel because the rate of sardine in the school was greater than 40 percent.
- At a 20 percent incidental rate, fishermen will need to be ultra-careful if fishing on mixed fish schools. It takes extra time to test the contents of a set before bringing it aboard to ensure the load is below 20 percent sardine. **Many fishermen have declared that they will need to forego fishing on any CPS finfish school that contains sardine to avoid a violation.**
- The squid fishery also will suffer a potential impact because in recent years processors have accepted squid with a higher percentage of sardine because sorting gave processing crews some work to do, and because squid abundance has been low.
- Therefore, the Department analysis is a **bare minimum estimate of the loss of fishing opportunity, the loss of catch and revenue, and ultimately the loss of processing jobs, even precipitating bankruptcies**, which will impact not only our wetfish industry but also the State of California.

We ask the Council and CPS Management team to recognize that a serious point of concern exists that could result in the loss of livelihood for a significant number of CPS fishermen and processors, and a further downsizing of existing companies, if vessels cannot find pure schools of other CPS to harvest and squid abundance remains low.

Based on reports coming in now, sardines are everywhere, and mixed school concentrations often exceed the 20 percent rate that will become effective on July 1.

Once boats are tied to the dock, processors' doors closed and markets lost — if no fishing industry exists because of severe and unwarranted cuts in an already ultra-precautionary fishery harvest policy — then the Council has not taken into account the socio-economic needs of fishing communities, a principal tenet of the Magnuson Act.

Reviewing federal law, the Magnuson-Stevens Fishery Conservation and Management Act ("MSA") includes provisions that necessitate consideration of economic impacts to fishing communities and other socio-economic factors. One of the express purposes of the MSA is stated in **16 USC §1801(b)(4)**: "to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which **take into account the social and economic needs of the States.**"

We have previously testified to likely impacts in California's other CPS fisheries. This is equally applicable to potential CPS fisheries that occur off Oregon and/or Washington. If these fisheries are negatively impacted by adherence to a draconian incidental catch restriction required as part of a rebuilding plan, notwithstanding the de facto rebuilding plan already embedded in the sardine harvest control rule, thanks to the CUTOFF of directed fishing below 150,000 mt, California will suffer direct economic harm, and that harm could encompass all three States.

This economic harm will become a social issue if operations that harvest CPS for the benefit of the nation, are bankrupted. As commercial fishing space in Port and Harbors is limited, there is a very real fear that infrastructure supporting CPS operations will be replaced (worst case) or will fall into disrepair.

CWPA's supplemental letter in April provided information on the importance of CPS to numerous harbor communities; the volume crossing the dock is critically important to maintain harbor infrastructure and dockside employment.

National Standard 8, codified at **16 USC 1851(a)(8)**, requires that "conservation and management measures **shall**, consistent with the conservation requirements of this chapter (including the prevention of overfishing and rebuilding of overfished stocks), **take into account the importance of fishery resources to fishing communities** by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) **provide for the sustained participation of such communities**, and (B) to the extent practicable, **minimize adverse economic impacts on such communities.**"

It is beyond dispute that CPS stocks are important to our fishing communities. **Our members are very concerned about not being able to continue viable businesses, absent relief from the FMP's prescriptive 20 percent incidental catch restriction.**

California's sardine industry now finds itself in a critical Catch-22 predicament, cut by both sides of a sharp sword: Recent year AT surveys have begun in the Pacific Northwest and moved south to California. In two recent years, due to timing constraints, the surveys omitted S.CA. entirely. In 2017 and 2018, the AT survey missed tens of thousands of tons of sardine observed in central California nearshore waters, and by the time the survey reached S.CA. and did estimate the 33,000 mt of sardines noted above, the stock assessment scientists assumed those sardines were not 'northern' stock and subtracted those fish from the stock assessment.

On the flip side of the sword, because of questionable assumptions and the inability to address them promptly due to rigid policies, fishermen will suffer even further cuts by the requirement to forego fishing on mixed-stock schools for fear of exceeding the prescribed 20 percent incidental catch rate. But the truth is: sardines are everywhere in our historic fishing grounds (which are well inside current AT survey boundaries), and in many cases sardines are schooling at higher than a 20 percent rate, according to recent reports.

Please understand that short- and long-term consequences to fishing communities are intrinsically linked. Without short-term viability, there will be no long term. Fishermen and markets alike cannot survive if boats are forced to tie up for weeks or months at a time, leaving processors with no fish to process. Some fishermen are already talking about releasing their crews to find other work, and markets have already downsized their processing crews substantially.

Based on the above and as per the CPS FMP, we ask for your understanding and help. We're asking the Council to:

- (1) Identify that a point-of concern exists;
- (2) Task the CPSMT with evaluating "current data to determine if a resource conservation or ecological issue exists" and report back in September. In effect, we are asking the CPS management team to determine that restoring the incidental rate to 40 percent up to 1,000 mt, vs. strict adherence to the 20 percent incidental catch allowance will not cause a resource conservation or ecological concern. But restricting the CPS purse seine fishery to a 20 percent incidental catch rate of sardine will seriously threatening the continued viability of California's wetfish industry, precipitating harm on fishermen, processors, dependent fishing communities and by extension, the State of California. **This restriction contravenes both the objectives of the CPS FMP and the national standards of the Magnuson Act.**

According to CDFW Report 2, the volume of incidental sardine landed in the purse seine fishery since the sardine fishery closure in 2015 has been relatively small, thus restoring the incidental catch rate to 40 percent will have negligible impact.

INCIDENTAL SARDINE LANDINGS IN CPS FISHERIES SINCE 2015 FISHERY CLOSURE	
<u>YEAR</u>	<u>MT</u>
2015-16	164
2016-17	514
2017-18	275
2018-19*	389
Prelim. *WFSH201904	
Adapted from Table 3-E3a_Supp_CDFW_Rpt2_Apr 2019	

Following the provisions of the Point of Concern framework, we're also asking the Council to conclude that management action is necessary to address this social and economic issue.

**Specifically, we ask the Council to address this Point of Concern during Future Agenda Planning at the June meeting, and support putting it on the September agenda, and further, direct the CPS management team to conduct an analysis of the biological and socio-economic impacts of restoring the incidental catch rate to 40 percent for presentation at the September meeting, where during that agenda item, the Council could take final action to address the Point of Concern.**

**We note that restoring the incidental catch rate to 40 percent, up to a limit of 1,000 mt, would fit under the ACT the Council approved for the 2019-20 fishing season.** This action will help ensure the ability of our CPS fishermen, processors, and dependent fishing communities to continue their businesses. We also hope the 2020 sardine STAR panel review will be able to resolve the disconnect between the latest sardine stock assessment and the reality on the fishing grounds, particularly in California.

The future of our fisheries, the wetfish industry and California's fishing economy are at stake, based on actions of this Council and the National Marine Fisheries Service. On behalf of California's wetfish industry, we are asking for your help.

Thank you very much for your consideration.

Best regards,



Diane Pleschner-Steele  
Executive Director

Appendix 1: Extracts from the CPS FMP on the Point of Concern Framework

## APPENDIX 1: EXTRACTS FROM THE CPS FMP ON THE POINT OF CONCERN FRAMEWORK

[https://www.pcouncil.org/wp-content/uploads/2018/05/CPS\\_FMP\\_as\\_Amended\\_thru\\_A16.pdf](https://www.pcouncil.org/wp-content/uploads/2018/05/CPS_FMP_as_Amended_thru_A16.pdf)

### 1.6 Goals and Objectives

Goals and objectives for the CPS FMP (not listed in order of priority):

- **Promote efficiency and profitability in the fishery, including stability of catch.**
- **Achieve OY.**
- Encourage cooperative international and interstate management of CPS.
- **Accommodate existing fishery segments.**
- Avoid discard.
- Provide adequate forage for dependent species.
- Prevent overfishing.
- **Acquire biological information and develop long-term research program.**
- Foster effective monitoring and enforcement.
- Use resources spent on management of CPS efficiently.
- Minimize gear conflicts.

Page. 15 [https://www.pcouncil.org/wp-content/uploads/2018/05/CPS\\_FMP\\_as\\_Amended\\_thru\\_A16.pdf](https://www.pcouncil.org/wp-content/uploads/2018/05/CPS_FMP_as_Amended_thru_A16.pdf)

Page 16 – 17 [https://www.pcouncil.org/wp-content/uploads/2018/05/CPS\\_FMP\\_as\\_Amended\\_thru\\_A16.pdf](https://www.pcouncil.org/wp-content/uploads/2018/05/CPS_FMP_as_Amended_thru_A16.pdf)

#### 2.1.2 Point-of-Concern Framework

The point-of-concern process is the Council's primary tool (along with setting HGs, ACLs, ACTs, or harvest quotas) for exercising resource stewardship responsibilities. The process is intended to foster continuous and vigilant review of Pacific Coast CPS stocks and fisheries. The process is also to prevent overfishing or any other resource damages. The CPSMT will monitor the fishery throughout the year, and account for any new information on status of each species or species group to determine if a resource conservation or ecological issue exists. Point-of-concern criteria are intended to assist the Council in determining when a focused review on a particular species is warranted and may require implementation of specific management measures. **This framework provides the Council authority to act based solely on a point-of-concern. Thus, the Council may act quickly and directly to address resource conservation or ecological issues.** In conducting this review, the CPSMT will utilize the most current catch, effort, abundance and other relevant data from the fishery.

In the course of the continuing review, a "point-of-concern" occurs when one or more of the following is found or expected:

1. Catch is projected to exceed the current HGs, ACLs, ACTs, or the harvest quota.
2. Any adverse or significant change in the biological characteristics of a species (age composition, size composition, age at maturity, or recruitment) is discovered.
3. An overfishing condition appears to be imminent or likely within two years.
4. Any adverse or significant change in ecological factors such as the availability of CPS forage for dependent species or in the status of a dependent species is discovered.
5. Developments in a foreign fishery occur that affect the likelihood of overfishing of CPS.
6. **An error in data or a stock assessment is detected that significantly changes estimates of impacts due to current management.**
7. **Control rule (harvest policy) parameters or approaches require modification.**

8. Projected catches for a Monitored species are expected to exceed the ABC or the ACL using either a species-specific control rule or the default control rule. This could require moving a Monitored species to the Actively managed classification.

Once a point-of-concern is identified, the CPSMT will evaluate current data to determine if a resource conservation or ecological issue exists and will provide its findings in writing at the next scheduled Council meeting. If the CPSMT determines a resource conservation or ecological issue exists, it will provide its recommendation, rationale, and analysis for appropriate management measures that will address the issue.

Direct allocation of a resource between different segments of a fishery is, in most cases, not the appropriate response to a resource conservation or ecological issue. Council recommendations to directly allocate the resource will be developed according to criteria and processes in the socioeconomic framework described in Section 2.1.3 and Section 2.1.4.

After receiving the CPSMT report, the Council will take public testimony and, if appropriate, recommend management measures to the NMFS Regional Administrator accompanied by supporting rationale and analysis of impacts. The Council analysis will include a description of (1) resource conservation or ecological issues consistent with FMP objectives; (2) likely impacts on other management measures and other fisheries; (3) socioeconomic impacts; and (4) costs and benefits to commercial and recreational segments of the CPS fishery. The recommendation will explain the urgency in implementation of the measure(s), if any.

The NMFS Regional Administrator will review the Council's recommendation and supporting information and will follow appropriate implementation processes described in this FMP, following public notice and comment. If the Council contemplates frequent adjustments to the recommended measures, it may classify them as "routine" through the appropriate process described in Section 2.1.1.

If the NMFS Regional Administrator does not concur with the Council's recommendation, he/she will notify the Council in writing of the reasons for rejection. Nothing prevents the Secretary from exercising authority to take emergency action under Section 305 (c) and (d) of the MSA. Nothing precludes or limits Council access to the point-of-concern framework.

### 2.1.3 The Socioeconomic Framework

**Non-biological issues may arise which require the Council to recommend management actions to address certain social or economic conditions in the fishery or to achieve FMP objectives.** Resource allocation, fishing seasons, or landing limits based on market quality and timing, safety measures, and prevention of gear conflicts are examples of possible management issues with a social or economic basis. **Actions that are permitted under this framework include all categories of actions authorized under the point-of-concern framework with the addition of direct resource allocation and access-limitation measures.**

**If the Council concludes that management action is necessary to address a social or economic issue, it will prepare a report containing the rationale supporting its conclusion.** The report will include proposed management measures, a description of viable alternatives, and analyses addressing (1) achievement of FMP goals and objectives, (2) likely impacts on other fisheries and other management measures, (3) sociobiological impacts, (4) socioeconomic impacts, and (5) costs and benefits to the CPS fishery.

The Council, following review of the report, supporting data, public comment and other relevant information, may recommend management measures to the NMFS Regional Administrator accompanied by relevant background data, information, and public comment. The recommendation will explain the urgency in implementation of the measure, if any.

The NMFS Regional Administrator will review the Council's recommendation, supporting rationale, public comments and other relevant information and, if it is approved, will undertake the appropriate method of implementation. Rejection of the recommendation will be explained in writing.

Procedures specified in this FMP do not affect authority of the Secretary to take emergency regulatory action under Section 305(c) or (d) of the MSA.

If conditions warrant, the Council may designate a management measure developed and recommended to address social and economic issues as a routine management measure, provided that the criteria and procedures in Section 2.1.1 are followed.

#### 2.1.1

##### **2.1.1 Routine Management Measures**

**Routine management measures are those the Council determines likely to be adjusted annually or more frequently. Measures are classified as routine by the Council through either full or abbreviated rulemaking process. In order for a measure to be classified as routine, the Council will determine that the measure addresses an issue at hand and may, in the near future, require further adjustment to achieve its purpose.**

Once a management measure has been classified as routine through the abbreviated or full rulemaking procedures, it may be modified thereafter through the single meeting notice procedure if (1) modification is proposed for the same purpose as the original measure; and (2) impacts of the modification are within the scope of the impacts analyzed when the measure was originally classified as routine. Analysis need not be repeated when the measure is subsequently modified if the Council determines impacts do not differ substantially from original analysis. The Council may change a routine classification for an action without following any pre-specified procedure.

Any measure designated as routine for one specific species, species group, or gear type may not be treated as routine for a different species, species group, or gear type without first having been classified as routine through the rulemaking process.

To facilitate this process, the CPSMT will make recommendations to the Council and agencies regarding assessment or management needs.

The following measures are classified as routine measures at the outset of this FMP:

1. Reallocation of surplus incidental HG to the directed fishery (all species and fishery segments).
2. **In-season changes in the incidental catch allowance.**
3. Specification of annual HGs, ACLs, ACTs, or quotas.