



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**

NATIONAL MARINE FISHERIES SERVICE  
Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802-4213

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Mr. Dan Wolford, Chair  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, Oregon 97220-1384

Dear Chairman Wolford:

The Pacific Fishery Management Council developed Amendment 13 to the Coastal Pelagic Species Fishery Management Plan (CPS Plan) to comply with the 2007 amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Act), using the associated advisory guidelines for National Standard One. In 2011, NOAA Fisheries reviewed and approved Amendment 13.

The central feature of Amendment 13 was to establish mechanisms to determine annual catch limits for the species managed under the CPS Plan:<sup>1</sup> Pacific sardine, Pacific mackerel, jack mackerel, market squid, and the central and northern subpopulation of northern anchovy. The Amendment also clarified the methods for determining the overfishing levels (OFL) and allowable biological catch (ABC) levels for managed species. Most of these revisions build on biological benchmarks already included in the Plan, including a description of maximum sustainable yield (MSY) or a reasonable proxy thereof. However, citing a lack of information, the original Plan did not specify MSY for the northern subpopulation of northern anchovy.

In an amended complaint filed with the U.S. District Court for the Northern District of California in February 2012, the environmental advocacy organization Oceana alleged that the CPS Plan, as amended by Amendment 13, violated the Magnuson Act by failing to describe optimum yield or MSY for several species, failing to appropriately account for scientific uncertainty, and failing to use the best available science; violated the National Environmental Policy Act for failure to prepare a new environmental impact statement; and violated the Endangered Species Act for failure to engage in a section 7 consultation. On April 14, 2013, the District Court issued an order granting summary judgment in favor of federal defendants on all allegations except for failure to describe MSY for the northern subpopulation of northern anchovy. This decision was remanded back to the Secretary of Commerce for action consistent with the Court's order. On April 17, the Court entered a final judgment in this case.

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<sup>1</sup> Krill is also managed under the CPS Plan, but because the sole management measure for krill is a prohibition on targeting or retention, in developing Amendment 13 the Council did not revisit biological benchmarks for krill.



When developing the CPS Plan in 1998, the Council considered the issue of estimating MSY for the northern subpopulation of northern anchovy. However, the Council did not specify MSY at that time because of a lack of information about the stock's biomass or its variability of biomass over time. Furthermore, the population was classified as a "monitored species," not subject to active management. In developing Amendment 13, the Council considered alternatives for adding a description of MSY to the CPS Plan. The CPS Management Team took up this issue by compiling all the scientific information on the subpopulation and identified only two estimates of biomass. One was an egg and larval production estimate from the 1970s and the other was a recent acoustic survey by researchers at the Southwest Fisheries Science Center. However, at the time of Council action on Amendment 13, the Management Team was unable to determine an appropriate MSY or an MSY proxy because of this extremely limited information. Therefore the Council added language to the FMP that explicitly deferred this decision to the specification process for monitored stocks.<sup>2</sup> Amendment 13 was adopted by the Council in June 2010.

The information compiled by the Team was subsequently used in the formulation of the specifications for monitored CPS species, which was scheduled for November 2010. In November 2010, the Science and Statistical Committee (SSC) discussed OFLs and ABCs for CPS monitored stocks. The SSC noted in its statement that reference points for monitored CPS stocks are difficult to determine due to limited data for estimating biomass and productivity. It also acknowledged that the northern subpopulation of the northern anchovy was currently lightly fished, with inconsistent effort, making the time series of catch an unreliable indicator of stock status. Consequently, the SSC recommended that the OFL be set by multiplying the biomass estimate of 130,000 mt (the average of the existing biomass estimates) by 0.3, the default fishing mortality rate ( $F_{MSY}$ ) value used for Pacific mackerel. It determined that this approach was appropriate because northern anchovy are likely to be as productive as Pacific mackerel.

With the established uncertainty buffer of 75 percent, the SSC recommended, and the Council adopted, an OFL of 39,000 mt and an ABC of 9,750 mt for the northern subpopulation of northern anchovy in the specifications for monitored stocks.

In adopting specifications for the monitored stocks in November 2010, the Council did not take final action on setting an MSY proxy for the northern subpopulation because the reports from the Management Team and the SSC did not include an explicit recommendation to do so. However, the Council has a clear recommendation from the SSC regarding an appropriate  $F_{MSY}$ . NOAA's National Marine Fisheries Service believes that adopting the SSC's recommendation is a prudent way forward. As mentioned above, there is limited data to estimate biomass and productivity for northern anchovy. The best available information appears to indicate that an  $F_{MSY}$  of 0.3 for the northern

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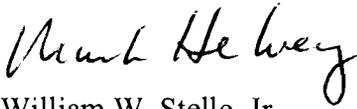
<sup>2</sup> Section 4.6.4.2 of the CPS Plan, as amended by Amendment 13, states "**Appropriate . . . biological reference points (if determined), and harvest specifications for the northern subpopulation on northern anchovy are developed and adopted under the annual specification cycle and recorded in the CPS SAFE.**" **MSY is a biological reference point.**

subpopulation of northern anchovy when applied over the long term is a reasonably proxy for MSY. I recommend the Council take final action on this suggestion at its September meeting, and submit its recommendation to NMFS. Please note that the National Standard One guidelines give the Councils the option to adopt other measures of reproductive potential, based on the best scientific information available, that can serve as reasonable proxies for MSY,  $F_{MSY}$ , and  $B_{MSY}$ , to the extent possible when data are insufficient to estimate MSY directly (50 CFR 600.310(e)(1)(C)(iv)).

There are a couple of routes available to the Council to implement MSY for the northern population of Northern Anchovy. Probably the most expeditious path would be to process that decision with the rest of the proposed specifications for the monitored stocks. This summer NMFS will be publishing for public review the proposed specifications for the other monitored stocks per Council action on Amendment 13, and could include with those specifications a tentative MSY proxy for the northern population of northern anchovy. Because the final specifications would not be finalized until after the September meeting, the Council could confirm its recommendation at that meeting.

In closing, we agree with the SSC's recommendation that the OFL and ABC should be updated when new biomass estimates or information on productivity become available.

Sincerely,

  
for William W. Stelle, Jr.  
Acting Regional Administrator

cc:

NWR – Barry Thom

SWR – Kevin Chu

SFD – M. Helvey

F. Lockhart

GCSW – J. Feder